COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT COMMITTEE ON THE AUSTRALIAN CRIME COMMISSION

Reference: Review of the Australian Crime Commission Act 2002

FRIDAY, 16 SEPTEMBER 2005

MELBOURNE

BY AUTHORITY OF THE PARLIAMENT

JOINT STATUTORY COMMITTEE ON THE

AUSTRALIAN CRIME COMMISSION

Friday, 16 September 2005

Members: Senator Santoro *(Chair)*, Mr Kerr *(Deputy Chair)*, Senators Ferris, Ludwig and Polley and Mrs Gash, Mr Hayes, Mr Richardson and Mr Wood

Members in attendance: Senator Santoro and Mr Kerr and Mr Richardson

Terms of reference for the inquiry:

To inquire into and report on:

The operation of the *Australian Crime Commission Act 2002*, with particular reference to:

the effectiveness of the investigative, management and accountability structures established under the Act, including:

- the Australian Crime Commission;
- the Chief Executive Officer;
- the Examiners;
- the Australian Crime Commission Board;
- the Intergovernmental Committee; and
- the Parliamentary Joint Committee on the Australian Crime Commission.

whether the roles, powers and structure granted to the Australian Crime Commission under the Act and associated legislation remain appropriate and relevant to meeting the challenge of organised crime in the 21st century.

The need for amendment of the Act.

Any other related matter.

WITNESSES

Committee met at 9.14 am

CHAIR (Senator Santoro)—I declare open this public hearing of the Parliamentary Joint Committee on the Australian Crime Commission. I welcome everyone here today. This is the third hearing of the committee's review of the Australian Crime Commission Act 2002. The review is being conducted under section 61A of the Australian Crime Commission Act 2002, which provides for a review of the operation of the ACC Act by either the minister or a parliamentary committee. The terms of reference call for the committee to review the operation of the Australian Crime Commission Act 2002 with particular reference to:

1. the effectiveness of the investigative, management and accountability structures established under the Act ...

… … …

2. whether the roles, powers and structure granted to the Australian Crime Commission under the Act and associated legislation remain appropriate and relevant to meeting the challenge of organised crime in the 21st century.

3. The need for amendment of the Act.

4. Any other related matter.

The ACC Act has been in operation for almost three years. This inquiry is an opportunity to examine the appropriateness of the legislation and management structures to the ACC's task. It is also an opportunity for the committee to hear from associated agencies and to obtain feedback about the work of the ACC and its interaction with them. Criminal activity is growing in sophistication at an alarming rate. The opportunities for large-scale crime committed with the aid of technology are growing daily and our criminal intelligence agency must be equipped not only physically but legislatively to meet this challenge. This inquiry will, we hope, support the provision of such an environment.

[9.15 am]

FARIS, Mr Peter, QC, Private capacity

CHAIR—I welcome Mr Peter Faris, QC. My apologies for keeping you waiting. We appreciate you being here. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. I invite you to make a short introductory statement, after which we will move to a general discussion.

Mr Faris—First of all, I would like to thank the committee for inviting me. As I said to Ms O'Connell, I thought I might have been the last person in Australia that you would want. But you asked me, and here I am. Very briefly, my qualifications are that I have been practising criminal law for nearly 45 years, I have been a Queen's Counsel practising in Melbourne since 1986 for 19 years, I am a former chairman of the National Crime Authority, I practise criminal law extensively throughout Australia and I am also a media commentator for 3AW.

At the moment I am senior counsel on a large number of actions in the Federal Court against the Crime Commission in relation to particular matters, so I am limited in the sense that I cannot speak about them. Two cases of S and the Crime Commission and B and the Crime Commission will be getting a judgment in Adelaide in 10 minutes from Mr Justice Mansfield.

That is who I am. I have also done a very large amount of prosecuting for the Commonwealth DPP in Melbourne. I have worked extensively with the Australian Federal Police in those prosecutions. I have done a very large amount of defence work against the Commonwealth. I regard myself as being an expert in Commonwealth criminal law, which pertains to the Australian Crime Commission.

As far as the Crime Commission goes, I want to deal with it quickly in two parts: first, I do not support the existing structure for reasons which I will elaborate on—I think it would be far better for the community if it were folded into the Australian Federal Police; and, second, assuming the existing structure, I have some criticisms and some comments to make about how it currently runs. The reason I do not support the existing structure is that I do not think the Crime Commission as it is set up really achieves anything that the Australian Federal Police could not achieve. To me at my end of it—and that is acting against it—the Crime Commission is really a police force run by lawyers. I think it is better to have police forces run by police. The two characteristics of the Crime Commission that distinguish it from a police force are the secrecy provisions and the compulsive powers.

I see no point in the secrecy provisions. When the AFP conduct an ordinary investigation, it is not publicised in the media. Until someone is charged there is no publicity. I can see no point in these massive secrecy provisions where, if a husband gets a summons, he cannot tell his wife and then, if the wife gets a summons, she cannot tell her husband, and both are at penalty of going to jail. I just think it is pointless. I do not think it achieves anything, I do not think it stops the criminals talking to each other if they get summonses and I think it has an extremely negative effect on the way the organisation runs.

I respect the people at the Crime Commission. Some of the lawyers are good friends of mine. None of this is personal, but my experience within and without the organisation is that secret organisations are not a good thing because they are secret and not subject to any real review. This encourages people to become lazy or careless or to think, 'It doesn't matter if we do it this way because nobody is going to know.' They are not subject to challenge and they make the rules and run things their own way. I think that the upcoming litigation will show that unfortunately those have been some of the bad practices that the Crime Commission have slipped into—not by way of dishonesty but just by bad practice. They are not corrupt but their practices are bad. So I think the secrecy provisions are pointless.

I am a strong supporter of law and order. To me, the value to the community of the Crime Commission is their compulsory powers—in other words, they can interrogate people and effectively compel them to answer. I suppose a litmus test as to whether this is a good idea or not is the attitude of the criminals. I can tell you that criminals do not like the Crime Commission and they do want to give evidence. If that is their position, then there must be something good about this concept.

Having said that, I think that the Australian Federal Police in this instance could be well equipped themselves with some circumscribed compulsory powers. I do not see the compulsory powers as being a very big deal on their own. I do not think they support and prop up this huge organisation which we have. We have a parliamentary committee, a board of the Crime Commission consisting of all the police force heads, the ASIC head and the ASIO head, then we have examiners, police and solicitors. I do not know what the budget is, but it is probably something like $50 million a year. As a taxpayer and as a law and order citizen, I would much rather see that go to the AFP and be used more effectively.

Victoria is an example of what can be done for no cost. It is as cheap as you can get and effective. I commend to you the Victorian Magistrates Court Act, section 56A, which is a procedure for a compulsory examination. The point of that section is that in Victoria indictable offences proceed by way of committal. The committal proceeds by way of a hand-up brief, which is all the statements of the witnesses, and these statements become evidence. For police to be able include a statement in the brief it must have what is called a 'jurat'; in other words, it has to be signed by the witness saying that they acknowledge that if it is false they are subject to the penalties of perjury. It has got to have that format on it.

Some clever witnesses from time to time refuse to sign statements, which then means, on the face of it, that the statement cannot be put in the hand-up brief and cannot be used. Vizard's case springs to mind. The procedure under section 56A is that when someone has been charged and another person, a potential witness, refuses to make a statement for the hand-up brief, they can be summoned to the Magistrates Court and interrogated.

By and large, the person charged is not allowed to interfere in those proceedings. They cannot cross-examine; they cannot deal with them. It is just a straight interrogation by the prosecution of the witness. The evidence then forms part of the hand-up brief as if they had signed a statement. That is extremely effective and it costs nothing. That is an example of a useful compulsory power which is not hedged around with the massive structure that the Crime Commission has.

Having said that, I think that the AFP should have power—I would get rid of the ACC; I would blend their funding and their structure into the AFP—to compulsorily interrogate people under certain circumstances and hedge that around with protections. The organisation that we have with the ACC—which is a huge organisation at huge cost—achieves very little in reality. In the courts, I do not see much evidence—and I do not mean evidence in the legal sense—of any great achievement that they have made in particular cases. I do not see anything that conventional police forcing could not do. If you want to have national bodies, it is very easy for the police to have task forces.

CHAIR—You raise a great number of interesting points. In fact, I daresay that in your brief and fairly clear opening statement you have answered probably six or seven of our original prepared questions. Maybe we can try and explore some of the opening themes.

Mr Faris—Can I make two quick points? If you accept the present structure, what changes should be made? The secrecy provisions are pointless and they should be reviewed and removed. I do not think there is any need for them. Finally, there was a case called A against Boulton, which I argued, which failed in the courts. But if you are going to give a witness before the Crime Commission protection, as you do under the act, from the evidence being used against them, the protection should be for derivative evidence as well as direct evidence. Have you been down that track? That is unfair. If you are going to do it, it should be for derivative evidence. It does not make sense that a man can get in the box and be asked, 'Did you commit that murder?' and say 'Yes' and then be asked, 'Where is the gun?' and say 'Buried in my backyard' and—because it has his fingerprints on it—that can be used against him. His answer cannot be used, but the gun can. I do not think that is fair in the structure that you have. That is all I wanted to add.

CHAIR—At the Sydney hearing a week ago, one of your counterparts, who also had experience with the AFP, put to the committee the suggestion that there was advantage in having a very strong level of lawyer involvement in the running of an organisation such as the ACC, and in fact that the ACC—from the point of view of that involvement—performed its functions much better than, say, an AFP run totally by police people who are more focused on operational issues and whose reactions to incidents of crime are instinctual rather than strategic. He put to the committee that the involvement of lawyers on a body such as the ACC led to a strategic perspective coming to the fore.

I just asked the secretary to the committee whether the transcript was available to make sure that I was remembering and in fact quoting him as accurately as possible. It was suggested that the presence of lawyers might even be good for the public interest in terms of considering civil rights issues far more deeply than would operational police which, obviously from your opening statement, you are very concerned about. How would you react to the proposition that a body such as the ACC, with strong lawyer involvement about which you have commented, is better placed to look at the incidence of crime and the development of crime in a far more strategic way than would, say, an AFP, driven by a policing imperator?

Mr Faris—I entirely and strongly disagree. I do not think lawyers are investigators. At the level we are talking about, which is serious crime, lawyers just do not have the experience in investigations. They have experience as lawyers, but not in investigations. It is not like America where you have the district attorney who grows up, as it were, in the trade and works with the

police. The lawyers here do not have the experience and will never have it at that level. If you have a police officer with 25 years or 30 years experience, a lawyer with 10 years experience will not be comparable as far as investigation goes. I think the far better model—and I have been personally involved in this a number of times—is that the task force from the AFP, or the investigation team from the AFP, have a lawyer available—almost on a permanent basis, if it is necessary.

The assumption that the chair has made is that the AFP do not have lawyers in their investigations. That is not right. I can recollect being involved in an extremely complex tax prosecution at the investigation stage, at AFP headquarters, working with the AFP investigating team and the tax officers who were there. I think that matter can be resolved simply by the AFP having the freedom—which I think they have anyway—to be encouraged to have multitask forces with accountants, lawyers, tax people—whomever—on it. But, in the end, investigation is for police. All the lawyers can do is give legal advice.

CHAIR—The resources that are available to the commission obviously consist of a mix—and at this point we will not make a judgment on the content and the balance of the mix—but obviously the ACC is able to boast within its ranks not just lawyers but also a considerable number of people with very rich operational police backgrounds. Do you think that the organisation is too skewed towards the legal managing spectrum?

Mr Faris—I think it is. From what I see, it is run more by lawyers than by police.

CHAIR—What makes you say that?

Mr Faris—First of all, I might have a biased position, because I am a lawyer and I am more likely to speak to lawyers. But my impression is that it is run by lawyers. If you go to a hearing of the Crime Commission, you have an examiner presiding who is a lawyer. Usually—not always—the questioning of the witnesses is done by lawyers. I do not think that questioning has the same power and effect of people being legitimately interviewed in a room in a police station. I do not think lawyers are as good. I do not think that cross-examination of a witness in the witness box is the same thing as police interrogating someone for a statement. I do not think it is the same thing at all, and I think that is the mistake.

CHAIR—I have just been reminded by my colleague Mr Richardson that not one lawyer is on the board of the ACC—and maybe I am not representing your view correctly when I say this—so where do you see the pervasive lawyer influence in the ACC?

Mr Faris—The lawyer influence is at the operational level. The board is made up of the heads of various agencies and police forces, in particular. One could not really expect that they would either take any real interest in a particular investigation or know much about it. I do not know what the status of the CEO is—whether he is a lawyer or a policeman.

CHAIR—He is a policeman.

Mr Faris—In the investigations where I have been up against them, the lawyers, to my understanding, make the decisions. Certainly the hearings are all very lawyer oriented. I again draw a distinction between cross-examining a witness in a hearing, as they do, and interrogating

a witness in a police station like the AFP headquarters. I do not think it is the same thing and I think the public would get better value if the police did it.

The other thing is, and I will tread carefully on this issue, if you are going to have lawyers in it, you need to have lawyers of considerable quality. With the money offered, I do not think you are going to attract lawyers of perhaps sufficient experience. In the end, and I do not mean this unkindly, they are Public Service lawyers; they are not career lawyers at the private bar. If you are going to have lawyers you would do far better, if you have 'operation whatnot', to actually pay big money for good lawyers from the private profession; in other words, get the cream rather than use salaried Public Service lawyers, which is what is done. Treading carefully again, I think that because of that the Crime Commission is frequently outgunned.

CHAIR—Mr Kerr has some questions he wants to put to you but I want to explore two other points first. One is your views on the secrecy provisions. Irrespective of who was undertaking investigations into organised crime in Australia, whether it was the AFP or the Australian Crime Commission, can I put it to you that there will be a need to have secrecy provisions in place in order for those investigations to be concluded in an effective way. At what level do you object to the secrecy provisions?

Mr Faris—I think they are pointless. Let us say that the AFP—this has nothing to do with the ACC—are investigating a huge drug ring or mafia ring or whatever you like—they maintain secrecy. It is part of policing to maintain secrecy. You run a secure investigation. The AFP has not got any legislation protecting its secrecy and all that sort of thing. No police force has. I frankly do not see the point in it. Of course the investigation should be secret and secure, but you do not need this complex legislation to achieve it; that is the normal way to run an investigation.

CHAIR—In what way do legislative provisions for secrecy in any way compromise operational imperative?

Mr Faris—It is what I said before. My concern—and, to a degree, my observation and my fear—is that once you run a secret organisation—there is nobody supervising you on a day-to-day basis and there is nobody looking at your decisions—there is a tendency to slip into the habit of thinking, 'We can do this because no-one is ever really going to know.' There is nothing like a proper judicial review to keep any government organisation in order. I do not like secret organisations. I accept without question that ASIO has to be a secret organisation, but that is intelligence gathering on a national security level. I think for criminal law enforcement that it is adequate to have the secrecy that, for example, the AFP has in all its investigations. I do not see any need to have legislative secrecy for the Crime Commission.

CHAIR—Just leading into the second point, which I wanted to finish my first round of questions on, you talk about no rules, and you emphasise that again, and no accountability or insufficient accountability. How do you see the role of this committee, the role of the Ombudsman and the role of many other review mechanisms, including an inquiry such as this, in terms of the ACC? Particularly, what is your comment on the role of a committee such as this?

Mr Faris—Do you want an honest answer?

CHAIR—We assume that all our witnesses come to the table with that position.

Mr Faris—I think it is cosmetic. I think the parliament has given these coercive powers to the Crime Commission, and the trade-off is that there will be a parliamentary committee which supervises. I do not think any committee has a hope in hell, in reality, of supervising it at all.

CHAIR—The reason being?

Mr Faris—You have seen one person in Melbourne: me. I do not think it is possible—

CHAIR—We have invited a lot of people other than yourself, Mr Faris.

Mr Faris—I think it is nice. I think in general terms there should be parliamentary committees supervising government organisations. I think that is a good idea, and I think the Vizard thing shows that you should have one doing ASIC and one doing the DPP as well. But I think we are kidding ourselves if we are saying that this is an in-depth investigation and is going to alter anything and achieve anything. I do not really think on the ground it has any impact at all.

Mr KERR—Just to get some flavour of the process that you are engaged in, your intersection with the Australian Crime Commission at the moment would be representing persons who were the subject of the coercive powers.

Mr Faris—And investigation.

Mr KERR—Perhaps just to give the committee a sense of how you intersect, could you describe the process that you confront when you attend with a client and a subject to the exercise of these coercive powers?

Mr Faris—Attended an examination?

Mr KERR—Yes.

Mr Faris—The client has a summons. If the client elects to give evidence and not challenge it, we go to the Crime Commission. We go through massive intense security and eventually we are shown into what appears to be a courtroom but in fact is not a courtroom. There is an examiner sitting up, above and beyond like a judge, but of course he is not a judge. The whole impression that it is meant to convey is that somehow the examiner is like a judge and is an impartial, unbiased umpire, which is just not true. The examiner tries to tell my client that that is the case, which again I find untrue.

The examiner is briefed by the other side before they go in, knows all sorts of things about the case that we do not and always rejects my submissions—it happens in courts as well—in favour of their team. It is artificial in the extreme to treat it that way. You then have the client sitting in a witness box and counsel at the bar table. It has all the trappings of and looks identical to a court, but it is not. That is about as much as I can describe it. You have lawyers, as I said before, doing the interrogation, which is really a cross-examination, and I do not think they do it very well. It is fairly impersonal.

Mr Kerr is a silk; he knows what it is like to cross-examine witnesses in court. It is quite a different procedure if one goes as a lawyer to, say, the Victorian police or AFP headquarters when your client has been arrested and is being interrogated. Just as a matter of subjective judgment, I find the pressure on the person far greater in police interrogation. I usually find the police are far better at interrogating than I do the lawyers at cross-examining. I think it loses impact and, from the community's point of view, does not really do the job.

Mr KERR—One of the threshold issues that we crossed some two decades ago in the establishment of the NCA was the line which said that a person can be compelled to attend court to provide testimony. We then crossed another line about five years ago where we not only compelled them to attend but also the circumstances were such that you would have to testify, notwithstanding that it would otherwise expose you to the criminal charge with the immunity that was then built in. I find the proposition you have put forward that these kinds of powers would be better placed with the police a most extraordinary submission because—

Mr Faris—Why? Do you not trust the police?

Mr KERR—Of course not! This is the nature of the debate that we always have. We build in systems that limit the circumstances in which those exercising authority can require a citizen to undertake conduct that so exposes them to penal consequences. We have always taken the view that people should not be required to testify to their disadvantage. That does suppose a long policy, 500 or 600 years, of lack of trust of anybody in authority in that regard.

Mr Faris—With respect, I think you are confusing concepts. The idea that people should not be compelled to give evidence against themselves is, as you say, longstanding in the common law. But I think that was then and this is now. I think crime, let alone even talking about security, is so significant in our community at such a major level that there has to be some compulsion. I do not have a problem with that and I am sure that 99 per cent of people in the community do not have a problem with it either.

The other concept is that if you have it, who should exercise that power? I can only say to you completely honestly that I have had vast experience with the Australian Federal Police. I do not know when they were set up but I have acted against them in my professional capacity for 20 or 30 years. I did 20 years of private bar prosecution for the Commonwealth DPP which meant that I acted on behalf of the AFP. I know them inside out. I have never seen anything which would give me cause for alarm and to say that they should not be given this power. I trust them; I think they are a good, decent, honourable police force. I certainly would not say that about the Victorian police.

Mr KERR—You would not?

Mr Faris—No, I would not. I have no problem with the AFP.

Mr KERR—Neither do I. I respect the AFP. I have appointed some of its most senior members and advanced their interests in the past, but I do not like ad hominem arguments that say that, because a particular individual or set of individuals at a particular time are trustworthy, the institutional arrangements should be framed around that. As you say, you do not trust the Victorian police.

Mr Faris—You said you did not trust police.

Mr KERR—No. I said our society has taken a view that this is not a power that should be vested in police forces.

Mr Faris—No. You said you did not trust police; I said I did.

Mr KERR—The present commissioner of the Australian Federal Police has said that the power of coercion that is vested in the Australian Crime Commission should never be vested in police. That is a view that the present commissioner of the Australian Federal Police has on record.

Mr Faris—They say that, because they have to say that. They would rather have the Crime Commission than nothing. But there is no doubt that, if there were an offer to fold the Crime Commission into the AFP, the AFP would take it for a lot of reasons.

Mr KERR—Presumably, in your view, it would not be a problem, whenever police are pursuing some matter, that not only can they require a person's attendance but they can require that person to answer questions? They no longer have what was traditionally seen as a right to silence, not only in exceptional cases—such as we have established with respect to serious and organised crime—but more broadly?

Mr Faris—No, I did not say that. When I commenced my evidence, I said that I would give the power to the AFP and it would be circumscribed in particular ways, and I did not detail those. I think it should be an exceptional power and should be used only in exceptional cases. Every day we have many instances of breaches of our traditional liberties. A search warrant on your home is a tremendous infringement of your privacy. A search warrant is granted by a Federal Court judge in these instances, in the same way that telephone intercepts and listening devices are issued. We all live quite comfortably with that, as far as I can see. I can see no reason why there could not be a regime where, in exceptional cases or in particular types of cases—or whatever—an application can be made by the Federal Police to a Federal Court judge for the equivalent of a warrant so that the court is satisfied that this is a case in which the person should be, as it were, compelled to answer. Of course, no-one is compelled to answer because you can still refuse, but the refusal would incur a criminal penalty. I think that answering should be properly protected—as it is partially in the act—in that it cannot be used against the witness as direct evidence or derived evidence. I would be perfectly comfortable with that.

Mr KERR—I understand the point you make about the distinction. Equally, from a punter's point of view, it does seem to me that the offer you make to extend powers to allow compulsive examination but to then exclude derivative use is a very dangerous and potentially destructive proposition. Which police force would ever use it? Which investigator would ever use it, knowing that somebody could effectively immunise themselves by revealing the presence of the gun, which could not be used against them? You would never use those powers against anybody who was the subject of a serious investigation.

Mr Faris—Frankly, I do not think we need to debate the exact details of the protections. You may have a partial protection that was just transactional. All I am saying is that I can see no reason why there could not be a simple regime—and we are talking here about people who are

the targets, the suspects, the person who is likely to be charged—to get a warrant from a Federal Court judge that they must answer. As far as witnesses are concerned, there is already a perfectly adequate provision in the Magistrates Court Act.

Mr KERR—You have said that you do not trust the Victorian police, yet a set of powers that you are suggesting to us, as I understand it, either is under discussion or has been conferred on the Victorian police?

Mr Faris—That is right.

Mr KERR—My former colleague Barney Cooney always used to talk about what he called legislative creep. In other words, once you establish a model that legitimises a certain form of practice, it is almost inevitable that it is then picked up in inappropriate circumstances. If the Commonwealth were to license its police force to exercise, in its own name, powers of this nature, why would it not then become a routine part of law enforcement right across Australia in state police forces, some of which, you say, it would be inappropriate to extend those powers to?

Mr Faris—I did not say it was inappropriate to extend the power. I said I trusted the AFP and not the Victorian police. The protection we have in all this is not parliamentary legislation but the courts. We have to trust the courts. I certainly trust the courts in this country from what I have seen in nearly half a century of practice. In the same way that we get listening device warrants or we get search warrants from state and federal judiciaries without any suggestion that they are misused or that they are an infringement upon traditional protections, I do not really see what the big deal is here. This is all overblown and overstated. I would have no problem with it, provided it is hedged around with proper protections. That involves getting a court order by satisfying a judge.

Mr KERR—That is not the model that has been used in Victoria, is it?

Mr Faris—No. I am not supporting the Victorian model. As far as legislative creep goes, I understand what you mean but I would hope that all the taxes I pay and all the money you guys get means that you look at things objectively and do not just adopt things without thinking, which is what creep is.

Mr KERR—That is what we are looking at at the moment—the effectiveness of this version of the Australian Crime Commission and the way in which its powers add to the totality of our regime to deal with serious and organised crime. One of the points that I wish to draw you out on is this: I do not think the ACC would claim to have been formed for its particular expertise as an investigative agency. As I understand it, it would say that it had two particular functions which legitimise its distinct existence, one of which is the fact that it brings together in a single point all the intelligence gathering that is available to law enforcement agencies generally across Australia and builds in strategic overviews that are disseminated.

One of its principal roles is intelligence analysis and long-term strategic evaluation, aided by the participation of the commissioners from each of the state jurisdictions and the other senior Commonwealth agency heads coming together. This is so the materials it devises can give an overall view of the picture of criminality and the nature of threat that Australia faces from

serious and organised crime and to enable priority setting. That is what it would say is its overwhelmingly important function.

Secondly, it would say that it can bring to law enforcement the availability of these coercive powers, which, for reasons of history, tradition, good judgment or bad judgment or whatever, parliamentarians throughout the last 500 years have not thought appropriate to invest in routine police forces. I understand that you are saying that when you intersect with it, your intersection is at one of those points. But what would you say about the other issues that I have raised?

Mr Faris—Obviously, I have no grip upon the intelligence issues. But I do not think it is very hard to set up a national bureau of criminal intelligence these days, particularly with computers.

Mr KERR—This incorporates that.

Mr Faris—Yes. But the public face of the Crime Commission and what everybody thinks of first is criminal investigation. I am surprised that they are not seen as an investigative body. They are certainly described in the Commonwealth Service and Execution of Process Act as an investigative body.

Mr KERR—They are. One of the things that has been the subject of discussion in our committee is the ACC perhaps publishing a public version of the picture of criminality.

CHAIR—That is very much on the books.

Mr KERR—We have had access to secret briefings about the way in which their strategic and intelligence gathering processes operate and the way that material is disseminated to various jurisdictions. We have publicly urged the publication of the picture of criminality because it gives a different sense of what the organisation's priorities are than simply seeing them strictly as an investigative agency. That may be one of the difficulties in making a proper assessment of the agency: the fact that two-thirds of their work is the buried bit under the water that they do not disclose to the public or discuss.

Mr Faris—In that event, we name it 'the Australian bureau of criminal intelligence' and give the investigative work to the AFP, where it should be—simple.

Mr KERR—One of the things that it does through these coercive examinations is build up the picture in relation to issues that combine police jurisdictions—say, require the application of coercive powers. That is an intelligence building process.

Mr Faris—That is right.

Mr KERR—It also has a component that is related to individual investigations, no doubt.

Mr Faris—There may be examinations. You are right, and I said at the beginning that my intersection with them is very specific and very limited. There may be examinations which are held for intelligence gathering purposes only, but I am certainly unaware of that. All the examinations that I have ever seen or heard of had to do with investigation of specific crimes. I

think that a great deal of their work involves investigation of specific crimes, rather than intelligence gathering.

Mr KERR—One of the critiques that has been made either directly or by inference is that the new structure of the ACC has, to some extent, led the coercive powers to be applied in areas that are more directly related to routine policing. In other words, because it now has a board essentially made up of the heads of police jurisdictions, the tendency is to see the use of coercive powers as an additional bolt on whereby you come to a point where your routine investigation can no longer proceed.

Mr Faris—I agree with that and I have seen that in a number of cases. I have seen cases where, as far as I can judge, the police had been investigating or having problems. So it is only the second or third floor of the building here. The Crime Commission takes it over for a short period of time, investigates it, gets more evidence and hands it back. It has this sort of on request role, which I think is probably inappropriate given all the circumstances, and I think it happens quite a lot. So I think there is that aspect of it. As I said, I am surprised that two-thirds of it should be intelligence. Everything I have ever seen indicates to me that it is a criminal investigative body, and I have seen nothing that it does that the AFP could not do. I am sure the AFP could do criminal intelligence as well, or set up a national bureau of criminal intelligence. I just do not think you need this huge organisation.

CHAIR—I will hand over to Mr Richardson, as he has 28 years of policing experience with the South Australia Police.

Mr Faris—I am glad I did not say I did not trust the South Australia Police!

Mr RICHARDSON—I am disappointed that one of my colleagues, Jason Wood, is not here. We might start on that. Is there a significant reason that you can share with us—if you want to—why you do not trust the Victorian police?

Mr Faris—I have been on the public record about it; it is no secret. I think there is a huge amount of corruption in the Victorian police that has never been addressed. I think that when the balloon went up about the drug squad it was only a small part of the corruption, and all the rest has never been looked at; it has all been swept under the carpet. It is the same old comment: there are a few rotten apples. But I think there is a culture of corruption. It cannot be that across the border New South Wales has these terrible royal commissions and we hear these terrible stories, but once you get to Victoria there is no problem.

It always sticks in my mind that I would take my son to the hamburger shop in Carlton when he was a kid and the police would come in with their guns and uniforms, push in and be given three or four free hamburgers, and off they went. I said to him: 'That's where it starts. Now the hamburger shop proprietor knows that if there is trouble at the shop the police will come, they will look after him and so on.' That seems terribly trivial and terribly minor but that is a state of mind and, once you do that, off it goes.

I think we have dire problems here. I think we have a weak commissioner. I think the commissioner is a slave to the government. I think we are in a bad way in Victoria as far as the

Victorian police go. Having said that, most police are completely honest and do a good job and it is a hard life. But I think there is a culture of corruption in Victoria.

Mr RICHARDSON—I might just clarify something and enlighten you: this parliamentary joint committee has an extensive list of witnesses coming from all across Australia—former NCA chairs, such as yourself, criminologists, journalists, commissioners of police, senior operational police, legal practitioners and people from the police association. So it is certainly not just one person; we are going to delve into this during the inquiry.

Mr Faris—I was not trying to belittle the committee. The point I was trying to make was that committees are not the proper method for the supervision of what is happening on the ground.

Mr RICHARDSON—To go further in my last question to you, knowing that the current board is structured such as we said—that under the new ACC concept it is made up of the police commissioner from each state, with the AFP and the ACC, with the AFP Commissioner as the chair—from your time as the NCA chair, I am interested in your thoughts on who should be the chair under the new structure. With your having been the chair as a lawyer, a QC, and having prosecuted for the Commonwealth and now against it in a number of matters before the Federal Court which challenge the ACC powers, I am particularly concerned that in your position of having extensive inside knowledge and experience in evidentiary procedures, powers and coercive powers, this has provided you with an extensive conflict in your professional capacity because of your former role within the NCA and now the ACC. Do you have any thoughts or comments on that?

Mr Faris—I am sorry; are you asking me whether the board should be chaired by police, or whether I have a conflict in my work? I lost track of the question.

Mr RICHARDSON—It was a combination of both. I am saying that under the new structure it is the AFP commissioner who will be the chair—

Mr Faris—If you are going to have it like it is, I would much rather have the police running it. No, I would not have a board made up of lawyers. I think you said the CEO was a policeman; I would much rather have that than have the top end run by lawyers, which is what happened under the NCA. I think it is far better with police. As I said, lawyers do not know anything about investigations, I am afraid. As far as my having a conflict, I behave properly. I certainly do not impugn on cases where I have a conflict of interest, but the Crime Commission is a new concept. I am at the private bar; it is commonplace for people to prosecute and defend. It happens every day. I do not hold any secrets and I do not use any confidential information where I should not.

Mr RICHARDSON—However, you certainly have a better working inside knowledge than other legal practitioners, having been the chair of the NCA and knowing the powers that exist.

Mr Faris—I was chairman 15 or 16 years ago and everything has changed a huge amount since then. I do not think that is necessarily so. What I find useful in my experience is having prosecuted for the Commonwealth. You can learn about the Crime Commission by reading the act, which most people do not do. But I am very experienced in federal criminal law. That is how I make my living these days.

Mr KERR—Can I just ask the Andrew Denton question?

Mr Faris—How much is your book going to cost?

Mr KERR—No. With your views, why did you take the job at one stage?

Mr Faris—At the NCA?

Mr KERR—Yes.

Mr Faris—First of all, it was a mistake.

CHAIR—It sounds like the Mark Latham answer!

Mr KERR—I could not resist the Andrew Denton question. Do not feel any obligation to answer.

Mr Faris—I did it for my children. I thought I could do some good.

Mr KERR—Please do not feel any obligation to answer it. It was a cheeky question.

Mr Faris—That is all right. I can look after myself.

CHAIR—I am particularly interested in your comments relating to oversight. In other states, such as New South Wales and Queensland, committees such as this are assisted by the office of a parliamentary commissioner. They have powers to make their own inquiries and to advise parliamentary committees as to what they feel or believe organisations such as the ACC—

Mr Faris—And that is an ongoing position, is it?

CHAIR—It is. If you have any experience of how those commissioners operate, do you have any thoughts as to how one might apply in this instance?

Mr Faris—I do not have any specific experience but having a commissioner who has an ongoing role, rather than your committee, which is probably sporadic—and you have other things to do—would be a very good idea given the present structure. It would be good for everybody if there was somebody independent like that to whom you could make a confidential complaint. The Ombudsman is a bit different. That would be good.

The Crime Commission in Melbourne has now developed the idea that you come along and you represent your client. Your client is giving evidence and you are taking notes and things. When it is finished, they say you have to give them your notes, legal professional privilege notwithstanding. The examiner purports to make an order that you have to give them your notes, which they then seal in an envelope or something. That is nonsense, but they are serious about it.

I do not want to have to go to the Federal Court to litigate an issue which is so minor, but if there was somebody to whom I could say, ‘This is nonsense,’ along with the reasons why and

they could tell the ACC not to do it, that would be good. I do not want to go to the Ombudsman. It is hardly worthwhile making a formal complaint. I would feel more comfortable if there was somebody that you could go to who would treat it confidentially and who would be listened to by the Crime Commission.

CHAIR—I only have one last question. The Victorian police service and the commissioner in particular have come in for regular mention during our inquiry. From your knowledge and your experience, how well do you think the Victorian police service, particularly through its commissioner, works with the ACC?

Mr Faris—I do not know. I only know about things through the cases I have. I do not know.

Mr KERR—We have to be very careful when we are dealing with things on the public record. We do not want to give the sense that we accept the proposition that the Victorian police force is corrupt and out of order. I understand that you are making that submission to us. My experience—and I have spent 18 years as a minister, as a shadow minister and in parliamentary service—is that you would not find any honest police commissioners saying that their large police forces are immune from potential corruption. I think you are right to have a high level of confidence in the AFP. But that organisation over time has had its instances of corruption—

Mr Faris—Of course.

Mr KERR—and will make mistakes in terms of judgments. We know from public experience that the New South Wales police force has had a long history of corruption. Queensland did. I am just a little troubled that we are singling out Victoria at the moment.

CHAIR—In conclusion, Mr Faris, thank you for your assistance and for your comments to the committee this morning. For the record, it should be noted that the Victorian police commissioner has been invited to attend this inquiry of the committee and to tender evidence to it. As a matter of practice we circulate the transcripts of these inquiries directly to people who have been mentioned in evidence to this committee, inviting their comments and, if they wish, their in camera or public participation in the proceedings of the committee. We intend to do that, as is our practice, with the Victorian police commissioner. We might even consider putting some further questions to you on notice, Mr Faris.

Mr Faris—If I am useful, use me. I am happy to do what I can to help.

CHAIR—We appreciate your attendance; thank you very much.

Proceedings suspended from 10.16 am to 10.33 am

MULLETT, Mr Paul Redmond, Secretary, Police Association of Victoria

WALSH, Mr Anthony Keith, Discipline Advocate, Police Association of Victoria

CHAIR—Welcome. As you are public servants, you are reminded that you are not required to answer questions relating to policy matters and will be given the opportunity to refer such questions to either the minister or superior officers. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. I now invite you to make a short introductory statement, after which we will move to a general discussion.

Mr Mullett—For the record, Tony is employed by the Police Association; therefore, he is not a public servant as such.

CHAIR—Thank you for that clarification.

Mr Mullett—You have copies of two submissions that we have tabled to the committee: the first one is dated 5 August 2005, signed by me, and the second one is dated 6 April 2005, signed by Mr Bruce McKenzie, the Assistant Secretary of the Police Association. Any other submissions we make would be consistent with those two particular pieces of correspondence. A submission has also been lodged by our national body, the Police Federation of Australia, and we support the commentary in that submission, dated 18 August 2005, signed by Mark Burgess, the CEO of the Police Federation of Australia.

Our position today is consistent with those three submissions. The two coming from the Police Association are ostensibly industrial considerations. The submission signed by Mr McKenzie in April relates to the Victorian police force performance enhancement program. That was part of an agreement that came out of our 1998 certified agreement as a result of the bargaining process in 1998. The submission of 5 August relates to the recommendations to amend sections 41 and 46F of the Australian Crime Commission Act administrative provisions in division 3. Our submission naturally is consistent with leaving the current provisions as they are, with an amendment to the effect that an investigator be included in sections 41 and 46F.

The PFA's submission relates to an agreement between the jurisdictions and the Australian Crime Commission. Both parties—that is, the Australian Crime Commission and the national body, the Police Federation of Australia—have attempted for some time now to reach agreement on consistent terms and conditions for all members of the police force seconded to the ACC. Regrettably, those discussions or negotiations have failed to reach an agreement. There is a threshold issue from the ACC's perspective as to who is defined as the employer, and that has not been overcome. From a national perspective, the instrument of agreement is also an issue. As a national body, our position would be to strike a certified agreement between the parties. So that is another threshold consideration that the parties cannot reach agreement on as yet.

CHAIR—Mr Mullett, would you be willing to answer some general questions outside the specifics contained in your submission?

Mr Mullett—If they are relevant to the Police Association, that is not a problem.

CHAIR—Let me start, then, with a general question: how does the Police Association of Victoria view the Australian Crime Commission, particularly its effectiveness in gathering intelligence and taking up the fight against organised crime in Australia?

Mr Mullett—They are without doubt a critical law enforcement body that is absolutely required. Proper levels of funding and resourcing are required. Within resourcing—not only human resources—the ACC should have available to them all the best levels of best-practice equipment for them to do their jobs. In the modern era of law enforcement, that includes not only the likes of telephone intercepts but listening devices, tracking devices, analytical support, forensic support and computer crime support. We say 'the very best levels' so all investigators have relatively easy access to those requirements in the modern world of investigations.

CHAIR—A number of your members would be seconded to serve with the ACC and some who have retired may even be employed permanently. What sort of feedback do you get? What are the benefits to the Victorian police service of having that level of exchange and interaction with the ACC?

Mr Mullett—It comes back to intelligence sharing in a lot of ways. Criminals are very much portable—not only nationally but internationally—yet state police forces are being left somewhat behind with the boundaries. Coming back to the industrial issues, we still do not have from a policing perspective portability of skills—lateral transfers—between jurisdictions. The ACC as a modern law enforcement body does not have those issues coming into consideration, because you have secondees and the cooperation of all chief commissioners from all jurisdictions within the one body. Unfortunately—and everyone protects their turf, be it political or otherwise—without the ability to transfer laterally from jurisdiction to jurisdiction, the ACC is critical.

To be constructively critical, even from the perspective of the Police Federation of Australia, police ministers in particular and commissioners of police have to realise that they should let go of their turf. A sergeant at Melbourne West Police Station should have the ability to put in for a vacancy, and be successful in attaining that vacancy, for a sergeant's position at Cairns Police Station. Similarly, a sergeant at the Hobart watch should be successful in attaining a position at Melbourne West, so that there is that continual not only job sharing but transferring of knowledge. There is detail to overcome, but even when you analyse the detail it is not too difficult. It is all about the will; if the will is there—particularly from our national body, the commissioners as a collective and especially ministers of police—we can all get there.

Mr KERR—The federation has pursued that as an objective, hasn't it?

Mr Mullett—Absolutely. We have already overcome a major threshold of competencies for each rank level and classification within policing. Having now achieved agreement on the competencies, one would think it would be relatively easy—I stress 'relatively'—from that point on to achieve interstate mobility and support the Australian Crime Commission in achieving its goals. Unfortunately, because of protections of turf, we do not have that job sharing and knowledge sharing. A lot of it is done informally. From our perspective—and we support what the commissioners are doing in trying to achieve national intelligence databases and things—by supporting the ACC to have national mobility of police we would achieve virtually a perfect world. Then, of course, you have the international difficulties.

Mr KERR—I think I am correct that at least two of the jurisdictions, perhaps three, use the ACC's national dataset as their own intelligence system. How far away from that in Victoria are we? Is it a long way away, or is it possible to achieve it? I suppose one of the potentially great advantages of the ACC—I say 'potentially' because it has not reached that point—is that you would have the capacity to draw down in real time intelligence that goes to practical, on-the-ground problem solving. At the moment only a couple of jurisdictions are in that position. Of course, where you have gaps, then those jurisdictions cannot benefit from knowledge of what is happening in those other states.

Mr Mullett—Sure. I am nowhere near being a practitioner in intelligence or in the analysis of intelligence, but we need to have a greater capacity to share knowledge. There is also a gap in the knowledge being transferred from the police officers on the street to databases around the country. One of those issues comes back to resourcing of policing on the street. Most police forces, if not all, are not properly resourced. One of the fundamental or core values of policing is, yes, community policing, but it is also about gathering knowledge—police officers properly working on the streets in a proactive sense, knowing their communities and speaking with people in their communities, and I include the criminal class in that. Individual police officers or collectives within police stations build up a bank of knowledge by good proactive policing. There is a significant gap there due to the lack of resourcing. But you are right, Mr Kerr: there is another gap in transferring the knowledge into intelligence gathering and databases all around the country.

Mr RICHARDSON—One of the major reasons that you have come before us today is to talk about security clearances and the integrity of the ACC. I refer to the second last paragraph of your letter dated 5 August 2005, where you write:

> We are of the view that our members are subjected to a range of security and integrity testing methods within the Victoria Police Force and therefore, we would envisage that our members who are seconded or attached to the ACC would satisfy the highest levels of integrity and security scrutiny.

You and I know that a member who is entering into the ACC or trying to get into the ACC—or the old NCA—would generally have had to have about eight to 10 years experience prior to being able to even apply for the position. Again, a lot of things happen in that eight years of policing service and also with his/her family and/or people within his/her family. Are you saying that the clearance of a member when they first enter is sufficient? Is the ACC taking it too far?

Mr Mullett—We believe it is sufficient. The probity and integrity checks are standard checks for all forms of transfer and promotion, inter or intra—'inter' in the Victoria Police sense and 'intra' with any outside agency. From a professionalism perspective, even the association is proud to say that the Victoria Police has no endemic or systemic corruption due to a very robust internal ethical standards department. Even we as a union at times have agreed to disagree with our internal ethical standards department, but their performance over a long period of time has kept the Victoria Police very clean. Obviously there is a very small percentage in any organisation who may creep through, and regrettably we have seen that in terms of a secondee from the Victoria Police into the ACC, but we are firmly of the view that the current provisions, the current probity and integrity checks, are extremely robust, inter and intra.

Mr RICHARDSON—Is that the federation's viewpoint is well?

Mr Mullett—I cannot comment on behalf of the federation. We are here to comment on the behalf of the Police Association of Victoria. That would be a question for the PFA.

Mr RICHARDSON—Mr Peter Faris QC, a previous witness, was very critical of a level of corruption in relation to the Victoria Police. Mr Walsh, would you like to comment on that?

Mr Walsh—My view would be the same as Mr Mullett's. We are certainly of the view that the level of testing and scrutiny applied to our members is satisfactory for internal transfers and promotions within Victoria Police. Similarly, that process would be applied for any transfer to the ACC. What we are saying is that, as you indicated before, during the course of a member's progress through the organisation, the ACC—formerly the NCA—was looking at adopting or seconding, from various police forces, members with a wide range of experience in excess of eight to 10 years. Given Victoria Police's security process, members of that ilk would have been subjected to the ethical standards department's integrity testing on a number of occasions. So those processes are quite robust and they would minimise the risk of a corrupt individual being attached to the ACC.

Mr Mullett—I would like to give one very good example of how robust Victoria Police is. I personally represented four members, six or seven years ago, who were seconded to the NCA as surveillance operatives. We were very surprised that the members were returned to Vic Pol and, in fact, advocated for them not to be returned. There was, no doubt, a suggestion of workplace misconduct on their behalf. Whilst on duty, one of the members had the opportunity, on behalf of his brother, to attend an address and request a person to return a debt to his brother. Our strong view is that there was no criminality in that conduct. Victoria Police did not suggest there was any criminality in that conduct, but they were very robust and acted immediately to return those secondees to Vic Pol. Again, we advocated for the members, particularly on process and the force's policy, and suggested firmly that they had no authority to do that. However, they ignored those representations. In our view those members were treated harshly; in terms of this committee, they were treated robustly in terms of workplace misconduct at the highest level within their secondment in the NCA. They were sent back to Victoria Police—and they were returned not to their original positions as surveillance operators but to uniformed positions. Victoria Police stands on a record of treating its work force robustly if there is any misconduct, and that is a very good example from Vic Pol's perspective—not that we necessarily support it from a union point of view—of why we do not have endemic or systemic corruption in Victoria Police.

Mr KERR—One of the concomitants, if you developed the flexibility of transferability that the national association has been urging for a long time, may be some national oversight of police. The ACC is a microcosm where, for example, you have a seconded officer still, I think, who notionally is ultimately accountable to the commissioner of whichever state he is seconded from. That may or may not pose practical consequences in particular circumstances, but it does, I think, illustrate that, if we move to greater flexibility and transferability, there may also need to be some interjurisdictional thinking about the ways in which accountability mechanisms are structured.

We had this discussion earlier; I think that Australia has been greatly fortunate in having policing which, in large, has been straightforward and honest. But we know enough to be confronted by the fact that, from time to time, cultures in some states have become infected by

corruption. We know that, when that happens, there is very legitimate concern if you get a policeperson from that jurisdiction—whether they really have been the subject of proper oversight vetting and whether they are going to bring that culture and the problems that are associated with it into your own service. Have you given any thought to that kind of issue?

Mr Mullett—We support that principle 100 per cent. It fits in very nicely. Again, from a national perspective, it is a matter for the unions collectively as much as for the police ministers and commissioners of police to establish. It comes back to the professionalisation of policing and a national registration board. Of course, within a national registration board are the accountabilities that you are talking about—certificates to practice, similar to those for doctors, dentists and pharmacists—where from a professionalisation point of view you are not only establishing interforce mobility but allowing police officers to exit policing for however long and re-enter the profession, subject to competency tests at rank and level. Within all registration board frameworks is a conduct framework. We see publicly, on a never-ending basis, lawyers, doctors and all forms of practitioners having their certificates to practice cancelled or suspended. We would support the principle, but let us look more laterally from an overall national perspective at establishing a registration board for police practitioners.

Mr RICHARDSON—It is interesting that we were talking about misconduct. There is a flipside to that. Some witnesses, even within the ACC, have said that and so have NCA operatives from my previous policing days. Is there any chance—and I know this is difficult—that the federation as a whole should look at the promotion system of those secondees? I say that because, as you and I know, some of these ladies and gentlemen are taken away from their core workplaces for five to 10 years and miss out on sergeant and inspector positions et cetera. We know that it is meant to be on merit when they come back. They are at a disadvantage because they have been out of the mainstream for so long. Do you believe that your association or the federation would look at this?

Mr Mullett—Again, without commenting on behalf of the national body, the Victorian police association would support the principle. It comes back to this far more lateral thinking of getting away from protecting our turf. From a union perspective, we have to say that nationally we should stop, think and have a look at ourselves. Similarly, we should do so with commissioners and governments nationally to allow for mobility and what you are suggesting. Yes, national registration boards—Mr Kerr's proposition—are supported. From my perspective, I am on secondment and have been for 12 years, and you cannot get promoted—although I am a police practitioner seconded to the association.

Mr RICHARDSON—It has come up a number of times now, hasn't it? It is something that we all need to look at.

Mr Mullett—Absolutely. We need to look far more laterally and industrially, and achieve a common goal. But it has to be done with the cooperation of governments, commissioners of police and state police unions.

Mr RICHARDSON—The final matter that I want to raise, and you did mention it in your brief statement is this: is there parity in wages?

Mr Mullett—No.

Mr RICHARDSON—How far are we down the track with that? Will we come to a resolution? It is unfair that some secondees working side by side are on a different pay structure when they are doing the same job?

Mr Mullett—We have tried to achieve that with the ACC and there are two thresholds that have to be overcome. Firstly, who is the employer—we can understand the protection of turf in that argument—and, secondly, having the will to strike a national certified agreement. There is a process behind that for an interstate dispute. When lodging that dispute has to be genuine. We would have no difficulty from a national union perspective in lodging that interstate dispute.

Mr Walsh—I support that.

Mr KERR—Can I drill down a little into this business of security clearances. I understand that there is the possibility that any person who is working in law enforcement—in a sense they are the same as sportspersons—will be the subject of random drug testing. There will be circumstances where their conduct may become the subject of examination.

If we are talking about trying to set up an ideal model that allows transferability and portability of service—this is probably a bit of a side wind to our inquiry; nonetheless, it is an important issue—I was wondering whether we ought to also recognise that you need benchmarks for security clearances across jurisdictions. Every person who enters law enforcement must require a certain level of integrity testing before they enter it. As you move into more sensitive areas, presumably there is a call to have specific clearance for accessing those more important, potentially more vital pieces of information which, if improperly used, would be more destructive of the integrity of law enforcement and more capable of providing information to bad guys and things like that.

In the security field you have different levels of security classification as people move up the need-to-know chain. You have a band of people at the top who are cleared at the very highest level, a number of people who are secured at very high level and a larger band who are cleared for important but not nationally vital intelligence. I wonder whether policing ought to have a similar band of clearance.

You say that the ACC should accept the clearance that the Victorians have put in place, but, unless there is common confidence that those standards do meet the integrity standards that the ACC would expect for the kind of highly important material that relates to their specific task of looking at serious and organised crime, I could well understand why people would not willingly give that clearance. They would say, 'Yes, I know that you've been part of the state police force and that it is subject to security and integrity checks, but, given the level of integrity that is required, we have to start all over again and clear you from the ground up.' I am aware that happens sometimes—and very intrusively—with Commonwealth officials who are cleared for intelligence purposes at the highest levels. I am wondering whether there would be some problem unless we have common agreements and a high level of confidence that those standards are actually being monitored and applied.

Mr Mullett—That comes back to the question of a certified agreement between the parties—the ACC and the Police Federation of Australia—from a national perspective because that agreement would contain all forms of standards of terms and conditions. We in Victoria stand on

a position, from an ethical health perspective, that we have very robust systems. Whether that is the benchmark nationally—we would be proud to say that we think it is—but in terms of the detail of a future certified agreement between the parties a clause around ethical health and drilling down, as you say, Mr Kerr, to standard security clearances are all subject to agreement in a clause under the heading 'ethical health'. But the parties have got to get to the table and get over the thresholds and have the will firstly from the ACC's perspective, who is the employer, and from both parties' perspectives: 'Let's do this by way of registering and certifying a national agreement between the parties.'

Mr KERR—I do not dispute that. Again, for circulation to all interested—the same way as Kym—I would say that it is a very good idea. But, if I could try and test the underlying principle, it does seem to me that there is a case that in principle could be made, that the level of intrusiveness the state is entitled to require of an officer joining the police who is going to do community policing and may be aware of some sensitive matters will be less than that for somebody who is cleared to work on serious and organised crime where there has been a pattern of attempts to corrupt police forces. What I am saying is that it is not merely a matter of initial clearance and established probity, or rather that no black mark has emerged through these processes; it is actually that if you put your hand up to do some of the more sensitive work you may then reasonably be required to be subject to a much more intensive examination of your past history from the ground up.

It is quite legitimate that some people would not wish to go through that process, not because of their own misconduct—there may be none—but simply because, as I understand it, at the highest level the process involves an examination of family, connections, relationships—a whole range of things—which may reveal no ethical misconduct about the person but may involve the knowledge of the conduct of third parties who are intimates and friends. They may feel, 'Look, I don't want to expose them to that kind of examination,' or, 'I don't want to be subject to that process.' You are not dishonest, there is nothing wrong with you, but you just cannot go any higher because that level of intrusiveness is required—unpleasant as it is personally—if you wish to take that step up. I am wondering whether you accept that there are different bands as you move where, despite having had an unblemished career, there is a situation almost like, 'You start all over again here, sonny, because you are now moving into the A-league and the sort of material that you will have access to routinely is immensely more sensitive than it was in your previous role.'

Mr Walsh—Mr Kerr, if I could respond on that issue: I see the merit in what you are proposing or suggesting, but the concern that we would have was outlined initially in what Mr Mullett said about the disparity, if you like, between organisations. We, as representatives of the Victoria Police members, are unaware of what security classifications the South Australian Police, for example, are subjected to, so we have this inconsistency across the board. The best way to overcome that is to develop a level of benchmarking. Is the benchmark that which is stipulated or proposed by the ACC?

Mr KERR—I do not know.

Mr Walsh—Nobody knows. In essence, I certainly agree with the principle which you are proposing. But there needs to be a collective approach on how we establish a benchmark upon which levels of security classification should be applied and at which levels they should be

applied. It is no different to the Defence Force, for example. There are levels of security classification applied in that organisation. But it is a one-off organisation. If you are going to apply that philosophy to the ACC then there needs to be a collective approach by all the forces to establish which levels should be applied and then that agreed upon.

Mr KERR—That is really what I was driving at.

Mr Mullett—But to actually achieve and resolve it, we need to strike a collective agreement with the ACC. After the benchmarking exercise has been done, we can then agree to a provision around ethical health and get down to the detail that you are suggesting.

CHAIR—I have enjoyed this exchange and have one last question. As a committee we have had propositions put to us that the ACC is top-heavy with lawyers and that the decisions are being made by lawyers as opposed to operational police. How does your association see the makeup of the commission from the point of view of lawyers and operational police? Do you think there is a balance with the personnel in the commission? Do you think that the operational and intelligence requirements of the commission are being satisfied by the current recruitment and employment strategies?

Mr Mullett—From our members' perspective, there is no doubt that there are complaints about the decision-making processes and the cumbersome bureaucratic process behind that. Naturally, our investigators are the practitioners, and whether there has to be a greater sharing in the decision making in the overall structure—

CHAIR—What are you saying? Are you saying that the lawyers have primacy in decision making?

Mr Mullett—From our members' perspective, that is right. They are too low down the structure in the decision-making process. In years gone by there have even been assistant commissioners—from a policing perspective—seconded to the NCA, as it was then, and the ACC, as it is now. They were involved in that decision-making process. Graham Sinclair from the Victoria Police force had a high profile and enjoyed a very good reputation not only as a practitioner of investigations but also as a manager. He was involved directly in the day-to-day decision making, which appears not to be the case at the moment.

CHAIR—What do your members tell you the impact of that lack of input and involvement in a management role has on operations?

Mr Mullett—It hampers investigations out in the field, without doubt.

CHAIR—Does it help that the CEO is a former police officer?

Mr Mullett—That is a good question. It may not. It comes down to the decision-making process and the structure as to how decisions are made. From our perspective, within the vital last point of decision making, you need the police practitioner, the investigator, to be involved directly.

CHAIR—Mr Mullett and Mr Walsh, thank you very much for your attendance and assistance to the committee and for your advice and answers to our questions.

Mr Mullett—Thank you for hearing us today.

Proceedings suspended from 11.14 am to 11.33 am

WESTWOOD, Ms Sarah, Vice President, Criminal Defence Lawyers Association

CHAIR—I welcome you to this hearing. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. I invite you to make a short introductory statement, after which we will move to a general discussion.

Ms Westwood—The Criminal Defence Lawyers Association thanks the committee for the opportunity to present evidence at this hearing. As you may or may not be aware, the association was recently incorporated and publicly launched on 7 September. Its goal is specifically to provide a voice for the concerns of defence practitioners in Victoria, both solicitors and members of the criminal bar. I should indicate that I am present here today with my colleague, Mr Geoff Steward, who is also a member of the executive committee of the Criminal Defence Lawyers Association. As I indicated, we are very pleased to be invited. Because the association is new we have effectively had very short notice of this hearing. The executive committee met yesterday to discuss the content of the evidence that will be provided to you today. Other members of the executive committee of the Criminal Defence Lawyers Association are in court today. I preface the evidence I give by saying that my personal experience of the Australian Crime Commission is limited; I have attended there on one occasion. But the Criminal Defence Lawyers Association hopes that the comment that I provide, which is informed by those with more experience than I have, will be helpful in the context of your review.

I also note that in discussing and preparing for giving evidence at this hearing, I was aware that the ability of individual members of the association to discuss their respective experiences in the commission was limited by the restrictions imposed by the act. I am not, therefore, in a position to give this committee practical examples, if they are sought.

Mr KERR—I should, on behalf of the chair, indicate that we would not be resistant to receiving a supplemental written submission. We have time limits so you may feel deeply frustrated and anxious that we were not giving you sufficient time. If you feel that there are matters that we ought to be aware of that you were not able to address in your oral presentation or if you think that there are things that you were not questioned about but which you think we should know about tell us by written document. We will still receive it; I am sure that is right.

CHAIR—We will forward to you as soon as it is available a transcript of today's proceedings. You can access transcripts of the proceedings in Brisbane and, shortly, what happened in Sydney. So, if after reviewing the transcripts you feel that it would be useful for us to have further advice and opinion from you we would welcome that, as the deputy chair has just indicated. I will ask you a general question to start off with. The ACC's genesis lies in the royal commissions of the late seventies and early eighties. Basically, the NCA was envisaged, I suppose, as a standing royal commission. Do you think that the rationale behind it—that is, to have a standing royal commission, which is in effect what the ACC is—still has currency in today's environment?

Ms Westwood—That is not a question that I have come prepared to answer in any detail. Clearly there would be many views about the rationale for the existence of an organisation like the Australian Crime Commission. It would probably have to be said that it should exist. I have come here prepared to talk, on the basis of matters that have been discussed between members of

the executive—many of whom have considerably more experience than I do in the commission—about practices of the commission and aspects of the legislative framework which are of concern. I can start by noting some practices adopted by the commission which, in our experience, have been identified as working well. If those matters are of assistance to this committee and are within the parameters of your review, would it be helpful to go on and indicate what they are?

CHAIR—One of my questions was going to be in relation to coercive powers. If you have views about the operation or application of those coercive powers, which are very similar to those available to the Victorian police, I would be interested in hearing about them.

Ms Westwood—I certainly have comments on those issues. What I had prepared to say at the start was that there have been a couple of practices that have been identified as working well within the commission. Firstly, the witness summonses identify a relevant contact person and in our experience that person is generally available, out of hours if necessary, and able to provide assistance. That is clearly in a context where there is a need to advise a client summonsed, usually as a matter of extreme urgency.

One of the matters that I wanted to raise was the time frames imposed by the service of summons generally. Before I come to that, the other matter that has been identified by members of the executive of the Criminal Defence Lawyers Association as a good practice by most commissioners is the practice of allowing a witness to claim a blanket privilege against self-incrimination—I am referring to section 30—at the commencement of proceedings. That facilitates the running of proceedings. Those are two matters that we would identify as working well in the way that the commission practises.

I will go on now to address some of the negatives. In preparing to give this evidence, I listed the negatives in the order in which they are likely to arise in the course of an examination. In the experience of our members, that would be when we are presented with someone seeking advice in relation to a summons.

The first matter I wish to raise, and it is one I briefly alluded to before, is the service of a summons upon a person required to appear as a witness. In our view, there are often unnecessarily short lead times. While, clearly, providing persons with a reasonable opportunity to seek legal advice must be balanced against the concerns that investigators might have regarding destruction of evidence and notification of third persons, it is our view that, in the case of persons who are not the principal focus of an investigation and who often may be required to produce voluminous business records when they appear, the time allowed to do all of that and to seek qualified and experienced legal advice in these matters is too short.

Mr KERR—That is very general. Can you give us the specifics?

Ms Westwood—I could perhaps raise my personal experience, which was to be presented with someone who had been served with a witness summons and who had to answer it in under 12 hours. In that time, they had to produce reasonably substantial business records as well as obtain legal advice. Generally that creates the sort of situation where, as a lawyer, you are required to drop everything else and deal with it, and there is often a substantial amount of

advising required in a very short time frame. In our view, that hinders a witness's ability to access properly qualified legal advice.

The second matter that the association want to raise is the failure, in our view, at the commencement of a hearing, to provide a witness with a reasonable overview of the parameters of the investigation. We would compare that with a situation where a person who is to be charged or interviewed in relation to criminal offences will be given notice of the issues and, where they have accessed legal advice, their lawyer is often able to gain a reasonable understanding of the nature of the investigation by speaking to police before their questioning proceeds. In our view, that facilitates, again, the provision of legal advice and the proper understanding of people's rights. It is a practice that we believe does not happen at the commission, and that leads to certain consequences.

Another matter we wish to raise involves questioning. It is our view that questioning is often conducted as if the witness were under cross-examination in front of a jury. In other words, questioning is often conducted in a kind of context where credit is a relevant matter. It is the view of the association that in cases like that there is a clear intent to entrap witnesses giving evidence in front of the commission. While it is the association's view that persons who have been proven to have given false evidence before the commission should be subject to penalties, in the context of what happens at the commission—an examination or a hearing which is an information gathering exercise, which may concern the investigation of a third person and their criminal conduct—the methods employed by the counsel who assist the commission are unnecessary. They put witnesses, who are already likely to be intimidated, into an unnecessarily combative situation. It is not clear whether that assists in the overall objective of the commission, which is to be an information gathering exercise.

Mr KERR—I think it is fair to say that we can assure you that the commission has indicated that it has changed its practices in this regard in recent times. Nonetheless, that is a very interesting observation.

Ms Westwood—Again, I am not in a position to provide this committee with practical examples other than my own observations.

Mr KERR—I understand that.

Ms Westwood—There is another issue that the association would like raised and recorded—that is, the issue of allowing questioning which may go beyond the apparent ambit of a summons. At present it has been noted by some members of my association that the only way to deal with this matter would appear to be to initiate proceedings in the Federal Court. In practice, it is believed that that does not happen. We understand that it does not happen; therefore, we have a situation, in the association's view, where witnesses are extremely vulnerable. There is an unfairness that exists there and, in the association's view, that could be corrected by requiring that more information be provided at the start and that there be some reasonable setting of the parameters of what the subject of the examination is before the examination commences.

I move on to what the executive in the meeting yesterday identified as probably the most significant point of vulnerability. I refer to your raising the issue of coercive powers—that is, the power vested in the chief executive officer under section 59(7) of the act. Put simply, the

question is: where does the transcript go? It is a major concern of the association, and it is squarely raised, we believe, in circumstances where persons, by reason of their evidence, may have put their personal safety and the safety of others at risk. The commission apparently has an unfettered capacity to distribute transcript to other government agencies and departments, and the association believes that is a major flaw in the commission's powers and procedures. The association identifies a risk and a lack of procedural fairness afforded to the persons involved. Also, the concern is that inexperienced individuals within agencies and departments—or the agencies themselves who may not be familiar with the Crime Commission legislation—may unintentionally or otherwise misuse information provided by the Australian Crime Commission.

While section 59 clearly contemplates control by the chief executive officer over where the transcript goes and to whom it goes, there is a further issue of what happens to that information once it has left the Australian Crime Commission and what derivative uses will be or can potentially be made of that evidence. It is also noted that transcript is susceptible to subpoena, and I can certainly say—again, speaking solely from my own personal experience—that I am aware of files within my own office containing Crime Commission transcript. It is also known, and it may well be known to the members of this committee, that certain persons, when charged with serious criminal offences, have had their associates analyse some briefs, which may include transcript, to identify persons they consider to be informants.

Other members of the executive have asked me to raise the fact that, anecdotally, where counsel, in the course of a commission hearing, have squarely raised these issues—including concern about the transcript and what happens to the transcript under section 59(7)—other than a formal acknowledgement of their concerns having been raised, nothing further has been heard from the commission. In the view of the association, that is not good enough. The association would want to see and would advocate for a statutory role for counsel appearing on behalf of witnesses in this commission to argue against distribution of transcript to particular agencies in each case, whatever that case may be.

Finally, to wrap up, the last concern that the association has asked me to raise is that, at the conclusion of those hearings, people are advised that they may be required to attend again, and certainly that has been my personal experience. It is a concern to the association that, with those hearings, there is often a failure to provide proper closure to the process. Again, this is in the context of persons having given evidence which may have put their own personal safety and the safety of others at risk, and persons who have done so are effectively, in the association's view, left in limbo, without knowing whether they will be required to attend again to give evidence in the future. In the association's view, given the coercive nature of the powers of this body, the extreme secrecy within which it operates and the consequences of providing evidence to it, this is not an insignificant issue and it should be addressed further.

Mr KERR—I appreciate absolutely legitimately the concerns you people might have, but how do you distinguish this from a circumstance where an accountant, for example, is asked to attend a police station, or the police visit the accountancy practice and ask for cooperation, and the accountant decides it is appropriate to cooperate and provides assistance? I appreciate there is a difference, that these are coercive powers. But surely the same problem arises in any instance with a potential witness in a proceeding or in an intelligence gathering operation. If they supply it voluntarily, there are no rules that limit the use that is made of that voluntary material. We rely on law enforcement to be aware of the dangers that potentially exist with respect to

someone who cooperates. I understand the problem, but I am trying to distinguish it from the issue that is at large whenever any person becomes known to have even talked to the police. They may have provided no information, but the fact that the police attended may give rise to suspicions amongst associates.

Ms Westwood—It is conceded that there are similarities. When a person makes a decision to cooperate with an investigation and provide information, they may well be putting themselves at some sort of risk. Perhaps the distinguishing factor is the magnitude of the coercive powers of this particular body and the magnitude of the investigations that they are undertaking. Isn't that a major distinguishing factor?

Mr KERR—I am asking you—I am trying to tease this out.

Ms Westwood—In the view of the association, the problem is that when a witness is summonsed to give evidence they will be totally unaware of the parameters of the investigation. They are giving evidence into what appears to be a vacuum—and, from my personal experience, a pretty scary looking vacuum and a very intimidating situation. So, yes, there are similarities—people will always be exposing themselves to risk; but this organisation holds coercive powers that require people to answer questions.

Mr KERR—I am not trying to diminish what you are saying, but let us assume that Mr Richardson is a close associate of a criminal organisation and runs their accounts: the fact that he is summonsed and a transcript is distributed could expose him, but also merely the fact that it becomes known that he was summonsed might expose him. We have provisions that enable people to seek protection. It is a difficult area. I am not disputing that you have identified potentially an area we need to look at. Your solution would be to enable legal representatives to say to or make submissions to the chief executive officer that the transcript not be distributed in a particular way. But you can already do that by representation, can't you? You do not have a statutory power to do it, but presumably—

Ms Westwood—The concern that is raised is that when these concerns have been put before the commission they appear to have received no more than formal acknowledgment and there has been nothing further heard by way of response to those concerns. That was why it was raised as a possible solution to what we see as a very significant issue that there be a statutory role for counsel to make those arguments and for a decision maker to make some sort of decision in each case about the release, or not, of transcripts to particular agencies.

Mr KERR—I appreciate that that would be the sort of view that a body representing lawyers would take; but presumably not every person who is the subject of investigation goes with counsel anyway.

Ms Westwood—No.

Mr KERR—The issue is just as important for those who are unrepresented. If there is a problem, the solution should be one that does not require the activation of counsel to address. What you are raising is that there may need to be greater precision in the drafting of this to take into account that issue. Obviously if you have counsel they will raise it. But it is no real solution

if in fact, as I understand it, a substantial number occur without people being legally represented, and they may not be benefited by that solution.

Ms Westwood—That is so; I would agree with that. Obviously the views that I have raised are those of the members of the executive of the Criminal Defence Lawyers Association, based on their personal experience and their dealings with the Australian Crime Commission and representing persons summonsed. As to the experience—

Mr KERR—And if I could be crude about it—I am trying to get to the nub of the problem—you are saying that a number of clients have come out of these proceedings fearful that the information they have made available to the commission may fall back into the hands of bad guys who will do them harm. Is that the circle here?

Ms Westwood—It is one of their concerns.

Mr KERR—I understand that one. What are the others? I am trying to get this in some sort of—

Ms Westwood—As I indicated, the legislation already contemplates that the transcript can, on the decision of the chief executive officer, be provided to various agencies—and they are defined.

Mr KERR—But why shouldn't it be? If it is intelligence gathering, it is in relation to law enforcement, why shouldn't it be? The frame in which we should look at is: how do we make certain that we are not having people bumped off or having their knees broken because they have been put into a situation where careless use of the transcript has exposed them to danger? If that is the situation then I think we need to address it in a way which is practical. Whether the solution that you are putting up is the right one, I do not know.

Ms Westwood—Clearly, given that it has been an information gathering exercise, the transcript will be provided to other agencies. To summarise the concern: what happens to that transcript once it leaves the Crime Commission? There is not necessarily any issue taken with the fact that it is provided by decision of the chief executive officer under that section of the act to specified agencies for investigative purposes. Rather, the concern is what those agencies then go on to do, the derivative uses they then make of that transcript, and the possibility of that transcript falling into the hands of persons within those organisations who may be, as I said, inexperienced with the legislation of the Australian Crime Commission. The concern really is: what happens to that transcript down the track? Where does it go? How is it protected once it leaves the commission by operation of that particular section of the act?

The other concern, obviously, is that it is susceptible to subpoena. As I indicated to you, I can say that there is transcript from the Australian Crime Commission hearings in my office.

Mr KERR—In what way is it susceptible to subpoena, and by whom?

Ms Westwood—By persons charged with criminal offences. They are two separate issues, but the overarching concern for persons who have given evidence under summons and been examined at a Crime Commission hearing is that their evidence has gone onto transcript. And the

question is: where does it go and what derivative uses are made of it? In the view of the association, that is a very significant matter in relation to the operation of the commission and of this legislation, given the context of its coercive powers.

The one suggested solution that has been put up by the association is, as I indicated, some sort of statutory role for counsel to make relevant arguments on the basis of the circumstances of each case regarding the release of transcripts to various agencies. As you have rightly pointed out, how is that going to help someone who is not represented? I do not have any other proposals to put up as a solution to that problem, but the association would like to squarely raise it as a major concern.

Mr KERR—Mr Richardson would know more about the way in which law enforcement protects materials which might be—

CHAIR—I do know that Mr Richardson has some follow-up questions.

Mr RICHARDSON—Mr Kerr, you are right. I think it is an area that this committee should explore: as Ms Westwood is saying, exactly where does it go? We will seek clarification on that. I know from a state perspective, but I certainly do not know from the ACC's perspective. Sarah, I would just like to pick up on what you said. It is interesting that you say that you would like a closure, your colleagues would like a closure and your client would perhaps like a closure. But where the suspect person or his or her association may have been committing criminal offences, organised crime related offences, for a long period of time or one day, or perhaps may commit them in the future, it makes it near impossible for the ACC or any legislative body to provide to your colleagues or your client a closure for that offence, because, with further intelligence gathering, your client may be linked in three, six or 12 months time. So I think that is fairly improbable. However, you are asking for a—

Ms Westwood—I think I was trying to make a distinction. Obviously there are all sorts of different persons who may be the subject of summonses to appear at the commission. That was more a reference to the little people who get summonsed to give evidence because they may have wittingly or unwittingly had some dealings with a person who perhaps is the major focus of the investigation. And they will be sent—

Mr RICHARDSON—Perhaps like a telephone intercept?

Ms Westwood—Yes, or business transactions or something like that—and there is clearly a major investigation under way. It may be nearing closure; it may not. But for those sorts of persons, that category or class of persons who are summonsed to give evidence, the failure to provide closure is an issue that we would raise particularly in relation to them. Clearly it is difficult. Where there is ongoing investigation, how can there be closure? But, given the environment into which they are summonsed, the coercive nature of it, the intimidation and all of those other factors, closure is an issue.

Mr RICHARDSON—For sure. My last question is in relation to the secrecy notation system under section 29A. Is there a danger that they may limit their capacity for public discussion of the operation of key elements of the ACC Act? Do you have any views on the operation of the secrecy notations?

Ms Westwood—The issue of whom they can disclose to? Was your question asking whether it limits the operation of the—

Mr RICHARDSON—Yes, and your thoughts around the whole concept of secrecy.

Ms Westwood—Perhaps one thought would simply be that these sorts of secrecy provisions are likely to work most of the time with most of the people. There will always be a small percentage of people for whom they will not work and they will never work. Given my limited personal experience with the commission, I do not think I am qualified to give you any really helpful, detailed thoughts about this.

Mr RICHARDSON—You may like to come back after discussion with your colleagues.

Ms Westwood—If you are able to give me that opportunity—

Mr RICHARDSON—Absolutely.

Ms Westwood—I certainly will raise it.

Mr KERR—We will make the inquiries that are suggested in your submission, but you can come back to us with more detail if you want to. I understand that you have only recently become seized of this. It is not an unlimited time frame but, nonetheless, we would be very happy to hear more within a reasonable time.

CHAIR—The transcript should be available shortly, and we will send a copy to you. That will prompt you and summarise the queries that we could perhaps follow up.

Mr RICHARDSON—I have another question—and it is one that I have been fairly keen to pursue with other witnesses—on the provision of legislation to provide a power to penalise noncompliance with a direction to attend or produce documents. What is your colleagues' opinion on that?

Ms Westwood—It is just one part of the overall legislative framework that makes it an extraordinarily coercive situation. I would like the opportunity to make more detailed submissions about it. Earlier in my evidence I referred to the unnecessarily, in our view, short lead times available to persons to prepare for something where no-one really knows what is going to happen. That makes it all the more coercive and intimidating in a context where there are very significant penalties for failure to produce documentation. From my own personal experience, I know that when a witness is served with a summons there is a great deal of work that needs to be put into the interpretation of the ambit of the summons and, in particular, the requirement to disclose documents. The person is then left with the problem of obtaining, collating and bringing all of those documents to the commission in a time frame of perhaps 12 or 24 hours. In our view the penalties that are prescribed for failing to produce documents, in a context of procedure that works like that, is unnecessarily harsh. I would like the opportunity to make further submissions.

CHAIR—Thank you for your attendance today and your willingness to provide advice to the committee, particularly given the recency of the formation of your association. We look forward

to your further informal advice. That concludes today's hearing. I thank everyone for their attendance and cooperation and declare the hearing closed. The committee will reconvene to take further evidence on 7 October in Canberra.

Committee adjourned at 12.08 pm