

The Parliament of the Commonwealth of Australia

**PARLIAMENTARY JOINT COMMITTEE ON THE
NATIONAL CRIME AUTHORITY**

THIRD REPORT

Australian Government Publishing Service
Canberra

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ISBN 0 644 11168 2

THE PARLIAMENT OF THE
COMMONWEALTH OF AUSTRALIA
PARLIAMENTARY PAPER

No. 452 OF 1989

Ordered to be printed
by authority
ISSN 0727-4181

Printed in Australia by R. D. RUBIE, Commonwealth Government Printer, Canberra

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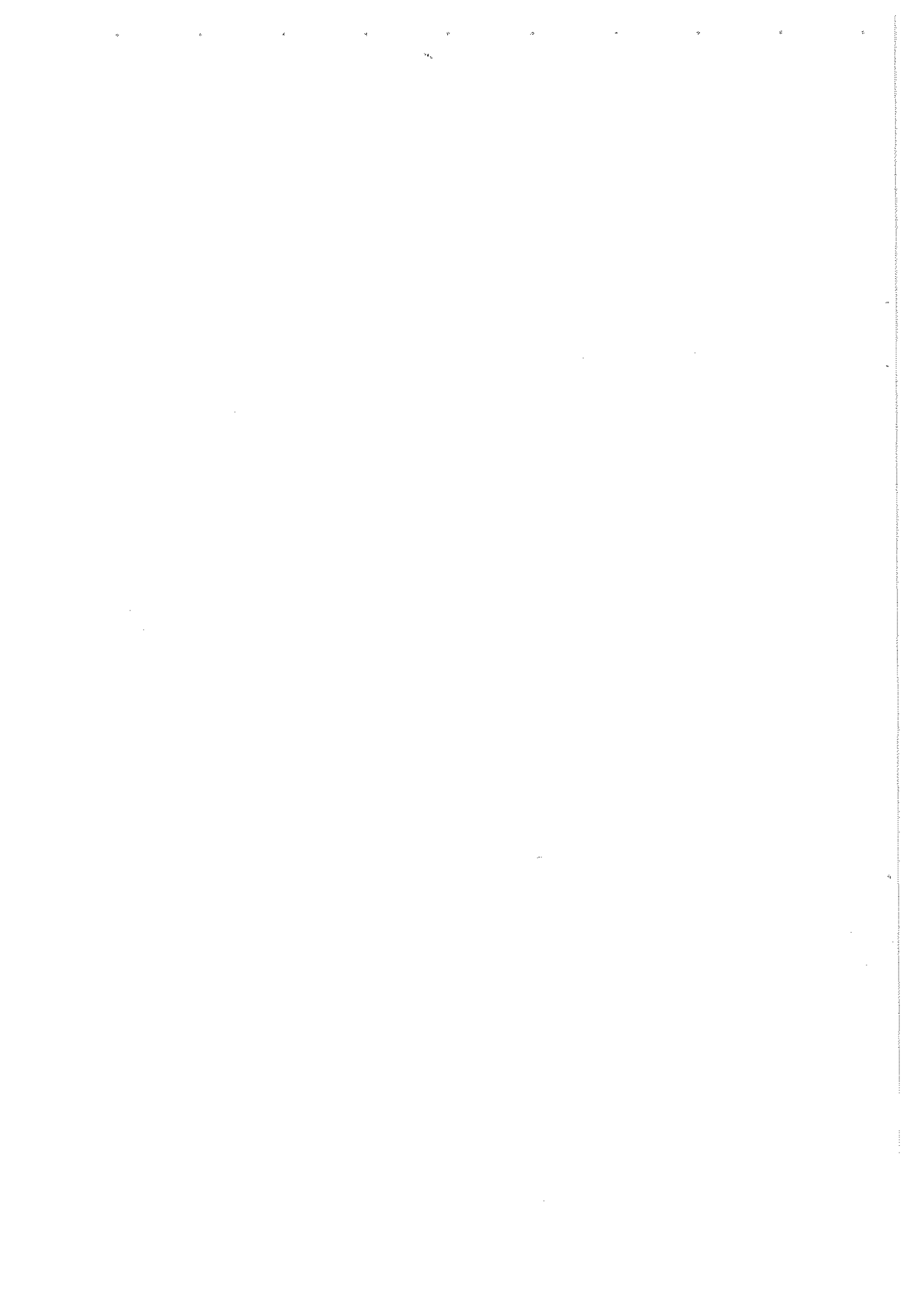
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LIST OF RECOMMENDATIONS

Recommendation: The Committee affirms the importance of the principle that there should be a clear separation between the functions of investigative agencies, such as the Authority, and those agencies responsible for determining whether a prosecution should proceed, such as the Federal and State Directors of Public Prosecutions. However the Committee does not believe that this principle would be eroded if, where the Authority and the prosecuting agency cannot agree on the selection of counsel to conduct the prosecution in a case arising out of an investigation undertaken by the Authority, the Authority were to be in a position to assist the relevant agency with the costs of briefing counsel upon whom both the Authority and the relevant agency could agree. The Committee notes that this proposal, although permitting the choice of counsel to conduct the prosecution to be reached by agreement between the Authority and the relevant prosecuting agency, would still leave the decision whether to prosecute, and if so on what charges, as the sole responsibility of the relevant prosecuting agency. The Committee accordingly recommends that the Authority should be provided with sufficient funds to enable it to assist prosecuting agencies in meeting the costs of briefing counsel upon whom both the Authority and the relevant prosecuting agency can agree to conduct prosecutions in cases arising out of the Authority's investigations when agreement cannot be reached with the relevant prosecuting agency on any other basis. (Paragraph 2.13).

Recommendation: The Committee recommends that the costs of the present system for telecommunications interception be carefully monitored so that consideration may be given in future to the adoption of measures which may reduce the costs of such interceptions to all law enforcement agencies. (Paragraph 3.14).

CHAPTER 1

INTRODUCTION

1.1 The Parliamentary Joint Committee on the National Crime Authority is constituted pursuant to section 53 of the *National Crime Authority Act 1984*. The Committee has the duty under section 55 of that Act to monitor and to review the performance by the National Crime Authority of its functions and to report to both Houses of the Parliament upon any matter appertaining to the Authority or connected with the performance of its functions to which, in the opinion of the Committee, the attention of the Parliament should be directed.

1.2 The Committee fulfils its monitoring and reviewing function by keeping a watch on what the Authority is doing and examining suggestions that the Authority has not been performing its statutory functions or that it has abused its powers. Most such suggestions have been made in the press rather than being raised directly with the Committee but the Committee has also relied upon informal channels of communication available to parliamentarians and its formal power to seek submissions from other bodies which may have had dealings with the Authority.

1.3 The Committee tries to meet regularly with the Authority and although its plans were disrupted this year by airline disputes it has met with the Authority on ten occasions over the past three years. At such meetings the Authority briefs the Committee on matters such as staff and resources, legislative and other constraints impacting upon the Authority's ability to perform its functions effectively, the Authority's relations with other agencies, its strategic planning and procedures, completed investigations and operations which have entered the public domain. The Committee is not, however, briefed on matters which the Authority considers to be operationally sensitive.

1.4 The Committee's regular meetings with the Authority also provide a forum for the Committee to raise with the Authority matters of concern in relation to the Authority's performance of its functions. Thus the Committee has sought explanations in relation to prosecutions arising out of the Authority's investigations which have failed at the committal stage of proceedings, allegations of interference in the Authority's operations by politicians or officers of other law enforcement agencies and suggestions of inadequacies in the Authority's arrangements for the protection of witnesses. In addition to the oral briefing provided at its regular meetings with the Authority, the Committee also receives written briefing material from the Authority including detailed briefs on each of the Authority's investigations. The Committee has also sought and received from the Authority specific documents to supplement material provided by way of oral briefing and explanation.

1.5 The Committee has presented two previous reports to the Parliament pursuant to its monitoring and reviewing function, the *First Report* in November 1985 and the *Second Report* in November 1986. In May 1988 the Committee tabled a report entitled *The National Crime Authority – An Initial Evaluation* in which it supported the passage of legislation repealing the 'sunset clause' in the *National Crime Authority Act 1984* which would otherwise have resulted in the Authority ceasing to exist on 30 June 1989. However the Committee considered that it was only possible to make an initial evaluation of the Authority's performance at that time since many of the Authority's investigations were not completed and legal proceedings were before the courts or pending in a number of matters arising out of the Authority's investigations.

1.6 The Committee therefore recommended that a more comprehensive evaluation of the Authority's work, and of the success of the law enforcement strategy underpinning the establishment of the Authority, be undertaken after the Authority had been in existence for seven years. That recommendation did not mean, however, that the Committee did not intend to continue to fulfil its duty of monitoring and reviewing the performance by the Authority of its functions in the meanwhile and it is pursuant to that duty that the Committee presents this, its *Third Report*, to the Parliament. Its purpose is to report on matters connected with the Authority's performance of its functions during the period since the Committee presented its *Second Report* and, in particular, to report on the Committee's examination of some of the Authority's investigations which may have given rise to public concern that the Authority was not performing its functions properly.

1.7 The Committee has not attempted to provide an exhaustive account of the Authority's activities in the course of the past three years nor has it set out to make some further evaluation of the Authority's performance beyond that contained in its *Initial Evaluation*. The detail of the Authority's work may be found in its own Annual Reports which provide a very comprehensive picture of the way in which it has been carrying out its functions including details of specific investigations where these have been dealt with by the courts. The Committee would also refer interested readers to the Committee's *Initial Evaluation* for material relating to the Authority's organisation and its interpretation of its functions. The Committee restricts itself in this report to specific matters which have been discussed with the Authority in the course of the regular meetings referred to above.

1.8 However it is appropriate to remark that the period covered by this report saw the end of Mr Justice Stewart's term as the Chairman of the Authority. As the foundation Chairman of the Authority Mr Justice Stewart deserves much of the credit for establishing as a working reality what was a unique and novel concept in law enforcement. In making this comment the Committee does not intend to discount the very significant contribution made by the other members of the Authority over the past five years nor the dedication and hard work of the many members of staff who have helped over that time to build the reputation of the Authority as an effective element of this country's law enforcement machinery. However nobody can deny that the Authority in its first five years bore the stamp of Mr Justice Stewart's personality nor that in significant respects

it reflected his experience as a Royal Commissioner inquiring into the 'Mr Asia' drug syndicate, the Nugan Hand bank and the illegal interception of telephone calls by the New South Wales Police.

1.9 The task that Mr Justice Stewart was set as the foundation Chairman of the Authority was a difficult one. Not only was he required to build a new agency the very existence of which was fiercely resented by many within the existing law enforcement structure of the country but the legislation also contained a 'sunset clause' which would have resulted in the Authority ceasing to exist after a period of five years unless the Parliament passed a further law to the contrary. The Authority was thus under pressure to prove itself and to do so quickly even though the investigation of organised crime is a lengthy process and it takes even longer for the results of investigations to be processed by our criminal justice system. The perception that it had to 'put runs on the board' to justify its existence led to the Authority being criticised in some quarters as 'arrest-driven', although Mr Justice Stewart himself had rejected the number of arrests the Authority had made as a satisfactory measurement of its overall performance in the Authority's *Annual Report 1985-86*. However, as the Committee commented in its *Initial Evaluation*, there was an expectation on the part of the Parliament in establishing the Authority that it would get results: that it would put important or significant criminals behind bars. This the Authority under Mr Justice Stewart did.

1.10 The attention which a handful of cases attracted because charges against high profile defendants were withdrawn or dismissed should not be allowed to obscure the fact that any failures in cases arising out of the Authority's investigations have been far outweighed by its successes. A summary of the Authority's major successes and failures to date is set out in Appendix 1.

1.11 The importance of these successes does not lie in mere numbers but in the significance of the criminals convicted and in the impact which the Authority's activities have had on organised crime in general. Thus, for example, after many years of notoriety and speculation in relation to his alleged involvement in organised crime, Mr Abraham Saffron was convicted in October 1987 of conspiracy to defraud the Commonwealth of income tax and sentenced to three years imprisonment, the maximum sentence available for the offence. Mr Saffron was refused special leave to appeal to the High Court against his sentence in August this year. In addition, as a result of the Authority's investigations, the Australian Taxation Office issued additional assessments against Mr Saffron and one of his companies for \$2,955,000.

1.12 The Authority's investigation under Commonwealth Reference No. 2, codenamed Operation Iliad, concerns the illegal importation and distribution of drugs, especially heroin, by persons of Chinese origin and their associates, and the financing of the importation and distribution of such drugs. The Australian Federal Police had initiated a similar investigation but had met with little success. At the time that the investigation was taken over by the Authority (at the request of the Australian Federal Police) some targets had been identified but no substantive police investigation of them had been undertaken. The Authority's investigation has so far resulted in the charging of 93 people on a total of 198 charges. Sixty-seven prosecutions have been completed, resulting in 39

convictions and 15 deportations. The significance of this investigation is borne out by the amount of heroin seized (almost 60 kilograms) and by the severity of the sentences imposed as set out in Appendix 1.

1.13 Mr Justice Findlay of the New South Wales Supreme Court, in passing sentence on Tieng Souksamrane and Samlane Phanith on 22 April 1988 for their parts in the importation of 2.16 kilograms of heroin from Thailand via Singapore, felt it appropriate to commend those responsible for the investigation:

'This involved principally police officers attached to the National Crime Authority but also in conjunction with customs officers and with narcotic officers of the Central Narcotics Bureau Singapore. It was only through their competence and their sustained thoroughness that eventually the arrests were made and none of the drugs escaped into the community in Australia.'¹

1.14 Operation Silo (Commonwealth Reference No. 3) is perhaps the most publicised Authority success. This investigation focused on the Cornwell/Bull drug syndicate. Although Bruce Cornwell and his associates had previously been the subjects of police attention, there had been no success in obtaining hard evidence against them. The Authority did obtain such evidence and Cornwell, Bull and eight of their associates were convicted with substantial sentences being imposed.

1.15 The Authority was also successful in its re-investigation, under Commonwealth Reference No. 6, of a number of gangland murders in Sydney, after the investigation of these murders by a special New South Wales police task force had had little success. As a result of the Authority's investigation, Thomas Domican was found guilty of shooting at Christopher Dale Flannery and his family with the intent to murder them and was sentenced to fourteen years imprisonment. Domican has appealed against his conviction and sentence. Intelligence gained during this investigation also materially assisted the New South Wales Police Operation Kappa which has resulted in the charging of a number of men in relation to two of the other murders.

1.16 In South Australia an investigation by the Authority led to the successful prosecution of former Chief Inspector Barry Moyse on drug-related charges. The prosecutor, Mr Michael David, QC, acknowledged the work of the Authority in the course of the sentencing hearing, telling the court that the people of South Australia owed a debt of gratitude to the Authority for uncovering Moyse's drug operations:

'If it wasn't for the investigations of the much maligned NCA, these offences might never have been detected.'²

¹*R v Samlane Phanith and Tieng Souksamrane* (unreported, New South Wales Supreme Court, 22 April 1988), p.6.

²Quoted in *The Age*, 13 August 1988, p.16.

1.17 The measure of the Authority's success lies not only in the number of convictions of significant criminals arising from its investigations but also in the fact that it is unlikely that many of these convictions would have occurred without the Authority. Other agencies had already attempted investigations in some of the cases and had been unable to launch prosecutions, while in the Moyses case it was acknowledged that the offences might not have been uncovered but for the intervention of the Authority. Moreover in some areas it appears that the Authority has not only broken new ground but that it has stimulated other law enforcement agencies to follow it. The Committee understands that the Authority was the first law enforcement agency in Australia to employ Chinese-speaking officers from Hongkong to assist in the investigation of criminal activity among Chinese elements in Australia. Now the Australian Federal Police are also experiencing some success in this area in co-operation with the authorities in Hongkong.

1.18 Mr Justice Stewart's experience as a Royal Commissioner was also reflected in the 'hands on' management style he adopted as the Chairman of the Authority. Rather than standing back as a manager he was involved in the day to day running of the Authority's investigations. With the lifting of the 'sunset clause', however, there was a need for the organisational structure of the Authority and the role of the Chairman in particular to change to reflect the Authority's new status as a permanent body. Mr Justice Stewart had initiated a review of the Authority's organisational structure, management practices and support systems in November 1988 and the final report of this review was presented in July 1989 to the new Chairman, Mr Peter Faris, QC. While the Committee considers that the complete change in the membership of the Authority - apart from the member in charge of the Adelaide office, Mr Le Grand - which took place in July 1989 was undesirable from the point of view of continuity in the Authority's investigations, it has undoubtedly given Mr Faris the opportunity to place his stamp on the Authority in turn. Mr Faris has already indicated to the Committee that he proposes to take the Authority in new directions and that, unlike Mr Justice Stewart, he will not be involved in the day to day running of investigations. Instead he intends to take on an overall management role, with responsibility for the Authority's policies and procedures. The Committee welcomes this initiative and looks forward to a continuation of the Authority's record of success under its new Chairman.

CHAPTER 2

THE AUTHORITY'S PERFORMANCE

Introduction

2.1 The Authority has been the subject of much criticism in the past two years. The Committee does not wish to cast itself in the role of the public defender of the Authority, but on the other hand it believes it has a duty to speak out when the Authority is wrongly attacked by those who seek to misrepresent the Authority's functions or by those who are not in full possession of the facts. The Committee, because of its intimate knowledge of the Authority's activities, is well placed to reassure both the Parliament and the people of Australia when it is wrongly suggested that the Authority is departing from its proper functions or is not carrying out those functions as well as it should. Conversely, when criticism is warranted, the Committee is well placed not only to identify where faults in the Authority's performance may lie, but also to suggest ways in which those faults might be remedied.

The Authority and its critics

2.2 Some may object that the Authority could very well answer such criticism itself. The Committee, however, has the advantage of independence from the Authority whereas any defence coming from the Authority itself could be criticised as self-serving. Moreover the Authority is constrained by the secrecy requirements of its Act in a way in which the Committee is not. In this connection the Committee notes that the Authority has been the subject of much misplaced criticism because of the secrecy surrounding its operations. Unfavourable comparisons have been drawn, for example, with the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct undertaken by Mr G.E. Fitzgerald, QC, in Queensland. The fact of the matter is that the Parliament in establishing the Authority made a deliberate decision that its hearings should be conducted in secret so as to protect the reputations of innocent persons who might be subjected to all sorts of unsubstantiated allegations. It is unfair to criticise the Authority for carrying out its operations in accordance with its establishing Act.

2.3 Similarly, Mr D. Meagher, QC, has criticised the Authority for not 'producing reports on the operations of organised crime in Australia, with lengthy examination of the way in which it operates, and various strategies that could be undertaken to suppress it'.¹ This criticism mirrors that made by Mr F.X. Costigan, QC, when he appeared before the Committee in April last year, as set out in the

¹ABC Television, *The World Tonight*, 9 June 1988.

Committee's *Initial Evaluation* report.² In making this criticism Messrs Costigan and Meagher adopt the views they expressed to the Senate Standing Committee on Constitutional and Legal Affairs in the course of its inquiry into the National Crime Authority Bill 1983, namely that the Authority should be primarily an intelligence-gathering rather than an investigative body.³ However both the Committee and the Parliament rejected their views and the Authority's principal function under the *National Crime Authority Act 1984* is the assembling of admissible evidence for the prosecution of offenders. Mr Meagher is of course entitled to his views as to what the functions of the Authority ought to be, but there is no point in criticising the Authority for failing to perform those functions rather than the functions it is required to perform under its Act. In directing its attentions to the investigation of specific offences rather than compiling lengthy reports on organised crime the Authority is simply carrying out its functions as the Parliament intended.

2.4 Much of the criticism of the Authority over the last few years has come from police associations and the Committee believes that factors such as 'professional jealousy', competition for resources and wariness about security issues may have been motivators of this criticism. However the Committee recognises that such failures have not been all on one side. The evidence available to the Committee suggests that relations between the Authority and police forces have significantly improved in recent months and the Committee looks forward to closer co-operation as the separate role of the Authority becomes better defined.

Specific cases

2.5 The Authority has been criticised often in the course of the past year as a result of investigations which have failed at the committal stage of proceedings. These were:

- (1) the prosecution of South Australian Assistant Commissioner Kevin Harvey, Detective Sergeant Eric Douglas and Ms Patricia Walkuski on charges of conspiracy to pervert the course of justice, the charges being dismissed by Mr Clynton Johansen SM on 11 March 1988;
- (2) the prosecution of Mr Al Grassby, Mr Giuseppe Sergi and Mrs Jennifer Sergi on charges of conspiracy to pervert the course of justice and criminal defamation, all charges except that of criminal defamation against Mr Grassby being dismissed by Mr J.S. Williams

²Parliamentary Joint Committee on the National Crime Authority, *The National Crime Authority - An Initial Evaluation* (Parliamentary Paper No. 378/1988, A.G.P.S., Canberra, 1988), pp.64-65.

³Senate Standing Committee on Constitutional and Legal Affairs, *The National Crime Authority Bill 1983* (Parliamentary Paper No. 30/1984, A.G.P.S., Canberra, 1984), pp.12-16.

on 13 May 1988 and a stay granted by the same magistrate in respect of the charge of criminal defamation against Mr Grassby on 26 May 1988;

- (3) the prosecution of Sir Andrew Grimwade and Messrs Trevor Huttley, Jon Wilson, John Collier and Kelvin Dyer on charges of inducing investors to invest in the Jet Corporation of Australia Unit Trust by the making of false statements, the charges against Sir Andrew Grimwade and Messrs Collier and Dyer being dismissed by Mr R. Franich on 3 June 1988 while Huttley and Wilson were committed for trial;
- (4) the prosecution of New South Wales Police Chief Superintendent Jim Willis, South Australian Assistant Commissioner Kevin Harvey, Mr Les Knox, Mr Howard Hilton and Mr Morres George on charges of conspiracy to pervert the course of justice, the charges being withdrawn by the New South Wales Director of Public Prosecutions on 23 June 1988; and
- (5) the prosecution of Mr Abraham Saffron and former New South Wales Deputy Police Commissioner Bill Allen on charges of conspiracy to bribe Sergeant Warren Molloy of the New South Wales Police Licensing Squad and conspiracy to obstruct the course of justice, the charges being dismissed by Mr S.D.K. Hyde on 15 July 1988 while the question of a stay of bribery charges against Mr Allen was adjourned pending appeals.

2.6 The Committee had intended to deal with all five of these cases at some length in this report and also to address certain specific criticisms of the Authority made by the magistrate, Mr Williams, in handing down his initial decision in relation to the charges against Mr Grassby and Mr and Mrs Sergi on 13 May 1988. However three of the cases remain before the courts. First, the New South Wales Director of Public Prosecutions successfully appealed to the New South Wales Court of Criminal Appeal against the decision of the magistrate to grant a stay of the criminal defamation charge against Mr Grassby and this ruling was upheld by the High Court in a decision handed down on 12 October 1989. The High Court, however, left open the possibility that Mr Grassby might make further application for a stay of the proceedings against him to the trial court once he had been committed for trial.

2.7 Secondly, the Victorian Director of Public Prosecutions has presented Sir Andrew Grimwade, Mr Collier and Mr Dyer for trial on the same charges of making fraudulent inducements which were earlier dismissed by the magistrate and this trial is now under way in Melbourne. Thirdly, although the decision of the magistrate to dismiss the conspiracy charges against Messrs Saffron and Allen was upheld by the New South Wales Court of Appeal in a decision handed down on 7 June 1989, Mr Allen has since been committed for trial on the remaining bribery charges. The Committee has therefore considered it inappropriate for it to make any comment on these three matters and it has confined itself to the other two cases listed above.

2.8 Two things should be made clear at the outset, however. First, the Authority has no responsibility for the conduct of prosecutions. It does not bring prosecutions in its own name and has no statutory power to do so.⁴ The decision whether to prosecute, and if so on what charges, rests with the responsible prosecuting agency. In respect of Federal offences this is the Commonwealth Director of Public Prosecutions while New South Wales and Victoria both now have similar officers with statutorily independent prosecuting functions. It has been suggested that the Authority, headed as it was until recently by a judge and two senior members of the criminal bar, may have had undue influence on the exercise by the Directors of Public Prosecutions of their independent discretions to prosecute. However this would mean that those officers were not carrying out their statutory duty.⁵ No doubt the views of the Authority carry great weight, and in each of the five cases listed above the Authority's view that a prima facie case existed was backed by the advice of counsel assisting drawn from the private bar. Nonetheless the final decision whether to prosecute remains one taken by the relevant prosecuting authority.

2.9 This independence is illustrated by the decision of the New South Wales Director of Public Prosecutions to withdraw the charges against Chief Superintendent Willis and others and also by the course of events in the Grimwade case. The Authority had obtained independent advice on the charges which should be laid in this case and on 9 June 1987 charges of conspiracy to defraud and giving and receiving secret commissions were laid against Grimwade, Huttley, Collier and Wilson. On 11 September 1987, three months after the brief had been forwarded to him and three days before the committal hearing was due to begin, the Victorian Director of Public Prosecutions informed the Authority that he had concluded that the charges that had been laid were not appropriate. On 9 and 10 November 1987 charges of making fraudulent inducements to investors were substituted. Clearly the lack of consultation which took place in this case was undesirable but the Committee was informed at its meeting with the Authority on 9 December 1987 that the necessary fences had been mended.⁶

2.10 Not only does the Authority not have any role in the conduct of prosecutions, it does not seek such a role. It recognises the importance of the principle that there should be a clear separation between investigative agencies such as the Authority and those agencies responsible for determining whether a

⁴A police officer attached to the Authority may be named as the informant in relation to charges arising out of an investigation conducted by the Authority but this does not mean that the Authority has the carriage of the prosecution. Indeed in some States committal proceedings are usually handled by police prosecutors and this has caused the Authority some difficulties since it must prevail upon the prosecuting agencies to carry out this task, lacking as it does any power to conduct prosecutions itself.

⁵See the editorial in the *Sydney Morning Herald* of 30 June 1988 and the subsequent letter from the Commonwealth Director of Public Prosecutions, Mr Ian Temby, QC, published on 5 July.

⁶*In Camera Evidence*, Meeting with Authority, 9 December 1987, p.558.

prosecution should proceed.⁷ The separation of these functions is an important shield against wrongful prosecutions. An investigator may become psychologically committed to a prosecution and may therefore find it difficult to take a detached view of the strength of the case. The investigator may also be influenced in his or her belief in the guilt of the accused by evidence which is inadmissible in court and may be inclined to overlook evidence which is favourable to the accused. Quite apart from the question of the strength of the prosecution's case the investigator is also not well placed to weigh the public interest factors which enter into the decision to prosecute. Although the decision to prosecute is only the first of the screens a case passes through before a person's guilt or innocence of a crime is determined it is potentially the most significant because thereafter all events take place in open court and often in a glare of publicity. Even if the accused person is not committed for trial by the magistrate or is found not guilty by the jury there will still be those who will say that there is no smoke without fire. Accordingly it is of the utmost importance that the decision to prosecute be taken by someone who has not been involved in the investigation, who has no preconceptions as to the guilt or innocence of the accused and who can make an impartial evaluation of the strengths and weaknesses of the evidence against the accused.

2.11 However the fact that the prosecution of cases arising out of the Authority's investigations is left entirely in the hands of the prosecuting agencies has been a matter of concern to the Committee. The Authority may be left to some extent a 'hostage to fortune' so far as the ultimate outcome of the cases arising out of its investigations is concerned. The Authority has generally been content with the manner in which such cases have been conducted and the Committee is satisfied that in no instance has a prosecution arising out of one of the Authority's investigations failed solely because of any inadequacy on the part of the prosecutor. Nevertheless the Authority has expressed to the Committee its grave concern about the competence of the prosecutor involved in one case. The Committee was told that the Authority had approached the relevant Director of Public Prosecutions but that he had declined to replace the prosecutor in question or to give him a leader (that is, a more senior barrister who would have primary carriage of the case).

2.12 The Committee considers that it is unsatisfactory that the Authority should not be able to have confidence in the competence of the prosecutors handling its cases. Given the amount of money invested in the Authority's investigations it would be a false economy if a case arising out of any such investigation were to fail because the prosecutor involved was not up to the task in hand. The Committee has been told that if the Authority were to be in a position to provide funds the prosecuting agencies would be happy to brief anyone upon whom the Authority and the relevant agency could agree.⁸ If the Authority had in essence a right of veto over counsel it would be as well placed as it could expect to be if it prosecuted its own cases. At the same time the important distinction between

⁷*In Camera Evidence*, Meeting with Authority, 9 December 1987, p.546; Meeting with Authority, 3 June 1988, p.617.

⁸*In Camera Evidence*, Meeting with Authority, 3 June 1988, p.618.

the investigating and prosecuting functions would remain, with the decision whether to prosecute, and if so on what charges, remaining vested in an independent agency.

2.13 Recommendation: The Committee affirms the importance of the principle that there should be a clear separation between the functions of investigative agencies, such as the Authority, and those agencies responsible for determining whether a prosecution should proceed, such as the Federal and State Directors of Public Prosecutions. However the Committee does not believe that this principle would be eroded if, where the Authority and the prosecuting agency cannot agree on the selection of counsel to conduct the prosecution in a case arising out of an investigation undertaken by the Authority, the Authority were to be in a position to assist the relevant agency with the costs of briefing counsel upon whom both the Authority and the relevant agency could agree. The Committee notes that this proposal, although permitting the choice of counsel to conduct the prosecution to be reached by agreement between the Authority and the relevant prosecuting agency, would still leave the decision whether to prosecute, and if so on what charges, as the sole responsibility of the relevant prosecuting agency. The Committee accordingly recommends that the Authority should be provided with sufficient funds to enable it to assist prosecuting agencies in meeting the costs of briefing counsel upon whom both the Authority and the relevant prosecuting agency can agree to conduct prosecutions in cases arising out of the Authority's investigations when agreement cannot be reached with the relevant prosecuting agency on any other basis.

2.14 Secondly, the intention of the Committee in reviewing these cases is not to reconsider the findings of the Authority in relation to its investigations. The Committee is in any case prevented from undertaking this task by sub-section 55(2) of the *National Crime Authority Act 1984*. Rather, the Committee's intention is to examine the Authority's performance in relation to these cases and to determine whether the Authority, in conducting its investigations and in assembling the requisite admissible evidence, met its statutory responsibilities.

2.15 It is always easy to be critical with the benefit of hindsight and the Committee inevitably finds itself in the position of examining the Authority's actions after the event. It is one thing for the Committee to identify, let us say, some step which any prudent person would have taken in the investigation of a particular offence but which the Authority omitted, and quite another for the Committee to suggest that in retrospect (and knowing the view the courts took of the case put together by the Authority) the Authority should have sought additional evidence before proceeding or should not have proceeded at all. Moreover one may readily imagine situations where the Authority's failure to act, for example, on allegations of corruption against certain police officers might be the subject of criticism by armchair critics taking the view that the evidence in the case was stronger than it appeared to the Authority. The Committee cannot second guess the Authority. Its review of those cases arising out of the Authority's investigations which failed at the committal stage of proceedings is therefore limited to an attempt to identify any flaws in the Authority's procedures

which may have led to cases being assembled which were not soundly based and which can be remedied in the future. It is on this basis, therefore, that the Committee approaches its review of the first and fourth of the cases listed above.

Harvey, Douglas and Walkuski

2.16 The South Australian Assistant Commissioner (Crime), Mr Kevin Harvey, Detective Sergeant Eric Douglas and Ms Patricia Walkuski were charged on 22 October 1987 with conspiracy to pervert the course of justice. It was alleged that they had conspired in 1983 to have a charge of possession of an unlicensed pistol against Mr Albert John Homer dropped and that Ms Walkuski had passed a bribe to Detective Sergeant Douglas which had been accepted by Assistant Commissioner Harvey in return for dropping the charge.

2.17 Homer had been working as a bodyguard for Ms Walkuski who was at the time involved in running a brothel. Ms Walkuski had required protection and had therefore provided Homer with two guns. When later trying to return one of the guns to her, Homer was arrested and charged with the possession of an unlicensed firearm. Assistant Commissioner Harvey did not dispute that the charge against Homer had been withdrawn on his authority nor did he dispute that the usual procedures had not been followed in the case. When questioned by police he explained that the charge had been withdrawn because Walkuski had provided information to police in the past. There was no evidence that Douglas had played a part in Harvey's decision-making process.

2.18 In his reasons for judgment handed down on 11 March 1988,⁹ the magistrate, Mr Clynton Johansen, SM, noted that it was not disputed that the charges against Homer had been withdrawn on Harvey's authority following approaches to him by Walkuski. Harvey, as Assistant Commissioner (Crime), had the necessary authority to withdraw the charges and the issue was therefore whether his decision to do so in this case was improper.

2.19 Although police officers in earlier evidence before the Authority had said that it would have been improper to withdraw the charges in the relevant circumstances, when Mr Michael David, QC, senior counsel for the prosecution, met with them they resiled from their earlier statements to the point where he was not prepared to call them as witnesses.¹⁰ Mr David Hunt, the South Australian Commissioner of Police, was therefore called to give evidence of the accepted procedures for withdrawing charges. Mr Hunt's view as presented in both his record of interview and his witness statement was that, where information was to be provided in exchange for the reduction or withdrawal of charges, the information had to be given in advance. The promise of future information was not sufficient, nor should the withdrawal of charges be based on the fact that information had been provided in the past. Further, the withdrawal of charges against a friend of an informer would depend on whether the informer

⁹*Malcolm Robert Forster v Kevin Harvey, Patricia Walkuski and Eric Douglas* (unreported, Magistrates Court, Adelaide, 11 March 1988).

¹⁰*In Camera Evidence, Meeting with Authority*, 3 June 1988, pp.628-9.

supplied substantial information in advance. However, under cross-examination at the committal hearing Commissioner Hunt acknowledged that an officer, in recommending the withdrawal of charges against an informer, would have in mind the possibility of receiving information from that source in the future. Commissioner Hunt also accepted that, given the right climate and if it were in the public interest, charges could be withdrawn against a friend of an informer.

2.20 Thus Commissioner Hunt was forced to concede in cross-examination that situations might arise which he had not taken into account in his witness statement. Mr Johansen noted that Harvey's decision had been recorded in writing and that he had notified the appropriate people within the Police Department prior to the charges being withdrawn. The magistrate concluded that, at worst, Harvey's decision to authorise the withdrawal of the charges may have been contrary to an unwritten convention within the Police Department. While this weakened the Authority's case, the case did not fail merely on this account. Mr Johansen also took into account the evidence of Homer, the prosecution's chief witness.

2.21 Homer had testified that on the day Douglas went to Walkuski's flat to have Homer sign a surrender document for the gun, he had seen an envelope containing a large amount of money at the flat, that Walkuski had taken the money with her into the bedroom where she had spoken with Douglas, and that Homer had not seen the money when they emerged from the bedroom. The inference drawn by the prosecution was that Douglas had left with the money, to be passed on to Harvey in return for the withdrawal of the charge. The magistrate found, however, that a reasonable jury would have great difficulty in accepting Homer's evidence as reliable. Apart from some inconsistencies in his evidence, there was the fact that he was first asked to recount the details of his evidence some four years after the relevant events. Moreover the only evidence which touched on the payment of money was that of Homer and even if his evidence were accepted it was only an assumption that the money had passed from Walkuski to Douglas. The magistrate stated that in his opinion there was nothing in the evidence which provided a foundation for that assumption. Nor was there any evidence that any money had been passed to Harvey or any evidence which might provide a foundation for the inference that Harvey had received any money. Mr Johansen concluded that there was insufficient circumstantial evidence of any agreement between the defendants. He was not satisfied that a prima facie case had been established against any of the defendants and he therefore dismissed the charges.

2.22 The Authority was subsequently criticised for bringing the charges against Harvey, Douglas and Walkuski. As has already been noted, it is a misconception to suggest that the Authority was ultimately responsible for the fact that Assistant Commissioner Harvey and the others were charged. That decision rested with the South Australian authorities. Nevertheless the Committee sought from the Authority further information concerning its investigation in this case. The Committee was informed that Mr Graham Morrish, QC, of the Melbourne Bar, had provided the initial oral advice to the Authority that there was a proper case to go forward. After the charges were dismissed at the committal stage, the Authority sought the opinion of Mr Brian Sully, QC, on whether the evidence was

sufficient to support the filing of an *ex officio* indictment. Once again it should be emphasised that the decision whether to proceed in this manner would have rested with the South Australian Attorney-General, not with the Authority.

2.23 Sully QC considered the evidence against Douglas and decided that none of the material was capable of establishing or of helping to establish a case of conspiracy against Douglas. He also considered the evidence alleging that Walkuski had paid money to Douglas as a consideration for his participation in the alleged unlawful conspiracy. He took the view that Homer's evidence, even taken at its highest, could not be said to demonstrate facts and circumstances from which the only rational inference to be drawn was an inference of a corrupt payment by Walkuski to Douglas and/or Harvey in connection with the withdrawal of the charges against Homer. Nor could any adverse conclusions be drawn from the fact that Harvey sent Douglas to collect the gun from Walkuski and Homer. Having also considered the whole of the evidence given before the Authority by Douglas, Sully QC did not find anything in that material which would be admissible against Douglas in the nature of an admission against interest. He concluded that it would not be justifiable to present Douglas for trial on an *ex officio* indictment.

2.24 Concerning Walkuski, Sully QC found that there was no evidence to show that she knew the nature and scope of Harvey's authority as Assistant Commissioner (Crime) to procure the withdrawal of the charges against Homer, that she appreciated that the only way to withdraw the charges would involve some impropriety on Harvey's part, that she had ever suggested that he behave improperly, or that in any other way she had contemplated that he would or might do something improper and unlawful in order to procure the withdrawal of the charges. He concluded that the evidence admissible against Walkuski, from whatever source, was insufficient to warrant an *ex officio* indictment.

2.25 Sully QC was, however, of the view that Harvey's course of conduct in withdrawing the charges gave rise to justifiable disquiet, firstly in relation to the conflict between what Harvey said about his dealings with Stanford, an officer in the Police Prosecutions Branch, and Stanford's own evidence before the Authority on that point, and, secondly, in relation to the explanation given by Harvey in his evidence to the Authority for his decision to withdraw the charges. However, even if Stanford's evidence were accepted as correct, Sully QC advised that this would only raise the level of suspicion about Harvey's conduct and that a Crown case which could not be taken beyond suspicion could not sustain a conviction for a criminal offence. Similarly, although Sully QC found Harvey's explanation as to his reasons for withdrawing the charges against Homer to be unconvincing, this again merely heightened the level of suspicion. Although a reasonable tribunal of fact could not but conclude that the charges against Homer should not have been withdrawn and that it was a misconceived exercise of discretion by Harvey to authorise their withdrawal, this was not to say that he had exercised his discretion corruptly or otherwise with criminal impropriety. While it was conceivable that Harvey had authorised the withdrawal of the charges for some personal motive representing an abuse of his legitimate authority, it had to be assessed whether the evidence suggested that such a motive could only have been a motive deriving from his complicity in the alleged

conspiracy. Sully QC concluded that the evidence available could not support Harvey's conviction as a co-conspirator with either or both Walkuski and Douglas.

2.26 The advice which the Authority received from Sully QC may appear to suggest that the entire prosecution of Harvey, Douglas and Walkuski was fundamentally flawed and that it could never have succeeded. However, as emphasised above, the Committee's role is not to reconsider the findings made by the Authority which led to charges being laid against the three accused. Rather it is to review the process by which the Authority came to form the view that Harvey, Douglas and Walkuski had engaged in a criminal conspiracy which warranted them being charged. Three considerations are of importance. First, it seems clear that the Authority had already formed the view that Assistant Commissioner Harvey was corrupt prior to formulating the specific charges against him. However, most of the evidence that the Authority had received was inadmissible in a court of law. The withdrawal of the charge against Homer and another matter, dealt with below, were the only two cases where the Authority could put together a case based on admissible evidence.¹¹

2.27 Secondly, the Authority placed great reliance on the fact that it considered that the explanations offered by Harvey concerning his withdrawal of the charge against Homer were inadequate. It believed that its case did not depend on the evidence of Homer being believed concerning the alleged payment of a bribe, and that this evidence was merely 'the cream on the cake of the case'.¹² In the event, the evidence given at the committal hearing bore a different aspect to that given before the Authority both because the police officers who had given evidence before the Authority as to the proper procedures for the withdrawal of charges resiled from their earlier positions and so were not called, and because Commissioner Hunt was forced under cross-examination to admit that he had been too dogmatic in his earlier statements concerning the propriety of withdrawing charges for past information received and withdrawing charges against the friend of an informer.

2.28 Thirdly, the Authority placed reliance on the oral advice of its counsel assisting in the inquiry, Mr Graham Morrish, QC, in its assessment of the strength of the case it was submitting for the consideration of the South Australian Crown Solicitor. The Committee does not wish in any way to criticise the advice tendered by Morrish QC. It has not thought it appropriate to invite him to appear before it and its remarks on the propriety of the course followed by the Authority should not be taken as a reflection on Morrish QC's conduct in this matter. The Committee notes that, in seeking Morrish QC's advice, the Authority was aware that he had been involved in the preceding investigation as counsel assisting and that he had also been involved in another matter which bore on the character of Assistant Commissioner Harvey, dealt with below. Because of Morrish QC's involvement in these matters, the Authority should have taken into account the difficulty which counsel in that position might have had in disentangling those matters bearing on the strength of the case the Authority

¹¹*In Camera Evidence*, Evaluation Inquiry, National Crime Authority, pp.187-9.

¹²*Ibid.*, p.183.

was submitting for the consideration by the South Australian Crown Solicitor and other matters not directly relevant to that case of which counsel would have been aware.

2.29 These considerations point to the importance of the decision whether to prosecute being placed in the hands of someone who is not connected with the actual investigation. Nevertheless it is difficult to see what blame can attach to the Authority in these circumstances. It believed on the evidence before it and on the basis of the advice of its counsel assisting that it had a case to go forward to the prosecuting authorities. Given the view of the facts the Authority had formed it is difficult to see what other action it could have taken. Indeed it could very well have been criticised had it not placed the evidence it had collected before the relevant authorities. With hindsight the case against Douglas and Walkuski appears to be particularly weak and it seems doubtful that the allegations against Assistant Commissioner Harvey alone could have sustained criminal charges. However the Committee does not believe that the Authority can be said to have failed in its statutory responsibilities in any way.

2.30 The only suggestion that the Committee can make is that in future in preparing a brief of evidence to go forward to the relevant prosecuting agency the Authority should seek the advice of a member of the bar who has not been involved in the investigation in any way. It should be emphasised that this will not prevent cases such as this occurring again. It would be foolish to expect that charges brought as a result of investigations by the Authority will never fail, either at the committal stage or at trial. It is always possible to take more than one view of the facts in a case. Nevertheless the advice of independent counsel could operate as a valuable safeguard against wrongful prosecutions.

Harvey, Willis, Knox, Hilton and George

2.31 Assistant Commissioner Harvey was also charged in New South Wales in January 1988 with conspiracy to pervert the course of justice in conjunction with Chief Superintendent James Michael Willis, then the head of the New South Wales Drug Law Enforcement Bureau, and Messrs Lesley Knox, Howard Hilton and Morris George. The charges related to a successful bail application made in New South Wales in 1983 by an alleged drug dealer, Jamil Hawach, against whom more serious charges were outstanding in South Australia. Hawach had been arrested in New South Wales in February 1983 and had obtained bail from the New South Wales Supreme Court in March of that year. The obtaining of bail on that occasion was the subject of separate charges against Knox, Hilton and George which did not result from investigations by the National Crime Authority. A bench warrant was issued by the South Australian Supreme Court in April 1983 for the arrest of Hawach as a result of his failure to answer the South Australian charges. On 11 April 1983 Hawach was arrested on this warrant in New South Wales and in the normal course of events he would have been extradited to face trial in South Australia.

2.32 However it was alleged that as a result of representations made to him by Knox, who was at the time a Detective-Sergeant in the New South Wales Police, Willis contacted Harvey on 14 and 15 April 1983 and persuaded him to withdraw

the opposition of the South Australian authorities to bail being granted to Hawach. It was further alleged that on the morning of 15 April 1983 Harvey contacted Detective Senior Constable Lockwood, who was representing South Australia at the extradition proceedings in New South Wales which were due to begin that day, and instructed him to agree to the South Australian extradition proceedings being adjourned until the charges pending against Hawach in New South Wales were dealt with and not to oppose the granting of bail to Hawach. In the event Hawach was granted bail and absconded.

2.33 On 23 June 1988 the conspiracy charges against all five defendants were withdrawn. The New South Wales Director of Public Prosecutions stated that fresh material had become available which necessitated a reappraisal by him of his decision that the case should proceed. The Committee has been informed that the 'fresh material' referred to consisted of transcripts of telephone intercepts which cast doubt on the veracity of the evidence of the witness whose testimony was being relied upon to establish the conspiracy between Knox, Hilton and George.¹³ The truthfulness of the same witness, known variously as 'Mr X' and 'Mr Smith', had also been the subject of criticism by the magistrate, Mr Williams, in the prosecution of Mr Al Grassby.

2.34 The Authority was once again criticised for its part in the bringing of charges which were subsequently withdrawn. Chief Superintendent Willis was reported as stating that he was at a loss to understand 'how the NCA issued a summons against me, and whether such proceedings were issued through malice, incompetence, paranoia or [as] a means to justify its existence'. He called for an independent inquiry into the conduct of the National Crime Authority in relation to the issue of the summons against him.¹⁴ Mr Willis' reported comments ignore the fact that it was the New South Wales Director of Public Prosecutions, and not the Authority, who was ultimately responsible for the decision to charge him. The Committee has been provided with a copy of the written advice given to the Authority by Mr Graham Morrish, QC, its counsel assisting in this investigation, supporting the charging of Mr Willis and his co-defendants in this matter. Once again the Committee notes, without wishing in any way to criticise the advice tendered by Morrish, QC, that it may have been preferable for the Authority to have obtained the advice of a member of the bar who had not had any prior involvement in its investigations.

2.35 It seems clear that Willis and Harvey would not have been charged had there not been evidence of an alleged conspiracy between Knox, Hilton and George to procure the bailing of Hawach. Unfortunately the case for the alleged conspiracy relied heavily on the evidence of 'Mr Smith' who had supposedly been a party to it. Because of the fact that it was not involved in the prosecution of Knox, Hilton and George in the related conspiracy case, no criticism can attach to the Authority in relation to the 'fresh material' which the New South Wales Director of Public Prosecutions uncovered, leading him to drop the

¹³*In Camera Evidence*, Meeting with Authority, 2 September 1988, pp.701-4.

¹⁴*Canberra Times*, 28 June 1988, p.7; *Australian*, 28 June 1988, p.3.

charges in both cases. Since the relevant transcripts of telephone intercepts related to the case in which the Authority had not been involved, the Authority could not by law have been given access to that material.

2.36 Contrary to the statements which he made to the press, Chief Superintendent Willis had been provided with a full opportunity to provide an explanation for his alleged approach to Harvey to request that the South Australian Police not oppose the granting of bail to Hawach. Once again the Committee is satisfied that the Authority carried out its statutory responsibilities and that it could indeed have been subject to criticism had it not placed the results of its investigation before the New South Wales Director of Public Prosecutions. The fact that charges are withdrawn or dismissed or that a jury ultimately decides that the Crown's case has not been proved beyond reasonable doubt does not mean that the decision to lay the charges could only have been reached through malice or incompetence.

Conclusion

2.37 The Committee is satisfied that the Authority took action in the two cases dealt with above only after careful investigation and after receiving advice from counsel that prima facie cases against the accused existed. The Authority cannot be blamed for the fact that other factors, such as new evidence, arose which resulted in the charges being dismissed or withdrawn. The Committee is confident that the Authority carried out its statutory responsibilities correctly in assembling admissible evidence in relation to these matters and in forwarding that evidence to the responsible prosecuting agencies in the respective States. The Committee believes that the public and the Parliament should not be misled into taking a contrary view by self-interested statements made by persons such as Chief Superintendent Willis and bodies such as the South Australian Police Association.

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CHAPTER 3

OTHER MATTERS

Suicide of Cassandra Ogdon

3.1 At some time during the night preceding 17 August 1987, the day on which she was to have given evidence at an *in camera* hearing before the Authority, a young Melbourne woman, Ms Cassandra Ogdon, committed suicide. There was no suggestion that she herself had been involved in criminal activities and the Authority had only wished to question her about her association with one Peter James Cross while she had been an exchange student in Bolivia in 1980-81. Her family released a statement on 20 August 1987 claiming that Ms Ogdon had received a threatening phone call two days before she was due to testify before the Authority and saying that:

'In view of the tragic consequences of this horrendous situation, no such inquiry should proceed ever again without guaranteed protection for key witnesses.'

3.2 Because of the implicit criticisms made of the National Crime Authority, and of the precautions it had taken in relation to Ms Ogdon's safety, the Committee has reviewed the Authority's conduct in this matter. The Coroner, Mr Hallenstein, reached the following conclusions after investigating the circumstances of Ms Ogdon's death.² Ms Ogdon had been a student at Eltham High School, Victoria, where one of her teachers had been Peter James Cross. While Ms Ogdon was resident in Bolivia as an exchange student in 1980-81, Cross wrote to her that he would be visiting Bolivia and that he was interested in obtaining cocaine. Cross subsequently visited Ms Ogdon in Bolivia in July 1981 and she introduced him to a person or persons who were able to assist him in his plans to export cocaine from Bolivia.

3.3 Despite denials by Irvin Rockman, the Coroner found that Ms Ogdon had been present at premises in Malvern in August 1981 together with Cross, Rockman and others in circumstances where cocaine was present and used. The Coroner found that because of that gathering, Ms Ogdon reasonably believed:

- that Cross had imported cocaine from Bolivia;
- that Rockman was involved with the importation;
- that she had information which required her silence; and

¹Reported in *The Age*, 21 August 1987, p.3.

²*Record of Investigation into Death of Cassandra Amelia Louise Ogdon*, 30 May 1988.

- that her silence had been specifically demanded of her at the gathering.

Although she did not discuss the matter with her family, she did mention some details to close friends.

3.4 In late 1986 Ms Ogdon became aware that Cross had been arrested in regard to illicit drug matters. Although Ms Ogdon made a written statement to Authority investigators, the Coroner found that she had withheld the true extent of her involvement with Cross' purchasing of cocaine in Bolivia. He found that subsequently she had been scared of the consequences of having withheld information, scared of continuing to withhold information and scared of the consequences to her and her family if she were to tell all she knew.

3.5 Mr Hallenstein found that a number of incidents had fuelled Ms Ogdon's fears for her safety and that of her family. A live bullet had been found at her parents' home in May 1987, Rockman had pulled up in his car while she waited at a bus stop and had glared at her in what she perceived to be a threatening manner, she was visited at work by two men of whom she was suspicious and who asked her about the contents of her statement to the Authority, and three nights before she was due to give evidence before the Authority, Ms Ogdon had received a phone call warning her not to testify.

3.6 Furthermore, her reading of the Authority's subpoena and its attachments suggested that the matters the subject of its inquiry involved not only cocaine but also murder and violence. She believed that Christopher Dale Flannery, whom she had been told was a 'hit man', was involved, although it is unclear how she formed that belief as no names were mentioned in the Authority's subpoena. It is known, however, that Flannery was a friend of Cross, and Ms Ogdon's belief may have stemmed from things which Cross had said to her in the course of *their association*.

3.7 The Coroner noted that the Ogdon family had questioned the Authority's sensitivity in its handling of Ms Ogdon and its failure to investigate the bullet incident, but he found that, in the context of her statement to the Authority which did not give a full account of her involvement in Cross' activities in Bolivia, sensitivity had not necessarily been warranted. The Coroner concluded that:

'In the end, there can be no criticism of the National Crime Authority which, on behalf of the community, undertakes difficult investigations by fighting fire with fire.'³

3.8 As regards the bullet incident, the Authority advised the Committee that, after the matter was reported to an Authority investigator by Ms Ogdon's mother, the investigator had satisfied himself that the finding of the bullet had no apparent link with the Authority's inquiries. He therefore advised Mrs Ogdon to report the matter to the local police and assured Mrs Ogdon, who was concerned that Peter Cross might somehow have been involved, that Cross was

³*Ibid.*, p.5.

interstate in police protective custody. Mrs Ogdon gave the investigator the impression that this satisfied her concern. Ms Ogdon in any case had expressed no concern to any person about the finding of the bullet nor did she indicate to the Authority that she was even aware of it being found.⁴

3.9 The Authority has also advised the Committee that at no time prior to her death did Ms Ogdon indicate to the Authority any fears about her safety, nor did the Authority possess any information that her personal safety was in jeopardy.⁵ There was no tangible evidence at the inquest that Ms Ogdon had been in danger from a third party. The Committee therefore agrees with the finding of the Coroner that there could be no criticism of the Authority in respect of Ms Ogdon's suicide.

3.10 However the course of events in this case does point to the need for the Authority to be sensitive to the demands it places on individual witnesses. The Committee has already emphasised in its report on *Witness Protection*⁶ the need for law enforcement agencies to respond to the needs of witnesses on a case by case basis. A witness who has obtained knowledge of criminal activities by pure mischance may be prey to all sorts of fears and may need reassurance and understanding and the procedures followed by the Authority should be sufficiently flexible to take account of these needs. The Committee suggests that witnesses summoned to appear before the Authority at a hearing should be given a contact number so that they may clarify any matters in relation to the hearing about which they are uncertain and so that they may communicate any fears which they may have as to potential threats to their safety in advance of the hearing.

3.11 One further matter may call for attention. The Authority is required by sub-section 28(2) of the *National Crime Authority Act 1984* to provide to a person summoned to appear at a hearing before the Authority a copy of the relevant reference under which the hearing is being held. In this case the relevant reference was that relating to the gangland murders in Sydney, and the questions in relation to Peter Cross' drug-dealing activities were only brought under this reference because of his association with Christopher Dale Flannery. It is evident that the reference gave Ms Ogdon a misleading impression of the seriousness of the matters which she had become involved in. Because the references given to the National Crime Authority are very broadly drafted it may be desirable that some more precise indication should be given to potential witnesses as to the areas of questioning to be covered at hearings. Once again, if a contact number were to be provided, witnesses could clarify any doubts that they might have in advance of the hearing.

⁴*In Camera Evidence*, Answers to Questions on Notice provided by the Authority, 30 August 1988, pp.1-2.

⁵*Ibid.*, p.2.

⁶Parliamentary Joint Committee on the National Crime Authority, *Witness Protection* (Parliamentary Paper No. 193/1988, A.G.P.S., Canberra, 1988).

Telecommunications Interception

3.12 The *Telecommunications (Interception) Amendment Act 1987* amends the principal Act by extending the power of the Australian Federal Police to obtain warrants authorising interceptions to cover 'serious offences' as defined by the amending Act. It also enables State and Territory police forces, the National Crime Authority and the State Drug Crime Commission of New South Wales to obtain warrants authorising interceptions. However only the Australian Federal Police can execute these warrants.

3.13 The Authority has established its own technical facilities to receive, process and analyse telecommunications interceptions and at its meeting with the Authority on 2 September 1988 the Committee inspected those facilities at the Authority's Sydney office. During the inspection the Committee was briefed on operational aspects of the facilities, as well as the measures in place to ensure the security of the facilities and the intercepted information. It was brought to the attention of the Committee that the Authority's costs in relation to telecommunications interceptions were substantially increased by the requirement that only the Australian Federal Police may execute intercept warrants. As a result, interceptions must first be transmitted to the Australian Federal Police in Canberra and then re-transmitted to the Authority's facilities. Thus even if, for example, the telephone service being intercepted is located in Sydney, the product of the intercept must first be relayed to Canberra and then returned to the National Crime Authority in Sydney. The Committee recognises that this course is the direct result of the recommendations of the Joint Select Committee on Telecommunications Interception, but it considers that the Committee may not have been aware of the full cost implications of the course it was proposing.

3.14 Recommendation: The Committee recommends that the costs of the present system for telecommunications interception be carefully monitored so that consideration may be given in future to the adoption of measures which may reduce the costs of such interceptions to all law enforcement agencies.

The Authority's Resources

3.15 The issue of the Authority's resources has frequently been discussed at meetings between the Committee and the Authority. The Committee's concern has been to ascertain whether the Authority's resources are adequate or whether the effectiveness of its investigations has been impeded by a lack of financial and human resources. Although the Authority has consistently told the Committee that it has not been prevented from undertaking any investigation which it wished to pursue, it has on several occasions indicated that it could achieve more under its existing investigations if it had increased resources.

3.16 At the Committee's meeting with the Authority on 9 December 1988 the Authority specifically raised with the Committee the problems it was experiencing as a result of the Government's failure to provide supplementation to meet the increased salary costs flowing from the 4 per cent Second Tier wage increase.

The Committee subsequently wrote to the Attorney-General on 8 March 1989 raising this and other issues in relation to the Authority's resources and the Attorney-General responded on 9 October 1989 indicating that:

'it was an integral part of the Government's wages policy that no agency should receive supplementation for second tier wage increases. Any other arrangement would be fundamentally inconsistent with the overall wages strategy and the efficiency principle which was the basis for wage increases. I have not been provided with any convincing argument that would justify my approaching Cabinet to seek treatment of the NCA as a special case.'⁷

The Committee finds the Attorney-General's statement difficult to reconcile with the evidence given to it by the Authority which indicated that the failure to provide supplementation would result in a \$600,000 shortfall in its operational budget meaning that it would have to curtail or abandon some of its investigations.⁸ It is possible that for some reason the Attorney-General was not made aware of the consequences which the failure to provide supplementation would have for the Authority. However the Committee suggests that in future the policy set by Cabinet should not be so inflexible as not to permit bodies like the Authority - which has a relatively small budget and thus a limited ability to absorb salary increases by finding offsetting 'efficiency gains' - to be considered as special cases.

3.17 More recent discussions with the Authority concerning its resources have highlighted the problems the Authority is having with the very substantial costs of witness protection.⁹ The cost of protecting a single witness for a year can run as high as \$900,000, depending on the type of arrangements which are made. The Authority cannot predict with any certainty what demands will be made upon it for the protection of witnesses nor can it seriously contemplate saying to an important witness who walks through its doors: 'No, we are sorry, we do not have the funds to pay for your protection. Try again in 6 months time.' Once again the problem is that in the context of a relatively small budget the Authority does not have the flexibility to defer other expenditure in order to make available additional resources for witness protection. The Committee suggests, as before, that Government policy should be sufficiently flexible to deal with this problem and it intends to keep the issue under review in its discussions with the Authority.

3.18 The issue of human resources is one which has always presented the Authority with problems, particularly in relation to the recruitment and retention of senior lawyers. The Authority is faced with the situation that there is only a small pool of suitable lawyers to fill such positions and it is competing against several other government agencies (for example the Commonwealth and New South

⁷Letter from the Hon. Lionel Bowen, MP, Attorney-General, to Mr P. Cleeland, MP, dated 9 October 1989.

⁸*In Camera Evidence*, Meeting with Authority, 9 December 1988, pp.787-9.

⁹*In Camera Evidence*, Meeting with Authority, 2 June 1989, pp.877-9.

Wales Directors of Public Prosecutions, the Independent Commission Against Corruption and the New South Wales State Drug Crime Commission) as well as the private sector to employ them. Australian Public Service salaries are not competitive with those being offered by the private sector and as a result senior legal positions within the Authority remain unfilled. It should be noted that this problem is not restricted to legal staff, however, and that the Authority has had similar difficulties in recruiting typing staff in Sydney because of the uncompetitiveness of Public Service salary levels. The Committee raised this matter also with the Attorney-General and he has responded that the problem of attracting suitably qualified legal staff is one that affects all areas of the Public Service and that it is under current consideration.¹⁰

National Crime Authority Annual Reports

3.19 The *Annual Reports* of the Authority for the years 1985-86, 1986-87 and 1987-88 have been tabled in the Parliament since the presentation of the Committee's *Second Report*. The Committee has examined the reports and discussed issues arising from them with the Authority. It is satisfied that the Authority has addressed the areas specified in sub-section 61(2) of the *National Crime Authority Act 1984* in those reports.

3.20 The Authority has frequently been criticised for the secrecy surrounding its operations and the Committee has already commented on this in its *Initial Evaluation* report.¹¹ The Committee was pleased to note that the Authority has been providing increasing information on its investigations in its *Annual Reports* as those investigations have developed. Its report on Operation Silo which provided extensive details of that investigation continued that trend. In addition, during 1988 the Authority held its first public sittings since 13 December 1984, partly no doubt in response to the Committee's recommendation concerning public sittings in its *Initial Evaluation* report.¹²

Peter Cleeland
Chairman

November 1989

¹⁰Letter from the Hon. Lionel Bowen, MP, Attorney-General, to Mr P. Cleeland, MP, dated 9 October 1989.

¹¹Parliamentary Joint Committee on the National Crime Authority, *The National Crime Authority - An Initial Evaluation* (Parliamentary Paper No. 378/1988, A.G.P.S., Canberra, 1988), pp.68-9.

¹²*Ibid.*, p.69.

DISSENT BY SENATOR COONEY

1. I differ from the balance of the Committee on some matters dealt with in the majority report.
2. Chapter 2 is in large part a defence of the National Crime Authority against criticism made of it. Where warranted the Parliamentary Joint Committee on the National Crime Authority should speak out against unfair criticism of the body it monitors and reviews. However that body is not so delicate a flower as to need the Committee's help whenever an adverse comment is made about it. Spirited comment is part of a free and robust society. The Committee is a monitor and reviewer, not guardian of the Authority.
3. In Chapter 2 the Committee analyses a number of specific cases dealt with by the Authority. There are precautions to be taken in naming people when discussing these matters. The Committee strives mightily to do so but it is well to keep in mind the inherent dangers in identifying people when discussing criminal proceedings.
4. The following sentence appears in clause 2.12 of the majority report:

"If the Authority had in essence a right of veto over counsel it would be as well placed as it could expect to be if it prosecuted its own cases."
5. This is followed by the recommendation set out in paragraph 2.13. I do not support that recommendation.
6. In my view an investigative body should have no part in the prosecution of a person it has processed. The ability to help determine who prosecuting counsel will be breaches that principle.
7. There are authorities established to carry out prosecutions. I can see nothing in the National Crime Authority Act to indicate the Authority is one of them. Paragraph 2.8 of the majority report acknowledges this.
8. The majority report says the lack of funds may prejudice a prosecution. See on this paragraphs 2.11, 2.12 and 2.13. If that is so the answer is not to give more money to the Authority but to the prosecuting body. The Authority is not the only body dealing with major crime and there is no reason why the prosecution of its cases should take precedence over those of other bodies.
9. If prosecuting bodies are inadequate they ought to be looked to. The remedy is in changing them not the Authority. The Authority should do what it was created to do: to investigate. Civil rights are best served where there is a separation of investigators and prosecutors.

10. I do not support the recommendation made by the majority in paragraph 3.14 of their report. This follows on from paragraph 3.13. The inference from the two paragraphs is that the present system is too costly and should be looked at. In my view interception of telecommunications is an invasion of privacy which ought be allowed only in special circumstances. It should be strictly monitored. The present system is the best way of achieving this. When its cost in terms of money is measured against the cost in terms of privacy of alternate systems I am prepared to see the economic burden of the present provisions remain.

SENATOR B. COONEY

APPENDIX 1

**SUMMARY OF THE AUTHORITY'S MAJOR
SUCCESSSES AND FAILURES TO DATE**

SUCCESSSES

Reference No. 1

Saffron convicted of conspiracy to defraud the Commonwealth, 26.10.87, sentenced to 3 years (the maximum sentence available). Appeals on conviction and sentence dismissed.

Reference No. 2

Kiss, C.H. Ng and C.L. Tung sentenced to 8, 7 and 7 years respectively.

Ferguson and Royal convicted of drug trafficking and sentenced on 2.2.87 to 16 and 14 years respectively. Appeals on severity dismissed 11.9.87.

Oloyede sentenced to 7 years imprisonment.

C.Y. Wong and S.C. Ng convicted of drug trafficking and sentenced to 24 years and 20 years respectively. Appeals on severity of sentences dismissed 8.12.88.

Chow convicted of drug trafficking and sentenced to 11 years.

Yau sentenced on 24.8.87 to six and a half years, increased on appeal to 9 years on 11.12.87.

Tsoi sentenced on 14.9.87 to 7 years, increased on appeal to 9 years on 11.12.87.

P.K. Wong sentenced on 2.2.88 to 11 years.

Sha sentenced on 3.2.88 to 11 years, increased on appeal to 14 years on 16.6.88.

Souksamrane and Phanith sentenced on 21.4.88 to 14 and 13 years respectively.

FAILURES

Charges of conspiracy to bribe an officer of the New South Wales Police Licensing Branch against Saffron and Allen dismissed, 15.7.88. Decision upheld by Court of Appeal, 7.6.89.

Charges against Duong and Harland-Prinzler in relation to 408g. of cocaine dismissed, 22.1.87. Charges against Prinzler in relation to 1.8g. of cocaine dismissed, 26.3.87.

Jury directed to acquit on charges against Kardamitsis in relation to 1.7kg. of cannabis resin on 3.3.88.

Yuen and F.J.H. Chen sentenced on 3.5.88 to 8 and 7 years respectively.

Luu sentenced on 29.7.88 to 10 years.

T.D. Nguyen pleaded guilty and sentenced to 7 years on 5.8.88.

V.Q. Nguyen pleaded guilty and sentenced to 8 years on 24.2.89.

M.L. Wong convicted of drug trafficking and sentenced to 12 years on 16.12.88.

Lian, Han and C.P. Tan convicted of drug trafficking on 30.3.89 and sentenced to 24 years, 18 years and 22 years respectively.

Shen found not guilty of being knowingly involved in the supply of heroin, 24.8.89.

K.P. Tang pleaded guilty and sentenced to 12 years.

Rueda, Sze and Chen convicted of drug trafficking on 21.9.89.

Reference No. 3

Tiffany sentenced on 19.6.87 to 12 years, Scott sentenced on 21.8.87 to 15 years, Cornwell, Bull and Webster sentenced on 16.9.87 to 23, 18 and 10 years respectively.

Drew and French sentenced on 30.10.87 to 8 and 7 years respectively.

Rogers and Rowell sentenced on 3.12.87 to 13 and 12 years respectively.

Angelini pleaded guilty and sentenced to 9 years on 4.11.88.

Manstead convicted of drug trafficking and sentenced on 2.6.89 to 7 years. Appeal pending.

Reference No. 4

Huttley pleaded guilty and sentenced to 4 years and 2 months for fraud, 23.6.89.

Reference No. 6

Domican sentenced on 6.10.88 to 14 years. Appeal against conviction and sentence lodged. Crown has appealed inadequacy of sentence. Appeal by Domican also.

Reference No. 7

Charges of conspiracy to pervert the course of justice against Harvey, Douglas and Walkuski dismissed, 11.3.88.

Charges of conspiracy to pervert the course of justice against another four S.A. policemen withdrawn after the principal Crown witness, Stamoulos, declined to testify.

Charges of conspiracy to pervert the course of justice against Grassby and Giuseppe and Jennifer Sergi dismissed 13.5.88, and a stay of proceedings in respect of a charge of criminal defamation against Grassby granted, 26.5.88. Magistrate's decision on stay overturned by NSW Court of Appeal; upheld by High Court, 12.10.89.

Former Det. Chief Inspector Moyse pleaded guilty to 17 charges relating to the sale, supply and possession of heroin, amphetamines and cannabis, 4.8.88; sentenced on 23.8.88 to 27 years. On appeal, sentence reduced to 21 years on 9.12.88.

Rocco Sergi pleaded guilty on 9.9.88; sentenced on 28.9.88 to 6 years. On appeal reduced to 5 years. Deported to Italy.

Giuseppe Carbone sentenced on 16.12.88 to 5 years. On appeal increased to 7 years, 31.3.89.

Charges of conspiracy to pervert the course of justice against Willis, Harvey, Knox, Hilton and George withdrawn on 24.6.88 after fresh material became available which cast doubt on decision to prosecute.

Pietro Sergi acquitted November 1988 of production and sale of cannabis.

Charges of conspiracy to pervert the course of justice against Sampson withdrawn on 9.12.88 - no evidence tendered after Sampson submitted material providing a defence.

Malvaso initially given suspended sentence; on appeal sentenced to 5 years, on 31.3.89. Appeal pending.

Charges of conspiracy to cultivate Indian hemp against Rocco Barbaro, Stefano Pelle, Dominic Nirta, Nazzareno Conti, Con Leonidas, Salvatore Alvaro and Antonio Cannistra dismissed March 1989.

Charges of conspiracy to cultivate Indian hemp against Luigi Pochi, Antonio Barbaro, Mario Cannistra and Giustino Gambacorta no billed, May 1989.

Reference No. 8

E. Barber, R. Barber and Ferguson *pleaded guilty to drug trafficking and sentenced to 5, 10 and 6 years respectively.*

Woods *pleaded guilty and sentenced to 6 years. Appeal pending.*

Amad and Elie Malkoun convicted of drug trafficking, 24.8.89. Sentenced on 19.10.89 to 18 years each.

Ordinary Investigation A

Ordinary Investigation B

Skelton sentenced to 6 years on 30.9.86.

Shand-Smith sentenced to 11 years 6 months on 30.9.86.

Yeow sentenced to 10 years on 30.1.87.

Gobindram sentenced to 10 years on 30.1.87.

Loh sentenced to 4 years 6 months on 10.6.87 - on appeal sentence increased to 6 years 6 months.

W.K. Chan - *pleaded guilty - sentenced to 10 years on 12.10.87.*

Cheah sentenced to 8 years on 8.2.88 and fined \$400.

Peter Briggs acquitted by direction on a charge of stealing, 26.8.86

Onuszkawycz sentenced to 5 years - on appeal charges dismissed.

Romeo sentenced to 5 years - on appeal charges dismissed.

Bakranich acquitted in November 1988.

Grant sentenced to 6 years and fined \$400.

Marinovich sentenced to 5 years on 2.12.88.

Ordinary Investigation D

C.H. Lee and L.H. Chan convicted of drug trafficking and sentenced on 16.10.87 to 15 years each. Appeals against severity dismissed.

Maio convicted on 16.3.88 and sentenced to 18 years.

Asciak sentenced on 15.6.88 to 10 years. Appeal on conviction and sentence dismissed.

APPENDIX 2

STATISTICS PROVIDED BY THE NATIONAL CRIME AUTHORITY

STATISTICS RELATING TO INVESTIGATIONS: SUMMARY

	1985-86	1986-87	1987-88	1988-89
Requests made for information (s.19A)	-(3) ¹	8(9) ¹	1	7
Requests made for documents (s.19A)	-(9) ¹	-(21) ¹	3	-
Requirements to furnish information (s.20)	1	-	-	-
Requirements to produce documents (s.20)	-	-	-	-
Orders made under s.16(4HD) ITAA 1936 for disclosure of information	-	-	-	-
Orders made under s.3D(7) Taxation Admin. Act 1953 for disclosure of information	-	-	-	-
Approx. total pages received from the ATO pursuant to s.16(4)(m) ITAA 1936 and s.3D(1) Taxation Admin. Act 1953	67,000	33,000	20,400	9,970
Number of files created	739	489	300	205
Search warrants granted under s.22	-	-	7	19
Applications by telephone for search warrants (s.23)	-	-	-	-
Search warrants granted otherwise than under NCA Act	99	98	140	105
Warrants granted authorising interception of telecommunication	15 ²	15	21	45
Warrants granted authorising use of listening devices ³	40	30	104	102
Witnesses examined at s.28 hearings	236	237	336	159
Exhibits received in s.28 hearings	915	359	323	659
Approx. total pages	83,000	27,000	22,000	45,041

	1985-86	1986-87	1987-88	1988-89
Notices issued under s.29	190 ⁴	265 ⁵	499	378
Documents produced to NCA under s.29	942	936	1100	1,410
Approx. total pages	55,000	68,000	80,000	43,825
Documents seized by NCA under search warrant (approx. total folios)	550,000	50,000	213,000	54,820
Approx. total pages provided to NCA by other agencies	762,000	299,000	339,000	87,000 ⁶
Number of files created	9,066	6,399	9,467	5,232
Persons charged as a result of NCA investigations ⁷	52	144	95	78 ⁸
Charges laid	144	425	686	346 ⁹
Convictions obtained	21	52	60	58
Taxation assessments raised as a result of NCA investigations (\$ value) ¹⁰	2,729,034 (plus \$9.1m notified to ATO)	17,153,508	18,838,970	5,171,182 (plus \$7m notified to ATO)
Witnesses protected (s.34)	2	5	9	5
Persons charged with breach of secrecy provision (s.51)	-	-	-	-
Applications for orders of review pursuant to AD (JR) Act ¹¹	-	-	3	-
Public sittings	-	-	2	-
Published bulletins	-	-	-	-

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- 1 The figures in brackets represent additional requests for information from agencies falling within the ambit of s.19A, but for which it was unnecessary formally to invoke its provisions.
 - 2 While all applications for telephone intercepts were granted, several were not proceeded with due to the Australian Federal Police's limit on the number of telephone lines available to the Authority.
 - 3 Includes renewal of existing warrants.
 - 4 Hearings held.
 - 5 Notices issued.
 - 6 This figure is an understatement as not all documents received and registered by the Authority have been paginated, and are recorded as having only one page by the Authority's computerised registry system.
 - 7 Arrests, charges and conviction statistics include those resulting from general and miscellaneous investigations and all Matters.
 - 8 Includes one person previously charged in 1987-88, charged a second time.
 - 9 *Includes additional charges against five persons charged in 1987-88.*
 - 10 Includes several revisions of previously issued assessments.
 - 11 One not proceeded with. In addition to these applications, there were six applications to the Federal Court pursuant to s.32 of the Act in 1987-88.

REFERENCE NO. 1

	1985-86	1986-87	1987-88	1988-89
Requests made for information (s.19A)	-	-	-	-
Requests made for documents (s.19A)	-	-	-	-
Requirements to furnish information (s.20)	-	-	-	-
Requirements to produce documents (s.20)	-	-	-	-
Orders made under s.16(4HD) ITAA 1936 for disclosure of information	-	-	-	-
Orders made under s.3D(7) Taxation Admin. Act 1953 for disclosure of information	-	-	-	-
Approx. total pages received from the ATO pursuant to s.16(4)(m) ITAA 1936 and s.3D(1) Taxation Admin. Act 1953	11,000	4,500	480	-
Number of files created	121	64	9	-
Search warrants granted under s.22	-	-	-	-
Approx. total pages seized by NCA under s.22 search warrant	-	-	-	-
Number of files created	-	-	-	-
Orders for delivery of passports (s.24)	-	-	-	-
Witnesses examined at s.28 hearings	39	60	17	6
Exhibits received in s.28 hearings	90	56	-	-
Approx. total pages	1,000	3,500	-	-
Notices issued under s.29	23	38	3	-
Documents produced to NCA under s.29	50	49	4	-

	1985-86	1986-87	1987-88	1988-89
Approx. total pages	5,000	3,580	1,100	-
Recommendations that immunity be granted under ss.30(6) and (8)	-	-	-	-
Undertakings given by C'wlth or State DPP under ss.30(5) and (7)	-	-	-	-
Persons charged with failure to attend etc (s.30)	-	-	-	-
Warrants issued for arrest (s.31)	-	-	-	-
Applications to Federal Court or State Courts (ss.32, 32A)	-	-	-	-
Persons charged with giving false or misleading evidence (s.33)	-	-	-	-
Witnesses protected (s.34)	-	-	2	1
Search warrants granted other than under NCA Act	14	1	1	-
Approx. total pages seized by NCA under such warrants	35,000	4,645	3,600	-
Number of files created	N/A	2	-	-
Warrants granted authorising interception of telecommunications	- ²	-	-	-
Listening devices - warrants granted authorising use of listening devices	- ²	-	-	7
Persons charged	1	2 ³	1	-
Charges laid	2	15	1	-
Convictions obtained	-	-	2	-

	1985-86	1986-87	1987-88	1988-89
Penalties imposed (years imprisonment etc)	-	-	1 x 3 yrs 1 x 100 hours community service	-
Taxation assessments raised as a result of NCA investigations (\$ value)	-	880,000 ⁴	\$2.955m ⁵	-
Pecuniary penalty/forfeiture of assets proceedings taken as a result of NCA investigations (\$ value)	-	-	-	-

1 Order under s.24(1) obtained but not served. Proceedings lapsed due to circumstances.

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2 Figures previously provided, indicating two intercept and listening device warrants granted in 1985-86 incorrect - none were granted.

3 Includes the one person charged in 1985-86 i.e. two persons in total 1985-86 and 1986-87.

4 Plus several million dollars not formally raised to date but notified to the ATO as understated/undeclared income.

5 Amended assessment in place of \$880,000 for 1986-87 - latest amended assessments issued following evidence in prosecution. Subject to appeal.

REFERENCE NO. 2

	1985-86	1986-87	1987-88	1988-89
Requests made for information (s.19A)	-	-	-	-
Requests made for documents (s.19A)	-	-	-	-
Requirements to furnish information (s.20)	-	-	-	-
Requirements to produce documents (s.20)	-	-	-	-
Orders made under s.16(4HD) ITAA 1936 for disclosure of information	-	-	-	-
Orders made under s.3D(7) Taxation Admin. Act 1953 for disclosure of information	-	-	-	-
45 Approx. total pages received from the ATO pursuant to s.16(4)(m) ITAA 1936 and s.3D(1) Taxation Admin. Act 1953	200	-	250	-
Number of files created	5	2	-	-
Search warrants granted under s.22	-	-	-	-
Approx. total pages seized by NCA under s.22 search warrant	-	-	-	-
Number of files created	-	-	-	-
Orders for delivery of passports (s.24)	-	-	-	-
Witnesses examined at s.28 hearings	-	-	-	20
Exhibits received in s.28 hearings	-	-	-	40
Approx. total pages	-	-	-	150
Notices issued under s.29	29	2	74	70
Documents produced to NCA under s.29	185	10	198	644

	1985-86	1986-87	1987-88	1988-89
Approx. total pages	15,351	10	4,700	13,350
Recommendations that immunity be granted under ss.30(6) and (8)	-	-	-	-
Undertakings given by C'wlth or State DPP under ss.30(5) and (7)	-	-	-	-
Persons charged with failure to attend etc (s.30)	-	-	-	-
Warrants issued for arrest (s.31)	-	-	-	-
Applications to Federal Court or State Courts (ss.32, 32A)	-	-	-	-
Persons charged with giving false or misleading evidence (s.33)	-	-	-	2
Witnesses protected (s.34)	-	-	-	-
Search warrants granted other than under NCA Act	19	9	24	20
Approx. total pages seized by NCA under such warrants	1,300	2,000	1,500	820
Number of files created	N/A	N/A	9	-
Warrants granted authorising interception of telecommunications	7	7	16	12
Listening devices - warrants granted authorising use of listening devices	20	14	43	43
Persons charged	14	29	21 ¹	26
Charges laid	22	65	48	47
Convictions obtained	11	13	16	13

	1985-86	1986-87	1987-88	1988-89
Penalties imposed (years imprisonment etc)	6xdeportations 1x1½yrs GBB 1x1yr, 2x7yrs, 1x8yrs	5xdeportations 1x\$200 fine, 1x4 months, 1x7yrs, 1x11yrs 1x14yrs, 1x16yrs 1x20yrs, 1x24yrs	4xdeportations 2x14yrs, 1x13yrs 1x11yrs, 2x9yrs 1x8yrs, 1x7yrs 1x5yrs, 1x18mths + \$500 fine 1x1yr + \$500 fine, 1xGBB	1x24yrs,1x22yrs 1x18yrs, 2x12yrs 1x10yrs, 1x8yrs 1x7yrs, 1x\$2000 fine + 3yr GBB 2x\$4000 fine 1x\$3000 fine 1X\$100 fine
Taxation assessments raised as a result of NCA investigations (\$ value)	400,000	127,500	\$585,000 (plus \$460,000 in understated/ undeclared income also notified to ATO)	\$1,752,000 (plus \$6.4m in understated undeclared income also notified to ATO)
Pecuniary penalty/forfeiture of assets proceedings taken as a result of NCA investigations (\$ value)	-	20,000	-	-

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1 Includes two persons also charged in 1986-87.

REFERENCE NO. 3

	1985-86	1986-87	1987-88	1988-89
Requests made for information (s.19A)	-	-	-	-
Requests made for documents (s.19A)	-	-	-	-
Requirements to furnish information (s.20)	-	-	-	-
Requirements to produce documents (s.20)	-	-	-	-
Orders made under s.16(4HD) ITAA 1936 for disclosure of information	-	-	-	-
Orders made under s.3D(7) Taxation Admin. Act 1953 for disclosure of information	-	-	-	-
Approx. total pages received from the ATO pursuant to s.16(4)(m) ITAA 1936 and s.3D(1) Taxation Admin. Act 1953	400	2,000	150	-
Number of files created	5	38	2	-
Search warrants granted under s.22	-	-	-	-
Approx. total pages seized by NCA under s.22 search warrant	-	-	-	-
Number of files created	-	-	-	-
Orders for delivery of passports (s.24)	1	-	-	-
Witnesses examined at s.28 hearings	5	13	7	5
Exhibits received in s.28 hearings	-	1	3	7
Approx. total pages	-	1	7	7
Notices issued under s.29	94	81	1	-
Documents produced to NCA under s.29	552	270	25	-

	1985-86	1986-87	1987-88	1988-89
Approx. total pages	28,306	14,961	800	-
Recommendations that immunity be granted under ss.30(6) and (8)	-	-	-	-
Undertakings given by C'wlth or State DPP under ss.30(5) and (7)	-	-	-	-
Persons charged with failure to attend etc (s.30)	-	-	-	-
Warrants issued for arrest (s.31)	-	-	-	-
Applications to Federal Court or State Courts (ss.32, 32A)	-	-	1	-
Persons charged with giving false or misleading evidence (s.33)	-	1	-	-
Witnesses protected (s.34)	2	1	1	1 ¹
Search warrants granted other than under NCA Act	42	11	-	-
Approx. total pages seized by NCA under such warrants	13,500	1,725	-	-
Number of files created	145	132	-	-
Warrants granted authorising interception of telecommunications	4	2	-	-
Listening devices - warrants granted authorising use of listening devices	13	2	-	-
Persons charged ²	13	25	2	-
Charges laid ²	45	124	2	-
Convictions obtained ²	7	5	14	6

	1985-86	1986-87	1987-88	1988-89
Penalties imposed (years imprisonment etc)	\$2575 fine, 500 pounds fines, 2yr GBB	12yrs \$400 in fines 3 mths, 6-8 weeks	1x23yrs, 1x18yrs 1x15yrs, 1x13yrs 1x12yrs, 1x10yrs 1x8yrs + \$2000 fine, 1x7yrs 4mths + \$100 fine, 1x1yr + \$3000 fine, 1x1yr periodic detention, 2x3yr GBB, 1x\$250 fine	1x9yrs, 1x7yrs 1x\$300 fine 2x3yrs GBB + \$1,000 fine 1x12mths periodic detention
50 Taxation assessments raised as a result of NCA investigations (\$ value)	2,329,034	1,206,941	8,779	-
Pecuniary penalty/forfeiture of assets proceedings taken as a result of NCA investigations (\$ value)	-	3,365,983 ³	235,750 ³	-

1 Continued from 1986-87 and 1987-88

2 Includes six persons charged and convicted overseas.

3 Estimate of value of assets placed under control of Official Trustee but not yet forfeited.

REFERENCE NO. 4

	1985-86	1986-87	1987-88	1988-89
Requests made for information (s.19A)	(2) ¹	(8) ¹	-	-
Requests made for documents (s.19A)	(8) ¹	(20) ¹	-	-
Requirements to furnish information (s.20)	-	-	-	-
Requirements to produce documents (s.20)	-	-	-	-
Orders made under s.16(4HD) ITAA 1936 for disclosure of information	-	-	-	-
Orders made under s.3D(7) Taxation Admin. Act 1953 for disclosure of information	-	-	-	-
Approx. total pages received from the ATO pursuant to s.16(4)(m) ITAA 1936 and s.3D(1) Taxation Admin. Act 1953	18,000	4,100	5,000	24
Number of files created	240	105	53	24
Search warrants granted under s.22	-	-	-	-
Approx. total pages seized by NCA under s.22 search warrant	-	-	-	-
Number of files created	-	-	-	-
Orders for delivery of passports (s.24)	-	-	-	-
Witnesses examined at s.28 hearings	93	60	19	-
Exhibits received in s.28 hearings	768	210	40	-
Approx. total pages	75,000	20,000	4,000	-
Notices issued under s.29	-	-	6	1
Documents produced to NCA under s.29	-	-	42	4

	1985-86	1986-87	1987-88	1988-89
Approx. total pages	-	-	4,000	100
Recommendations that immunity be granted under ss.30(6) and (8)	-	2	-	-
Undertakings given by C'wlth or State DPP under ss.30(5) and (7)	-	2	-	-
Persons charged with failure to attend etc (s.30)	-	-	-	-
Warrants issued for arrest (s.31)	-	-	-	-
Applications to Federal Court or State Courts (ss.32, 32A)	-	-	-	-
Persons charged with giving false or misleading evidence (s.33)	-	-	-	-
Witnesses protected (s.34)	-	-	-	-
Search warrants granted other than under NCA Act	13	27	5 ²	-
Approx. total pages seized by NCA under such warrants	> 500,000	22,000		
		2,500	-	
Number of files created	N/A	N/A	44	-
Warrants granted authorising interception of telecommunications	-	-	-	-
Listening devices - warrants granted authorising use of listening devices	-	-	-	-
Persons charged	-	7	9 ³	7 ⁴
Charges laid	-	19 ⁵	471 ⁶	33
Convictions obtained	-	-	1	1

	1985-86	1986-87	1987-88	1988-89
Penalties imposed (years imprisonment etc)	-	-	\$200 fine	1x2½yrs
Taxation assessments raised as a result of NCA investigations (\$ value)	-	10,484,099	1,642,191 ⁷ 7,950,000 ⁸	-
Pecuniary penalty/forfeiture of assets proceedings taken as a result of NCA investigations (\$ value)	-	-	-	-

1 It was not necessary to make formal requests under s.19A, but these requests fell within the general ambit of that section and are included for information.

2 Only 4 of these search warrants were executed.

3 Includes four persons also charged in 1986-87, i.e. 12 persons in total charged in 1986-87 and 1987-88.

4 Includes one person charged in 1987-88, i.e. 18 persons in total now charged, and second charges brought against a person first charged in 1987-88.

5 Charges laid against five of the seven persons charged in 1986-87 were altered in 1987-88. Total charges laid against these five persons is now 447. Several other persons have also been charged.

6 Includes the additional charges against the five persons charged in 1986-87.

7 Raised as a result of investigation F.

8 Includes amended assessment from previous year as well as new assessments.

REFERENCE NO. 5

	1985-86	1986-87	1987-88	1988-89
Requests made for information (s.19A)	-	N/A	N/A	N/A
Requests made for documents (s.19A)	-			
Requirements to furnish information (s.20)	1			
Requirements to produce documents (s.20)	-			
Orders made under s.16(4HD) ITAA 1936 for disclosure of information	-			
Orders made under s.3D(7) Taxation Admin. Act 1953 for disclosure of information	-			
Approx. total pages received from the ATO pursuant to s.16(4)(m) ITAA 1936 and s.3D(1) Taxation Admin. Act 1953	2,200			
Number of files created	38			
Search warrants granted under s.22	-			
Approx. total pages seized by NCA under s.22 search warrant	-			
Number of files created	-			
Orders for delivery of passports (s.24)	-			
Witnesses examined at s.28 hearings	99			
Exhibits received in s.28 hearings	57			
Approx. total pages	7,000			
Notices issued under s.29	39			
Documents produced to NCA under s.29	150			

	1985-86	1986-87	1987-88	1988-89
Approx. total pages	5,856	N/A	N/A	N/A
Recommendations that immunity be granted under ss.30(6) and (8)	-			
Undertakings given by C'wlth or State DPP under ss.30(5) and (7)	-			
Persons charged with failure to attend etc (s.30)	-			
Warrants issued for arrest (s.31)	-			
Applications to Federal Court or State Courts (ss.32, 32A)	-			
Persons charged with giving false or misleading evidence (s.33)	-			
Witnesses protected (s.34)	-			
Search warrants granted other than under NCA Act	-			
Approx. total pages seized by NCA under such warrants	-			
Number of files created	-			
Warrants granted authorising interception of telecommunications	-			
Listening devices - warrants granted authorising use of listening devices	-			
Persons charged	-			
Charges laid	-			
Convictions obtained	-			

	1985-86	1986-87	1987-88	1988-89
Penalties imposed (years imprisonment etc)	-	N/A	N/A	N/A
Taxation assessments raised as a result of NCA investigations (\$ value)	\$4.4m notified, no info. on assessments finally made by ATO			
Pecuniary penalty/forfeiture of assets proceedings taken as a result of NCA investigations (\$ value)	-			

REFERENCE NO. 6

	1985-86	1986-87	1987-88	1988-89
Requests made for information (s.19A)	-	-	-	-
Requests made for documents (s.19A)	-	-	3	-
Requirements to furnish information (s.20)	-	-	-	-
Requirements to produce documents (s.20)	-	-	-	-
Orders made under s.16(4HD) ITAA 1936 for disclosure of information	-	-	-	-
Orders made under s.3D(7) Taxation Admin. Act 1953 for disclosure of information	-	-	-	-
Approx. total pages received from the ATO pursuant to s.16(4)(m) ITAA 1936 and s.3D(1) Taxation Admin. Act 1953	200	1,600	-	-
Number of files created	4	10	-	-
Search warrants granted under s.22	-	-	-	-
Approx. total pages seized by NCA under s.22 search warrant	-	-	-	-
Number of files created	-	-	-	-
Orders for delivery of passports (s.24)	-	-	-	-
Witnesses examined at s.28 hearings	-	15	33	8
Exhibits received in s.28 hearings	-	10	38	4
Approx. total pages	-	30	500	21
Notices issued under s.29	5	65	11	41
Documents produced to NCA under s.29	5	237	36	125

	1985-86	1986-87	1987-88	1988-89
Approx. total pages	98	12,444	550	3,200
Recommendations that immunity be granted under ss.30(6) and (8)	1	3	22	-
Undertakings given by C'wlth or State DPP under ss.30(5) and (7)	-	2	13	-
Persons charged with failure to attend etc (s.30)	-	-	-	-
Warrants issued for arrest (s.31)	-	-	-	-
Applications to Federal Court or State Courts (ss.32, 32A)	-	-	4	-
Persons charged with giving false or misleading evidence (s.33)	-	-	-	-
Witnesses protected (s.34)	-	1	2	-
Search warrants granted other than under NCA Act	2	3	3	-
Approx. total pages seized by NCA under such warrants	15	20	215	-
Number of files created	5	5	N/A	-
Warrants granted authorising interception of telecommunications	4	-	-	-
Listening devices - warrants granted authorising use of listening devices	5	3	-	-
Persons charged	-	6	-	-
Charges laid	-	16	-	-
Convictions obtained	-	3	1	1

	1985-86	1986-87	1987-88	1988-89
Penalties imposed (years imprisonment etc)	-	1x\$500 fine 1x\$200 fine 1x\$10 fine	1 x 4 yrs GBB (\$1,000)	1x14yrs ¹
Taxation assessments raised as a result of NCA investigations (\$ value)	-	- ²	-	-
Pecuniary penalty/forfeiture of assets proceedings taken as a result of NCA investigations (\$ value)	-	-	-	-

1 Appeals pending.

2 No assessments issued but \$5,000,000 in understated/undeclared income brought to the attention of the ATO.

REFERENCE NO. 7

	1985-86	1986-87	1987-88	1988-89
Requests made for information (s.19A)	-	8	1	-
Requests made for documents (s.19A)	-	-	-	-
Requirements to furnish information (s.20)	-	-	-	-
Requirements to produce documents (s.20)	-	-	-	-
Orders made under s.16(4HD) ITAA 1936 for disclosure of information	-	-	-	-
Orders made under s.3D(7) Taxation Admin. Act 1953 for disclosure of information	-	-	-	-
Approx. total pages received from the ATO pursuant to s.16(4)(m) ITAA 1936 and s.3D(1) Taxation Admin. Act 1953	2,000	18,000	12,000	2,202
Number of files created	9	246	206	61
Search warrants granted under s.22	-	-	7	-
Approx. total pages seized by NCA under s.22 search warrant	-	-	391	-
Number of files created	-	-	7	-
Orders for delivery of passports (s.24)	-	-	-	-
Witnesses examined at s.28 hearings	-	89	259	50
Exhibits received in s.28 hearings	-	82	242	231
Approx. total pages	-	3,470	21,000	23,000
Notices issued under s.29	-	79	331	215
Documents produced to NCA under s.29	-	370	755	227

	1985-86	1986-87	1987-88	1988-89
Approx. total pages	-	36,700	65,000	18,036
Recommendations that immunity be granted under ss.30(6) and (8)	-	2	6	-
Undertakings given by C'wlth or State DPP under ss.30(5) and (7)	-	2	4	-
Persons charged with failure to attend etc (s.30)	-	-	-	-
Warrants issued for arrest (s.31)	-	-	-	-
Applications to Federal Court or State Courts (ss.32, 32A)	-	-	2 ¹	-
Persons charged with giving false or misleading evidence (s.33)	-	-	-	-
Witnesses protected (s.34)	-	2	2	1
Search warrants granted other than under NCA Act	-	19	107	75
Approx. total pages seized by NCA under such warrants		20,000	205,000	46,000
Number of files created	-	220	3,200	1,377
Warrants granted authorising interception of telecommunications	-	4	2	18
Listening devices - warrants granted authorising use of listening devices	-	6	54	42
Persons charged	-	7	43	31
Charges laid	-	9	71	72
Convictions obtained	-	1	5	11

	1985-86	1986-87	1987-88	1988-89
Penalties imposed (years imprisonment etc)	-	1x\$5000 fine	2 x 3 yrs GBB 3 fines totalling \$494	1x21yrs, 1x7yrs 1x\$740 fine 2x5yrs, 1x\$294 fine, 1x\$200 fine, 1x15mths (susp.) + 2yr GBB, 1x\$1900 fine, 1x1yr GBB 1x\$400 fine
Taxation assessments raised as a result of NCA investigations (\$ value)	-	-	\$5,698,000(plus \$250,000 in understated/undeclared income also notified to ATO)	\$1,777,077 (plus \$60,000 in understated/undeclared income also notified to ATO)
Pecuniary penalty/forfeiture of assets proceedings taken as a result of NCA investigations (\$ value)	-	-	-	-

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1 Two applications for orders of review pursuant to the AD(JR) Act have been made.

REFERENCE NO. 8

	1985-86	1986-87	1987-88	1988-89
Requests made for information (s.19A)	(1) ¹	(1) ¹	-	7
Requests made for documents (s.19A)	(1) ¹	(1) ¹	-	-
Requirements to furnish information (s.20)	-	-	-	-
Requirements to produce documents (s.20)	-	-	-	-
Orders made under s.16(4HD) ITAA 1936 for disclosure of information	-	-	-	-
Orders made under s.3D(7) Taxation Admin. Act 1953 for disclosure of information	-	-	-	-
Approx. total pages received from the ATO pursuant to s.16(4)(m) ITAA 1936 and s.3D(1) Taxation Admin. Act 1953	-	-	2,500	7,635
Number of files created	-	-	28	117
Search warrants granted under s.22	-	-	-	19
Approx. total pages seized by NCA under s.22 search warrant	-	-	-	8,000
Number of files created	-	-	-	200
Orders for delivery of passports (s.24)	-	-	-	-
Witnesses examined at s.28 hearings	-	-	1	25
Exhibits received in s.28 hearings	-	-	-	189
Approx. total pages	-	-	-	19,000
Notices issued under s.29	-	-	64	37
Documents produced to NCA under s.29	-	-	106	234

	1985-86	1986-87	1987-88	1988-89
Approx. total pages	-	-	10,800	7,555
Recommendations that immunity be granted under ss.30(6) and (8)	-	1	-	-
Undertakings given by C'with or State DPP under ss.30(5) and (7)	-	-	-	-
Persons charged with failure to attend etc (s.30)	-	-	-	-
Warrants issued for arrest (s.31)	-	-	-	-
Applications to Federal Court or State Courts (ss.32, 32A)	-	-	-	-
Persons charged with giving false or misleading evidence (s.33)	-	-	-	-
Witnesses protected (s.34)	-	1	2	2
Search warrants granted other than under NCA Act	-	12	-	4
Approx. total pages seized by NCA under such warrants	-	40	-	-
Number of files created	-	N/A	-	-
Warrants granted authorising interception of telecommunications	-	2	3	14
Listening devices - warrants granted authorising use of listening devices	-	4	7	9
Persons charged	-	12	18	4
Charges laid	-	36	75	21
Convictions obtained	-	7	2	8

	1985-86	1986-87	1987-88	1988-89
Penalties imposed (years imprisonment etc)	-	1x4yrs 1x\$1,000 fine 3xGBB, 2x\$50 fine	2 x GBB	1x10yrs,1x6yrs 2x5yrs,1x6yrs (appeal pending) 1x4½yrs 1x3½yrs, 1x3yrs
Taxation assessments raised as a result of NCA investigations (\$ value)	-	\$1,018,968	-	\$1,642,105
Pecuniary penalty/forfeiture of assets proceedings taken as a result of NCA investigations (\$ value)	-	-	\$1,901,000	-

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1 The figures in brackets represent requests for information from agencies falling within the ambit of s.19A, but for which it was unnecessary formally to invoke its provisions.

REFERENCE NO. 9

	1985-86	1986-87	1987-88	1988-89
Requests made for information (s.19A)	N/A	N/A	N/A	-
Requests made for documents (s.19A)				-
Requirements to furnish information (s.20)				-
Requirements to produce documents (s.20)				-
Orders made under s.16(4HD) ITAA 1936 for disclosure of information				-
Orders made under s.3D(7) Taxation Admin. Act 1953 for disclosure of information				-
Approx. total pages received from the ATO pursuant to s.16(4)(m) ITAA 1936 and s.3D(1) Taxation Admin. Act 1953				-
Number of files created				3
Search warrants granted under s.22				-
Approx. total pages seized by NCA under s.22 search warrant				-
Number of files created				-
Orders for delivery of passports (s.24)				-
Witnesses examined at s.17 hearings ¹				45
Exhibits received in s.17 hearings ¹				189
Approx. total pages				2,852
Notices issued under s.18 ²				14
Documents produced to NCA under s.18 ²				176

	1985-86	1986-87	1987-88	1988-89
Approx. total pages	N/A	N/A	N/A	1,684
Recommendations that immunity be granted under ss.30(6) and (8)				-
Undertakings given by C'wlth or State DPP under ss.30(5) and (7)				3
Persons charged with failure to attend etc (s.30)				-
Warrants issued for arrest (s.31)				1
Applications to Federal Court or State Courts (ss.32, 32A)				-
Persons charged with giving false or misleading evidence (s.33)				1
Witnesses protected (s.34)				-
Search warrants granted other than under NCA Act				6
Approx. total pages seized by NCA under such warrants				N/A
Number of files created				41
Warrants granted authorising interception of telecommunications				1
Listening devices - warrants granted authorising use of listening devices				1
Persons charged				7
Charges laid				7
Convictions obtained				-

	1985-86	1986-87	1987-88	1988-89
Penalties imposed (years imprisonment etc)	N/A	N/A	N/A	-
Taxation assessments raised as a result of NCA investigations (\$ value)				-
Pecuniary penalty/forfeiture of assets proceedings taken as a result of NCA investigations (\$ value)				-

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- 1 As this is a State reference only, the equivalent under the South Australian NCA Act for s.28 hearings are s.17 hearings.
 - 2 The State equivalent for s.29 notices are s.18 notices.

INVESTIGATION B

	1985-86	1986-87	1987-88	1988-89
Requests made for information (s.19A)	-	-	N/A	N/A
Requests made for documents (s.19A)	-	-		
Requirements to furnish information (s.20)	-	-		
Requirements to produce documents (s.20)	-	-		
Orders made under s.16(4HD) ITAA 1936 for disclosure of information	-	-		
Orders made under s.3D(7) Taxation Admin. Act 1953 for disclosure of information	-	-		
Approx. total pages received from the ATO pursuant to s.16(4)(m) ITAA 1936 and s.3D(1) Taxation Admin. Act 1953	-	-		
Number of files created	-	-		
Search warrants granted under s.22	-	-		
Approx. total pages seized by NCA under s.22 search warrant	-	-		
Number of files created	-	-		
Orders for delivery of passports (s.24)	-	-		
Witnesses examined at s.28 hearings	N/A	N/A		
Exhibits received in s.28 hearings	N/A	N/A		
Approx. total pages	N/A	N/A		
Notices issued under s.29	N/A	N/A		
Documents produced to NCA under s.29	N/A	N/A		

	1985-86	1986-87	1987-88	1988-89
Approx. total pages	N/A	N/A	N/A	N/A
Recommendations that immunity be granted under ss.30(6) and (8)	-	-		
Undertakings given by C'wlth or State DPP under ss.30(5) and (7)	-	-		
Persons charged with failure to attend etc (s.30)	-	-		
Warrants issued for arrest (s.31)	-	-		
Applications to Federal Court or State Courts (ss.32, 32A)	-	-		
Persons charged with giving false or misleading evidence (s.33)	-	-		
Witnesses protected (s.34)	-	-		
Search warrants granted other than under NCA Act	-	10		
Approx. total pages seized by NCA under such warrants	-	N/A		
Number of files created	-	N/A		
Warrants granted authorising interception of telecommunications	-	N/A		
Listening devices - warrants granted authorising use of listening devices	-	1		
Persons charged	4	36	-	-
Charges laid	5	83	-	-
Convictions obtained	-	19	12	5

	1985-86	1986-87	1987-88	1988-89
Penalties imposed (years imprisonment etc)	-	1x11½yrs 2x10yrs, 1x7½ yrs, 1x6½ys, 1x6yrs 1x5yrs + \$200 fine, 1x3 ½yrs, 1x3yrs 1mth + \$400 fine, 1x3yrs, 1x1yr + \$7500 fine, 1x2yr \$250 GBB, 1x9mths probn., 6xfines totalling \$1,170	1x10yrs, 1x8yrs + \$400 fine, 1x4yrs 1x3½yrs 1x3yrs + \$1,500 fine, 1x3yrs, 1x½yr 2x1yr + \$7500 fine, 1x1yr, 1x3mths 1x6mths probn. + \$100 fine	1x7½yrs 1x6yrs + \$400 fine 1x5yrs + \$400 fine, 2x4yrs
Taxation assessments raised as a result of NCA investigations (\$ value) ¹	-	-	-	-
Pecuniary penalty/forfeiture of assets proceedings taken as a result of NCA investigations (\$ value) ²	-	-	-	-

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1 Investigations by the DPP and the ATO into Marinovich and associates are pending - no assessments have been issued to date. It is expected that \$600,000 tax plus \$600,000 penalty will result from this operation.

2 Holding orders have not been finalised due to pending court action.

INVESTIGATION D

	1985-86	1986-87	1987-88	1988-89
Requests made for information (s.19A)	-	-	N/A	N/A
Requests made for documents (s.19A)	-	-		
Requirements to furnish information (s.20)	-	-		
Requirements to produce documents (s.20)	-	-		
Orders made under s.16(4HD) ITAA 1936 for disclosure of information	-	-		
Orders made under s.3D(7) Taxation Admin. Act 1953 for disclosure of information	-	-		
Approx. total pages received from the ATO pursuant to s.16(4)(m) ITAA 1936 and s.3D(1) Taxation Admin. Act 1953	-	-		
Number of files created	-	-		
Search warrants granted under s.22	-	-		
Approx. total pages seized by NCA under s.22 search warrant	-	-		
Number of files created	-	-		
Orders for delivery of passports (s.24)	-	-		
Witnesses examined at s.28 hearings	N/A	N/A		
Exhibits received in s.28 hearings	N/A	N/A		
Approx. total pages	N/A	N/A		
Notices issued under s.29	N/A	N/A		
Documents produced to NCA under s.29	N/A	N/A		

	1985-86	1986-87	1987-88	1988-89
Approx. total pages	N/A	N/A	N/A	N/A
Recommendations that immunity be granted under ss.30(6) and (8)	-	-		
Undertakings given by C'wlth or State DPP under ss.30(5) and (7)	-	-		
Persons charged with failure to attend etc (s.30)	-	-		
Warrants issued for arrest (s.31)	-	-		
Applications to Federal Court or State Courts (ss.32, 32A)	-	-		
Persons charged with giving false or misleading evidence (s.33)	-	-		
Witnesses protected (s.34)	-	-		
Search warrants granted other than under NCA Act	-	-		
Approx. total pages seized by NCA under such warrants	-	-		
Number of files created	-	-		
Warrants granted authorising interception of telecommunications	-	-		
Listening devices - warrants granted authorising use of listening devices	-	-	N/A	N/A
Persons charged	-	5	-	-
Charges laid	-	26	-	-
Convictions obtained	-	2	1	1

	1985-86	1986-87	1987-88	1988-89
Penalties imposed (years imprisonment etc)	-	2x15yrs	1x18yrs	1x10yrs
Taxation assessments raised as a result of NCA investigations (\$ value)	-	-	-	-
Pecuniary penalty/forfeiture of assets proceedings taken as a result of NCA investigations (\$ value)	-	-	-	-
