

**Parliamentary Joint Committee on the
National Crime Authority**

DEPARTMENT OF THE SENATE
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<i>Mary Evans</i>

**Examination of the Annual Report for 1996-97
of the National Crime Authority**

MARCH 1998

**Parliament of the
Commonwealth of Australia**

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of the National Crime Authority**

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CANBERRA A.C.T. 2600

DUTIES OF THE COMMITTEE

The *National Crime Authority Act 1984* provides:

55. (1) The duties of the Committee are:

(a) to monitor and to review the performance by the Authority of its functions:

(b) to report to both Houses of the Parliament, with such comments as it thinks fit, 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;

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

(d) to examine trends and changes in criminal activities, practices and methods and report to both Houses of the Parliament any change which the Committee thinks desirable to the functions, structure, powers and procedures of the Authority; and

(e) to inquire into any question in connection with its duties which is referred to it by either House of the Parliament, and to report to that House upon that question.

(2) Nothing in this Part authorises the Committee:

(a) to investigate a matter relating to a relevant criminal activity; or

(b) to reconsider the findings of the Authority in relation to a particular investigation.

Background

1. The annual report of the National Crime Authority (NCA) for 1996-97 was tabled in both Houses on 2 December 1997. Also tabled in conjunction with the report were letters written by five members of the Inter-Governmental Committee on the NCA (IGC).

2. Paragraph 55(1)(c) of the *National Crime Authority Act 1984* (the Act) requires the Committee:

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

3. In accordance with its statutory duty, the Committee has examined the NCA's 1996-97 annual report (referred to in this report as the NCA report). To assist its consideration of the NCA report, the Committee held a public hearing with representatives of the Authority in Sydney on 16 December 1997.¹ The hearing also included a wide-ranging discussion of topical issues in relation to the NCA's operations, which discussion is not addressed in this report but will be taken into consideration by the Committee in its continuing inquiries.

General comments

4. The Committee had subjected the NCA's annual report for 1995-96 to close examination, as reflected in its report tabled on 25 March 1997 entitled *Examination of the Annual Report for 1995-96 of the National Crime Authority*. In that report, the Committee had commented on the somewhat cryptic nature of the NCA report's contents, which detracted from its usefulness. The Committee had also noted that the level of performance reporting, which is essentially the primary purpose of an annual report as an accountability document, could be expanded to be more helpful to the reader.

5. The Committee is pleased to record that the NCA's current report is a significant improvement and commends the Authority for the obvious effort it has made to seek to meet some of the Committee's criticisms.

6. As Chairperson of the NCA, Mr John Broome, told the Committee:

We have put a great deal of effort into this year's report - not that we have not done so in the past. We have tried to make it a more readable, more understandable document. We have adapted some different techniques in presenting information in the report. I think it has generally been very well received, and we are very pleased about that, because it is something which now helps us to explain better not only to the Committee but to the public the kind of work the Authority is carrying out.²

¹ References in this report to evidence refer to the transcript of the NCA's appearance before the Committee on 16 December 1997.

² Evidence, p. 4

Improved presentation

7. The most notable initiative in this year's NCA report has been the inclusion of a series of 10 "boxes" in which the NCA gives explanatory snapshots of some of the major features of its operations. While some commentators might be critical of such devices in an *annual* report, the Committee strongly supports their inclusion as a means of setting the NCA's somewhat complex activity reporting in a user-friendly and comprehensible context.

8. Another positive feature of the report is its use for the first time of coloured text rather than the traditional black on white. This has enabled the presentation of its statistical data in a range of charts for ease of interpretation by the reader, especially of year-on-year comparisons. The Committee is unaware whether there was an additional cost to the printing of the NCA report with the addition of the extra colour to the printing process but, subject to that cost not being significant, the initiative is commendable.

Relationship to the corporate plan

9. In June 1997 the NCA released its Corporate Plan for the period July 1997 - June 2000. Its annual report for 1996-97 was framed, however, to report against the eight objectives and accompanying strategies (although notably not the performance indicators) found in the NCA's then applicable Corporate Plan July 1993 - June 1996, which was extended to June 1997.

10. The new Corporate Plan, which appears to be a worthy effort and one in which the Authority appears to have closely and importantly involved its staff, will be reported against next year. The Corporate Plan identifies the NCA's three key work areas: understanding the criminal environment, investigating organised criminal activity and corporate and support services. Each key work area is addressed in terms of its objectives and the accompanying strategies for achievement. They also identify the 'Key Performance Information' which will demonstrate how well the NCA is meeting each of its key objectives. The Committee looks forward to reviewing to what extent the NCA is able in next year's annual report to demonstrate its success in meeting the aspirations of its Corporate Plan.

Specific comments

Timeliness

11. In its report on the NCA's 1995-96 annual report, the Committee noted that the report had not been tabled in the House of Representatives until 11 December 1996 and in the Senate on 13 December 1996, some 5 months after the conclusion of the period under report. On the basis of advice from the Attorney-General, the Hon. Daryl Williams MP, the Committee noted that the report had been tabled later than laid down by the provisions of section 61 of the NCA Act and that there had therefore been a breach of the Act.

12. Given that annual reporting has to be timely to be of any practical value as an accountability exercise, the Committee suggested that it would give consideration to calling for the Act to be amended to require the tabling of the NCA report by 31 October each year, the standard reporting date for Commonwealth agencies.

13. Mr Broome subsequently wrote to the Committee in this respect. He agreed that annual reports should be tabled as soon as possible but noted that a 31 October tabling deadline would significantly reduce the time available to the Authority to produce the report after the conclusion of the reporting period. This is because of the requirement in the Act for the NCA report to be circulated to all States and Territories, as well as to the Commonwealth, and to obtain comments from each jurisdiction, prior to its tabling. He noted that a statutory reporting date of 31 October would place the NCA in a more difficult position than other Commonwealth agencies, when the proposal had been seen as being intended to bring it into line with those agencies.

14. The Committee notes that the NCA report was tabled on this occasion on 2 December 1997 in both Houses, some 9 and 11 calendar days earlier than the previous year. While this is a welcome improvement (and in fact enabled the Committee to program in a timely manner a public briefing with the NCA at which the annual report could be discussed) the Committee notes that the exercise of seeking State and Territory Government comment on the annual report had been completed by 28 October 1997, over a month before the tabling of the report.

15. The Committee is still considering its position on the timeliness issue and will be making its views known in its report on the comprehensive evaluation of the NCA which it is currently undertaking.

Comments by the Inter-Governmental Committee

16. As noted in paragraph 13 the NCA Act requires the NCA report to be provided to the Inter-Governmental Committee for transmission to the appropriate Minister of each participating State and Territory. The receipt of their comments is awaited before the report and their accompanying comments are tabled.

17. On this occasion, comments from five members of the IGC were tabled. They were: the Hon. Russell Cooper MLA, Queensland, Minister for Police and Corrective Services and Minister for Racing; the Hon. John Beswick MHA, Tasmanian Minister for Police and Public Safety; the Hon. Shane Stone MLA, Northern Territory Chief Minister; the Hon. K Trevor

18. Griffin MLC, South Australian Minister for Police, Correctional Services and Emergency Services; and the Hon. Paul Whelan MP, NSW Minister for Police.

19. Mr Cooper congratulated the Authority on the production of a well presented document. Mr Beswick noted his satisfaction that the report provides an accurate overview of the NCA's activities; while Mr Stone simply noted his view that it was appropriate that the report be tabled in Parliament.

20. Mr Griffin noted that the conduct of the South Australian State Election on 11 October 1997 and the caretaker conventions had meant that there had not been sufficient time for comment to be provided. Accordingly he reserved his Government's position on the report.

21. Mr Whelan was the only IGC member to make any substantive comments on the operations of the NCA during the reporting period. He found the report to be well structured, comprehensive and clearly written. He went on to observe his Government's concerns about the reduction in the NCA's operational capacity as a result of budget cuts to the NCA's base funding of some 25 per cent since 1994-95. He also expressed concern at the decision of the Commonwealth to abolish access by law enforcement agencies to the Confiscated Assets Trust Fund, which will become part of consolidated revenue.

22. These comments support Mr Broome's observation, referred to in paragraph 6, that the NCA report has been generally well received.

Naming of charged individuals

23. When examining the NCA's annual report for 1995-96 the Committee discussed with Mr Broome the question of the publication in the NCA's annual reports of the names of those charged. He had basically argued that the listing of names in the annual report was a simple collation of material which was already on the public record and is therefore simply being made more readily accessible to the press and other interested parties.

24. In its subsequent report, the Committee concurred with the practice of including names in both categories in which they were shown in the NCA's annual report: in the summary of persons charged and in the summary of court results. The Committee had noted that a person shown as charged in an annual report who was later found not guilty of those charges could draw some comfort from the publication of that information in the relevant annual report.

25. In the current NCA report, the names of those charged have not been disclosed, while they have continued to be included in the schedule of court results for the reporting period. The report states at page 37 "[t]he names of those charged, who have not yet been dealt with in the courts, have not been included in this year's annual report", but there is no explanation given for the changed approach. The report also includes at page 37 aggregate details of both the number of persons charged and the number of offences, the latter data usefully broken down into the major categories of offence (with drug-related offences dominant).

26. The Committee sought the Authority's advice and Acting Chairperson, Mr Greg Melick, replied in the following terms:

The Attorney-General raised some concerns in relation to a similar table in the 1995-96 *Annual Report* which included names in that he considered it may be inappropriate to include in such tables the names of persons who had been charged but who had not yet been dealt with by the courts. There was also some concern expressed to the effect that to name people in annual reports, prior to them being dealt with by a court, may contravene section 61(3) of the *National Crime Authority Act 1984* which states:

"A report by the Authority under this section shall not:

- (a) identify persons as being suspected of having committed offences; or
- (b) identify persons as having committed offences unless those persons have been convicted of those offences."

The Authority sought and received legal advice from the Attorney-General's Department to the effect that we would not be contravening the Act if we continued to name persons who had been charged, but were yet to be dealt with by the courts. However, the opinion also noted that:

"The distinction between a person being 'charged' and being 'suspected' may not always be very great."

27. The Committee acknowledges the fine line between 'suspected' and 'charged' prior to the matter going to court and sympathises with the NCA, as a law enforcement body, not wishing to breach its own enabling legislation.

28. Since the Committee indicated its support for the concept of the naming of those charged in its March 1997 report, it has received representations about the fairness of the practice for those who may subsequently be acquitted. It notes that while the practice of listing the names of those persons who had been convicted can be seen as part of the penalty imposed by the community on the perpetrator (in the manner of listing the names of convicted drink-drivers in their local newspaper), the inclusion of the details of those who are arguably still only suspected of having committed an offence is questionable.

29. The Committee has determined that, on balance, the current approach is the correct one.

Use of cumulative data

30. The NCA was established on 1 July 1984 and has now been in operation some 13 years. The Committee notes that in two of its tables (Tables 4.4 and D.2) the NCA provides cumulative totals for the statistics in question.

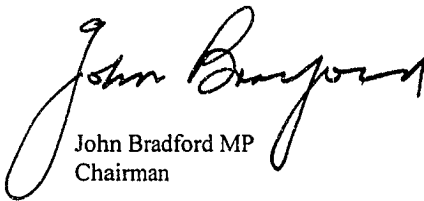
31. While such an approach may have been meaningful in the early life of an organisation, the Committee doubts its appropriateness after such a long period of operations.

32. The NCA may have adopted this approach when it was initially subject to a 5-year sunset clause, but the repeal of the clause in 1989 has, one would hope, lessened the need for the Authority to continue to justify its establishment. The Committee believes that its annual report should be concentrated on its achievements in the period under review, with data for perhaps no more than the previous three years included for comparative purposes.

Staffing reporting

33. One comment made by the Committee on last year's annual report was that its Equal Employment Opportunity (EEO) reporting would be assisted by giving the prior year's figures for comparative purposes. In Table 5.1 the NCA detailed the changes in the gender balance of the seconded police over the past three years, which disclosed some considerable variability: rising from 7.1 per cent to 16.9 per cent between June 1995 and June 1996, only to drop back to 10.5 per cent by June 1997. As Mr Broome informed the Committee: 'for our part there is a very strong policy of trying to increase the level if possible.'³

34. The Committee notes that the provision of comparative data of EEO group representation was not included for public service personnel in the relevant table (Table B.5), as envisaged by the Committee last year, but was instead addressed in the text of the report at page 56. In its text, the NCA is commendably frank in its assessment that, with only one female officer in its Senior Executive Service (SES), it is well behind the APS indicator of 20 per cent at this level. It also claims an increase of women in the Senior Officer Grade B and C classifications from nine to eleven, who are seen as the likely source of future SES officers. Regrettably, the Committee notes that last year's annual report had shown a total of 12 women in these senior officer ranks and that there therefore appears to have been a fall of one rather than an increase of two in women occupying positions at these levels.



John Bradford MP
Chairman

³ Evidence, p. 31