



**COMMONWEALTH OF AUSTRALIA**

**on**

# **JOINT COMMITTEE**

**THE NATIONAL CRIME AUTHORITY**

**Reference: Public hearing with Miss Betty King QC**

**CANBERRA**

**Monday, 21 October 1996**

**OFFICIAL HANSARD REPORT**

**CANBERRA**



JOINT COMMITTEE ON THE NATIONAL CRIME AUTHORITY

*Public hearing*

MELBOURNE

Monday, 21 October 1996

Present

Mr Bradford (Chair)

Senator Bolkus

Mr Filing

Senator McGauran

Mr Sercombe

Mr Truss

Mrs West

The committee met at 7.06 p.m.

Mr Bradford took the chair.

**Ms Betty King QC**

**CHAIR**—I declare open this meeting of the Joint Parliamentary Committee on the National Crime Authority and I welcome Ms Betty King QC, who has kindly agreed to give the committee the benefit of her views about the operations of the National Crime Authority based on her experience as an NCA member for over three years. In what capacity are you appearing today?

**Ms King**—I am appearing in a private capacity.

**CHAIR**—Ms King, we do appreciate the willingness that you have shown to appear before the committee. Hopefully, it will be a fairly relaxed exchange of views.

Most of the members of the committee—in fact, all except Mr Filing—are new members of the committee in this parliament, so for us it has been a very steep learning curve, but I think each of us is committed to this task. The task we have been given to act as the parliamentary watchdog of the authority is a responsibility we take very seriously.

We are aware that in the past there have been criticisms that the committee has not, perhaps, been as diligent as it should or as active as it should, but I believe that the members of this committee as it is presently constituted are determined to make sure that the public can see and are confident that there is a satisfactory level of parliamentary oversight of the authority.

In my discussions with the chairman of the authority, he has indicated that he also shares that view and has to date been very cooperative with the committee in the matters that we brought to his attention. So we are confident that there is between the authority and this committee a good, but not too close, working relationship aimed at achieving that very desirable end.

We have received a submission from Ms King. The submission makes reference to a graph provided to the committee in August 1995 by the then NCA chairperson, Mr Tom Sherman. In the interests of the completeness of Ms King's submission, we will incorporate the graph as well. Is it the wish of the committee that the submission and the graph be incorporated in the transcript of evidence? There being no objection, it is so ordered.

*The documents read as follows—*

**CHAIR**—I need to advise you, Ms King, that if during the hearing you consider that information you might wish to give or comments requested by committee members are of a confidential or private nature, you can make application for that information or comment to be given in camera and the committee will consider your application. If, at any point of time, you feel reluctant to make a comment in public just make the point at the time and we will defer it for discussion at a later time tonight when we move into an in camera session. Would you now like to make an opening statement?

**Ms King**—No, I have nothing that I wish to remark upon. What I wish to remark upon is contained in the letter that I wrote.

**CHAIR**—Perhaps we can move on to questions. I foreshadowed in my opening remarks the criticism that has been levelled at this committee in the past about effective scrutiny over the years of the NCA. Obviously, without naming names, what was the general view of other NCA senior personnel on that particular point during your time at the authority?

**Ms King**—I could safely say during my time at the authority that we had three meetings with the PJC, and the hardest part of that was obtaining a quorum. I do not know how anyone else at the authority felt about it but I felt that it certainly seemed to be a fairly easygoing committee to deal with.

**CHAIR**—Did you take that as being a lack of interest on behalf of the parliamentary committee in its role?

**Ms King**—Yes, I did.

**CHAIR**—Obviously, members of parliament are very busy. Getting as many members of the committee together as we have here tonight is pretty good. We are all on a number of committees and getting quorums for meetings is difficult. Are you saying you took that as an indication of lack of interest?

**Ms King**—That is certainly how I took it. I do not believe people should be on committees unless they are prepared to actually participate.

**Mr SERCOMBE**—I wonder whether Ms King might compare her experience with the parliamentary joint committee with the IGC and its operations with respect to the work of the NCA.

**Ms King**—They were two very different types of committee. The IGC met on a regular basis. It had coordinated times when it would meet. It certainly seemed to be very aware of what the authority was doing but it had bigger sources of information in that each member of the IGC would have with him or her the Commissioner of Police, with whom we worked relatively closely. So their sources of information were very up to date

by comparison to the PJC and their role was quite different. I certainly felt there was far more intense scrutiny from the IGC than the PJC.

**Mr TRUSS**—So you never really felt as though the parliamentary committee was examining your work with any degree of intensity?

**Ms King**—No, I did not.

**Mr TRUSS**—Were you concerned about that?

**Ms King**—I was not particularly concerned because I do not know that anyone had quite worked out the role of this committee in the past and I do not think the committee itself had. It did not concern me that we were not being supervised necessarily by the PJC because I felt the IGC was certainly doing that.

**Mr TRUSS**—Did you feel that the lack of proper parliamentary scrutiny was not important?

**Ms King**—I did not think it was terribly important because we were being scrutinised by another fairly serious body, the IGC. I think the biggest problem that I saw was the fact that the committee had not worked out its own role.

**Mr TRUSS**—Is there no need for parliamentary scrutiny? Is the committee's role redundant?

**Ms King**—To a degree, possibly. I have to say that apart from *Who is to guard the guards?* there has not been a great deal done by this committee in relation to the NCA over the years.

**Mr TRUSS**—Would the NCA be better if the committee was doing a more detailed job?

**Ms King**—I honestly do not know. It is very hard to compare a hypothetical and so far there has not been really terribly much scrutiny by this committee of the NCA. I do not know whether it would be better or worse because it really is very hypothetical.

**Mr TRUSS**—But it was a part of the design of the whole concept which, from your advice, seems to have not worked well. Was it a faulty design or did it really have a role that someone else has had to step in and fill?

**Ms King**—I think, to a large degree, it was a faulty design. I do not know that you can ask a body such as this to necessarily scrutinise the NCA in the way it was originally thought that it would, and that is certainly not in respect of operational material on a day-to-day basis. It is very hard, I imagine, to expect every member of the parliamentary joint

committee to necessarily understand about some of the secrecy involved in investigative work at particular stages. There must be other temptations that would interpose.

**Senator BOLKUS**—I was going to ask something like that. At the time of starting up the committee there was some concern about what role it would play and the handling of sensitive operational material, investigations and so on. It was always anticipated that we would not get into that role. You may have answered this already but did you, in the time you were there or since, think about what might be an appropriate role for a committee like this or should we just recommend that we disband ourselves?

**Ms King**—I think that is a matter for you, but I certainly must admit that since I left I have not thought particularly about the role of this committee, I am sorry.

**Senator BOLKUS**—What about during?

**Ms King**—I think during my time all I was really concerned about was that we gave as much information as we could without compromising in any way any of the operational matters that were occurring at that stage. It is not even necessarily a lack of trust in the committee; it is a situation where people's lives are at risk and you just do not take the chance. It is therefore very hard to keep you entirely as au fait, as I think was originally intended, with the matters that the NCA is dealing with on a day-to-day basis.

**Mr FILING**—To what extent did you feel in your experience on the authority that there was likely to be a compromising of secrecy when you were talking with the committee?

**Ms King**—I do not think we ever felt that because the committee itself did not ask for operational detail. It seemed to have been resolved prior to my arrival that there would not be a request for operational detail and therefore there was no real hesitation in talking generally about the operations. The committee members themselves did not ask for particulars that would necessitate anyone saying, 'I am sorry, we are not prepared to say that.'

**Mr FILING**—From the development of the authority and the committee over the period of time from its inception there was—Senator Bolkus would probably agree with me—back in the 1980s, when the committee and the authority were both young, there was a sort of fairly tense stand-off between the committee and the authority under the then stewardship of Judge Stewart?

**Ms King**—I think you need to look at the personalities involved in relation to that.

**Mr FILING**—I was going to say that that did change somewhat under John Phillips and then more latterly under Tom Sherman and Mr Broome—

**Ms King**—Tom Sherman seemed certainly to be as open as was possible in providing the committee with as much information as they sought without taking the step towards anything that would compromise the operational side. It appeared Mr Justice Stewart had a different view of the lack of role of the committee.

**Mr FILING**—Do you think, for instance, it is possible for a group of MPs, with their obvious political interests, to be able to supervise or oversight an organisation that is involved in obviously secretive and at times intensely dangerous work?

**Ms King**—No, I do not.

**Mr FILING**—Let us take the question of the Adelaide bombing. I agree with you. I do not think there has been a great deal of scrutiny of the bombing in Adelaide. Do you think a parliamentary committee should have a role in probing more closely what has happened, both at the time of the bombing and the relationship between the authority and the South Australian police in the investigative area at the time?

**Ms King**—I suppose to a large degree I would ask what purpose it serves. This comes back, I suppose, to the function of the committee. If you just wish to have a historical perspective—was it done right or was it done wrong—certainly. But, if you actually wished to know as it is ongoing what is happening in precise detail, I would not be prepared—if I was still at the authority—to pass that information on.

**Mr FILING**—That brings me to the next question. To what extent would you be able to reveal information, obviously without having serious concerns? I am interested, because of my continual service on the committee, in your response to that.

**Ms King**—I do not think there would be any problem in telling you in a more general way—certainly more than you would release to the press—where the investigation was progressing, how it was progressing and if we were hitting problems. But to come up with any individuals who were being looked at or persons involved—as you would have been aware, at a later stage there were people involved in an undercover side in relation to that, and to say that that is dangerous is a gross understatement—I would be very reluctant to do anything that would identify, or potentially identify, anyone involved to that degree.

**Mr SERCOMBE**—Have you ever had occasion to look at overseas models of parliamentary or congressional supervision of law enforcement bodies, particularly the role of committees in the United States Congress with respect to, say, the FBI, or the British systems of supervision?

**Ms King**—No, I am afraid I did not actually do any of the comparatives in relation to it. I certainly had discussions with law enforcement agencies in the United States and in England but not the supervisory aspect of it.



**Mr SERCOMBE**—In the absence of a view about a parliamentary supervisory role, how did you give relative merit to the different ways in which the accountability, in a public sense, of the NCA could be addressed? If it was not done through some sort of parliamentary process, how would you have proposed that the NCA achieve some degree of accountability in a public sense?

**Ms King**—I think the IGC does involve quite a degree of accountability. You must remember it is the IGC which, to a large degree, sets our agenda—I will have to stop saying ‘our’. Since February, to a very large degree, the IGC sets the agenda as to what the NCA should be investigating. It has to be accounted to in relation to each investigation, particularly each special reference that we are involved in. There is accountability but, because of the IGC and the particular nature of it, it may not be as public as people would like. It is, of course, all of the state ministers and their advisers. The NCA is not an unaccountable body. It is just not necessarily as accountable publicly as people might like.

**Mrs WEST**—In your time with the NCA, did you feel that it was an effective crime-fighting authority?

**Ms King**—I felt it was heading in the direction of being so. I have to say that in the early stages—I am talking from its inception—I do not think it was. One of the factors I referred to in my letter is the fact that you cannot keep changing the direction of this organisation as often as it has been changed. You really need, I think, a positive determination of where it is going. I thought it was heading down the right path and that some of the people who were there were actually taking it in the direction it should be going, which was very much cooperating with other agencies. It is far too small a body to be anything other than a cooperative body.

**Mrs WEST**—Was its effectiveness related totally to the personalities of the people involved in the authority?

**Ms King**—I think that is a big factor in respect of dealing with other law enforcement agencies. There has been a history of mistrust, shall we say, between law enforcement agencies over the years and that takes a lot of breaking down. You need good people who are trusted to be able to break that down. I think one of the important factors is having someone such as Peter Lamb as general manager of operations. He may be very embarrassed at this moment—

**Senator BOLKUS**—He is smiling.

**Ms King**—I think things such as that make a difference because you have someone who has credibility with a number of law enforcement agencies and relationships that have been built up over a period of time. You cannot buy that and you are not going to achieve it necessarily yourself with new people in 10 years.

**Mrs WEST**—Is a possible flaw the lack of continuity? Also, is the appointment of members more inefficient or more ineffective than another procedure of selecting who is on the authority—

**Ms King**—I am sorry, I missed the first part of your question.

**Mrs WEST**—Are the personalities a flaw, if you get the wrong combination of personalities, with continuity, to be effective—I have lost my thought.

**CHAIR**—We will come back to you.

**Mr TRUSS**—I am concerned about this issue of accountability. You have made the point that there are certain things you felt you would not tell the committee.

**Ms King**—Yes.

**Mr TRUSS**—If a committee is to provide any kind of a watchdog role on behalf of the community, it is difficult for it to achieve that if the authority is going to withhold the information. It is clearly going to withhold information whenever there is something embarrassing that perhaps it ought to know about. If this committee is not capable of providing the watchdog role, have you thought about what way that can be done?

**Ms King**—I know there is a proposal for an ombudsman in relation to dealing with the NCA and also in relation to the Australian Federal Police. I would have thought anyone involved in the authority would welcome the concept of having someone to whom people can complain, because I have to assure you that one of the major problems I had there was dealing with complaints. It is unbelievably difficult if you have someone who I would describe as, say, having a bee in their bonnet and they are not going to go away. There were a couple of those during my time. They occupy so much time and so much money that I think everyone in the authority would gladly have an ombudsman to deal with that. Also the ombudsman should, as part of his duties, I presume, look at and inspect what the NCA is doing.

One of the problems is not so much being accountable but, with the greatest respect to this committee, the fact that you are politicians and you have other interests to serve apart from just the National Crime Authority. I am afraid, if you look at the public slip we had in respect of Elliott, if we go back a long time it was something that obviously someone thought appropriate at the time to release. It certainly was not in the authority's interest and it was not in the interests of Elliott. So I think there is a good reason for people like myself to be fearful of passing on information that could in fact be of some political use.

**CHAIR**—Yes. We might come back to some of those points.

**Senator BOLKUS**—I wanted to pick up on the point you made in your letter in respect to the direction of the authority. You said it shifted in a different direction a number of times: Peter Faris with white-collar crime; Tom Sherman with organised crime; Justice Phillips with conferences; and so on. On that tension between white-collar crime and organised crime—and I know that you cannot really draw that distinction between one and the other in many circumstances—that obviously was a problem.

**Ms King**—I think you can. I actually do not think much white-collar crime falls into the category of organised crime. Organised crime to me is crime that basically people participate in as a way of making a living. That is what they do. They are criminals for whom, though it might be loosely structured, that is really their major interest. Most white-collar crime that I have seen over the years has been what I would describe as entrepreneurial. An opportunity presents itself and someone will make use of that particular opportunity.

**Senator BOLKUS**—There was an interrelationship, though, in the genesis of the NCA, I suppose through the Costigan royal commission, between the white-collar element and the organised element.

**Ms King**—I am not sure so much that it was the white-collar crime as more the tracing of the funds and the use of funds that were the profit of organised crime. I do not classify that as white-collar crime. I just think that is part of organised crime.

**Senator BOLKUS**—The question that follows then is: you would prefer the NCA to go down one route, and I presume that is the organised crime route, is it?

**Ms King**—Yes, it is.

**Senator BOLKUS**—Do you have any views in respect of whether the white-collar crime aspect is handled adequately in terms of resources and how that can be handled?

**Ms King**—I think that in fact they are probably questions that should be asked of the ASC, which seems to be doing very little in the way of the prosecution of white-collar crime, and yet it seems to me that that is its mandate. It has the resources, it also has the powers. Despite the comments about the draconian powers of the National Crime Authority, the ASC has the same powers. They just do not seem to be investigating the criminal aspect, they seem to be regarding themselves more as a regulatory body. I am not sure that that is really a good role, but that is for their management and whoever is in control of them to determine.

**Senator BOLKUS**—I suppose that then puts pressure on the NCA to pick up that work from time to time?

**Ms King**—If you look at the time when the NCA got involved in looking at white-

collar crime, there was no ASC. There were also no major fraud squads in relation to each of the state forces, as now exist. So since the time that the NCA was involved in the late 1980s and early 1990s in relation to white-collar crime, there has been a big growth of other agencies to deal with this problem. I hope they are going to pick it up and run with it.

**Senator BOLKUS**—Is there sufficient coordination between those agencies and the ASC? I suppose that is the critical aspect when you are talking about white-collar crime—it does not just stay in one suburb or one state, it is across the nation or the world.

**Ms King**—No big crime stays in one state or one city, no. I do not know if there is enough coordination between the ASC and those bodies. I have not worked with them at that level, so I really cannot say. There has to be a serious look at whether or not the ASC should only be a regulatory body or whether they should be pursuing the white-collar criminals that, I suppose, people believe exist.

**CHAIR**—Just on that sort of issue, you have suggested that the different chairs of the authority have basically driven it into the direction of their main interests. Peter Faris's interests seemed to be in white-collar crime, Justice Phillips's interest was in conferences and collaborative work, and Tom Sherman was interested in organised crime. But the NCA was established to fight organised crime, however defined.

**Ms King**—Yes.

**CHAIR**—There is a bit of mythology surrounding Peter Faris's interest in white-collar crime. I think it came out in the *Four Corners* program that he suddenly found himself with nothing to do one day and thought he would drop down to the ASC and see if they had anything they wanted to off-load.

**Ms King**—It was the NCSC.

**CHAIR**—I take it that it is mythology that that actually happened.

**Ms King**—I do not think I would like to comment on that.

**CHAIR**—At this point, anyway. You actually are in the *Guinness of Records* as the longest serving member of the authority, I think, so—

**Ms King**—Not quite, but close.

**CHAIR**—On terms of the constitution of the authority and the issue of continuity, maybe for the record you could expand a little bit on the points you made about those. Indeed, in very broad terms at this point with regard to the chairmanship of the authority perhaps you could give us your views on the need for a serving member to go on to

become chairman. Could you enlarge on your feelings on those issues for us.

**Ms King**—I suppose the best description I can give is to describe my first day as a member of the authority. I was told very little before I joined. About three days before I joined, I was given some documents which were a very brief history of the current investigations. On the day I started, I was put on a plane to fly to Adelaide for an authority meeting. I walked into a room full of men, which was normal perspective, and we then sat down. I was given a bundle of papers and we discussed the budget for that organisation. I had no idea.

**Mr TRUSS**—Sounds like becoming a minister.

**Ms King**—I think that it is probably very similar. The problem is that membership and the position of chair are turning over on a regular basis. It took me, I would say, a good six months to come to grips with exactly what it was that the authority was doing, how the organisation itself worked, its structure, the people and whom you could feel comfortable talking to about certain issues. I am just terribly concerned that, in fact, we have such frequent turnovers that you have constant learning curves at the very top of the organisation. It is a very steep learning curve when you go in. I lasted 2½ years and, as you say, that is close to a *Guinness Book of Records*. There is something wrong when you expect people to do this and also provide real leadership to an organisation that is still a young organisation and needs leadership.

**Senator McGAURAN**—So you seek appointment for longer terms?

**Ms King**—I am not sure necessarily that there should be longer terms; I think possibly renewable terms.

**CHAIR**—That has not been a problem because nobody has got close to four years except for Justice Stewart, and he was extended for a year by special legislation.

**Ms King**—Tom Sherman did his complete time, as did Malcolm Gray, actually. Those two managed to do their complete time.

**Senator McGAURAN**—There has got to be something concrete out of this, Ms King. You would seek renewable terms, four by four?

**Ms King**—I think that one of the things is that if, in fact, you get someone that is inappropriate, you certainly would not want that person to have an eight-year term. I tend to think in terms of renewable terms if the person is a good, constructive and appropriate member. In appointments, mistakes get made.

**Mr TRUSS**—What if a person had served a four-year term as an ordinary member and then, perhaps, was eligible to serve another four-year term as chairman? In your own

circumstances, had you been appointed chairman you would have only had a very short time to run.

**Ms King**—I see nothing wrong with that in some ways. But, once again, it really comes down to the appropriateness of the person. If they are suitable to be the chair of the authority, indeed; if they are not, then it should not be something that is a reward. I have very grave concerns about positions such as this being rewards for anyone. It should be a position that you are there because you are entirely suitable to in fact hold that position.

**Mr TRUSS**—What does it mean to be ‘entirely suitable’?

**Ms King**—In a case like this, you need to be a most amazing person in some ways.

**Senator McGAURAN**—A lawyer?

**Ms King**—I think, because of the authority’s powers, more than likely yes.

**Senator McGAURAN**—Isn’t there enough of them in the authority and in the DPP?

**Ms King**—There aren’t actually that many lawyers any longer. That was something that was changed over the period of time.

**Senator McGAURAN**—So you would believe that would be a qualification for the chairman.

**Ms King**—No, I said not necessarily. But I think, because of the use of the coercive powers, that it is something that is probably not essential, but it would be a bonus to have someone who understands about it.

**Senator McGAURAN**—I am just tying you down to two concrete points here: you want longer terms, at least optional, and someone with high legal training—in the end, a lawyer, someone from the legal profession?

**Mr SERCOMBE**—Has there been a chair that has not been a lawyer?

**Ms King**—No. I think it is a precondition in the act.

**Mrs WEST**—Yes, it is.

**CHAIR**—I assume that one of the constraints—in fact, there is a vacancy on the authority now—is the level of remuneration for suitably qualified people. Is one of the constraints finding suitable people who are prepared to move out of their main career,

particularly if they are lawyers or barristers, as yourself?

**Ms King**—If you look at it, I suppose the pay looks generous in some ways when you read it. But you are asking someone to give up four years of their career, and it is usually at a time that they have made some real mark within their profession and would be looking, I suppose, in terms of judicial appointment or similar. You are asking them to give that up for four years, to take themselves out of any potential judicial position or similar. At the end of four years you say, ‘Thank you very much, now go and resume your career,’ and no-one will have missed you in the four years.

It is relatively unrealistic in some ways. I think you need to be looking for someone who has in fact perhaps gone past the stage of looking to be appointed a judge; someone who is perhaps a senior counsel but not necessarily desirous or perhaps past that age of being appointed to the bench. They could look at doing between four to eight years. But I do not see how you are going to attract the really top criminal silks to this position with it being a four-year term, and for the pay.

**CHAIR**—What is the answer to that? Will you double the pay? Some of the people you are talking about are probably earning four times the pay, aren’t they?

**Ms King**—Yes, possibly more than that. I just think perhaps they need to look at what it is or who they are asking. If you are asking someone who is, say, 45 to 50, at the top of their profession and in a situation that they could be looking at judicial appointment, then you have a problem in attracting someone such as that to in fact come and run the authority. If you look at Mr Justice Phillips as an example, he was a Supreme Court judge and was brought to the position and made a Federal Court judge. That was, clearly, one of the preconditions on which he would in fact take the job. If you really want to attract the top of the tree, you are probably going to need to have some sort of equivalence in relation to judicial office.

**Mrs WEST**—Can I ask what was your greatest achievement while you were there in your term of office?

**Ms King**—I didn’t let out a secret. I would describe the greatest achievement as Cerberus in the time I was there. I thought that was something that was really an example of how cooperative policing should work in this country. I thought that was an excellent job by all involved. I was very proud of that.

**Mrs WEST**—In your current job are you equally determined to achieve success in what you are doing, or do you feel that your term with the NCA has meant an untimely end?

**Ms King**—I was always, at the end of four years, returning to the bar; it just meant that I returned to the bar a year and a half earlier. I have to tell you that I think the

bar is the greatest place that exists.

**CHAIR**—In passing, just on Cerberus, since you raised it, most of the successful prosecutions led to relatively short gaol terms—I think from memory there were only two that went over 10-year terms. In terms of judging the success of that, I agree that it was a success, but did you catch any of the Mr Bigs? That is a question that is on the public's mind all the time, isn't it?

**Ms King**—I came back to the bar in February and I walked straight into a prosecution arising out of Cerberus which involved seven people from Griffith. They were, to say the least, very well-known identities and recognised in Griffith and in the law enforcement community as having played a very significant role. They got into double figures. They did catch some Mr Bigs, yes. They were not the man who was the reputed godfather of this organisation in Griffith, but people unfortunately do pass the baton on. So it tended to be the more 30s to 40s to 50s age group rather than the people in their 60s and 70s who are the more notorious. That, I suppose, is a result of all the royal commissions in which they have been named over the years. So I think we did catch some people who I would describe as big enough.

**Mr TRUSS**—Middle management.

**Ms King**—Well, in my case His Honour found them to be beyond middle management.

**Mr FILING**—Ms King, can you think of any particular instance where the scrutiny by the committee of the authority could have been more intense, and had it been more intense it may have changed the way in which the authority did its work?

**Ms King**—Something that you as a committee could have done that would have changed how we were performing?

**Mr FILING**—In your experience?

**Ms King**—I can't think of any meetings that I attended with the committee where there were any questions at all that would have impacted on the way we were performing our duties, no.

**CHAIR**—I think this is a leading question.

**Mr FILING**—No. Obviously from your opening comments you must have felt that there was perhaps greater scope for greater scrutiny. Did you feel at any particular time that had the committee bothered to ask more serious or more probing questions, perhaps, on a particular case it may well have elicited a response that may have changed the way the authority was conducting its business?



**Ms King**—I am sorry, I misunderstood your question. No, I do not think so, simply because there was no attempt by any of us to be anything other than honest with the committee. It was not a case of we were trying to duck and weave. It was simply a matter of not releasing certain information. Anything in relation to how we actually performed our functions, we were more than willing to impart that information. It was only to do with confidential investigation sides that there was any reluctance, and the committee did not push that. What I was trying to say about the committee earlier was that I felt there was a disinterest in the authority.

**CHAIR**—To pick up the point about Operation Albert, what information was given by the authority to the committee? I thought Mr Filing was heading in that direction. Let me be more direct—

**Mr FILING**—I was not, actually.

**CHAIR**—What information was given where the committee might have twigged and said to the authority, ‘Give us a bit more on this, because there are a few things here where there ought to be some questions asked’? The committee obviously did not. The criticism of this committee in its previous forms has been that it was not more diligent on that particular operation. But it might have been the authority’s fault to the extent that it was not giving the committee enough information that begged the questions.

**Ms King**—To provide the committee with the sort of information it would need to have come to the conclusion that His Honour Mr Justice Vincent came to would have it snowed under with paper. It was to do with the actual reference itself, the interpretation of the reference. The references are something that the committee is given, but interpretation of those references is exceedingly difficult.

One of the major complaints I have is that the National Crime Authority Act itself is appalling. It might as well be written in Hindustani. It is unbelievably difficult to interpret; it is complex in the way it is done. Parliament should really have a serious look at simplifying this so that, first of all, those in the authority understand exactly what references are, and so that those on whom a copy of the summons relating to the reference is served would also understand.

**CHAIR**—I think it was Justice Phillips who, in dealing with that issue, basically said that the only way to really find out is to push it to the limit and wait until somebody questions it in court. Is that your attitude to it?

**Ms King**—I certainly tried to look at each of the references and understand them, because that is pretty important if you are exercising that power. But one of the things is that you interpret it as you read it. The legislation itself makes it so difficult. I do not know if any of you have actually sat down and read a reference. If you have, congratulations, because it is just an appalling document. But it is structured according to

the act and how the act requires it to be structured.

**Senator BOLKUS**—You would not argue about the process to grant a reference. It is more the requirements in the act to define the reference that should be liberalised, should they?

**Ms King**—It is not so much liberalised but simplified. Make them into English—simple words that everybody understands, with clear meaning. As it is, there are so many steps you have to go through and things that are required by the act to be incorporated within the reference that it makes the document almost nonsensical at the end, instead of being a nice, straightforward document that everyone seeing it and reading it can say, ‘Yes, I understand what that means.’

**Mr FILING**—You mentioned earlier the question of dealing with complaints occupying so much time. The committee, between 1990 and 1993, recommended that there be some mechanism for dealing with specific complaints, namely, the extension of the inspector-general of security’s area of authority to include complaints about the NCA. Given that there were two private members’ bills moved in the Senate between 1990 and 1993, both of which were not carried—in other words, the then government did not want to see them take place—what did the authority propose to the Attorney-General as a means of reconciling this problem?

**Ms King**—I know that in the time I was at the NCA we asked that, in fact, the position be incorporated within the office of the auditor. We just wished somebody would please have an oversight role in respect of complaints against us.

**Mr FILING**—What was the response of the government?

**Ms King**—We could not succeed in getting it through. One of the factors—and I suppose this is fairly common knowledge—was that there was a bill put up by government in relation to it, but amendments were going to be made in relation to that bill that were unacceptable to government, and also unacceptable to various partners in law enforcement. So the government were not prepared to put part of the bill up: they said it was a package and that, if it was going to be amended, then the whole thing would be defeated. So it ended up that we stayed in limbo in relation to that.

**Mr FILING**—The government apparently felt it could not succeed in carrying legislation to actually provide for a complaints mechanism like this: is that it?

**Ms King**—They could carry part of it, but it was a complete package of amendments that they wished to put up, not just in relation to complaints. Certain parts of that would be amended in a way that government found unacceptable and that law enforcement agencies in relation to other states also found unacceptable. So the government was not in a position to actually get the legislation through, unamended.

**Mr FILING**—Bearing in mind that this was over a period of some time, do you believe it is beyond the wit of a government to be able to actually introduce a complaints mechanism, given that there were two private member's bills, one by a Liberal senator and one by a Democrat senator, moved to try and remedy this situation?

**Ms King**—It seemed to be beyond the capacity of government and opposition to deal with this as a neutral issue affecting the NCA. It appeared to be something that was done along party lines and so be it.

**Mr FILING**—The committee unanimously supported the concept of that mechanism, as it was conceived.

**Ms King**—As did the NCA.

**Mr FILING**—Yes; but, unfortunately, six years or so down the track, we are still without a mechanism.

**Ms King**—And we now have the interesting situation of the recommendation being brought through at this stage, which I foresee having great problems—

**Mr FILING**—Me, too.

**Ms King**—You have got law enforcement agencies who have members seconded to the NCA, and there is no way known that any law enforcement agency will allow the Commonwealth Ombudsman to in fact deal with their people. They will have to be dealt with by their own. And the proposed legislation does not seem to take that into account.

**Mr FILING**—You touched upon, in your earlier answers, the matter of the leaking of the Elliott thing in 1990. As a person who raised the matter in the House in 1990, I was interested because my recollection is that, at the time, the NCA believed that the leak did not come from within the authority: are you of a different view?

**Ms King**—No, I am very much of the view that the leak did not come from within the authority.

**Mr SERCOMBE**—In the IGC?

**Ms King**—I do not know if it came from within the IGC.

**Mr FILING**—Where do you believe it came from?

**Ms King**—I do not know. Thank you. I am not going down that path.

**Mr FILING**—Given the circumstances in 1990, to what extent do you believe that

the leak that was made in 1990 tainted the overall perception of the inquiry into the then Harlin matter?

**Ms King**—I am sorry, but I do not follow that question.

**Mr FILING**—At the time in 1990 there were a number of commentators who believed that the matter was leaked specifically to damage the Liberal Party in the 1990 election. I think that there is no doubt that that was the perception at the time. To what extent do you believe that that leak damaged the overall perception of the inquiry in the public arena—in other words, made it appear to be a political witch-hunt?

**Ms King**—It was unfortunate because I think a small percentage of the public have this perception that, in fact, the whole investigation could well have been political in nature. That would be, in my view, very unfortunate because during the time I was at the authority there was no political involvement or interest in respect of the investigation. It was an investigation into alleged criminal activity.

**Mr FILING**—Would you agree then that under those sorts of circumstances, the very grounds on which some are criticising the NCA for being unnecessarily secretive may, in fact, be a positive rather than a negative?

**Ms King**—I was involved in some investigations. They were serious allegations against people. Within a short space of time, due to the coercive powers, we were able to disprove the allegations—not just sort of put them to one side, but actually disprove them. None of that comes into the public arena. It is exceptionally good for the people we are investigating that it does not. They are investigated and cleared without it being a slur on their reputation. In fact, I think that is a bonus.

**Mrs WEST**—I have a question on something entirely different. Can you explain the relationship as you saw it between the CLEB and the NCA? Were they an oversight body?

**Ms King**—I am not entirely sure. The CLEB arose out of the Commonwealth law enforcement review. That review recommended the establishment of a board. That board was to advise the minister in relation to Commonwealth law enforcement policy. I became concerned because it seemed to be intent—I do not know whether things have changed—on forcing decisions upon the NCA that in my view were not decisions it should be forcing upon us.

**Mrs WEST**—Decisions or setting the agenda?

**Ms King**—I thought decisions—things such as collocation with the Australian Federal Police and the melding of the two information technology networks. Certain cabinet decisions were made that had to be followed. I disagreed with those, but they were

cabinet decisions and they are to be followed. But it seemed to me that the CLEB, consisting as it did of the Commissioner of Police for the Australian Federal Police, the head of the ASC, the head of the DPP and the head of the NCA really ought not make decisions that impact upon how the NCA runs its business. Where it is located and whether or not its information technology is shared with the AFP or maintained independently are decisions, I believed, for the authority. I disliked the amount of influence it was wielding in relation to how we ran the organisation.

**Mrs WEST**—It is still in existence?

**Ms King**—It certainly is still in existence.

**Mr TRUSS**—Would you regard the CLEB as a professional, well-run organisation?

**Ms King**—No, I would not.

**Mr TRUSS**—Is that a reflection of the executive director and the people involved or of its structure?

**Ms King**—First of all, I think it is largely an unnecessary organisation. I think I would rather talk about this in private.

**CHAIR**—Are your concerns exacerbated by what has amounted to an ex officio chairmanship by the chairman of the authority? Is that a problem?

**Ms King**—I feel that the executive member seems to have an inordinate influence in relation to decisions that are made and also, certainly in the time I was there, an inordinate influence with the minister. I just do not believe that it is appropriate for a senior bureaucrat to, in fact, have such a controlling say in how organisations are run.

**CHAIR**—What about the chairmanship of it though?

**Ms King**—The chairmanship goes to whoever is chair of the National Crime Authority. Accordingly, that depends upon who the chair is and the personality of that person. You do not have to be chair of an organisation to, in fact, dominate it.

**Mr FILING**—I wish to pursue the matter of the relationship of CLEB with the NCA and, for instance, also dwell on the menu from the report on Commonwealth law enforcement arrangements and also the role of the committee. My recollection is that when meeting with the NCA at the time, when questioned about the likely infringement of the independence of the chairman of the authority, the chairman said that he felt there was no infringement in his dual role as the chairman of the CLEB and the chairman of the NCA.

**Ms King**—I think what Mr Sherman said at the time was that there was no conflict between the two roles.

**Mr FILING**—Given that at the time there was also discussion about the collocation of the AFP and the NCA in a number of areas, again the authority gave its view that there was no compromising of the authority's independence. Do you think at the time that the authority was being entirely correct in making that assertion in response to the committee's questioning?

**Ms King**—At the time, I think it probably had one battle at that point. If I look at that particular issue, my major concern was that the issue of collocation of Australian Federal Police and NCA officers was a matter for the Commissioner of Federal Police and the authority. The authority consists of three members, in my view. I do not believe that is something that should be decided by any other body. Whether the chairman is on that body or not, it is not something that should be put to a vote of an entirely different body. It is part of the function of the NCA to determine how and where they are located and with whom.

**Mr FILING**—But at the time when there was some significant concern, not the least from staff members about the matter of collocation, the authority still felt that there was no compromise of its independence with collocation. I might say also that at the time the committee made the point about this dual role that Mr Sherman had as the chairman of both organisations.

**Ms King**—I think Mr Sherman was talking about conflict in that he did not see a conflict. I personally thought there could be potential conflict in respect of it.

**Mr FILING**—Did you raise that with Mr Sherman following his discussions with the committee?

**Ms King**—Yes.

**Mr FILING**—Did you advise him that he was wrong, in your opinion?

**Ms King**—You must understand that as a three-member authority we often advised each other that we were wrong.

**Mr FILING**—The reason I ask is this is one instance where I can detect the committee did in fact get very close to the bone and was probably given wrong information.

**Ms King**—The fact that I have a view as a member of the authority does not mean necessarily that the other two have the same view.

**Mr FILING**—I know, but they are strong views.

**Ms King**—And the authority rules.

**Mr FILING**—True, but you have and have had strong views on this matter.

**Ms King**—I had strong views at the time.

**Mr FILING**—In fact they play a substantial role in your submission.

**Ms King**—I had strong views at the time also. I thought part of what was done under the Commonwealth law enforcement review was very good. I thought part of it was very poor.

**Mr FILING**—You have obviously had other strong comments about, for instance, Mr Smeaton's influence in relation to the authority.

**Ms King**—Yes.

**Mr FILING**—I would have thought they would have coincided very strongly with that conflict of interest proposition put to the authority back in 1994.

**Ms King**—I have an answer for this, but I would prefer to do it in camera.

**Mr FILING**—As a matter of principle, in a situation like this—and, for instance, the PJC is endeavouring to ascertain what are the circumstances—what is the responsibility of a member in relation to something like this where, for instance, they are of the view the chairman has offered a view they disagree with?

**Ms King**—I do not know that the member has a particular responsibility to the committee. It is something that you have to have an authority view. It is something we thrash out as an authority and you have differing views—believe me, very differing views. The authority meetings were sometimes very interesting and often quite volatile, but ultimately there has to be an authority view presented. When that is over, once I have left the authority, I am entitled to state what my view is, but whilst I am a member of the authority I must in fact stick with what we have determined via a three-way vote to be the authority view.

**Mr FILING**—During 1994-95 the committee, as part of its meetings, had a number of questions. I was one of the questioners in relation to the budgetary problems experienced at the Perth office.

**Ms King**—Yes.

**Mr FILING**—My understanding was that at the time the staff were threatening industrial action because they felt the budgetary constraints were seriously affecting investigations.

**Ms King**—I have no doubt that the budgetary restraints are severely hampering investigations.

**Mr FILING**—Can I just go back to that particular time. At the time, one of the complaints was that they in fact had no effective funds available for surveillance, which I would have thought was one of the principal functions in the investigations. Is that true?

**Ms King**—I believe that was one of the complaints that was made. It was a little exaggerated, to say the least.

**Mr FILING**—Did you believe at the time the chairman's response in relation to questions of the authority's strategy in the Western Australian office—in other words, the way in which he was budgeting in Western Australia—were in fact correct, that there was no significant problem?

**Ms King**—I believed at the time that was made that, yes, it was correct. There was no significant problem in terms of a comparison with all the other offices. All of the offices were in fact suffering from budgetary restraint.

**Mr FILING**—Are you aware, for instance, that the budgetary constraints affected Operation Cerberus in any way?

**Ms King**—Possibly. I think you would have to say yes because, if you had more money, you could have more people and you could in fact have more surveillance and more telephone intercepts—all of the things that make law enforcement work. So, yes, of course, they impacted in a way.

**Mr FILING**—Should the committee have been informed of this when they asked?

**Ms King**—No, because I am talking in a very general sense that the more money you have, the more investigations you can do.

**Mr FILING**—It is just that at the time I recollect—and I am going from my recollection—the authority was asked about the likely effect on Cerberus?

**Ms King**—I would have to say that I cannot remember that, but at that stage we had budgetary cuts across the board that had to be spread and they were spread basically fairly evenly amongst the offices. Each office certainly had complaints about their not having as many surveillance people, surveillance vehicles and support staff. All of those matters had been affected, but we were not going to get the money back from government



to change that.

**Mr FILING**—Can I just expand on that slightly, if I may. I am interested in exactly what role a committee can have if the authority feels obliged to undertake to present the cabinet view, or cabinet policy, in relation to, for instance, budgetary arrangements and investigations. Once there is a policy made—let us say, in the case of the Western Australian office, or Perth office—do you believe that the authority should be obliged to inform the committee exactly of particular problems it may have, or should it present its case within the terms of the government policy at the time?

**Ms King**—I think if in fact the authority has suffered significant budget cuts, as it did in this case, it does not have a right. As I understood it, it is not necessarily the role of this committee for us to complain to you that we want more money because that is really in effect what you are asking.

**Mr FILING**—No, I am not. I am asking: do you feel that the authority should be obliged to answer truthfully the exact circumstances of the impact of particular policy decisions on the authority when the committee asks, which it did?

**Ms King**—Undoubtedly. I am sorry, I misunderstood you.

**Mr FILING**—I am just saying that at the time, when those questions were asked, we were informed there were no significant problems and yet that was not the case.

**Ms King**—That was possibly more a misunderstanding than anything else. There is no significant problem in relation to these cuts as they are across the board. Perth has no significant problems compared with any of the other offices of the NCA. Everyone has been cut. I am sorry, I think that was the terms in which the answer was probably given. I do not remember actually being there for that one.

**CHAIR**—We will draw the public session to a close shortly.

**Mr SERCOMBE**—Mr Chairman, could I take Ms King back to her remarks some time ago about references being effectively in Hindustani. I start off by saying I am not a lawyer. I guess, almost by definition, I am a fairly simple fellow, but I have here what I understand to be terms of reference signed by the Attorney-General back in 1989, which seem to be in very clear English. It states:

. . . I HEREBY REFER to the National Crime Authority for investigation the following matter relating to a relevant criminal activity insofar as the relevant offence or the relevant offences are or include an offence or offences against the law of the Commonwealth . . . The nature and scope of any relevant criminal activity . . .

The purpose of the investigation is described in four parts—amongst other things to ascertain whether any or what relevant offences have been committed, to identify the

offender or offenders, to assemble evidence which would be admissible in the prosecution of the offenders, and to furnish that evidence to the Attorney-General. That does not seem to be Hindustani to me.

**Ms King**—In relation to that, Mr Sercombe, all I would ask is that if you were given that document—as a copy must be served with a summons—what would you think you were attending for?

**Mr SERCOMBE**—I wonder what you, when you were a member of the authority, advised people attending in those circumstances. How did you proceed to conduct matters in that circumstance, when you were an authority member, particularly given recent comments from the bench on that matter?

**Ms King**—What I would advise in respect of that is that you are required to attend an authority meeting in relation to whatever it was and there would be an investigation into whatever the particular matter was. I would advise that you were to answer questions and you would nominate an area, either specific or general, and you would attach a copy of that as an explanation, because that is what you are compelled to do. What I would like is that that document means something and says something.

**Mr SERCOMBE**—Did you believe at the time you were a member of the authority that matters of procedural fairness were not being achieved because of that matter you are referring to?

**Ms King**—I do not know that the authority was set up on the basis of procedural fairness as such. It is not a court of law. It is set up to be an investigative organisation, such as royal commissions are. We are not talking necessarily of all of the rights and obligations that exist in a court. What you have to do is let the people know what they are there for, that they have the right to have a lawyer present or to speak to a lawyer and they have the right to claim self-incrimination in respect of these matters.

One of the things that I think is important is to look at the type of people brought in—and by that I do not mean criminal or anything remotely like that. One of the things, in my view, that the hearing should be utilised for is not to bring in the people who are the subject of the investigation, but to bring in people who can provide information about the actual matter, or about the people who are the subject. You do not want to bring people in purely for the purpose of claiming self-incrimination.

There is no purpose achieved by the authority in relation to those people except to allow them to say, ‘I do not wish to answer your questions’. It is an information gathering tool and it is really an investigative tool that was designed to be such. It was not designed to be a star chamber, to make people confess on the rack. It was designed to elicit information. The more information you give a person before you bring them in, the more information they can provide.

**Mr SERCOMBE**—In terms of the use of the coercive powers, were you able, as a member of the authority, to satisfy yourself as to the reasonableness, in terms of the reference that you had been given, and that the coercive power was appropriate in all the circumstances you were dealing with?

**Ms King**—Before I exercised any of the coercive powers it was the first thing I satisfied myself of—that it was an appropriate use in relation to a reference. There have been a number of occasions on which I have refused to sign them, as has Mr Gray. It is not a rubber stamp, despite what people may think. There is a document required in relation to each summons that is sent to you. There is a document that is required which we have, certainly over the 2½ years I was there, continually changed and altered to improve the amount of information provided to the member.

**Mr SERCOMBE**—Are you able to provide the committee with any particulars on the sorts of circumstances in which you made that judgment not to proceed with the utilisation of coercive power?

**Ms King**—Yes, I think there have been a number of times where I have said that there were other ordinary law enforcement methods that were available and they ought to be utilised. That includes search warrants or just simple requests of people and organisations to provide the information. It seems to me that most people are happy to provide information if they can. Some are unhappy. It was for those people that the coercive powers were designed. My view was that you should ask first. If you get a knock-back you then look at whether or not it is appropriate.

So one of the questions I would always ask people is, ‘Have you in fact checked whether they are willing to provide this information?’ If I got the answer, ‘No, I haven’t,’ then they would be told to go and do that. Eight out of 10 times people would say, ‘Yes, here is the information.’

**Senator McGAURAN**—I know it is all a matter of opinion but that sounds a bit gentle when you are dealing with drug syndicates.

**Ms King**—No, I am talking about the use of coercive powers in relation to accountants and bank managers, and things such as obtaining documents. I found that in a lot of cases the people were quite happy to provide them, when asked.

**Senator McGAURAN**—It still sounds very gentle. You used the terms before of ‘star chamber’ and ‘being put on the rack’. Given your past position and the fact that we do have the media here, can you clarify that because I would not like it to be thought that that is how they did behave—or is it the way they behave?

**Ms King**—It was tongue in cheek. It was in view of some of the comments that have been made and seem to still be floating around the press that the description of some

people was, 'It was like being in the star chamber, or what I imagine the star chamber to be'—a light down the end of the room. It was very much tongue in cheek. It just looked like an ordinary place.

**CHAIR**—Just a couple of issues to tie this important issue up. You then, I take it, are saying that you at least as a member are acutely aware of balancing the use of the coercive powers with the civil liberties issues. That to you was a constant concern.

**Ms King**—Not the civil liberty issues, but the issue of whether or not it was appropriate to use the coercive powers. I did not sit back and say, 'Look at the civil libertarian aspects of it,' so much as, 'Were there other more suitable means to obtain the information?' To me the use of the coercive powers was what you did when you were unable to obtain the information in any other way.

**CHAIR**—And you also would have, in terms of the procedural fairness question, been quite clear with witnesses called before you—is that what you would call them—

**Ms King**—They were witnesses.

**CHAIR**—You would have been quite clear about what the purpose of them being there was? In your view, that modus operandi would be standard?

**Ms King**—No, I do not know that it would be standard. With some you would say specifically; with others you would be more general, depending upon the sort of reception that the service of the summons had received. You would get that information provided to you. Some were extremely hostile and with those you would be a little more cautious.

**CHAIR**—I guess we have to be a bit careful of the Elliott case, but that was one of Justice Vincent's criticisms, wasn't it?

**Ms King**—Yes it was.

**CHAIR**—You were not involved at that stage, were you?

**Ms King**—No, I was not involved. But one of the factors there, of course, is that these people were described in all of the NCA material at that stage as targets. The persons that we have been bringing into hearings, certainly in the time I was there, were not people who were described as targets; they were people who could provide information about the offences and the suspects. It is in a quite different category. If you are going to make a choice about self-incrimination, you need to really be informed, of course, and that seemed to be His Honour's criticism: that these people were in fact the targets of the investigation, and they were not there to provide information as such.

**CHAIR**—So, they had certain rights beyond what someone else might have who

was not a so-called target?

**Ms King**—Certainly.

**CHAIR**—And the NCA had certainly responsibilities, as well?

**Ms King**—According to His Honour, yes.

**Mr TRUSS**—Following through on the same issue that Senator McGauran raised, what can you tell us about the culture of the NCA? Was it about hard-slogging, investigatory work, or was there real determination to get some big names to shore up the budget and to make the authority look good and worthwhile in the eyes of the public?

**Ms King**—I think you have got to talk about the authority in different stages. I do not believe that, in the time that I was there, it was about big targets or looking good, necessarily, in the eyes of the public. Cerberus was just hard-slogging work, and it was not about getting every high-flier. When the authority was young—and I say it is still young, because it is only about 12 years old and, in terms of any organisation, that is still young—it possibly was looking very much to earn its stripes, so to speak, and that is not unnatural in any organisation.

There has been, hopefully, a fairly calm influence that has been exerted over it in the last five or six years and that will have changed that perspective. It certainly did not appear to me to be an organisation looking for big heads in the time I was there. In fact, the best description I could give is that everyone, to a very large degree, was terrified about the charging of the particular matter that came up, because it was felt to be such a crucial matter on which the authority could survive or fall.

**Mr TRUSS**—Did the authority feel confident and secure about itself, so that it could afford to fail and still be highly thought of in the community, or did it never reach that stage?

**Ms King**—The authority was exceedingly worried that a prosecution, such as the one that has just gone on, if it failed, could in fact damage it severely; but it was a process that had been entered into back in 1989, when a reference was granted. It was not something that the current members or chair or senior management could back out of. It was a reference, and it had to be pursued all the way. It certainly was not something done with a great deal of joy.

**Mr TRUSS**—You felt as though you were trapped into proceeding with it, even if the case was weak?

**Ms King**—No; not even if the case was weak. Experience teaches you that criminal cases are very hard to run when someone on the other side has a great deal of

money.

**Mr TRUSS**—If you could do it again, would you not start it at all, or would you just do it better?

**Ms King**—Hindsight is a wonderful thing! I am not really sure.

**Mr FILING**—Ms King, in your opinion, why hasn't the Adelaide bomber been caught?

**Ms King**—I will answer that in camera.

**Mr FILING**—Okay. The second thing is, can I ask you a question in relation to telephone tapping?

**Ms King**—Yes.

**Mr FILING**—Are you confident that at all stages the authority is acting within its powers in relation to telephone tapping? Are you aware of any specific instances where you believe the authority has stepped outside of its lawful capacity?

**Ms King**—I am absolutely unaware of any time that the authority has stepped outside its lawful capacity in respect of telephone intercepts.

**Mr FILING**—Do you believe that the powers available to the authority at this point in relation to telephone tapping are adequate? If not, how could they be changed?

**Ms King**—I believe the powers are adequate at this stage. They are tied to a reference, and I think that is as it should be.

**Mr FILING**—Back in 1994 there was a conference on organised crime organised by the AFP and the NCA. At the time there was considerable criticism by delegates from some of the Asian law enforcement agencies in relation to Australia's policy on information exchange. Specifically, at the time there was—

**Ms King**—A Singaporean case, was it?

**Mr FILING**—Yes. Australia restricted itself from providing information in a case where a person had been arrested and charged with a capital offence in another country. At the time there was considerable criticism in the conference. I am aware that that criticism was passed on to the Australian government. Did the authority agree with that criticism that was voiced at its conference? What did the authority do at the conclusion of the conference when advising the Attorney-General as to the various things that were raised?

**Ms King**—I do not believe that we discussed that particular criticism as an authority. It was something that I believe we left to our general manager of operations to deal with.

**Mr FILING**—Do you have a personal view about that policy?

**Ms King**—I have a very strong view about capital punishment. Accordingly, with that goes the strong view that information ought not be provided to any country in relation to a capital offence.

**Mr FILING**—Does that include the United States, which has capital offences?

**Ms King**—That includes the United States.

**Mr FILING**—And Thailand, where there are a huge number of offences which have capital punishment?

**Ms King**—Yes. It is something about which I hold very strong personal views.

**Mr FILING**—Are you aware of criticism from those countries that in fact that impedes Australia's fight against drug trafficking?

**Ms King**—Yes, it impedes the flow of information on a two-way basis. If we are not forthcoming, they are not going to be as forthcoming as they could be either.

**Mr FILING**—Are you familiar with the nickname for Australia as being a NATO country—no action, talk only—in relation to that particular aspect?

**Ms King**—No, I had not heard that one.

**Mr FILING**—In other words, from your recollection at the time, the authority was not interested in that particular aspect?

**Ms King**—It seemed to us to be more of a government policy than a policy for the NCA themselves.

**CHAIR**—That one came out of left field. I will just take you back a bit to the question of capital punishment. What was the context of that?

**Mr FILING**—Legislation has now just been recently enacted in relation to our—I forget the exact act—cooperation with overseas—

**Mr SERCOMBE**—Mutual assistance.

**Mr FILING**—Yes, the Mutual Assistance in Criminal Matters Legislation Amendment Act prohibits the Attorney-General from providing information to a country in which a person is being charged or convicted with an offence involving capital punishment. Unless that country agrees to provide an undertaking, it will not carry it out.

**CHAIR**—Whether that is an Australian national?

**Ms King**—No.

**CHAIR**—What was your view on that?

**Ms King**—I have very strong personal views that no information should be provided in respect of any capital offence to any country.

**CHAIR**—Because you have a strongly held view against capital punishment?

**Ms King**—Yes. What you were just talking about is remarkably similar to our extradition act and extradition treaties with most countries.

**Mr FILING**—Would you agree that in, say, the case of another Oklahoma bombing, where perhaps there was an Australian interest, it would be consistent for Australia to refuse to exchange information that may lead to the arrest or further information to charge somebody for offences associated with the bombing?

**Ms King**—Yes. I do not have any problem with that. You either hold the view or you do not.

**Mr FILING**—I am just saying that it is something that has been raised on a number of occasions.

The next item relates to the menu of work that was proposed in the law enforcement review report, which included a wide range of subjects. Amongst those was the question of organised paedophile offences, which would have been a matter that was raised during your time on the authority.

**Ms King**—Indeed.

**Mr FILING**—Do you consider that the authority has taken that particular matter seriously enough?

**Ms King**—Indeed, I do. I am quite happy to talk about that in camera. The menu of work that was provided is possibly the best thing that came out of the CLER review, as there has always been a problem with what is described as patches amongst different law enforcement agencies. The definition of this, as to what was appropriate for the NCA to



be involved in, was very much a bonus. It gave a clear definition and also, in my view, took it back quite clearly towards organised crime.

**CHAIR**—Paedophilia was not on the menu, was it?

**Mr FILING**—Yes, it was—organised paedophilia. I turn to another matter in relation to the Wood royal commission. Are you aware of serving officers seconded to the NCA who were acting corruptly or who have been identified as acting corruptly in the Wood royal commission?

**Ms King**—I have some information about it.

**Mr FILING**—Do you think that the involvement of suspected corrupt officers, particularly in the New South Wales context, may have compromised inquiries undertaken by the authority?

**Ms King**—No, I do not. I am aware of some allegations. Having seen those officers and what they have done at the NCA, I do not think that any of their operations have been compromised.

**Mr FILING**—Were New South Wales police officers treated in any different way on secondment to the authority?

**Ms King**—I suppose there was a general reserve with some of them. It is a problem. It is a perception that exists and has existed for a very long time in respect of New South Wales police officers, particularly detectives.

**Mr TRUSS**—Only in New South Wales?

**Ms King**—Almost only in New South Wales. They just had a reputation that was appalling.

**Mr FILING**—Can I just turn to one other issue. At one stage—I think it was in 1993—the authority did a report on money laundering. One particular aspect of money laundering was in relation to casinos in Australia and money laundering within casinos. At the time the authority took the view that there was no money laundering within the terms of the Vienna convention definition of money laundering, or whatever it was. Do you agree that that is still the case?

**Ms King**—I have not had any involvement, particularly in relation to the money laundering reference. In fact, Malcolm Gray tended to look after that. He had been involved in the report. The last time I spoke to him about it, he seemed to be pretty much of the view still that there was no great money laundering being done through the casinos. But he has been gone since July of last year.

**Mr FILING**—Some allegations have been raised recently that heroin trafficking has been undertaken by members of gangs in the Chinese community in Australia. Do you have any comments on that? For instance, are the comments by the independent member for Oxley accurate?

**Ms King**—Who is the independent member for Oxley?

**Mr FILING**—Ms Hanson.

**Ms King**—Thank you. Accurate in what area? She has said a lot of things.

**Mr FILING**—Specifically in the trafficking of heroin.

**Ms King**—I do not know what she said. I actually have not bothered to read her articles.

**Mr FILING**—Essentially, she said that trafficking is undertaken by migrant Chinese groups with Vietnamese assisting them.

**Ms King**—I am sure Chinese migrant groups do it, as do Romanian migrant groups, as do probably Ethiopian groups, Australian non-migrant groups. It is a very lucrative trade. Anyone who wishes to make money in a very quick manner is attracted to it. There seems to be—no-one disputes this—a south-east Asian influence in heroin trafficking and importation, as are other groups as well. But they are a significant player within that trade but not necessarily more so than Australians.

**Mr FILING**—With the benefit of your experience and some reports from your office, do a significant number of migrants involved in the heroin trafficking view Australia's relatively benign penalties as not a substantial disincentive?

**Ms King**—That is certainly not my experience. Not so much from being involved in the NCA but from my involvement in prosecution of major drug offences, I do not think when they actually come down to it they view our penalties as light. Any time in gaol is a long time. It may be a little easier than perhaps in another gaol in another country, but I do not think anyone laughs at 10 to 15 years. So no, I do not see it as something where they are sitting back laughing at our penalties.

**CHAIR**—Thank you, Ms King. We will draw the public session to a close. The committee has announced that it will, in due course, conduct a full-scale evaluation of the NCA. We are waiting for the Attorney-General's internal review on the Elliott case to be completed so that we can have the benefit of that. Then we would want to invite you to appear before the committee during the course of that inquiry, if having done it once you would still be prepared to do it again.

**Ms King**—I will think about that.

**CHAIR**—You said that the legislation needs to be radically redrafted. I do not suppose you have had any drafting experience, but you might be able, at some time, to give us some more definitive advice on what you think should happen there.

**Ms King**—One of the things I am certainly prepared to do is highlight where the actual problems seem to lay in the legislation itself.

**Mr SERCOMBE**—That would be very helpful.

**Ms King**—I think I can do that relatively easily.

**CHAIR**—Maybe we could impose that upon you now, seeing you have offered.

**Ms King**—No, not now.

**CHAIR**—Not tonight. But, subsequently, could you put pen to paper for us and send us that advice? Despite those qualifications, I detect from what you said that you are absolutely committed to the need for the NCA's work in Australia because of the drug and organised crime problem.

**Ms King**—The organisation has a proper and particularly important role to play in getting all of the disparate police forces together. One of the things that I am not sure is understood enough is that about 90 per cent of all crime in Australia is state crime. They do not, unfortunately, stick to state borders.

Take the New South Wales and Victoria police. For years they have not been able to trust each other for various reasons, one of which we talked about with the corruption in New South Wales. The NCA is a bridging force between them and the best example of that was Operation Cerberus.

Cerberus was outstanding not just in who they arrested and what they did but in the absolute cooperation that existed between all law enforcement agencies in Australia. In 24 years as a lawyer, I had never seen it before. I hope to see it more often. But, yes, I think the NCA has a very important role to play.

**CHAIR**—Thank you indeed for your contribution; it has been extremely valuable to the committee.

*Evidence was then taken in camera—*

**Committee adjourned at 9.31 p.m.**