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Official Committee Hansard

**HOUSE OF
REPRESENTATIVES**

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL
AFFAIRS

Reference: Crime in the community

WEDNESDAY, 9 OCTOBER 2002

SYDNEY

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HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
Wednesday, 9 October 2002

Members: Mrs Bronwyn Bishop (*Chair*), Mr Murphy (*Deputy Chair*), Ms Julie Bishop, Mr Cadman, Mr Kerr, Mr Melham, Ms Panopoulos, Mr Sciacca, Mr Secker and Dr Washer

Members in attendance: Mrs Bronwyn Bishop, Ms Julie Bishop, Mr Cadman, Mr Melham, Mr Murphy, Mr Secker and Dr Washer

Terms of reference for the inquiry:

To inquire into and report on:

The extent and impact of crime and fear of crime within the Australian community and effective measures for the Commonwealth in countering and preventing crime. The Committee's inquiry shall consider but not be limited to:

- a) the types of crimes committed against Australians
- b) perpetrators of crime and motives
- c) fear of crime in the community
- d) the impact of being a victim of crime and fear of crime
- e) strategies to support victims and reduce crime
- f) apprehension rates
- g) effectiveness of sentencing
- h) community safety and policing

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Committee met at 10.01 a.m.

CHAIR—I now declare open this public hearing of the House of Representatives Standing Committee on Legal and Constitutional Affairs inquiry into crime in the community, victims, offenders and the fear of crime. Through this inquiry the committee is able to investigate crime in Australian communities and its effect on those communities from a variety of angles. The committee has been asked to examine what is really happening out there in communities, what support services are available to victims, and the way that the justice system deals with offenders and victims.

The committee will look at the way all levels of government can work together to combat crime. To date the committee has received over 100 submissions and we expect to continue to receive more. The committee held hearings in Melbourne last month which produced a substantial amount of evidence in a number of areas, particularly on sexual assault and e-crime. A particular focus of these hearings in Sydney will be community safety, gang related crime and drugs in the community. Today we will hear from a wide variety of organisations, recognised experts in various areas of crime, and the New South Wales police commissioner, Mr Ken Moroney.

We are commencing this morning with representatives from two chambers of commerce—Fairfield and Cabramatta.

[10.05 a.m.]

HEGGIE, Councillor Maria Lena (Private capacity)

O'GRADY, Mr Philip Michael, Vice-President, Fairfield Chamber of Commerce

TREYVAUD, Mr Ross Martin, President, Cabramatta Chamber of Commerce

CHAIR—Welcome. We have received submissions from both Cabramatta and Fairfield chambers of commerce, which we have authorised for publication. Would you like to make an opening statement on the submissions that you have sent to the committee?

Mr Treyvaud—Certainly, Madam Chair. I thank the committee today for hearing evidence from our chamber of commerce. Cabramatta has certainly been in the news over the last several years regarding particularly drug related crime, as well as gang activity and incidents of violence such as shootings, stabbings and such. Although many have taken credit for the clean up of Cabramatta—that Cabramatta is now pristine and a safe community and that we are no longer in danger of slipping back into the grip of fear, particularly fear of crime as it perpetrates through our local area—I would say these people are wrong. We have seen over the last few months a steady increase in violence, death due to overdose and the incidence of increasing addiction on our streets. The drug dealers are now evident again around the railway station precincts. We are seeing street prostitution having an impact on the residents on the east side of Cabramatta, and we are seeing a police service and local politicians in denial of the situation re-emerging.

My presence here this morning is in some way calling for assistance for our community; calling on the federal government to perhaps in some way intervene, whether it be by funding or whether it be by increasing its investigative commitment in our local area to shore up the community against the onset of the degradation of our area once again.

CHAIR—Thank you. Mr O'Grady, do you want to add to your submission?

Mr O'Grady—Thank you, Madam Chair. I appreciate the committee coming together; it is a great opportunity. As I say in my covering letter, it is long overdue. Crime is impacting on the lives of ordinary citizens. What is interesting is that when you look at the relationship between drugs and crime, there is not a lot of information available. I can find a reference in 1996 that it was costing \$1.6 billion. Even your own drug policy statement, the National Drug Strategic Framework says, 'There is also a substantial though unquantifiable cost of drug related crime associated with activities such as burglary, robbery and money laundering.' I find that quite disappointing. The Department of Corrective Services in New South Wales has done a survey. It states:

Over three-quarters of males—

this is prisoners—

stated that the offences for which they were currently in prison were alcohol and drug related things: alcohol, 54 per cent, heroin 41 per cent, cannabis 40 per cent.

The really disappointing thing is that prior to imprisonment 51 per cent admitted to injecting and 21 per cent admitted to injecting during their terms of imprisonment, which shows that there are problems in Corrections. The point I try to make in my letter is that there are problems with policing. The police are effectively taken out of the equation by the policy of harm minimisation. There was a recent ad in the *Weekend Australian* for the Victorian Law Enforcement Drug Fund, which is apparently a companion body for the National Drug Law Enforcement Research Fund. It states:

A significant proportion of crime and violence occurring in this state—

Victoria—

can be linked to the misuse of licit and illicit drugs and most of the offenders in our correctional system are there for drug or alcohol related crime.

The Victorian government admit that there is a direct relationship between drugs and crime, but if you go to this national body that brings together the police of the Commonwealth, the National Drug Law Enforcement Research Fund, they say that they are committed to harm minimisation as the policy underpinning approach to harmful drug use nationally. When you go to the state—NSW—policy as shown in the Heroin Overdose and Management Strategy, they are also committed to harm minimisation under the national drug policy, which is the National Drug Strategic Framework. They say on page 13 that, because of that commitment to harm minimisation, the police do not take action for minor drug offences when attending an OD. I do not think any of us would consider any of our children or friends being involved in an OD as a minor event. It is the complete surrender of our policing. Maybe there are 20,000 police in the Commonwealth. We can take them out of the equation with regard to endeavouring to prevent the induction to addiction of our young. It is nobody's job to prevent the induction to addiction of our young.

Our federal policy has to be an anti-addiction policy. There has to be an anti-addiction policy regarding our children in particular. If you go to the criminology report that I quote in my letter, it shows that the younger you are to commence a drug habit, the more likely you are to be involved in crime. It is simple. It is not rocket science. We must have the police. If the police do not want to do it let us take the police out of the equation and have a group of people whose job it is to do it. Our children are precious. We cannot give up on our children.

Ross, Maria and I, who are speaking here today, received a letter early last year from the Chief Medical Officer in New South Wales. He gives a couple of figures with regard to narcotic offences in the area. If you do a bit of maths, it shows that we have 50 per cent of narcotic crime in the state occurring in our area. That is an extraordinary figure. We have 200,000 people; there are eight million in the state. Do you know why they are there? It has taken me a long time to wake up to it: for harm minimisation to function you accept there will be a failure rate—a degradation rate—whereby people will just not cope with their habit. It has to be somewhere. That creates a sump-like effect. If it happens to be Kings Cross and Cabramatta it is Kings Cross and Cabramatta. If you believe in harm minimisation you have to accept that. An article in the *Sun Herald* stated that when the police get more experienced and raid clubs in the Cross—apparently they arrested eight partygoers and two dealers or whatever the ratio was—

they will use the dogs to go after the dealers and couriers, not users. What a dreadful message to give our children. We have the Premier of New South Wales saying that he will not use the police to enforce what I consider to be anti-addiction laws.

I think it is an abrogation of responsibility. I am not on my own. I have a great friend and colleague, Noel Pearson, and I would almost prefer him to be here today putting this argument for me. In the *Sun Herald*, he says:

If we let the progressivists and the libertarians win now and make harm minimisation the main social response to substance abuse, the change into a drug society will be irreversible.

What a wonderful leader. The other thing that has been disappointing is New South Wales Health. I can rely on no greater expert on that than Joe Tripodi, the local member for Fairfield. Joe and I probably would not agree on what time it is. Fairfield had the biggest clinic in Australia. This has been to the High Court, and apparently it is still going to continue. Joe said:

For New South Wales the imperative has been pumping out as much methadone as possible, whatever the means, whatever the costs and that has long been the biblical mission.

Joe said those words here in this parliament at the drug summit in 1999. He continued:

The review was conducted by individuals who had very strong views supporting methadone clinics. Nonetheless the report was damning and would have been more so if the laws of defamation had allowed.

Joe makes a reference there that I am not game to say here. I might say it later if we go in camera regarding aspects of that. He continues:

The New South Wales blind crusade has been to distribute methadone at any cost and that has put the whole program in jeopardy.

So we have had a series of problems. I thank you for your patience.

CHAIR—Thank you. Maria Heggie, would you like to add something?

Councillor Heggie—I was going to give two perspectives. One is a personal perspective as a victim: having lived my life in Cabramatta and having been robbed—that is break, enter and steal—five times; and my experience—what actually happened when the police came. The second last time I was robbed was in broad daylight. I was actually in my official capacity giving out bravery awards to the police. I came home to find my house trashed. When the police came, they said, ‘Oh, well, you and 15 others.’ I am supposed to feel okay because 14 or 15 other homes were broken into in the area.

We have upped the security. We do have deadlocks on all the windows, triple deadlocks on security doors, an alarm and a panic button which I can use when I am working in the garden or if I am home alone. My husband is a shift worker. That is how we have to live now. I would like you to know that in August 1999 at 4 o’clock in the morning my husband had just left for work and I heard, I thought at first, a car backfiring, a sound like shots. They were shots. The house across the road was shot at 10 times. The vehicle then sped off, went around the block, came back and fired another 15 shots into the house. The first phone call to the police was, ‘Look, it’s someone shooting rabbits on the golf course.’ The second time when I was counting the shots one of those shots ricocheted onto the roof of the neighbouring house. I could hear people

running from across the road. They hid behind the garage of the neighbour's house. Why am I telling you this? Because the police never came. The police never came to me, never asked me what I knew, what I saw. Is that unreasonable? I had lived in that home. It is our family home. We moved in there in 1970 when we were married. It is not a daily occurrence in Cabramatta West to have someone shoot up a house.

A couple of months beforehand my husband and I were concerned about the tenants in this house across the road. It was obviously a drug house and we were keeping a record of numberplates for the police. One would have thought that they would have made a beeline for the place, but they did not. They did not come to us. My husband, as he was leaving the driveway, saw a vehicle driving slowly out the front. There is no traffic at 4 a.m. so he may have seen the alleged gunman. He had a description of the vehicle, of course. We wanted to also give over the numberplate numbers we had. We made an appointment to see the detectives at Cabramatta. We made our statements. I asked the detectives why they did not come and knock on our door. I was told, 'Well, there is nobody dead.'

You can understand that actually had a fairly big impact on my life, because it is quite frightening when something like that happens to you. There is something important that I need to tell you about my duties as a councillor. Earlier this year, I was approached by a local resident who was concerned about street prostitution in a residential area. This had never occurred before in front of his home and he was very concerned. He is a family man and has young children. Prostitutes were fighting, arguing and slamming car doors and paraphernalia was thrown into his front yard. Constant calls were made to the police and, in the end, police were saying, 'Don't bother us.'

I felt that it was my duty and my right to ask a series of questions at a council meeting and I did that in March of this year. It was simply a series of questions asking our mayor to write to the local area commander and ask him to do something about the street prostitution in a residential area and also to write to the region commander to see if we could get some action as well. The following week, the local newspaper simply reprinted my questions. The day the newspaper came out, I received a threatening phone call from someone saying they were a police officer from Cabramatta Police Station. This is just appalling. I have reported this matter and I have also spoken to the local area commander, who assured me that he would take whatever action was necessary to move on those prostitutes in the residential area. Here we are in October and it is business as usual. If I, as a councillor, cannot raise a series of questions on behalf of my constituents without receiving a threat from the local police, where are we at? This is simply appalling.

CHAIR—In what time frame did those incidents occur?

Councillor Heggie—The phone call was within 24 hours of the newspaper being printed with my questions.

CHAIR—What was the date of that newspaper being printed?

Councillor Heggie—That was April. The council meeting was at the end of March and the newspaper was at the beginning of April. I certainly expressed my concerns to the New South Wales parliamentary upper house committee looking at how things have improved in Cabramatta. I actually can speak English. The majority of people in my community are from

non-English-speaking backgrounds and I can understand if they are reluctant to report crime. If that is the way I have been treated, heaven help us.

CHAIR—Has there been, in your view, any improvement in Cabramatta since the change in leadership in the police force?

Councillor Heggie—Only minor. What we need to bear in mind is that Cabramatta still has the tag of the drug capital of Australia. I have lived my life in Cabramatta. I have raised my family there. I should not have to live like this. I should not have to live the way I am living. My immediate neighbours have left since the shooting. Whilst there is a visible change of probably a slight decrease in drug dealing, it is still unacceptable. For me, the day when a total stranger does not get on a train and come to Cabramatta to purchase their illegal drugs is the day I can say Cabramatta is what it ought to be. You see, you have not got to know where the dealers are. They come to you. You simply hop off the train and they call out, ‘Rowies,’ or whatever. It is available. They find you. If that is improvement, it is not good enough and I do not think that my community should have to put up with that.

CHAIR—Do you think that the tolerance you say is being displayed has resulted in Cabramatta being termed a ‘honey pot’? That is where everybody comes for their drugs. Is that what you think your community has been turned into?

Councillor Heggie—Yes, it certainly has. I hate to say it, because it is the place that I have grown up in, that I love and that my elderly mother still lives in. So many good people have resolved the problem for themselves, Madam Chair. Do you know how they have resolved it? You put the *For Sale* sign out the front and you go. You go somewhere else, because you do not want your children to be stigmatised. The moment they see your address—Cabramatta—immediately it is, ‘Well, what are you involved in?’ I think it is extremely unfair, because the majority of people are law-abiding and good decent people, but we all get tagged in the one way. I am very disappointed, in that it seems to me—and this is my personal view—that policing in Cabramatta has become politicised, ‘We’d better not let the bad news out because, if we tell people what’s happening, they might be worried about it.’ The fact is that we are worried, because we live there and we see what is happening, and that is not good enough.

I need to also let you know that for some time I have been trying, through the council, to find out what the effect of the Young Offenders Act has been—that is, cautioning for juveniles—and I asked a series of questions. I have a copy of the report that was presented to the council regarding cautioning and part of the recommendation was that we invite the local area commanders to come to the council and brief us on how many cautions have been issued once, twice, three times and for what purpose and what the effect of that was. Yes, we did have the local area commanders come and the Fairfield commander, Jeff Cavanagh, also brought his youth liaison officer with him to explain to us the number of cautions. The commander at Cabramatta, Frank Hansen, has no cautions. There aren’t any juveniles in Cabramatta with one gram of heroin or cannabis! My expert tells me here that one gram of heroin is in fact 100 therapeutic doses. I don’t know that that is minor for a juvenile, but we have none in Cabramatta!

CHAIR—Does that mean there is no record kept or that they just do not have it?

Councillor Heggie—They do not do it. They just do not do it.

CHAIR—They do not do it?

Councillor Heggie—No.

CHAIR—What do they do?

Councillor Heggie—They do not arrest for possession.

CHAIR—In your submission, Mr Treyvaud, you have a section on the New South Wales crime index. You state:

A police commands performance was based on five issues apart from budgetary management.

... ..

They were rated by ranking the Command on an overall scale of 1-80, to coincide with a number of Local Area Commands, for the five identified crime areas, and then individually for:

- Assault
- Robbery
- Stolen Motor Vehicles
- Break and Enters, and
- Stealing

Then you say that offences that were not included in the index were:

- Murder,
- Grievous bodily harm,
- Malicious Wounding,
- Firearms offences,
- Goods In Custody, or
- Any attempted offences for more serious events of these.
- Drug possession, supply or conspiracy to supply.

Does that drug index still operate?

Mr Treyvaud—Madam Chair, I believe that the local area commands are still ranked on the basis of a crime index, with only those five—perhaps expanded to seven—crimes. However, the way it was two years ago is no longer made public, when the police commissioner was able to claim in the media that Cabramatta was a safe place, because it was lower on the state crime index than areas such as Roseville. Fortunately, the media backed us in our assertion that Cabramatta was not as safe as Roseville. Perhaps there was a higher number of stealings in

Roseville, possibly for several reasons, one being that reported crime was higher. People were more likely to report crime than they were in areas like Cabramatta, where language is a problem and where confidence in the police is also a definite problem.

As Mr O'Grady said, New South Wales Health has said that Cabramatta and Fairfield have half the narcotic crime for New South Wales. That narcotic crime, I would say, would be terribly underestimated in our area in that, in order to detect an offence, police have to act in a proactive way.

Certainly the police have not resourced in Cabramatta or in Fairfield to detect narcotics to the level that the community would be happy with. The idea of police only grading an area on a few crimes that it considers important misses the mark of community expectation. It certainly reduces the community's confidence in the police if they are going to carry out their duties in that sort of way. Residents in Cabramatta see a high level of drug dealing on a very regular basis and, unfortunately, feel impotent to do anything about that and, hence, become fearful of the situation, suspicious of police and their possible involvement in the crime, and as well the area has not been cleaned up.

CHAIR—I am sure my colleagues have questions they want to ask but I just want to get it clear. You say that the crime index does still work but it may have been expanded to include two more crimes.

Mr Treyvaud—Yes, Madam Chair.

CHAIR—Do you know what they are?

Mr Treyvaud—I believe RBT detections is one of the bases for the crime index these days. It is difficult to get a feel for the way the crime index is used as it is not publicised any longer, as I previously said. However, in briefings for areas like Neighbourhood Watch or specific inquiries as to the level of crime in communities, they constantly refer back to the crime index.

CHAIR—Do they include possession and supply of drugs?

Mr Treyvaud—I believe not.

CHAIR—In Cabramatta, where the crime index still applies, drugs are not included?

Mr Treyvaud—Unfortunately not, Madam Chair.

Mr MURPHY—Ms Heggie, what is your evidence that the crime levels in Cabramatta have slightly decreased under the stewardship of Commissioner Moroney?

Councillor Heggie—I have not actually said that, with respect. I have said that the crime levels have not decreased to an acceptable level to the community.

Mr MURPHY—But didn't you indicate that you thought that under Commissioner Moroney there had been some improvement?

CHAIR—No, she did not.

Councillor Heggie—I never mentioned the commissioner's name, with respect. What I am saying is that as a councillor, a local resident, the crime levels are unacceptable. I do not need a crime index to tell me what I see. If I am walking along the street and drug deals are happening in front of me without any intervention, that is unacceptable to me. I am not sure where you live, with respect, but that is not the way I like to live. It has not always been that way and I do not think it is unrealistic that I ought expect that my community be just as good as Roseville, Turramurra or anywhere else.

Mr MURPHY—What are your concerns in relation to the perceived lack of enforcement by the New South Wales police? Against that background, what would you say to Commissioner Moroney as the local mayor? He is appearing here this afternoon.

Councillor Heggie—I am specifically now talking about juveniles. If you are over the age of 18 and you make certain choices about your life, you do that as an adult. I would expect the police to intervene if a young person, under the age of 18, was on the street, administering heroin to his friend. That is no longer an offence. I would expect that that would be an offence, that the police would intervene—I am not suggesting lock up; I am suggesting placing that young person in some kind of rehab—and would assist the parents and provide a safe harbour for that young person. If the police are not intervening now, when they become a degraded addict, then someone has to do something. Please, can we do something before it gets to that point?

Mr MURPHY—I put it to you that that is an offence. If someone is an addict, of course they are going to go ahead and do it anyhow, but that is an offence.

Councillor Heggie—But the police actually have the discretion to do nothing.

Mr MELHAM—They have the discretion. That is different to it not being an offence.

Mr MURPHY—That is different. I am making the point that it is an offence.

Councillor Heggie—But in Cabramatta, if you are in possession of drugs and if you are administering, that is not considered an offence. They do not arrest people who are going to the needle exchange. That is on the eastern side. The local area commander, when pressed and asked by a journalist, 'Why are you not arresting for possession?' will happily tell the journalist—

Mr MURPHY—I get back to the second part of my question and it relates to Commissioner Moroney, who will be here this afternoon. What would you say to Commissioner Moroney in relation to those members of the New South Wales police who are using the discretion not to do anything about someone taking heroin in broad daylight—a hopeless addict?

Councillor Heggie—I would expect that there would be an intervention so that young person could be taken to Corella Lodge—or wherever—for assessment and some kind of intervention so that they are not allowed to simply degrade. I would like him to do that. The other thing I would really like him to do is to ensure that we are told the truth. I would like the police to be

honest with us, the community. Why must it be that we know what is happening, because we see it, but we are not being told?

Mr MURPHY—Are you telling this commission this morning that the police are lying to you, as a community representative, about the true situation in Cabramatta?

Councillor Heggie—I do not believe they are being forthcoming with the truth.

Mr MURPHY—Have you brought that to the attention of the most senior officers in Cabramatta?

Councillor Heggie—Unfortunately, with Cabramatta, if you raise questions which may be critical, you end up being threatened.

Mr MURPHY—Who by?

Councillor Heggie—By a police officer.

Mr MURPHY—Can you name that police officer?

Councillor Heggie—I am not prepared to name the police officer here because it is the subject of an ombudsman's inquiry now, which the local member is doing on my behalf.

Mr MURPHY—You are putting to this committee that the police threaten you if you raise issues that question the integrity of their work?

Councillor Heggie—I have personal experience, Madam Chair. If I am a little frightened to now go forward and raise other issues, perhaps that is understandable.

Mr MURPHY—Councillor Heggie, are you prepared to give that information in camera to this committee?

Councillor Heggie—Yes, certainly.

Mr MURPHY—I would like to hear it. That is the purpose of this inquiry. This is a serious—

Mr MELHAM—But you say it is the subject of an ombudsman's inquiry.

Councillor Heggie—Yes, it is.

Mr MELHAM—Another forum is actually looking at it, which is a more appropriate forum than this committee.

Councillor Heggie—Yes. In fact, the local member has taken this issue forward to the Ombudsman and it is being investigated.

CHAIR—We will deal with the in-camera evidence at the end of hearing.

Mr CADMAN—I have two questions, if I may. The first one is to Councillor Heggie. What has the council, as an organisation, done to help protect its community? I have heard of some surveillance system but I do not know whether or not that is a council system.

Councillor Heggie—In 1995, as a result of a request from the local chamber of commerce at Cabramatta, the idea was put forward—based on the Liverpool, England model—of closed-circuit television, which would be installed in the central business district of Cabramatta. At the time I was mayor of the city and I came with the local member here to meet with the then police minister, the Hon. Paul Whelan, to ask if the state government would assist us in funding the implementation, maintenance, surveillance and security for a closed-circuit television system that would be throughout the commercial area of Cabramatta.

I did come here to this very parliament, and the Hon. Paul Whelan gave us \$300,000 towards the \$1.2 million set-up cost. That initial \$300,000 is the only funding the council has received from anywhere. Since the start-up in 1996 of the closed-circuit television system, the council has paid out \$400,000 a year to the security company that monitors the system, and also \$60,000 for rent of the space. It is a vacant shop in Cabramatta that houses the cameras.

Earlier this year the council considered a report, which was like a five-year review, on the effectiveness of the closed-circuit television. One of the alarming results of that report—the report is available, if the committee would like to see it—was that thousands upon thousands of incidents were detected. However, when you try to match up the police response to the information from the closed-circuit television, it works out at one-third of an arrest per shift. The cameras were put in not as a panacea for the drug problem in Cabramatta but as a tool for the police to use. Sadly, a lot of money has been spent and, yes, there is the perception that, because we have the closed-circuit television system in, it is safer because you might be detected. However, the very reason the cameras were put in was to try and reduce the incidence of drug dealing and drug crime. Madam Chair, as I have said, that report is available. I do not think anyone would think that was a very good cost-benefit: to spend all of that money and find out that there has been a third of an arrest per shift.

Mr CADMAN—It would help if we could get a copy of that report. It would be useful. A third of an arrest per shift does not really relate to how many instances there might have been in a shift.

Councillor Heggie—No, that is both for use and dealing—a third and a third—in a 12-hour shift.

Mr CADMAN—I guess when we see the report what you are saying will fall into place.

CHAIR—What you are saying is that with the use of the cameras you expected there to be a much higher arrest rate.

Councillor Heggie—Yes.

CHAIR—Is there a report that shows how many crimes are recorded on those video cameras?

Councillor Heggie—Yes, it does. It gives you the figures and the numbers and also tells you the result from the police perspective.

Mr CADMAN—About one-third of the instances detected on the camera have resulted in some sort of police action. Is that right?

Councillor Heggie—No, one-third of one person.

Mr CADMAN—How many on average?

Dr WASHER—It would take three shifts to have one person—

Mr CADMAN—So every three days they got somebody.

Councillor Heggie—Yes.

Mr O'Grady—In each of those categories. In fairness, they got two people.

Councillor Heggie—It is two people. Sorry.

CHAIR—But you are saying that there is much more evidence of incidences of those crimes recorded on there—

Councillor Heggie—The report will clearly show you the figures of the numbers that have been detected by this closed-circuit television and then what the results were from a police perspective.

CHAIR—Is there any evidence from that video of gangs being involved in this crime? Do you believe there is a gang base to this crime? Does that show up in this report?

Councillor Heggie—It does have some evidence of gangs but we are talking about individual incidents. They may be related people but that level of detail is not given to us. We were basically looking at individual incidents. The correlation between who might have been related to whom committing the offence does not come out in the report.

Mr CADMAN—Mr Treyvaud, what is the solution, in your opinion, for juveniles at risk and for those who are hardened criminals? You have made a study of this, from your presentation. Do you have any solutions? Is it a matter of stronger police enforcement on the job?

Mr Treyvaud—What to do with those who are possibly at risk of addiction is a complex issue. Addiction is a major problem in our area and has caused tremendous damage to the fabric of our society. To start with, there needs to be a lot more effort put into rehabilitation services. At the moment we really only have one group which is actively working post Corella Lodge, the detox facility, and that is the Salvation Army. They have only been involved there for two years now. They came in by invitation of the chamber of commerce and the committee I was with. They are struggling for funding at the moment and can only do so much with the numbers that are coming through detox out there.

We have a number of non-government organisations working in the area, such as Adva care, the Salvation Army, Open Family, SWOP, which are all suffering from lack of funding. For instance, we run a reintegration program through Open Family, trying to get these young people affected by addiction back into study or back into the work force and reintegrated with their families. We have had a Links to Learning program running through there which is a program from the local TAFE colleges, but the funding has now been cut so they are no longer able to provide the level of services. They are only able to provide 10 hours of tutoring per week.

We have the Salvation Army running a training cafe out there which the community installed into the area. As of the next two months they have no funding whatsoever to continue the program, so that certainly rehabilitation is an issue in an area that has been degraded with the level of addiction we have seen. There needs to be a lot more diversion efforts put into the local area. We do not have entertainment facilities for young people. We have a local PCYC which now, due to political influence, is not open on weekends, school holidays or public holidays. It is unable to fulfil the role in society that it should have. It is a great resource to have and it is the only brick and mortar resource that we have for young people in our area, but it is not open. We have also had the local swimming pool closed down as of the last couple of months.

CHAIR—Why?

Mr Treyvaud—Due to lack of funds for repairs and maintenance. There are plans for a new facility on the site. However, no funds are available to commence construction on the new site. For the next few years, because of a lack of funding, we will not have any adequate facilities whatsoever for youth entertainment, particularly for sport and passive recreation. It is a terrible condition to have out there. To meet the needs of young people, if we could divert them away from hanging around the streets and becoming involved with the street gangs that still exist in our area, and put them into more constructive recreation and provide facilities for them, that would certainly reduce the uptake of addiction in our area.

We also have the problem of a lack of law enforcement. I, too, have been one to try and raise the issues of law enforcement in our area and have been threatened off. It has not stopped me from raising the issues.

Mr CADMAN—You had that notorious case of Tim Priest.

Mr Treyvaud—Yes. Tim and I started a program back in 1999 to try and show that there was a problem with gang violence and drug addiction in our area. That was met with strong denials from the state government and the local authorities, particularly the police, saying that we did not have a problem and that the area had been cleaned up several years prior. That was certainly not the case. In January 2000 we were able to bring to light the fact that there had been 40-odd shootings in our local area. The police were in denial, until we were able to produce substantial evidence of that fact. Stabbings in our community in early 2000 were becoming a daily occurrence—stabbings as a result of squabbles over drug dealing or gang activity. Every morning shopkeepers would go to open their shops and quite often they would be prevented because there was a blood trail and a crime scene in front of their shops and yet the police were saying nothing about the crime.

Councillor Heggie was saying earlier that there had been attempts to pervert the knowledge of what was happening in our community. That has certainly been the case lately. You may

remember that there was a shooting in a restaurant in John Street, Cabramatta, three months ago. Seven people were shot. The local police said at the time that it was just some maniac complaining about the noise from a band. We know that was not the case. We know it was gang activity. The perpetrator, who was eventually arrested for that shooting, was a brother of one of the major gang leaders in our area, a bloke called Kahn Nguen. His brother was arrested and is now awaiting trial. We know that Kahn Nguen's brother was trying to shoot one of an opposing gang's people as a payback for some other incident. There have been a number of violent incidents in the area, yet the police refuse to say it was gang related and just dismiss it as not occurring.

CHAIR—When did this occur?

Mr Treyvaud—This was about three months ago. Three months ago also, in the same week, we had a violent home invasion 100 yards from my business. The police sat on that home invasion incident, even though there were shots fired during the invasion, and said nothing about it. They did not warn the community that these events were taking place. This coincided with the day our local member was giving evidence at the state parliamentary inquiry with regard to the clean-up of Cabramatta. Lately, we have had a series of break-ins that the CC TV system in Cabramatta was unable to detect or cause any police action to prevent the successful escape of these perpetrators.

We had five break-ins netting over \$300,000 worth of goods from stores, which is of particular importance in our area as a lot of the shops cannot get insurance during this insurance crisis. The loss they have had will affect their families for many years and will be very hard to recover from. Luckily, the police did attend, but not before two truckloads could get away from one particular crime scene. That was only after the silent alarm was operated in the business and the security company monitoring that alarm notified the police. As it was, the shopkeeper turned up 20 minutes before the police managed to arrive and there was no video footage available to identify the two trucks that took the goods away from one particular crime.

CHAIR—Why was there no video footage?

Mr Treyvaud—The police who attended the crime scene told the shopkeepers that the cameras were not being monitored. We are getting mixed stories from both the council—which operate the cameras—and the police, who are supposed to be reacting to the information the council-operated cameras provide.

CHAIR—What you are saying is that the break-ins occurred, two trucks got away and, for some reason, the cameras that had been put in place and were supposed to be monitored were either turned off or—

Mr Treyvaud—Or not monitored at that particular time or failed to see that particular incident.

CHAIR—But if it had been videoed, the video could be replayed.

Mr Treyvaud—One would think so. However, the video footage is not available for the scrutiny of any public member due to privacy concerns. Council is unwilling to release the footage to anybody other than the police and the police certainly will not even let the victims

view the footage for possible recognition of persons involved in the robbery. That would only lead the community to believe that the footage is not in existence. We called a public meeting—

Mr MELHAM—Mr Treyvaud, that is a long bow to draw, with the greatest of respect. I happen to be a director of a large licensed club in south-west Sydney and we do not release footage to anyone other than the police. There are privacy concerns and a whole range of other things, but I can assure you there is footage at the particular club of which I am a director. It is not the only inference that can be drawn. I am just saying to you that my experience with the New South Wales Police Force is that there is footage that exists on certain incidents, but it is not released to the general public for privacy reasons. It is not released to particular individuals. It can be produced on subpoena, though, if there are court cases pending. There are other ways of producing it. Sorry, Madam Chair, I do not want the wrong inferences being drawn, that is all.

Mr Treyvaud—Could I clarify my statement, Mr Melham. The community is upset as the police did not attend the scene within a reasonable period of time to prevent the absconding of these two truckloads of goods.

Mr MELHAM—That is another matter. I can understand that.

Mr Treyvaud—We called a public meeting within a week of these incidents. There was a fair bit of talk in the community and a great deal of concern about the level of crime rising in the area. At that public meeting, the council were able to provide details of five break-ins in the area within that week. They said that their response for all of those five crimes was within a five-minute period, that the cameras detected those crimes and notified the police and that the police attended within five minutes. We found that certainly not to be the case, in that the shopkeepers themselves—half an hour after being called by the security company—attended the scene and the police showed up some 20 minutes later. Obviously the information we are being given by council in relation to the operation of the cameras must necessarily be false. If they say the police acted within five minutes—the shopkeeper was on the scene half an hour after the incident and the police did not turn up for another 20 minutes—obviously the information we are being given by council is wrong.

Mr MELHAM—There seem to be mixed messages and confusion.

Mr Treyvaud—The local area commander at this public meeting also claimed that there were only five break-ins during a six-month period. The information we have from the statistics provided to Neighbourhood Watch show that to be incorrect. Obviously the local area commander was either mistaken or his intention was to mislead the public meeting as to the level of break-ins happening in that precinct over the last six-month period.

Mr MELHAM—Again, Mr Treyvaud, what concerns me is that you continue to draw conclusions that are not the only inferences. You are in front of a parliamentary committee and I would urge a little bit of caution in terms of some of the conclusions you have drawn.

CHAIR—In fairness, I think he is allowed to draw his conclusions.

Mr MELHAM—In fairness, Madam Chair, there are a number of inferences. I do not want to cut across the witness. I understand his frustration and concern, but what I am concerned

about is that it gives a particular impression. I am happy to question the police when they come in on a whole range of other things.

CHAIR—That's fine.

Mr MELHAM—I just do not want misconceptions to be allowed to run.

CHAIR—He is entitled to draw his conclusions. It is his evidence.

Mr MELHAM—It might be his evidence, but the problem, Madam Chair, is that there are a number of inferences that can be drawn.

CHAIR—You can point those out. That is fine, but it is his evidence and he is entitled to give it.

Mr MELHAM—Yes, evidence—not conclusions.

Ms JULIE BISHOP—Mr Treyvaud, I wanted to ask you about the New South Wales Crime Index. Of course, these are questions that I can direct to the authorities. From the community's perception, what does the community know of this index in your area? What does it believe its purpose is? What use is it put to? Does it have any integrity in the minds of the public?

Mr Treyvaud—Ms Bishop, it certainly does not. The crime index was part of the investigation by the New South Wales parliamentary committee into policing in Cabramatta. The police service told us subsequent to the state inquiry that the crime index would no longer be used and certainly it is no longer published for broad use. We believed at the time—if I may say 'we believed'—that the crime index—

Ms JULIE BISHOP—I want your perception.

Mr Treyvaud—We were being intentionally misled by the crime index, because the local authorities and the police service as a whole could draw the conclusion that Cabramatta was a safe, non-crime ridden suburb lower on the index than places like Roseville or other eastern suburbs basically that did not have the level of addiction, gang activity, murders, shootings or stabbings. We believe the crime index was used to mislead.

Ms JULIE BISHOP—That was not your experience or the experience of your community.

Mr Treyvaud—It certainly was not. We were experiencing a high level of crime that the state government was in denial over. We have been under place management in Cabramatta since 1997. The New South Wales Premiers Department is running what is known as the Cabramatta Project to work with every level of government, every government department in bringing about the rehabilitation of the area. Our community's perception—and certainly the chamber's perception—has been that it has been more about glossy pamphlets and trying to give a misleading representation of the area than actually tackling the problems we are experiencing in Cabramatta.

Ms JULIE BISHOP—You said, in answer to a question from the chair, that you believe it is still being used and expanded to six or seven crimes. It is still being used. Is that your understanding?

Mr Treyvaud—That is my understanding but, as far as management of an organisation like the police is concerned, there must be ways to measure the level of crime or the level of service needed to deploy resources. I would not criticise the police attempting to use some way of measuring the need for resources in different areas but what I am offended by and what our community is offended by is that drugs appear not to be one of those measurable statistics that are necessarily resourced for. Through the great media interest in Cabramatta and through the state parliamentary inquiry, we have managed to have Cabramatta upgraded from a level 2 to a level 1 command, which has meant that there has been a little more priority on crime in the area, but not a whole lot.

Ms JULIE BISHOP—What does that mean? Does it mean more police in the area? What is level 1 and how does that differ from level 2?

Mr Treyvaud—Basically, level 1 means that the superintendent has to be of a higher grade and on a higher salary and that the duty officers are also of a higher grade and on a higher salary, so hopefully there is a better standard of senior officer in the area. The police have said that it does not affect resourcing and that that is based on other issues, other than the grading of the command. Evidently, commands are graded on level of difficulty and remuneration packages are dealt with according to the level of difficulty of the area. For instance, Bankstown is a level 1, Cabramatta is a level 1 and Fairfield is a level 2; so the senior staff in those commands must pass their exams at a high level.

Ms JULIE BISHOP—As a public person in the area, what information or statistics do you have that give you an indication of the true extent and level of crime in your area?

Mr Treyvaud—Releases from the local area commander to the community are through the media. We have gathered statistics through information given to local neighbourhood watches for the raw reported incidents in particular precincts. There are 17 precincts in the Cabramatta local area command. Information is provided by local shopkeepers who talk at our monthly meetings, and they also call me personally about crimes happening in their neighbourhoods.

Ms JULIE BISHOP—I am not criticising, but this is anecdotal.

Mr Treyvaud—It is mainly anecdotal. The only official statistics we have are the Neighbourhood Watch releases. We have a printout from the COP system, the police computer system, as to the level of incidents in each precinct.

Ms JULIE BISHOP—Neighbourhood Watch would cover break and enter. Would that cover drug possession and supply—the drug related crimes?

Mr Treyvaud—Drug related crimes are also included in those neighbourhood statistics provided by the police to the Neighbourhood Watch committees. As far as the level of reporting of crime from the local area commander to the media when they ask him each Monday morning, we get very little indeed. There was an instance of over 100 bag snatches over the last month in one precinct in Cabramatta. At our public meeting the local area commander claimed

that he had released a media alert to allow people to protect themselves and to alert people to be more careful with their belongings when walking through the streets of Cabramatta. Unfortunately, upon checking with all media outlets in the area, we found there was no media alert issued whatsoever. He told us at the public meeting that there was, but there was not.

Ms JULIE BISHOP—How did you know there were 100 bag snatches in the area? How did you get that statistic?

Mr Treyvaud—Through talking to police I know in the area, through talking to shopkeepers who have had their customers report to them about bag snatches and through investigations by the local press.

Ms JULIE BISHOP—Basically it was a compilation of evidence from all over that you managed to put together to find out about that 100?

Mr Treyvaud—That is right. It is the same way that we found out about the 40 shootings in January 2000. It certainly was not the police telling the media or anybody else that those shootings had taken place. It was through our own investigations we found out the shootings had taken place. Subsequently the police admitted it—some months down the track—when they set up a strike force to investigate those shootings. It was only because we caught them out that they were willing to release the information in the end.

Ms JULIE BISHOP—I have one last question, perhaps for Councillor Heggie and Mr O’Grady, or Mr Treyvaud could comment. It seems to me, from listening to you, that it is not only the fact that crime is not being reported but it is also the perception or the reality than when it is—whether it is a break and enter or a bag snatch or an assault or something—the police do not deal with it. There is a perception that the police are not dealing with a certain level of crime. Is that a perception that you have, Ms Heggie?

Councillor Heggie—From my personal experience and also from representations made to me, it depends on what the police do when a person reports something at the police station. If there is no follow-up, next time that person is very reluctant to go back to the police because they got no satisfaction the first time. The example I would give is the families that call about prostitution in the residential area and are told, ‘Don’t call us any more.’ Where do they go? Who else is going to look after them?

Ms JULIE BISHOP—What about break and enters? You said you have had five instances. I assume you have reported every one.

Councillor Heggie—Of course. We have had to report them for insurance purposes as well. Hopefully somebody might get caught.

Ms JULIE BISHOP—Are you aware of anyone being apprehended over any of the break-and-enters you have suffered?

Councillor Heggie—No. The only feedback we ever had was a very welcome phone call I received out of the blue from a policewoman who was stationed at Blacktown, who said there was a pilot program put together to follow up on victims of crime. My husband engraved the television, the CD player, the microwave et cetera with his car registration number. The police

found a house in Cabramatta, with its double garages full of stolen goods. Because David had engraved his rego on these items that were found in this particular house, they were able to track who we were. I received a phone call and I was asked, 'Have you lost a television?'

Ms JULIE BISHOP—Misplaced the television.

Councillor Heggie—'Have you had a robbery?' I said, 'Yes. Now, which robbery are we talking about? I've had five. What brand, what model?' The thing is, of course, by this time we had settled with the insurance company and that brand new, nice television, the microwave and so on that were stolen, which were replaced as the result of a previous robbery, were no longer our possessions. They belonged to the insurance company. I did ask whether they had apprehended somebody, but I was not allowed to have any details. I take some comfort in the fact that the engraving at least identified those particular electrical items were stolen. The personal items—like my engagement ring, my grandmother's jewellery and the very personal items that were bequeathed to my husband by his late uncle—that had been taken probably had greater sentimental value. I asked, 'Was there anything else found with these electrical things?' and I was told, 'No.'

Ms JULIE BISHOP—But, as a victim of crime, you appreciated that feedback, once they had found some of your items?

Councillor Heggie—I certainly appreciated the fact that they could tell me that in a house in Cabramatta the police had at least located somebody who was not entitled to have X number of items that had my husband's car registration etched on them.

Ms JULIE BISHOP—But in relation to the other crimes that had been committed, you have not had any feedback?

Councillor Heggie—Absolutely nothing. In fact, I distinctly remember the sergeant saying to me, when my husband and I took down a list of what we thought we might have lost after one of the robberies—and by the way, many months after, even compiling that list and having a settlement from the insurance company, we were still finding things that you do not use very often that have gone but there is no compensation. The sergeant said to us, 'You should count yourself lucky that you weren't home when they robbed your house this time because, with the sorts of people they are, it wouldn't have made any difference to them; they still would have come in.' That is quite frightening too. I can assure you that the security has been upped, as we say, at my place and it takes 20 minutes to get in or out now. I am not Robinson Crusoe. If you walk around you will see a number of homes with bars on windows, large dogs, alarms, triple deadlocks et cetera. That is how we have to live.

Dr WASHER—I will address this to anyone who can handle it. Why Cabramatta? What was the social dislocation or the community problem that caused Cabramatta to have this? It has become so massive and is a very real problem. I have been to Cabramatta and you can see it. You do not have to watch it on the videos; you can just drive around the streets and the local parks. What you say is very real. I have also seen the videos from the council, so I believe what you are saying. Why do you think it happened?

Mr Treyvaud—One of the problems with Cabramatta was that it was a dumping ground for immigrants over many years with the local hostels. New settlers from all over the world in

succession were dumped in the Cabramatta area and took up residence there. The area was not properly resourced to take on such large numbers of newcomers. There was not the infrastructure to handle all these newcomers.

The area has had high unemployment for many years, particularly youth unemployment, with well above the state averages. There is something like 50 per cent youth unemployment in the local area. Certainly very little has been done to address that. There are very few facilities for young people in the area. It has been shown that people who come to Australia from overseas destinations tend to group with people who have language in common, interests in common and cultures in common.

We have not done enough to break down the barriers between our new arrivals and the rest of the community. The most recent arrivals in the hostels in Cabramatta were those from South-East Asia with the influx of Vietnamese in the late seventies. The youth with Vietnamese background who have felt they have had little prospects looked for other ways to generate the goods necessary to be considered to be successful in our society today—material goods. I believe they started with stealing motor vehicles et cetera and petty crimes.

In about the mid-eighties heroin came to Cabramatta. It was brought to the area by Anglo-Celtic criminals who saw an opportunity to set up a drug distribution network in the area. I believe the first we noticed it was with a series of cafes that were set up through Fairfield City and Cabramatta that sold illegal alcohol, had illegal gambling machines and also distributed heroin. That ring was fortunately broken up by the police in the late eighties, early nineties. However, the street gangs took over the distribution of heroin in Cabramatta and notably, of course, the 5T group which was almost a paramilitary organisation boasting several hundred members.

The police, both federally and state in joint task forces, targeted the distribution in our area but were fairly unsuccessful in breaking down the network set up by these groups. Drug distribution was allowed to be cemented in our area through the lack of success of law enforcement agencies in dealing with those gangs. It has been so well known for drug distribution that it is more out of habit and people come to the area looking for the drugs and, with the high unemployment, people are very susceptible to be drafted into the supply of drugs to people coming to our area.

Two years ago when things were at their worst, we saw thousands of people every day coming to Cabramatta to buy the drug. Can you imagine the degradation in our area because of that? Unfortunately, in 1999, the police made it well known that they would no longer be arresting people for possession of heroin—that they were going to allow the health service to treat the drug problem in our area. Harm minimisation was employed to the zenith. We had needle distribution in our area of up to 97,000 needles a month through a series of locations. The police virtually, as you can see from the arrest rates statistics, were doing nothing in the area.

We had Operation Puccini, a high profile policing initiative to combat street offences. Unfortunately they were not combating or targeting the supply of heroin on the streets. Whilst we had high-level policing in Cabramatta CBD—very visual, targeting street offences—they were not targeting the supply and we saw over 80 drug houses set up in the perimeter and the peripheral of Cabramatta CBD. You would see thousands of people come into Cabramatta by

train, by stolen car, by any means possible, and you would see trails of drug users and queues of drug users outside these drug houses waiting to get on. Unfortunately that activity was not targeted for a number of years.

Through the Cabramatta policing inquiry in the upper house there was some legislative change and the state government brought in drug house legislation, whereby the arrested person now has to prove that they have not had anything to do with the drug house. They have to give a reason why they are on the premises of the drug house so that the police had a way of combating them.

Unfortunately the drug trade is a lot more resilient than being able to be brought down with just a couple of legislative changes. They have now changed their method of operation in Cabramatta. We still have drug houses but they are no longer fortified so they are hard to identify. We no longer have the drug houses that are set up and operating 24 hours a day. Now we have a drug house that will operate for a few hours a day over a period of a couple of weeks, which does not allow the police to target the particular premises under the current legislation, so the legislation now has no effect on the supply in the area.

We are seeing now the delivery of narcotics in our area by motor vehicle. Scouts on the street will hand out mobile phone numbers. The addict then rings a mobile phone number, a car is dispatched and meets with the addict at a set location. That location always changes. We have dozens and dozens of registration numbers of vehicles that have been used for the supply of heroin but unfortunately, for whatever reason—whether it be politics or something else—the police do not want those registration numbers from us. It is very hard to give information to the police regarding drug supply in our area. That is not only my opinion; there is a large number of people who contact me regularly about the frustration of not being able to report drug crime in the area, about suspected houses or residences that are supplying.

I have real estate agents coming to me saying that they cannot get any assistance from the police. We set up the Cabramatta Drug Abatement Program a couple of years ago, where the police, the chamber of commerce and the local real estate agents were to be working in partnership to bring down these drug houses. That is no longer being deployed by the police in our area, so the real estate agents are now frustrated. What we are finding is that narcotic crime in our area does not seem to be a priority for enforcement; hence it becomes easy for people to come to our area, buy the drug, use it safely and go away again. I do not believe Health will ever be able to effectively reduce addiction. It may be able to reduce the harms associated with addiction but it is certainly not reducing the numbers becoming addicted.

With police taking a back seat and allowing Health to deal with the problem, we are seeing an ever-increasing number of people come to our area to buy the drugs. What we hoped, in order to reduce that, was that the police would prioritise and do something about targeting both the addict and the supplier so that it becomes hard for people to enjoy their drug pastime. We want the police to take an active role in saving these young people and these older people from their lives of addiction. That does not seem to be taking place at the moment.

Councillor Heggie—As someone who has grown up in Cabramatta and lived my life there, what is different now to, say, 20 years ago? Twenty years ago you could go to the shops and leave the windows and the door unlocked and that was quite normal. It was a rural hamlet. It has always been an area with a high number of migrants. I am a product of migrants, married to a

migrant, and we have the most cosmopolitan community in Fairfield City than anywhere else in Australia. The majority of those migrants have had positive impacts on our community.

In the mid-eighties I saw a huge difference in our community. What did I see that was different? I coined the phrase in 1987, when I was mayor of the city, 'A murder a month, a wounding a week.' That was based on evidence. People were being shot in the streets. In the main street of Cabramatta, John Street, it was nothing for people, sometimes of Indochinese background, apparently having a cup of coffee, to suddenly be shot at. This is foreign to a local. It is what did not happen at those times that has allowed the small amount of crime to incrementally creep up. It is all of those things that Mr Treyvaud has said about high levels of unemployment, poor accessibility, poor public transport links, poor language skills and also non-recognition of qualifications from overseas that, in many cases, have impacted poorly on migrants. That is not to say that we do not have many successful, good law-abiding citizens. We have. I also have a personal view that Cabramatta is what I call a political vacuum: Labor cannot lose and Liberal cannot win, so nothing is going to change.

CHAIR—Mr Treyvaud, in your submission you said that what is required is a change in drug policy. You need a complete reworking of the current drug policy to change the principle from harm reduction, which has implicit an acceptance of responsible use, to harm prevention. Mr O'Grady says in his submission:

Since the introduction of the harm minimisation policy in 1985—

which seems to coincide with the introduction of the whole philosophy of harm minimisation—

drug deaths have risen in Australia from 100 per year to 958 in 1999, although there was a decline in 2000 to 725 people due to the heroin drought.

The NCA, incidentally, says the heroin drought was peculiar to Australia; it did not seem to happen elsewhere.

You also say:

- The number of people living with Hepatitis C has increased from 80,000 in 1985 to 210,000 in 2001—80% of injecting drug users have Hepatitis C.

It kills people, as I understand the disease. You continue

- Regular and occasional drug users have increased from 70,000 to 240,000.

It would seem to me that there is a correlation between sending out a soft message and more people thinking it is acceptable to be addicted to, and take up the usage of, drugs. Mr Treyvaud, you say that there needs to be a Commonwealth law enforcement agency to deal with serious crime. The new agency needs to have the powers of a crime commission to compel witnesses to tell the truth. You go on to give other things that you think are required. One of the things we are looking at in this inquiry is what role the Commonwealth can effectively have, because people are tired of hearing that it is only a state issue. They do not want to hear that any more. They say, 'We want the federal government involved.' Do you believe that the Tough on Drugs policy of the federal government does embrace harm prevention or does it send mixed messages

too? I am seeing confusion of messages. I do not see how you can have harm minimisation and Tough on Drugs in the same breath. It seems to be a contradiction in messages.

Mr Treyvaud—Yes, Madam Chair, I fully agree with your last statement. There is great confusion, with mixed messages, between harm minimisation and the Prime Minister's recent stand, Tough on Drugs. I commend the Prime Minister on taking the initiative and being tough on drugs but, unfortunately, while government agencies still work with harm minimisation as their guiding light, I do not believe anything will change; things will only get worse. If I can use the example of Cabramatta, drugs have been part of the way of life out there for some 15 to 17 years, since we saw heroin come to our streets and become common.

In the early years, it was constantly a running battle between law enforcement and the level of drugs on the streets. There were a number of joint Commonwealth-state task forces targeting the supply, with some success. The level at which it impacted on the local community was kept to a lesser degree than it has been over the last few years. In 1997, however, we saw a dramatic change. Up until then we had drugs being supplied in our streets. The addicts would come to Cabramatta, buy the drug and then leave again, so the area was not being degraded to the extent that it was in recent years. After 1997, when the state government took on Cabramatta as a project of the Premier's department, we had harm minimisation become the guiding principle for treating addiction in our area, possibly regardless of the side of politics that happened to be in power at the time.

Using this harm minimisation policy as the principal policy allowed drugs to become well and truly entrenched in our local area. Instead of the addicts coming and going away again for fear of being detected and arrested, they were coming and staying. With the increasing level of drugs on the streets we found property prices were becoming stagnant and rentals were becoming lower, so a lot of the drug addicts were moving into the area as residents and becoming an entrenched problem. We saw the instigation of needle vans.

CHAIR—Is it true that the taxpayer pays, via the state department of health, for government employees to show young people how to inject needles in their arms?

Mr Treyvaud—It is true.

CHAIR—We, the taxpayer, pay for that?

Mr Treyvaud—Yes, indeed, about \$1 million a year in Cabramatta alone. A van is deployed in Cabramatta to four locations around the CBD—two hours in each location—where up to three health workers hand out syringes. That van alone was handing out 97,000 a month, so you can imagine the number of addicts coming to Cabramatta. Recently, however, it has fallen with the heroin drought. We are only handing out about one a minute at the moment, which is only about 13,000 a month. It is much less, but still at a level not acceptable to our community. We do not want the addiction on our streets.

CHAIR—The statistics are that 80 per cent of those users have hepatitis C, which means they are sharing needles.

Mr Treyvaud—That is right.

CHAIR—So handing out the syringes is not stopping them.

Mr Treyvaud—Through the statistics alone, it would appear that the wide distribution of needles is not reducing the spread of blood-borne diseases. We have seen that by various reports from the health department, obviously upset with the rapid increase in hep C. If 80 per cent of all injecting users have hep C and we are allowing the number of injecting users to increase through our harm minimisation policy, obviously we are going to cause ourselves tremendous harm in the future. So harm minimisation becomes a misnomer. It becomes something that would possibly increase the harm to our community. You can imagine the financial burden of trying to treat hundreds of thousands of hep C sufferers with liver damage in 20 years time when it is going to start to really bite.

We need to rethink the policies that are allowing the spread of these blood-borne diseases. In Cabramatta, from 1997 we had the needle vans distributing these syringes. We have seen the needle workers showing young people how to inject safely. That includes how to use tourniquets correctly or take a warm bath before the injection. They teach vein care.

CHAIR—They teach that?

Mr Treyvaud—Yes.

CHAIR—We, the taxpayer, fund that?

Mr Treyvaud—That is correct, yes. Looking from a purely health perspective, if we are going to accept that people are going to become addicts, of course we have the burden of looking after these people. But I don't believe we are going about it the right way if we are allowing them to continue in their addiction. We have to target the addiction itself. We have to reduce the numbers in our community being addicted to drugs.

Mr MELHAM—You are a health professional, are you, Mr Treyvaud? What is your background?

Mr Treyvaud—My background is running a business in Cabramatta for the last 10 years.

Mr MELHAM—What is the nature of that business?

Mr Treyvaud—It is a hotel.

Mr O'Grady—I am a pharmacist.

Mr MELHAM—No problem.

Mr O'Grady—I do not in any way question Ross's evidence.

CHAIR—I understand that Mr O'Grady had some evidence he wished to give in camera, which is separate from the question that Councillor Heggie raised. I want to move to the next witness at half past. I am wondering if it would be possible to put that in in a separate confidential submission or would it take just a short time?

Mr O'Grady—I would like the gentlemen to hear what I need to say.

CHAIR—Will it be fairly short?

Mr O'Grady—Yes, it will be very short; only a few words. Can I ask Councillor Heggie a question? When Commander Hansen addressed the council did he say anything specifically about whether he arrests for heroin possession?

Councillor Heggie—I did specifically say before that he said they do not arrest for possession.

Mr O'Grady—Thank you very much. Could I make a statement, too, corroborating what Ross has said on page 2. I do not know if the members of the committee had the opportunity to read what was said to me: 'Don't have a heart attack. Drug dealing is not on the list.' For many years, over 40 years, I have been the custodian of the Poisons Act. I am knocking back married women for pill scripts and I am not giving mothers antibiotic ointment they need for sore knees—I am pontificating about those sorts of decisions. Remember that we are talking about a prohibited drug. This policy here conflicts with your policy. I am just so upset.

CHAIR—Okay, Mr O'Grady, I understand that, but we are going to have to finish this part of the inquiry. Thank you all for your evidence. If you would like to give evidence in camera that is short.

Mr O'Grady—Very short.

CHAIR—I would ask the committee if we could do that now—quick and short. Or, alternatively, we could do it after we have heard from Mr Odgers.

Mr O'Grady—I can be available at a later stage.

CHAIR—Would that be all right?

Mr O'Grady—Yes, no trouble. Thank you very much.

CHAIR—We will do that at 12 o'clock, before we hear from the NCA. Thank you very much for coming this morning.

Mr O'Grady—I would like to thank the committee for hearing us.

[11.30 a.m.]

ODGERS, Mr Stephen James (Private capacity)

CHAIR—I welcome Mr Odgers.

Mr Odgers—I am a barrister and senior counsel. I am Chair of the Criminal Law Committee of the New South Wales Bar Association, but I would not say that I appear as a representative of the Bar Association. The views I express today will be essentially personal views.

CHAIR—Thank you very much. Would you like to make an opening statement?

Mr Odgers—Not really, other than to note that I think I was asked to come partly because of an opinion piece that appeared in the *Herald* about two weeks ago relating to issues of sentencing in New South Wales in which I, as Chair of the Criminal Law Committee of the New South Wales Bar Association, was critical of both the policies of the present government and to a greater extent the policies of the opposition in New South Wales in respect of sentencing. But other than that I am happy to take questions or discuss anything you particularly wanted me to discuss. I can expand on the criticisms, if that would be useful.

Mr CADMAN—You wrote that article as chairman, with the approval and authority of your committee.

Mr Odgers—Certainly.

Mr CADMAN—But comments you make to expand that will not have their authority.

Mr Odgers—I specifically referred to the Bar Association. The committee is a committee within the Bar Association. I do not think I can speak on behalf of the Bar Association. I think I can speak as Chairman of the Criminal Law Committee and expand on what I wrote in that regard. It is a committee made up of a number of prosecutors and defence lawyers. It does not necessarily represent the views of the Bar Association as a whole.

Mr CADMAN—Thank you.

Mr MELHAM—In your article, Mr Odgers, particularly paragraph 3, you say:

Research shows that when members of the public are given all the facts of individual cases and asked what sentences they would have imposed, most come up with sentences that are more lenient than those imposed by judges.

Can you expand on the research that you refer to there?

Mr Odgers—I have to make a confession that I am relying on secondary sources for that assertion, but the secondary sources are pretty good ones. They are the Chief Justice of the High Court of Australia, and the Chief Justice of the Supreme Court of New South Wales. Referring to the first, the Chief Justice of Australia, Chief Justice Gleeson said:

When people are asked whether they think the sentences imposed by judges are too lenient, or too severe, or just about right, most say that the sentences are too lenient. However, when they are then given the facts of individual cases, and asked what sentences they themselves would have imposed, a majority come up with sentences that are more lenient than sentences that were actually imposed by judges.

That is from the Chief Justice of the High Court. The Chief Justice of the New South Wales Supreme Court, Chief Justice Spigelman, said similar things in an article he wrote in 1999:

While the widely held belief is that sentences actually imposed are not commensurate with the seriousness of the crimes for which they are imposed, more detailed and sophisticated methods of gauging popular opinion suggest that when the full facts of particular cases are explained, the public tends, to a very substantial degree, to support the sentences actually imposed or at least to express the opinion that they are lenient to a significantly lesser extent than answers to general undirected questions would suggest.

He continued:

This is true of research in the United States, in the United Kingdom and in Canada. These studies have been replicated in Australia with generally similar results.

And he footnoted various studies.

CHAIR—In the course of this inquiry and looking at material that comes before us, one of the things that came as a surprise to me—and I guess it has come as a surprise to a lot of other people—is the contrast between the number of people we actually have in jail and the number of people who are convicted and who do not go to jail. In fact, I think an academic gave testimony in Melbourne and said that in Victoria it is very hard to get into jail. The stats are that we have 21,900 people who are in jail, 83 per cent of whom have been convicted and are serving a sentence and the others are on remand, but we have 59,000 people who have been convicted but are serving non-custodial sentences in the community.

That, to me, tends to make me think that the people who are first offenders, the sorts of people you do not want to put into a prison environment because they will come out a more hardened prisoner, basically do not get there. But what I cannot find is the statistic of how many people who have served in that non-custodial environment go on subsequently to reoffend, be recidivists and end up in jail. I cannot find that stat. Do you have any handle on that?

Mr Odgers—No, I am sorry, I do not. It is a well accepted sentencing phenomenon that there is a range of sentencing outcomes that both judges and magistrates can engage in, ranging from—at the highest level—imprisonment, down to non-custodial options, periodic detention, weekend detention, community service orders, bonds to be of good behaviour. A whole range of options exist and sentencing judges and magistrates attempt to choose the option which is most appropriate for the crime and the offender. There is no doubt that, as a general proposition, first offenders are going to be treated more leniently because of that fact, and are generally less likely to go to prison, although they do if the crime is serious enough.

As for recidivism rates, I am afraid I cannot assist you. I do not know what the research is, if it exists at all, as a comparison, say, between recidivism rates of people who go to prison and recidivism—

CHAIR—It is 40 per cent. We know that one.

Mr Odgers—What it is for people who receive non-custodial outcomes, I do not know the answer to that.

CHAIR—I think it would be quite interesting to know. The other thing we do not have a stat on is how many people go to 556A.

Mr MELHAM—It is no longer 556A.

CHAIR—That dates me, doesn't it?

Ms JULIE BISHOP—What is the equivalent?

CHAIR—What is the new section?

Mr Odgers—I think it is section 19A of the Crimes Act, or section 10. It depends on whether it is a Commonwealth or state provision. I should know the numbers.

CHAIR—We know he is a prosecutor.

Mr MELHAM—Defender. I have never prosecuted.

CHAIR—Whatever the equivalent of the other states, we do not know what those stats are. You seem to be saying in your article that there is no deterrence factor in imprisonment. Are you saying that?

Mr Odgers—No. I am saying you should be careful about assuming there is a general effective deterrence factor across the board. In certain offences it makes sense. The certainty of imprisonment or the high probability of imprisonment if there is a correlative high probability of being caught in certain offences will have a general deterrent effect. There are certain types of white-collar crimes where it is pretty inevitable that eventually a person will be caught. If they are forging signatures or engaging in fraud, eventually the situation will become clear. That person will be prosecuted and the evidence will usually be overwhelming. In those cases it may well be the case that the knowledge of a high probability of a custodial sentence will have a general deterrent effect. But for a large number of offences and for a large number of offenders, they do not factor in the likely outcome of sentencing.

CHAIR—What you are really saying is there seems to be a deterrent where the crime is planned and premeditated, as distinct from when it is opportunistic.

Mr Odgers—Certainly. But there is also a distinction between those offences where there is a high probability of being caught and those offences where the assumption is that you are unlikely to be caught, or you simply assume—whatever the statistics are for successfully being caught—

CHAIR—I would like to know what the crimes are where you think people do not get caught.

Mr Odgers—We know the rates of conviction for a large number of offences. Take break and enters for example: the actual number of people caught and successfully prosecuted for the offences committed is relatively small.

CHAIR—We are saying that is because we have not got enough police resources for those apprehensions. If there were more police around, they might think the chance of being caught was greater.

Mr Odgers—Certainly. There are two aspects here. One is the actual objective probability of an offence being detected and prosecuted. The second is what the prospective offender anticipates as their own prospects of being caught and prosecuted. In respect of the former, the actual objective reality is there are certain offences which are generally difficult to detect and prosecute. If you throw more resources at it, you will improve the rate of detection and prosecution. That does not necessarily flow on to the potential offender, who may not even think about that and may not factor that into their decision whether or not they are going to commit an offence.

Mr MELHAM—I will partially quote your article also. You say:

... over the past decade ... the courts have significantly increased average sentences, without any corresponding reduction in the crime rate. The reasons for the latter are fairly obvious. Many offences are spur-of-the-moment affairs. Those offenders who think rationally about consequences rarely contemplate being caught and successfully prosecuted, often with good reason.

Mr Odgers—What I have been trying to say to the committee in somewhat different terms is the essence of what I put in the article. The danger is in generalising. You really have to be aware that there are different types of offences and different types of offenders. You simply cannot treat them all alike.

CHAIR—If you accept your proposition that there is a class of crime where people do not expect to be apprehended because there are not enough resources and therefore they will get away with it, the worry is that the natural outcome would be that they start on pinching the old car and then move on to bigger and better crimes.

Ms JULIE BISHOP—Or even just shoplifting.

CHAIR—Yes. If you say, ‘We’re not going to do anything about that,’ all you are going to do is breed them into bigger and better stuff. They will start on the easy stuff.

Mr Odgers—I am not saying we are not going to do anything about that. I am just making the general observation that an assumption that increasing sentences will produce a reduction in the crime rate is itself often a flawed assumption. It may be better if resources are directed at other mechanisms for crime reduction than just increasing sentences, having people building bigger prisons, keeping people in prisons for longer at cost to the public purse, and paying the price of having people emerge who are institutionalised and unable to operate independently in the community. I am not saying knock down the prisons; I am just saying think about where the resources are going to go which are going to achieve the best result.

CHAIR—Those statistics I gave you—21,000 people in jails, 59,000 people not in jails—seems to me to be the flaw in your argument. The fact of the matter is that the people who end

up in jail are not people who are going to be—in the terms of your paragraph, ‘for a marginal return and huge expense’—institutionalised prisoners who find it almost impossible to function independently. The people who actually go to jail seem to be the people who are not in the category who are going to benefit from those alternative policies. I go back: it is hard to get into jail. Somebody said it is hard to get into jail in New South Wales as well.

Mr Odgers—In the article I was not really discussing alternatives to imprisonment; I was focusing upon the length of imprisonment. The reality is in New South Wales the statistics show that, for example, the median non-parole period for murder is in the range of 15 years. The head sentence will be longer than that. The real issue is: should we increase that median, say, from 15 to 20 years? The opposition leader has advanced a policy that, depending on how you characterise the murder, it will be either a mandatory minimum period of 15 years or a mandatory minimum of 20 years. So the issue really is: is it a good policy to increase sentences by five years or more across the board? Will that be in the public interest?

CHAIR—In fairness to the Leader of the Opposition who has brought out that policy, there certainly is a perception in the community that sentencing in those sorts of cases has not been hard enough. I suppose the most obvious one was the first sentencing for gang rape of young women, where the sentence was considered to be most inappropriate and people started to look at it. There is a feeling that a larger sentence is warranted.

Mr Odgers—The first question I was asked was about community perception about sentencing. I stand by the proposition which has been made by the Chief Justice of the High Court and the Chief Justice of the Supreme Court of New South Wales: when people are actually given the circumstances of individual cases, the perception they have changes. That is the first point that needs to be made.

CHAIR—Mr Odgers, that is anecdotal too. That is like saying that, if you listen to talkback radio, you will get a lot of people ringing up saying, ‘It’s not adequate,’ even if they have the circumstances explained to them. That is anecdotal stuff.

Mr Odgers—No, I am talking about research studies in which hundreds of people are put into research groups and then they are provided with information and asked to come up with sentences. That is compared with sentences imposed by judicial officers. That is really the only way we can empirically investigate the extent to which judicial opinions and public opinion vary or not. When you take individual sentences, the remedy for sentences which are perceived to be too low in the view of the community, the politicians and the Director of Public Prosecutions is appeals. We have a system of appeals which means that the Crown can argue that the sentence was manifestly inadequate. In respect of some of the offenders I know that I think you are referring to, where gang rape sentences were imposed by a judge in the first instance, they were significantly increased.

CHAIR—But only after great public pressure was that appeal taken on. I think it is fair to say that.

Mr Odgers—I do not know what motivated the Director of Public Prosecutions. He is an independent person. He should be independent. He makes a judgment as to whether or not there is justification for an appeal. There are hundreds and hundreds of appeals conducted every year in New South Wales by the Crown appealing against inadequate sentences. In this case the

sentence was increased. Conversely we have had examples in the last year where individual judges have been imposing extraordinarily heavy sentences for gang rape in respect of individual offenders. No doubt there will be appeals by them against what are argued to be excessive sentences. The Court of Appeal will make judgments as to whether or not they are excessive.

CHAIR—Nonetheless, it has sent a very good clear message. Julie Bishop has a question.

Mr MELHAM—I thought the witness wanted to make a couple of other points.

Mr Odgers—No. I think I have outlined the substance.

Ms JULIE BISHOP—I just wanted to pick up on that point. Mr Odgers, is it your opinion that increasing the sentence—and if we take the example that I think you are alluding to of the 55-year term of imprisonment imposed recently—does not have a deterrent effect at all? Have there been studies on the deterrent effect of a high-profile, highly publicised, dramatic sentence?

Mr Odgers—I do not have the expertise. I can only make observations about caution in assuming that those kinds of heavy sentences will have a flow-on effect. As for studies, I do not know. I am not able to assist you on that. I have doubts. They are doubts based on the propositions that I advanced earlier that many offenders commit offences without thinking about the likelihood of them being caught, let alone successfully prosecuted and then sentenced. It may well be that, when there is a very heavy sentence for an offence, that may have some deterrent effect. Realistically, a person who is contemplating a sexual offence would probably be just as deterred by the prospect of getting 20 years as they would be by the prospect of getting 55 years. We all know that there is a big difference between the two, but if you are contemplating—

Ms JULIE BISHOP—If you are 30 years of age with the prospect of getting a 20-year sentence as opposed to a 55-year sentence, there is quite a dramatic difference in terms of—

Mr Odgers—There is, but is the 20-year sentence not going to deter?

Mr MELHAM—The death sentence and heavy sentences in America have not deterred an increase in crime.

CHAIR—The crime rate in the United States has gone down and here it is rising.

Ms JULIE BISHOP—I was just wondering if there were studies on the impact of substantially increased sentences in Australia.

Mr Odgers—The person you really should be talking to is Dr Weatherburn. He is undoubtedly the person who has that kind of information. I do not.

Mr MURPHY—Mr Odgers, in your article you start off by being critical of the Carr government. You state:

... Bob Carr's sentencing policy is bad.

Later in your article you say:

And yet, Carr's policy does at least leave a modicum of sentencing discretion—in contrast with that trumpeted by John Brogden, who takes every opportunity to proclaim that he is not “soft” like the Premier. Under his mandatory sentencing policy, judges will have no option but to impose long minimum prison sentences.

You go on to say:

Brogden would create three classes of murder, carrying mandatory minimum sentences ...

My first question to you is: do you in any way support any mandatory minimum sentencing?

Mr Odgers—No. The Bar Association has made its position clear over the last few years. It opposes mandatory sentencing, except perhaps at the very bottom end of the spectrum in some driving type offences where there is some justification for imposing mandatory loss of licence in certain circumstances.

CHAIR—What is the logic behind that?

Mr Odgers—The general philosophy is that mandatory sentencing is bad because it takes away discretion.

CHAIR—But it is okay for this.

Mr Odgers—No. The question is whether you can point to particular circumstances. The general approach should be that you do not make blanket propositions. You look at the particular circumstances. You have principles and you say, ‘This is a sound principle but if there are particular circumstances which make it clear that the rationale behind the principle is not going to operate, or that there are overwhelming public interest justifications for a change of policy, then let's look at it.’ But do it on the basis of evidence and empirical studies. Do not do it on the basis of public outrage which may be pushed up by radio jocks.

CHAIR—Never listen to the people!

Mr Odgers—Listen to the people but do so in an appropriate way by assessing the opinions through proper research studies, not through what somebody says on talkback radio.

CHAIR—With respect, Mr Odgers, I think you have said it is okay for you and the Bar Council to say it is okay to have mandatory sentencing for what you think is okay, but it is not okay for Mr Brogden to say it is in the national interest to say that. You are criticising his policies. It is just a difference of opinion.

Mr Odgers—With respect, I stand by—

CHAIR—It is perfectly logical for him to say he believes it is in the national interest to do it. You happen to disagree with his decision. He might disagree with yours.

Mr Odgers—I am prepared to reason. The question is whether you engage in reasoned discussion and to explain why you oppose or support a particular policy. There are many

reasons why there is criticism of mandatory sentencing. The fact that I may be prepared to concede that in certain very limited circumstances it is arguably appropriate to impose mandatory penalties—

Mr MELHAM—Those penalties are not custodial sentences.

Mr Odgers—No, of course not. We are talking at the very bottom end of the spectrum. But when it comes to custodial sentences, mandatory sentencing is generally regarded as anathema.

CHAIR—Except when you think it is okay.

Mr Odgers—I said ‘in respect of custodial sentences’.

CHAIR—We are defining it down now.

Mr MELHAM—We defined it down earlier, Madam Chair, with respect. He was talking about penalties earlier.

CHAIR—We were talking about sentencing.

Mr MELHAM—The evidence will show that he talked about penalties in relation to driving—

CHAIR—It is okay. We have established it is okay for some people to make out that this is okay but not for other people to say that is okay.

Mr MURPHY—Mr Odgers, you do make the point that in the Northern Territory, since the introduction of mandatory sentencing, for homicides the rate remains six times the national average.

Mr Odgers—For murder.

Mr MURPHY—Yes, for murder. I said ‘homicide’. I want to get to a very valid question that you raised in your article, when you evidenced that the cost of imprisonment was \$60,000 per person per year and whether that money was well spent. You asked:

Would it not be better directed at tackling the real causes of crime and introducing cost-effective options for crime control?

Do you personally, or your committee, have views about how the money could be used more cost-effectively in terms of options for crime control?

Mr Odgers—I do not think the committee has formed a view as to how the money is best spent. I return to the proposition that you have to look at the empirical data and you have to see what works and what does not. You do it for each type of offence and each community. You look at what works. Dr Weatherburn has published material showing that certain types of relatively cheap methods can produce a significant decline in the crime rate. You try that and you spend the money on those things. If it works, fabulous, you keep doing it. If it does not, you

look at other methods. Really it is a call for empirical based and pragmatic expenditure of money on things that work, not on things that make people feel good but do not really work.

Mr MURPHY—Do you think politics prevents us getting some inner balance here? My recollection of every state election is that the one thing that distinguishes a federal election from a state election is law and order issues.

CHAIR—Not in Cunningham.

Mr MURPHY—I can think of every state election—

CHAIR—You will leave us right in it.

Mr MURPHY—Madam Chair, I would be grateful for the opportunity to question the witness. He has written what I believe is an article which is in the public interest. It strikes me that as a state election approaches there is always this option between both sides of politics, whoever is in government, that this becomes the issue. It seems that particularly over the last 12 months with so much insecurity, not only here but throughout the world, this is an issue that should be focused on. On the talkback programs people do respond. We have been talking about the gang rape case. Overwhelmingly there seems to be a feeling from the community that justice was served in that case by imposing what some people would say is a very harsh sentence, when one compares that to some of the worst murder cases.

This is very difficult and I am saying this in a rather long-winded way. Do you have any advice for us as federal members of parliament on what we might be able to do about it with regard to giving the community more confidence that judges are the best ones to make the decisions? Out there on talkback radio people feel that the judges have lost it and the politicians have to step in. I see that, against that background, there is going to be a continuation for years and years, every state election, that somehow or other we have to do more because crime continues. I wonder if you have some advice to us on which we might be able to strike a balance. It might be along the lines of better educating some of our talkback hosts. I remember Paul Keating on one occasion saying, 'If you educate John Laws, you educate Australia.' It is a fact that people are influenced by what they hear on the radio or they see on a seven-second grab on a nightly news bulletin.

Mr Odgers—You are asking me a big question.

Mr MURPHY—It is a very difficult issue and I am sure all of us would like to get some resolution. I can imagine at the next state election or the following state election, irrespective of whether the present government prevails or there is a new government, this will be here and there will be another committee and people will be inquiring into it.

Mr MELHAM—As you say, it is really about getting the facts out more accurately to the public.

Mr MURPHY—Hence my comment about educating the public to get some balance in it. Obviously there has been a lot of emotion, understandably, with the gang rape case.

Mr Odgers—I encourage the committee to do what it can to ensure that the debate is an informed debate. The full amount of available information about the crime rate, the effectiveness of different options for dealing with the crime rate and the effectiveness of different strategies is put out in the public arena, including the information that began this discussion—the research studies showing that, when people have the full information about particular cases, they come up with sentences which are very similar to the ones that judges impose. People should know about that. They should be aware of the price of different options—that if you increase sentences you will pay a price for that because it will mean a lot more of taxpayers' resources going to things where it could be spent, arguably, more usefully in other directions.

As a lawyer, the thing I really want to stress is that we are about justice as well as about public order. Some options that are advanced by some sides of politics or some politicians are the antitheses of justice. Mandatory sentencing is, for us, something which is anathema because it means that in particular cases judges will be forced to impose sentences which they regard as wholly unjust. They will be wholly unjust in the particular circumstances. For that reason alone mandatory sentencing is to be condemned. If there is nothing else I can convey today than that, that is the most important message I can convey.

CHAIR—Dr Weatherburn, who you have been lauding and quoting, on the issue of, if you lock up more of the criminal population you reduce crime, says:

- A US study conducted on increasing police numbers suggests that a 10% increase in the number of police would bring down the burglary rate by about 3.2%. Other offences would come down but this would be by much smaller margins.

But there is also a rule of thumb that says that if you lock up 10 per cent more of the criminal population you will bring down the crime rate by about one to two per cent.

Mr MELHAM—Where is that?

CHAIR—That is not Weatherburn. I said the first part was Weatherburn.

Mr MELHAM—Okay.

Mr Odgers—As I understand it, Dr Weatherburn was referring to increasing the number of police, which is focused less on sentencing; not all on sentencing but rather on the prospects of being caught, which is one of the points I was trying to make earlier.

CHAIR—Which is the point we were discussing.

Mr Odgers—No. I thought what we were discussing was the effectiveness of making it more likely that a person will go to prison and the effectiveness of increased prison sentences, which is a different issue. The focus of my article was on requiring judges to impose increased prison sentences. I think, Madam Chair, one of the focuses of your questioning is on whether people should go to prison at all and the rate of imprisonment. It is always a difficult question for judges in less serious offences whether or not they should send someone to jail, even for a short time. It is a difficult dilemma. As for studies that show that the certainty of imprisonment, even for a short time, will reduce the crime rate, I honestly do not know what those statistics show.

CHAIR—Dr Weatherburn does have something to say about that. He says:

The best-conducted review of this evidence has been conducted by William Spelman, at the University of Texas.

He concludes on the basis of his review that a 10 per cent rise in the US prison population reduces serious crime by between 2 and 4 per cent.

Mr MELHAM—Keep going. He then goes on about New South Wales:

When prison remissions were abolished in 1998, in response to an earlier law and order crisis, the imprisonment rate in NSW rose by 36 per cent in less than three years.

The only crime which fell was break and enter ... but it was in decline three years prior to the abolition of remissions.

CHAIR—Which brings us to the evidence that we received—and released today—from Pat Mayhew that shows the conundrum for Australia. It shows that the United States, Italy, England, Wales, New Zealand, Spain, Ireland, Scotland, Canada and Finland have all had reductions in crime, but in Australia, Japan, Austria and Norway we have had a rise in crime and continue to do so. Australia is second only to Japan in the highest rise in crime rates and Pat Mayhew is researching what those reasons might be, including looking at the imprisonment rate. The imprisonment rate, certainly in Australia, has been far less than, say, the United States or Italy. Dr Weatherburn also says:

Cocaine prices in the US fell by more than 60 per cent in real terms between 1981 and 1995, while the imprisonment rate for cocaine trafficking more than doubled.

So there does seem to be a correlation between the incidence of crime and physically taking people out of circulation.

Mr MELHAM—Can I also quote, Madam Chair, in fairness, Dr Weatherburn on page 10:

In the NSW District Court over the last decade the likelihood of a prison sentence rose by 77 per cent for assault, 29 per cent for robbery and 13 per cent for break and enter.

Despite this, each of the categories of crime I've just referred to continue to rise.

Part of the problem with imprisonment is that locking someone up sometimes just creates a business opportunity for another.

Drug trafficking is a classic example of this.

CHAIR—Which is why I referred you to the Mayhew research, which shows that Australia is an aberration. We are going up, whereas other countries are coming down. Certainly, in some of them, their growth in imprisonment has been higher than it has been here.

Mr Odgers—The only observation I would make, not being fully cognisant of all the research in this area—it is not my business—is that what I do know is that sentences in New South Wales have been steadily going up for the last 15 years. In 1989, with truth in sentencing and the abolition of remissions, the average sentence rate significantly increased and since then there have been progressively increased sentences in a large number of areas, both imposed by parliament and by the judges reacting to what they perceive to be a call for heavier sentences.

Notwithstanding that, Dr Weatherburn points out that the crime rate has not gone down and, indeed, in some areas it has gone up. That does suggest, purely from a commonsense perspective, that increasing sentences has a very poor correlative effect with reducing crime. That is the important point that needs to be made and, if that is right, the question has to be asked, 'With the increased resources that are thrown at keeping people in prison for longer, is it worth spending that money when it does not appear to have the effectiveness that you might hope for in terms of reducing crime?'

CHAIR—Except that in Australia crime is increasing and in other parts of the world, where they have increased imprisonment, they have had a drop in the crime rate. I am not saying it is the broad answer.

Mr Odgers—That is the option, Madam Chair. That is the problem.

CHAIR—That is the whole problem, isn't it? We really do not know.

Mr Odgers—The problem is this belief that I think is espoused that, if we just keep raising the penalties and if we make the punishment harsher, one golden day we will see a significant reduction in crime and the option continues, because with every election in New South Wales we get politicians saying, 'We're going to make it tougher,' and they do and the sentences go up and the crime rate does not come down, so we just have to get tougher and it keeps going on and on.

CHAIR—But it is greater than that. It also says you need more policing.

Mr Odgers—Absolutely. I could not agree more!

CHAIR—It worries me that you say, 'Let's focus on the cost of imprisonment,' when I do not think the average voter does. The average voter wants justice.

Mr Odgers—They should.

CHAIR—If that is the price of justice, they want that. Then you say it would be much better to spend the money tackling the real cause of crime and introducing cost-effective options for crime control, but you do not know what they are.

Mr Odgers—No, I did not say that. What I said is that if you are asking me to pin down particular options, I am reluctant to do so.

CHAIR—Yes, I was.

Mr Odgers—Obviously, the most general one is increasing the number of police. There is a correlation between a higher probability of being caught and the crime rate, but again I do not want to make a blanket statement that that is the answer. Of course, in some areas it may be effective; in other areas, it may not. I am not an expert on crime prevention. I am an expert on sentencing and my perceptions of the effectiveness of sentence as a crime control mechanism, in the context of what you say, correctly, is a concern for justice.

Mr MURPHY—Picking up where I asked the earlier question, Mr Odgers, the option that we get into in every state election—and you mentioned the option again—and it relates directly to the conclusion in your article, which I agree with:

Politicians also have an obligation to act in the public interest—not to resort to populism with expensive and ineffective panaceas, not to sacrifice what is just for political expediency.

This committee comprises both sides of the political landscape. What final advice do you have for us that we actually get an outcome with this inquiry which will remove some of the politics of crime, because we do not seem to be getting a reduction in the crime levels whatever we do?

Mr Odgers—My advice is do not look for simplistic solutions; recognise the complexity of the problems; look for all the research material that is available on the effectiveness of different strategies; be prepared to encourage the use of different strategies in different contexts; encourage wider community debate about the costs of different strategies, as compared with other options for spending money. At the end of the day recognise that it is not just about public policy but also about achieving justice for individuals. While offenders deserve to be punished, they are also citizens and we should deal with them justly and fairly and we rely on judges to do what is best and most just in the particular circumstances of the case.

CHAIR—You did not mention victims. Sometimes they like a bit of justice too.

Mr Odgers—Of course, victims deserve justice as well. The dilemma of sentencing is that you sometimes have conflicting public interests. That is one of the reasons why we have traditionally given to judges the role of trying to balance those public interests in the particular circumstances of the case and we should maintain that principle, because the alternatives are too horrible to consider.

Mr MURPHY—I think your message to us is to try and take the politics out of it.

Mr Odgers—It is.

CHAIR—Thank you, Mr Odgers. I think it has been interesting to hear your personal point of view. I am sure Mr Murphy will enjoy your personal point of view as guidance for him. The others will make up their own minds, I think.

Mr MELHAM—It is nice to have a professional in front of us, Madam Chair!

Mr MURPHY—Mr Odgers does come here in his capacity as Chairman of the Criminal Law Committee, not as a spokesperson for the Bar Association.

CHAIR—He said he was not an expert.

Mr MURPHY—So I think that he is echoing the views of the members of that committee.

CHAIR—We had better get that straight. Are you?

Mr MURPHY—Yes, he made that point.

Mr Odgers—I think it is fair to say that I am and I should emphasise that that committee includes both Crown prosecutors and practitioners who are defence lawyers.

CHAIR—You are speaking on behalf of that committee today?

Mr Odgers—Yes.

CHAIR—You made the point earlier that you were giving a personal point of view, too.

Mr MELHAM—In some respects. He made the point, on some matters that he was raising, that he did not have the authority of the Bar Association.

Mr MURPHY—That is right.

CHAIR—Having a quid each way! All right.

Mr MELHAM—Not a quid each way. I think it is excellent evidence, unlike some of the trash we have heard.

CHAIR—You are not putting politics in this, are you?

Mr MELHAM—I am stating a fact.

CHAIR—Ladies and gentlemen, we were contemplating taking the in camera evidence, but I think we will move straight to the NCA. We have had a request from the witnesses that, although this is a public hearing and open to everyone as a matter of public interest, their images not be placed on camera. I do not quite understand that request, as it is a public hearing, so perhaps when the gentlemen come forward to be sworn or to take the affirmation, one of them might like to explain the reason for the request.

[12.15 p.m.]

GRAY, Mr David Nicholas, Director of Intelligence, National Crime Authority

McDONALD, Mr Robert Richard, National Director, National Crime Authority

CHAIR—Thank you, gentlemen. One of you might like to tell us why you do not want your photographs published.

Mr McDonald—Madam Chair, that is the first I have heard of it. I did not personally request it, but Mr Gray may have.

Mr Gray—We are happy to drop that request.

CHAIR—Thank you. Would either one or both of you like to make an opening statement to add to your submission?

Mr McDonald—Madam Chair and members of the committee, I will make an opening statement. It may be perceived that with organised crime, the NCA's focus in law enforcement is far removed from the community. However, in my opening statement today I seek to illustrate the extent to which unchecked organised crime can permeate all levels of Australian society. It not only contributes to generating fear of crime within the community but also leaves a devastating trail of destruction by way of victims in its path. These victims can be drug addicts, those people who have had property stolen or been defrauded, had extortion attempts placed upon them, been the subject of assaults or other forms of violence, or the families and friends of the victims who are left to pick up the pieces.

Sadly, and all too often, the community does not readily recognise that much of what happens in this regard directly relates back to organised crime. This is because of the hidden nature of organised crime which, at times, can be far removed from the actual crime scene involving no direct personal contact with the actual victims, or the victims' family and friends. Many facets of organised crime, particularly those relating to gaming, illegal prostitution, and public sector fraud and so on are often referred to as victimless crimes. Nothing, of course, could be further from the truth. Organised crime also causes damage in a broader sense to the national interest by undermining public and private sector institutions, for example through fraud and corruption. This, too, ultimately affects every member of the community.

First, however, I will briefly outline the key features of organised crime in Australia. These features are: firstly, organised crime is resistant to standard law enforcement methods; it is well informed, well resourced and increasingly flexible. Organised crime has kept pace with a changing world and seized opportunities for new businesses and the way of doing business. The traditional image of organised crime is increasingly inadequate and inaccurate. Second, substantial profits continue to be the overriding motivator for organised criminals. In Australia crime related costs are estimated to be worth approximately four per cent of the gross domestic product. The profit generated by organised crime guarantees that money laundering continues to be a major concern. It is estimated that \$3 billion to \$9 billion is laundered in Australia each year and that the volume of money laundering is growing.

Third, organised crime continues to be focused on the illicit trafficking and distribution of commodities, such as drugs, tobacco products, alcohol, fauna, firearms, computer softwares and other forms of intellectual property, motor vehicles and, increasingly, people. Fourth, a significant trend in the illicit drug trade has been the sharp reduction in the availability of heroin in Australia over the past two years and the rise in the availability of amphetamine type substances.

Fifth, violence, such as murder, abduction, assault, torture and violent extortion, are hallmarks of organised crime—particularly among groups involved in illicit drugs and other commodities. Sixth, firearms are a growing area of concern with certain organised crime groups, including gangs, increasingly involved in the use and trafficking of firearms on a national basis. Seventh, vehicle rebirthing continues to be an area of significant organised criminal activity. During 2001-02, 22,824 of the vehicles stolen in Australia have not been recovered. The National Motor Vehicle Theft Reduction Council estimates that 5,000 of these vehicles may have been rebirthed. A total cost of these rebirthed vehicles is estimated to exceed \$75 million, although this does not include the cost of law enforcement and other public resources.

My last point regarding the organised crime landscape in Australia is that organised crime is international in nature, crossing jurisdictional boundaries with ease. It is not unusual for criminal syndicates to be multi-jurisdictional, exploiting weaknesses in the ability of law enforcement agencies to effectively investigate across national and international borders.

To understand the nature and extent of the threat posed by organised crime, and to attack it effectively, it needs to be looked at from several perspectives. There are broadly three aspects: (1) commodities and markets—the specific drugs and other goods which provide much of organised crime's business: for example, heroin, stolen vehicles and people; (2) criminal activity and associated offences—the kinds of activities engaged in by organised crime: for example, money laundering, identity fraud and drug trafficking; and (3) group types and attributes—categories of criminal syndicates defined by activity or common ethnicity: for example, outlaw motorcycle gangs, South-East Asian organised crime and the mix of attributes that constitute particular groups' capability; for example, cohesion, specialist skills, security awareness and inclination to use violence.

The community tends to focus on illicit commodities, the tangible facets of organised crime but effective law enforcement action demands a careful study of activities and the factors which bind groups together. Major figures in organised crime manage to distance themselves from high-risk illegal activity, so that a narrow focus by law enforcement on the interdiction of drugs would not necessarily be successful in dismantling networks and prosecuting the Mr Bigs.

The performance measure of whether we have been successful in major investigations against organised crime groups should not be confined to quantitative measures such as the amount and type of drug seized, number of vehicles or firearms recovered et cetera, but whether we have successfully dismantled the offending group or syndicate and made a lasting impact on the criminal environment from which they are operating.

I will now talk about the impact of organised crime on the Australian community. I suspect that many in the Australian community, when they consider organised crime, think in terms of stereotypical Mr Bigs controlling high-level networks far removed from day-to-day life in

Australia. Although there may be elements of truth in this scenario, it is far more accurate to think of organised crime as being diverse and having a multifarious and real impact on our community. Organised crime erodes Australia's economic strength and competitiveness, potentially undermining the integrity of the institutions and structures underpinning Australian society. Organised crime threatens Australia's reputation for operating an international best practice financial regulatory system and, therefore, potential foreign investment.

It threatens the nation's uptake of e-business opportunities due to fear of potential Internet fraud. It threatens major government policy such as the tax file number system, financial monitoring and reporting requirements, and the delivery of services online which are easily undermined by fraudulent activity. It threatens Australia's economic stability, due to the growing direct and indirect costs of fraud and drug trafficking, as well as associated large-scale money laundering.

Organised crime also directly affects the community. For instance, a large proportion of property crime and some violent crime is committed by offenders desperately trying to fund their illicit drug habits. Organised crime groups, through their facilitation of the drug market, are therefore the root cause of a significant amount of crime directly experienced by Australians. Organised crime can adversely affect productivity, health and perceptions of wellbeing.

It affects every aspect of our lives, including through the deaths of addicts, representing a tragic loss of life and human capital; the drain on public resources, including those of law enforcement agencies, our courts and public health system; the manipulation of markets and the creation of unlawful and unscrupulous competition; trauma caused by armed hold-ups and robberies; and the high cost of property crime reflected in insurance premiums.

To more effectively illustrate the impact of organised crime on the Australian community, I will talk very briefly about three specific examples of organised criminal activity: the narcotic trade, identity fraud and car rebirthing. First, trade in illicit drugs. There are many social and economic costs associated with drug abuse which are borne by the community. I have already referred to the link between organised crime groups and criminal activity, including property crime and robberies.

Generally speaking, whenever a reasonable quantity of a particular drug is seized at the Customs barrier or seized post barrier, the people who financed, supplied and organised the shipment to our shores, and those who intend to sell and distribute it onto the streets of our cities and towns, are members of organised crime syndicates operating both within and outside Australia.

Second, identity fraud. Identity fraud is an area of increasing concern for law enforcement. Although it has always been an important part of the criminal's tool-box, identity fraud is increasingly sophisticated and accessible, largely due to technological advances. This trend can only be expected to increase. There is no doubt we are presently witnessing a significant increase in the use of high-quality counterfeit documents designed to provide convincing certificates of identification, ownership and origin.

To illustrate this further to the committee, and should permission be granted to tender them, I do have with me some copies of actual false documents seized during a multi-agency drug

investigation here in Sydney last December. In perusing these documents, the committee can see first-hand how professional and convincing the forgeries are, should they have been completed, to prove identity. However, should the committee wish to ask further questions or for further background surrounding these documents, I would ask that our elaboration or answers to those questions be given in camera as the matters are still before the court.

Third, car rebirthing. As I stated earlier, car rebirthing is a multimillion dollar business. Aside from the direct costs to the community of the theft of motor vehicles, including higher insurance premiums, there are indications that profits derived from vehicle rebirthing are used to fund other criminal activity, such as the purchase of firearms and commercial quantities of illicit drugs. Although there are considerable interstate connections relating to this criminal activity in Australia, we also now have evidence of vehicles and parts being shipped overseas.

In conclusion, the NCA submits that the Australian community is affected in multiple ways, most of them not obviously or widely understood, by the activity of organised crime groups. The consequences are felt widely and impact one way or another on each and every one of us. The impact and fear of organised crime on the community, although not always readily recognised, is real and cannot be separated or pushed to one side when attempting to analyse the impact of crime on the community and find solutions. Thank you, Madam Chair. That finishes my opening.

CHAIR—Thank you very much. Mr Gray, do you want to add something?

Mr Gray—No, thank you.

CHAIR—Fine. We would be very pleased to see the documents you said could be made available to us.

Mr McDonald—I have six copies, Madam Chair.

CHAIR—Do you have a problem about these being published?

Mr McDonald—Yes.

CHAIR—In that case we will admit them into evidence but they are not for publication. There being no objection, it is so ordered. When we come to questions about this material it will also be evidence that you wish to give in confidence. I say to members of the committee: have this for perusal but please at this stage do not ask questions about the material unless we are in camera.

Mr CADMAN—Do you want to take questions on these documents now?

CHAIR—No, I do not. In camera only. Although you have them and we have accepted them into evidence, we will not publish them and we will not deal with them at this stage in open hearing. Mr McDonald, I was very interested to see in your submission the following statement:

- The United Nations (UN) report *Global Illicit Drug Trends 2002* notes that Australia appears to be the only country in the world to have experienced a heroin shortage in the past two years. Both the UN report and the ABCI's *Australian Illicit Drug Report 2002* find that Commonwealth law enforcement operations contributed to the shortage.
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Would you like to elaborate on that and talk about what constitutes an effective shortage? How much do you have to seize before you make a difference?

Mr McDonald—Ideally I would like to take it all off the streets if that was possible.

CHAIR—I would like that too.

Mr McDonald—But it is impracticable with the coastline we have, with the amount of commerce we have moving into our country and the number of people that enter through our ports. It is impossible to stop every ounce or every kilogram of heroin that is coming into our country. As to the statement about the effectiveness of law enforcement in relation to the heroin drought, over the last two to three years there was a period of intense law enforcement action, particularly against organised crime groups and international trafficking groups, by federal agencies—that being the Australian Federal Police and the National Crime Authority—and also a very concentrated effort by state police agencies as well in relation to high-level distribution and distribution throughout the community. The net result of that was that it did have an impact, although I do not think any of us can say that was the sole impact as to why there is a heroin drought. There are other factors that probably contribute to that as well.

CHAIR—Like?

Mr McDonald—The level of production in the Golden Triangle.

CHAIR—Why didn't that affect other countries?

Mr McDonald—It could be that in the other countries there are more markets readily available and the return for trafficking heroin in those particular countries could be more profitable for the groups that are behind them; more so than Australia. I do not know; I am surmising to a certain extent. All those things have contributed. We also have to look at the fact that there are only so many organised crime groups within Australia involved in this. If we keep chipping away through a vigilant, very concentrated and dedicated effort, eventually we are going to make an inroad. That did happen over the last few years and continues today.

CHAIR—In your submission and in your remarks you mentioned gangs or groups with common ethnicity. In your submission you talk about South-East Asian organised crime and Italian/Australian organised crime. You then said there is no Mr Big as such, but you have these organisations presumably which are in competition with each other.

Mr McDonald—In some aspects, they are in competition with each other. At times, you will find that groups will come together as well to facilitate their own business activities. If one group has a market, say, for one particular drug and they know that there is another group over to the left or the right that can help supply them, they are likely to come together for that business transaction, much the same as legitimate business does. If you have a legitimate business and they are short on car parts and there is another business down the road that has those parts, they will come together to supply them. I do not know if Mr Gray wants to add anything.

Mr Gray—Yes, I think that reference to business is quite helpful. Organised crime needs to be understood as a business, certainly from the perspective of those who run it. Many of those

people are perfectly capable of making their way in the world by legitimate means, but they choose to do so by illicit means. They weigh up threats and opportunities, choose the particular illicit commodity in which they will traffic and run their operations according to recognisable business principles. As Mr McDonald was saying, that will include on occasion cooperating, for pragmatic reasons, with other groups who might be deemed competitors. In fact, that last phenomenon is one of the observable recent developments in Australian organised crime.

We have said elsewhere in one of our documents that there are some distinctive characteristics within Australian organised crime as opposed to organised crime occurring overseas—that willingness to be flexible, to switch from one product to another, to break down what might historically have been ethnic divisions between groups. There is now an entrepreneurial spirit and a willingness to put profit motive first and to remove those barriers where appropriate.

CHAIR—Where do smaller gangs of people fit into the structure of organised crime? Are they engaged by organised crime? Do they fit into the structure?

Mr McDonald—Not necessarily. It is quite often youth coming together and having common points of interest—comradeship and being able to do things together—and they may commit minor offences. It is a matter of whether members of that group will go on and make crime a career.

CHAIR—To graduate, as it were?

Mr McDonald—Yes. It is not as though there is organised crime out there recruiting them and doing that, although it is not beyond some of the organised crime groups to use vulnerable youth as well for their ends.

CHAIR—It has been put to me that the sale of illicit drugs, narcotics, is almost a form of pyramid selling, which of course would be outlawed for legitimate business, but those laws would not act against them. The pyramid works and that is their method of distribution. The person who is the lowliest schoolchild, who takes the drug into the classroom, is part of that pyramid of sales.

Mr Gray—That is the point we and others who have tendered evidence have made. Contrary perhaps to popular perception, there is a demonstrable link between the major crime figures at the top of the pyramid and what might be termed volume crime—property crime—happening at the bottom of the pyramid. A domestic burglar who is taking property may not be perceived to have a link with organised crime, but that person may be a drug dependent offender who is motivated by the desperate need to obtain goods or cash in order to fund his habit. A linkage to the top of the pyramid can be demonstrated—that property crime is occurring for reasons that are attributable to the major criminal activity in importing the drugs in the first place.

Mr MURPHY—Mr McDonald, the NCA is promoting a whole of government approach to dealing with organised crime. Could you tell the committee where you think the federal government is deficient in not having that whole of government approach?

Mr McDonald—I think there have been major inroads made. The whole of government approach is not just the federal government, but state and federal governments working together

on law and order. It cannot just be left in the domain of the federal government and it cannot be left in the domain of one particular state. It is a matter of all law enforcement agencies and kindred agencies working together in sharing intelligence and being able to collect that intelligence to really understand what the big picture is of organised crime impacting on Australia and I think there is still a considerable way to go. There is always room for improvement. One of the steps of the Australian Crime Commission is that, for once, we are seeing the ABCI, the NCA and the Office of Strategic Crime Assessments coming together. In theory, that is a major step forward and, if we can get our systems working together from an intelligence collection point of view and the states feeding into that, we have a very formidable system that is going to really serve the people of this country well.

Mr MURPHY—What are the barriers that restrict law enforcement agencies working together in addressing organised crime?

Mr McDonald—Some of the restrictions are the different systems that are in use—computer systems where one cannot talk to another and so on. A lot of that is slowly being addressed and broken down; the fear of corruption in some areas, where one organisation has to have the confidence of another. If it is thought that there is corruption in a particular area, that is something that is going to avoid open communication exchange of intelligence. Sometimes there are secrecy provisions in legislation that have to be overcome before the sharing of intelligence and things of that nature. I have witnessed over the last five or six years major steps forward in freeing all this up and agencies coming together, which is a very positive sign, but we still have a long way to go.

Mr MURPHY—Do you think it is possible that there is corruption in some of these law enforcement agencies that would not give you confidence in dealing with some of those agencies in addressing major crime; for example, the importation of heroin?

Mr McDonald—One of the features of organised crime is that it thrives on corruption and corrupting people. Anyone would be naive to suggest that any organisation is free of corruption, in my view. It is a matter of having programs in place to address corruption throughout the various organisations and for people such as me and others in leadership positions to be able to relate to other senior executives of the other organisations, know where the problem areas are and work around them, where that is possible, with a view to eliminating that corruption.

Mr MURPHY—Do you think that corruption extends to the politicians, the police and the judiciary? I say that against the background that one of our witnesses tomorrow, Mr Tony Trimmingham from the Family Drug Support Group, has actually put in a recommendation—and you might not be aware of it—to our committee. He says:

We would like to see the National Crime Authority retained as an independent crime fighting body free from political agendas.

What impact do politics have on the way you do your job and how could you do your job better if politics did not have an influence? What might you do better to combat organised crime?

Mr McDonald—Sir, there are a number of questions there. I certainly do not have any evidence of corruption with politicians, but you have to always be on the alert that that can

happen and organised crime figures will try, whenever they can, to exploit politicians, senior public servants, people in the private sector. That is a part of their technique.

CHAIR—Won't they also try and corrupt people who are putting forward a so-called 'feel good' policy and to get the outcome they want?

Mr McDonald—Yes, and no doubt to try and influence wherever it is in their favour to do so. In relation to politics, you have really opened up something there. Where I would come from is to have the wherewithal to be able to get on and do your job—that is, the funding arrangements, levels of staffing and things like that which can restrict you at times. There are systems in place where we put our bids in and argue for money. You must be properly resourced, particularly in the area of organised crime investigations, because it is enormously expensive. You are using electronic surveillance, you have physical surveillance teams out in the field trying to maintain them 24 hours a day, seven days a week, which is what we have to do to be able to collect the evidence against these particular people. It is very expensive and that is probably where we have the greatest difficulty. But so do all other departments in the work they have to do and there is only so much of the taxpayer dollars that can be allocated, I guess.

Mr MURPHY—Because Mr Trimmingham has experienced it first hand he has a very positive message when addressing problems, particularly problems with drugs. He feels that you are not independent and that you are not free from political agenda. Is the political agenda only the fact that, yes, you would like more resources, but there are only so many taxpayer dollars and every government agency will always complain that there is not enough money; that is just the way it is? Is there any other political interference on all sides of politics?

Mr McDonald—He may have that perception but I do not see any political interference or agenda there. The National Crime Authority at the moment is an independent statutory body. There will be change once the ACC legislation comes into place. That independence does disappear as far as the chairman and the two members of the National Crime Authority are concerned. Perhaps that is the angle he is coming from, but I think it would be improper for me as a public servant to comment further on government policy in relation to that.

Mr MURPHY—Finally, in relation to the perception that you might have personally—or any of your staff—that some of the other 18 or so law enforcement agencies that you have to deal with possibly could have members who are corrupt, what do you do about that? If you have some evidence or a serious allegation levelled at one of those other agencies that you feel might be a barrier in addressing organised crime, what do you do about that?

Mr McDonald—If we are investigating organised crime and we come across corruption, or we suspect that there is corruption involved, we very vigorously pursue it with the other agency. The National Crime Authority itself can take certain action, particularly if that corruption is entangled with the group and part of the criminal offence being investigated. It is open to us to charge that individual, irrespective of whether he might be a member of another police agency, another law enforcement agent or another government body, with the criminal offence. But normally if it is another law enforcement agency under suspicion of corruption, we would liaise with the hierarchy of that particular organisation in their internal affairs areas and pursue it with great vigour. But, in undertaking an organised crime investigation, it may be that we have to work around that too, and isolate it to one side while we move ahead to get our objective of taking out this particular organised crime group or individual which we may be targeting. So we

might have to work around and put up some form of camouflage around that to isolate that corruption to one side whilst we do it.

Mr MURPHY—One could imagine that the corruption could extend right to the apex of the organisation and that the head of that organisation—he or she—is corrupt. It must be very difficult.

Mr McDonald—There is always that possibility, but I must admit I have a lot more confidence in the area of law enforcement today than I had, say, 20 years back. I have all the confidence in the world in the senior officers throughout various law enforcement agencies in this country at the moment.

Mr MURPHY—That is good. Thank you.

Ms JULIE BISHOP—The submission refers to a United Nations assessment which puts the global illicit drug trade as the third most profitable industry in the world, so we are talking about a significant globalised business here. You talk about profit as the driver of organised criminals and then later, under the heading ‘Future for national law enforcement’, you talk about the essential aspects—that is, attacking the drivers and the motives behind organised crime, which I take it is the profit aspect. There is a legislative regime in place across different states dealing with proceeds of crime, profits of crime. What more could be done in that area? What more could be done in terms of legislation and programs? What can the federal government do to attack the driver, the motive? It seems to me fundamental to our whole approach to organised crime.

Mr McDonald—We have been very fortunate of late that recent amendments have been moved to the proceeds of crimes legislation moving it into the civil arena, whereas before we had to prove the predicate offence, which made it very difficult at the federal level in respect of money laundering. We have also seen a body of other legislation in relation to assumed identities, controlled operation certificates and the like, but we are yet to see the fruits of that legislation coming into being. I think there are opportunities out there at the moment, because of that legislation being passed, which we can capitalise on. We have not yet done so, but we are moving in that direction. At this stage I find it very difficult to say that we can do a lot more. Over the next 12 months to two years or so, I think you will see a lot more being done in this particular area, now that we have that legislation.

Ms JULIE BISHOP—If you put that legislation to one side—let us assume it is enforced; it is operating—what else does the NCA, the ACC or any other law enforcement body need in order to be able to attack the profits of crime?

Mr McDonald—One of our difficulties at the moment is whether we have continued funding. It is tied funding at the moment, which has to go back through the system to what is known as our Swordfish program. If that funding is not forthcoming we will be in difficulties in being able to pursue this line to the extent we should. I go back to my earlier answer: it is having the wherewithal, and particularly sufficient funding, to be able to launch proactive investigations into these particular areas. There are various methodologies that can be used in relation to attacking money laundering at the national and international level and that is where the NCA and, hopefully, the ACC will go.

Ms JULIE BISHOP—Is there any initiative being done in a comparable country that we are not yet undertaking? Funding aside, is there anything we are not pursuing that can impact on the proceeds of crime?

Mr McDonald—I do not know of anything; in fact, Australia in many respects leads the rest of the world in a lot of these areas. But I personally cannot recall anything. I do not know whether David can.

Mr Gray—No, I do not think so, but other relevant amendments that have been introduced are worth mentioning, also to do with financial transactions. As part of the post September 11 amendments last year, the legislation there was strengthened. Financial intelligence emanating particularly from Austrac, the Australian Transaction Reports and Analysis Centre, is a vital tool to us and to other agencies in revealing the anatomy of organised crime. The old adage about ‘follow the money’ still holds good and in following that money trail to a point where simple forfeiture is now a realistic option. That has equipped law enforcement with some much more powerful tools.

Ms JULIE BISHOP—Do you think there is enough awareness, education, throughout the money chain, on the part of people—bank officers, people involved in financial transactions and the like—to detect signs of organised crime, profits of crime? Do you think there is enough understanding amongst the financial sector generally as to what they should be looking for in order to alert the authorities? Is that an area we ought to be concentrating on?

Mr Gray—There is always scope for further information and education in that area. I think some good initiatives have been undertaken, but so much ultimately depends on judgments made by individuals in a position where they see a suspicious transaction taking place and there is the discretion to report or not report. There are programs in place to ensure that people in those positions of responsibility are equipped to know when to exercise their discretion and put in a report.

Mr McDonald—I will add to that by saying I still think there are a lot of initiatives that law enforcement can undertake which we have yet to do as well.

Ms JULIE BISHOP—Such as?

Mr McDonald—Without giving away methodologies, the way that we might go about investigating them, proactively targeting money laundering—particularly now that we have the powers under this legislation, I think we can do a lot more there. But I think there is always room, as David just said, for education of bank officers, cash dealers and others.

Ms JULIE BISHOP—It comes down to intelligence gathering, doesn't it?

Mr McDonald—That is right, yes, and having that outreach into the community. I think outreach into the community from an organised crime perspective is still an initiative that could be pursued much more than we have done in the past in education and so forth.

CHAIR—Mr McDonald, what percentage of crime in Australia do you think is organised crime?

Mr McDonald—I do not know. Do you mind if I take that on notice and came back to you with a percentage figure? I will see what stats we have within the authority, rather than just give you a figure off the top of my head which could be quite misleading.

CHAIR—I would be most interested because we heard some evidence in Melbourne from the Motor Vehicle Theft Reduction Council. I will deal with the year 2000. They gave us stats that there were 137,000 stolen vehicles, of which 80 per cent were found. They say that that 80 per cent were really opportunistic thefts, that the cars were normally 10 years old, not locked and grabbed. But 20 per cent of those thefts were organised crime for rebirthing, for the parts industry—for a whole range of things which they put out on a diagram. I think they actually made the statement that the most popular stolen car for their purposes was a 1994 BMW. A car that is still under warranty does not have a value for them because the parts market is not there. It is very organised and they are finding exports, particularly to the Middle East, in containers.

You made the statement that rebirthing was used basically to finance other industries. You mentioned firearms—and I would like to hear a bit more about the trade in firearms, particularly in view of the fact that we took such a hard line on the buy-back program of certain types of firearms and the debate that is going on now about hand guns—and illicit drugs and the sorts of illicit drugs organised crime is now moving into. In your submission you say there is a movement into chemical based drugs rather than crop based drugs because they are easier to deal in and much harder to detect.

Mr McDonald—On the issue of trafficking in firearms, that is something that we are still learning a lot about ourselves; in fact, it is going to be one of the first references to the Australian Crime Commission, once it gets up and running. It will be looking at that area. We are doing a lot of research at the moment trying to pull the threads together from that angle. The main difficulty appears to be with hand guns more so than long arms and so forth. It is the favourite of the criminal elements to be able to conceal them, to be able to move around with them.

As far as narcotics is concerned, all the hard narcotics are still there. Heroin, cocaine, cannabis resin and drugs of that nature are still prevalent out there. There is still a lot of marijuana being grown within Australia as well, but the trend is to move towards the designer synthetic type drugs, particularly amphetamine type substances. There are some demographics that show that the market is there, so organised crime groups and those involved in the distribution are capitalising on that particular drug which is more friendly to the youth of today, particularly the dance parties.

CHAIR—Is that market growing?

Mr McDonald—Yes, it is—throughout South-East Asia and also in Australia and elsewhere.

CHAIR—So choice in the market, like any other market, has resulted in a greater and expanding market.

Mr McDonald—True.

CHAIR—People who would not use heroin, because they do not like needles and dirty drugs, as I think they are called, would go for a pill with a designer connotation.

Mr McDonald—Yes, but unfortunately they do not know what they are putting in their bodies, because of what is mixed in those tablets.

CHAIR—No. Are we telling them?

Mr McDonald—Just to give an example, in two of our most recent investigations, one resulted in the seizure of 150.4 kilograms of MDMA, which is ecstasy, and the other was 123.6 kilograms. We can boast, I guess, that we took out the complete organised crime syndicates that were around that based here in Sydney.

CHAIR—What did you do with them? Were they prosecuted? Are they in jail?

Mr McDonald—They are before the courts at the moment and the matters are still to come before court. We still have to prove our case. Some have pleaded guilty in those matters already, but there are others yet to go to trial.

CHAIR—Where they plead guilty, do they do deals?

Mr McDonald—Yes, they can do. It is open. There are provisions now within the Commonwealth Crimes Act. If they are charged with the importation of these drugs they can assist themselves—I think it is section 21—if they want to turn crowns evidence and things of that nature. That does happen from time to time.

CHAIR—Without talking about any specific case, what sorts of sentences do they get?

Mr McDonald—They are still reasonably hefty. We have been seeing an increase. If the matter is fought all the way through, it is generally 20 years plus that we have witnessed. For someone who cooperates, it could be 14 or 15 on the top and eight or nine on the bottom. That is the terminology that is used. That is with the allowances and what have you.

CHAIR—So if you take them out of circulation for that amount of time, does that lessen the activity of illegality, or does somebody come in and pick up their territory?

Mr McDonald—The opportunities are always there. If you take someone out, you cause a vacuum. When others, who are entrepreneurial, see an opening in the market, they want to go in there and pick up. It is the same with a legitimate business. If you have manufacturers of a certain product and a competitor fell over and went bankrupt, another group will move in. You get that type of activity. It is not unusual to see some criminals—particularly those of the organised crime ilk, the ones who are really career criminals—attempt to keep their enterprise running from within jail.

CHAIR—From jail.

Mr McDonald—That also happens and it is something we have to be aware of.

CHAIR—What can we do about that?

Mr McDonald—They will have other people on the outside who will try to look after their interests and keep their business activities running.

CHAIR—When I asked you whether or not the market was increasing—and I hate using commercial terms to discuss crime but the number of users is increasing—do you think that is in part because we send a soft message out that it is somehow okay? I have heard announcers on the ABC talk about ‘recreational drugs’. I heard a commentator say, when a particular footballer was suspended because of taking cocaine—and there was outrage in the voice—‘Oh, it’s not as if he was taking steroids.’ We have this strange dichotomy where we say for our elite sportsmen, ‘Absolutely none,’ and yet we are sending a mixed message that somehow it is okay. The figures show that, since we have been saying it is somehow okay, the number of people who are using it is growing. Is there a correlation between the soft message and the growth of users?

Mr McDonald—Not necessarily. The importation groups and organised crime groups involved in the distribution are there for greed, for the profit motive. If there is an opportunity to make big money out there, they are going to capitalise. On the soft message side, law enforcement cannot do this thing alone and it does come down to education as well. It may be that we need to pick up and be educating the public more through advertisements and newspapers and so forth.

CHAIR—And telling people what it really does to them.

Mr McDonald—It really does hurt. And telling them what goes in to making up amphetamines. Sometimes it is not unusual for them to mix rat poison and things like that in that particular tablet. That is going into people’s bodies.

CHAIR—Into the bodies—what about the brain?

Mr McDonald—Yes, the brain as well; that is true. It affects their health no end. I do not think the young people of today are stopping. It is very fashionable and there is peer pressure when they go out to dance parties and the like. Someone else is taking the tablet, so it is an experimental thing and away it goes.

CHAIR—I have been told that there are certain places where you can identify—you can pick up the signs—that amphetamines are being distributed: you will find in a particular bar that all the patrons drink water. They know that they cannot mix alcohol with whatever they are popping and so water is sold at a premium because they get very thirsty. It concerns me that we have blurred the line between illegal drugs and legal drugs like alcohol. For better or for worse, as a society, we have chosen alcohol as a social lubricant. It is legal; tobacco is legal. So we have a blurring of the lines. I suspect some people have done it deliberately, saying, ‘Oh, well, we can control this by regulation; ergo make these legal and we can control the rest.’ I do not accept that argument. I keep thinking about what is happening to their brains, what is happening to the society. As the message has got softer, the numbers have got bigger. How do we get that message across? How do we tell people what they are doing to themselves?

Mr McDonald—I do not pretend for one minute to have the answers, Madam Chair. As I said before, you have to really push the education campaign side of this problem out to the general public and get the message through the schools.

CHAIR—But it seems to be at the higher echelons. When I was Minister for Aged Care we had a meeting with Department of Health officials. I said, ‘Would you mind doing me a paper about the cumulative effect of marijuana in the body and the risks for psychosis?’ I was told, ‘No, it doesn’t accumulate in the body. It’s gone in three months and everything is okay.’ I said, ‘That is absolutely not true. Would you mind going away and doing some work.’ Six weeks later I received 1½ pages telling me, ‘Sorry, you were right.’ If that is the level of misinformation, where do we start?

Mr McDonald—You have to start from the basics and build up, to be quite honest.

Mr CADMAN—We have received evidence of crime and imprisonment trends that seem to indicate that most countries have increased their imprisonment rates. This is having an impact on the crime rates, which are dropping generally around the world. The only two countries that appear to stand out as being different in this ratio are Australia and Japan. Why is that?

Mr McDonald—I do not have the answer. I listened very intently when it was raised in the earlier session.

Mr CADMAN—Even speculation may help us a little; something from your experience, knowledge or observations which cannot be properly sourced as to research would help us in this examination.

Mr Gray—It is really not an area where the NCA has any particular expertise. We are focusing on the highest level of organised crime, a very specialist niche in law enforcement.

Mr CADMAN—Where do we stand compared with the rest of the world then? You are the experts; tell me.

Mr McDonald—It is difficult to say in relation to sentencing, if that is what your question is about.

Mr CADMAN—I guess that is right, our success rate as compared with others and the fall in crime. We seem to have an increasing crime rate and decreasing effectiveness in its management.

CHAIR—Two propositions have been put forward to us and research has been continued by Ms Mayhew. The first proposition is the demographic effect: we are ageing less quickly than other countries. Japan is the stand-out as it is ageing the most. We have fewer 17- to 25-year-old males, who are the major perpetrators of crime. The second proposition is that in other countries there has been a sort of civilising effect on people who would otherwise be in a criminal culture. That is a very much more difficult concept, but one that is certainly being researched. Not only are we seeing an increase in crime in Australia, as Mr Cadman has said; we are also the introduction of new types of crime. Identity fraud, which you have just touched on, is going to escalate, isn’t it?

Mr McDonald—Very much so.

CHAIR—How are we going to get a handle on identity fraud?

Mr McDonald—We are still learning a lot and there needs to be a lot more operational activity in relation to identity fraud by law enforcement. At the moment we seem to have any number of government bodies looking at the problem of identity fraud, but we need to start taking some aggressive action operationally to further develop it and see what we can do about it. As you can see from those documents, it is a very serious problem. If some of those documents are produced, who is going to question them?

CHAIR—Absolutely. We are in line with that tactic. I have one other question. When do you use your coercive powers and how often do you use them?

Mr McDonald—Madam Chair, I have brought a paper. I was informed yesterday that you were after those figures. I have copies here for you which will answer the question you just asked on how often we use them.

Mr MELHAM—Are they able to be received into evidence? Is there nothing confidential about them?

Mr McDonald—No, not about this.

Resolved (on motion by **Mr Melham**):

That this committee receive the documentation into evidence.

CHAIR—For the benefit of people who are listening, would you describe when you might use coercive powers and how effective you think they can be.

Mr McDonald—The only time we can use coercive powers within the National Crime Authority is for what is termed a special investigation. That is a reference that has been given to the authority through the intergovernmental committee that is formed under the NCA Act. For instance, the reference that I am more directly responsible for is South-East Asian organised crime. In targeting organised crime groups in that area, if there is information or evidence that we cannot get through traditional law enforcement or investigative means, those powers are invoked. Someone can be summonsed to appear before a member of the authority—or, since last October, a hearing officer who has been appointed under the NCA Act—to give evidence relating to the matters they are going to be cross-examined on.

We can use other sections, such as section 29, to produce documents that may have some relevance. The idea of that provision is that it saves having to get a search warrant. It also has certain secrecy provisions around it. The person who receives a notice to produce documents commits an offence if they go and talk about the fact that we have sought those documents. Should we arrest members of an organised crime group, say, for the importation of narcotics, and we feel that they might try to come up with a certain defence, we may very well conduct hearings to negate that defence being brought up later in the trial.

We also use it to try and get a good feel for what is happening out there and to be able to scope the full extent of the criminal environment—to get the big picture on what is impacting on Australia. All those things come into play.

CHAIR—Is it correct that evidence or information you obtain from the exercise of that coercive power may not be used in evidence in a trial but you may use what you might deduct subsequently from that?

Mr McDonald—True. Because of the amendments that were made to the NCA Act back in October, the National Crime Authority now has the ability to compel someone to answer a question, even if they claim self-incrimination. If they do claim self-incrimination, they are still obliged to answer the questions but the answers cannot be used against them in a court of law.

CHAIR—I see.

Mr McDonald—One of the facts that you often hear, and that I get a little sick of hearing from time to time, is the reference that the NCA is no more than the ninth police force. When matters go before court and prosecutions are unfolding, the evidence looks no different to that of any other law enforcement agency that might be prosecuting someone. The fact that we have used the special and coercive powers under our act does not generally surface in court. A lot of people say, ‘We could have done that or we could have done this,’ but, if it was not for those special powers, we may not have been able to get to the truth of the matter.

Mr MELHAM—Those special powers are there, Mr McDonald, because of the recognition that you need those powers when you are dealing with organised crime. In other words, you cannot use normal policing methods if you want to extract the cancer of organised crime from our community.

Mr McDonald—Very much so. As I said earlier, the section 29 notice saves having to lay information for a search warrant, to go in and do something that will become public knowledge later on. We need to maintain cover from anything up to 12 months to two years before we can take action against particular individuals or groups. Those powers help us do that. It is a very vital tool in the investigation of organised crime and one that needs to be guarded jealously.

Mr MELHAM—I understand that the current Federal Police Commissioner acknowledges that those special powers should remain with the NCA or the ACC, but they are not powers that are really appropriate to police forces. They are given to you because of the special acknowledgment that you need those powers to combat organised crime.

Mr McDonald—Correct.

CHAIR—The New South Wales Crime Commission has similar powers, hasn't it?

Mr McDonald—The crime commission has similar powers relating to the state.

Mr MELHAM—But not in relation to normal policing methods and I understand that there is no push to extend those powers to normal policing methods—

CHAIR—Absolutely not.

Mr MELHAM—because there is a recognition of that. It is something that does have acceptance throughout Australia, as I understand it, in terms of the special nature of crime commissions and the NCA.

CHAIR—How often have you used the power, Mr McDonald?

Mr McDonald—I have not got a copy of the notes I put out, but I think in the last 12 months we have conducted 176 hearings. That is where witnesses have appeared before the commission. We have issued something like 479 notices to produce documents. I must admit now that with the amendments to the NCA Act we are having a lot more success. As I said earlier, it was a power that was badly needed. Unfortunately, with the ACC and everything, we are still moving ahead to being able to use it properly and get success out of it.

CHAIR—Does anyone else have questions?

Dr WASHER—Mr McDonald, you did cover this a little before: what benefit has the power of confiscation of assets and property been since the new federal and state bills have been passed?

Mr McDonald—How successful?

Dr WASHER—Yes, as a deterrent.

Mr McDonald—It is difficult to quantify it for you but just the fact that you can strip these people of their assets and take that motive away from them has an enormous impact. In the fight against organised crime its value is something that cannot be underestimated. I will take your question on notice, see what figures we have and quantify that for you.

Dr WASHER—I would have thought it was a fairly big stick and very effective stick because it is often very difficult to prove that people do it. If the onus of proof goes back on them by saying, 'Prove to us how you got the money,' that is a tremendous advantage.

Mr McDonald—Yes.

Dr WASHER—What level of cooperation are we getting on an international level on the money-laundering tracing mechanisms? You indicated that one of the departments is looking at this at the moment. Are we getting good cooperation?

Mr McDonald—I believe we are.

Mr Gray—It is an area where Austrac in particular has forged ahead and entered into new memoranda of understanding over the last year with its overseas equivalent agencies.

Dr WASHER—Obviously e-business crime is going to be big in the future. What education processes should we enact to teach people to reduce that crime against themselves? What precautions should they take?

Mr McDonald—At the public level?

Dr WASHER—Yes.

Mr McDonald—We have not been involved in that at all. I do not know what the full extent is.

Mr Gray—It is really outside our area of expertise. There is nothing in particular I could offer you on that one.

Dr WASHER—If you see that as a possible rising area of crime, we should be more proactive in educating people to reduce their risk factors. We do it with cars; we are educating kids in schools about drugs et cetera. That is pretty active, but I do not know of any real attempt made to educate people on e-business crime.

Mr Gray—I think you are putting your finger on an important factor. There are known risks. Some of the knowledge available to law enforcement needs to be made available in a more public fashion so that members of the community can take appropriate steps to protect themselves against avoidable risks.

CHAIR—Is the NCA involved in any way in investigation of that identity fraud scam that is being operated whereby gangs will target the letterbox of a particular individual who is known to receive cheques, usually someone in accountancy or something like that. They steal the envelope, photostat the contents, reseal it and put it back in the letterbox so that you do not know it has been tampered with. They build up an identity of the person, so that when they finally steal the cheques they can go and establish it at the bank. It is there and they can cash it and take it. They have a method of washing it through certain types of businesses. Are you involved in that?

Mr McDonald—Perhaps I should not confirm or deny. I think I am safe in saying no, we are not involved.

CHAIR—You are not investigating any of that?

Mr McDonald—No.

Mr Gray—But I believe we have encountered that methodology in previous investigations.

CHAIR—I understand it is fairly widespread.

Mr Gray—Yes.

CHAIR—People are probably better off with secure locked boxes. Maybe the information should be got out to people who do receive cheques and that sort of thing through the mail that they are much better off with a locked post office box. They can manufacture a credit card with your details on it and clear that out too.

Mr McDonald—It has a shocking impact on the individuals concerned because suddenly that person can go to do a legitimate business transaction and find they are on some form of alert list because their identity has been used, through no fault of their own.

CHAIR—That is exactly right.

Mr McDonald—Again it comes down to educating people.

CHAIR—We really need to think about a way we can get information about that out to people and think of ways they can prevent it happening to them.

Mr Gray—It is also perhaps an example of an area where there is scope for partnership with the private sector. Many of the financial institutions involved themselves have an interest in raising public awareness.

CHAIR—Would you like to take that on notice?

Mr McDonald—Sure.

CHAIR—Also, what percentage of all crime is organised crime.

Mr McDonald—We shall do.

CHAIR—With regard to the documents that you have let us have, we have already accepted them. At a separate time, in Canberra perhaps, we might ask you to come to one of our closed meetings when we can go through that documentation and you can explain to us the significance of it. If you would be agreeable to do that, the secretariat can organise that.

Mr McDonald—Not a problem, Madam Chair.

CHAIR—Did you have another question, Alan?

Mr CADMAN—No. I think that is a good arrangement. Thank you for that.

CHAIR—Thank you very much for appearing today. We look forward to having a further look at that and the additional information we will get from you.

Mr McDonald—Fine. Thank you.

Mr Gray—Thank you.

CHAIR—We will take a 10-minute break and then we will hear evidence from the advocacy group. I have not forgotten the in camera evidence which we will do before we hear Dr Weatherburn.

Proceedings suspended from 1.26 p.m. to 1.54 p.m.

McCORMACK, Mr Eric, Chief Executive Officer, New South Wales Justice Advocacy Centre

CHAIR—Mr McCormack, do you have any comments to make on the capacity in which you appear?

Mr McCormack—Yes. I also work with Justice Action and Prison Services and a number of other affiliated groups in looking at crime overall.

CHAIR—Thank you. I understand you have a supplementary submission.

Mr McCormack—Yes. It is very general because I was not aware of how closely this committee was looking into crime. I thought it was more in general terms.

Resolved (on motion by **Mr Melham**):

That the submission be received into evidence.

CHAIR—Thank you very much. Would you like to make an opening statement?

Mr McCormack—Yes. I have been in this business for 30-odd years and I have dealt with the most organised and the most disorganised criminals during that period. Organised crime is a very small percentage of what is actually taking place in this country. There is middle order crime which is very disorganised and which is very difficult for the NCA and other organisations to actually get onto.

CHAIR—Could you define ‘middle order crime’?

Mr McCormack—Middle order crime is the end result of NCA investigations, which they hold up to the public as major organised crime. This type of crime does not actually get to the root of the heroin importation; it virtually only scratches the surface. If you want a case instance, there was the Kallagher case back in 1985. The NCA watched, over the period of a year, 120 kilos imported into this country and distributed on the streets. They did this to try to gain convictions against the major players. They still only got the people bringing it in and the people selling it, but 400 or 500 people died during that period. Instead of early intervention, it was allowed to go on in the hope of getting convictions. The people still only got the same sentence. The NCA in looking for big-time convictions really has flawed outcomes.

CHAIR—With regard to middle order crime, are these organised into gangs? Are they identifiable by certain characteristics?

Mr McCormack—Middle order crime is available; there is one in every suburb in New South Wales and there are a few larger ones that link a few of these middle order people. These are the people dealing the majority of the drugs to people which creates about 80 per cent of crime in this state.

CHAIR—Where do they get their drugs?

Mr McCormack—A lot of them are little entrepreneurial groups when they start off. Australia is fortunate in that it has very few connections with the rest of the world, other than Asia. But our connections are now starting to widen as we bring in other ethnic groups. Those ethnic groups bring knowledge of their countries and their systems.

CHAIR—I see. Are we starting to see new ethnic groups emerge now?

Mr McCormack—Ethnic groups now are starting to become a major problem because of their links which were previously unknown to our law enforcement agencies.

CHAIR—So are you saying that they are linked to groups in other countries?

Mr McCormack—They are linked, but they are linked to middle order people, who then go up the ladder in their country. So once again we are talking about middle order criminals and middle order links.

CHAIR—You have talked about running programs over a number of years with solid results. Are these designed to prevent recidivism?

Mr McCormack—The diversionary programs we run rely on diversion and mentoring. We have some of the highest profile ex-prisoners in our organisation at the moment doing mentoring type schemes. The last person of any great significance was Gregory Wayne Kable. A special law was passed. We have had him for seven years without difficulty. Greg has some mental problems and he has some background problems but in the mentoring scheme, where he is very closely associated with people, these problems are kept under control without the use of drugs and without the use of the authorities. If things escalate, we do have professionals to call on.

CHAIR—What sorts of mentoring programs do you run? What do you actually do in those programs?

Mr McCormack—With someone who has served a very long term of imprisonment there is often a very deep-seated anger at the system. There is little identification with society when they are released. This process has to be one of give and take. When we take them the first thing we do is try to provide them with an identity. We get them their birth certificate and all their documentation; we get them on social security; and we get them housed safely and securely. Then we bring them into the organisation on a volunteer basis to work with us. During that period we try to lead by example and assist these people in a gradual integration. It takes quite a deal of time for these people to actually break down their anger, their thoughts and their urges, so we look at a minimum of 12 months in the program before we feel these people are even ready to begin addressing their offending behaviour.

CHAIR—What would be the history? If we went back and looked at the people with whom you are dealing and traced back their childhood experience, are there common denominators that you would find?

Mr McCormack—There are a number of different groups that we find come through. I would say there are three major groups that I see most of the time. One comes out of the child welfare system, which is the Department of Community Services. Others come from very poor

and often violent suburbs, where people of low socioeconomic value are grouped together. So there is peer pressure plus there is hopelessness and a lack of income. Then there is the other group of basically street kids. They start off with small difficulties with parents, the parents are not equipped to handle it and the kids leave home. In these cases, we often find that parents really love the kids and would take them back, but it is not a feasible union, and so we put these people into a special diversionary program.

CHAIR—You say you get a very high success rate with these programs?

Mr McCormack—With the street kids, if you house them, identify them and show them another way—take them out of the particular environment in which they were living and introduce them to new people and to new ideas—they are often very receptive.

Ms JULIE BISHOP—How do you judge the success rate in that regard?

Mr McCormack—People who do not get into trouble again. When they get into trouble again and actually wind up in the prison system again, we find it increasingly more difficult because these people learn certain behaviours in jail and it takes a long time to reverse that teaching.

Ms JULIE BISHOP—What you are saying is that, if they go into one of these programs, you have tracked them and you are able to say that they do not reoffend.

Mr McCormack—Most of them that have come into the program are still in it, still associated with it, and those that are not have gone on to do other things.

Ms JULIE BISHOP—I am trying to understand how closely you track their future so that we can make some sort of judgment as to the ultimate success of such a program. Are you saying that you track what these people do once they leave the program, to ensure that they are your successes?

Mr McCormack—We do not invasively track them.

Ms JULIE BISHOP—No, I did not mean it like that.

Mr McCormack—On social occasions—birthdays, any occasion that is possible—we send them an email, a letter or an invitation to attend any of our social functions and, during that period, we take note of what is taking place in their lives.

Ms JULIE BISHOP—And you are finding that, in the main, these people are not reoffending?

Mr McCormack—We are finding in the main they are not reoffending. We are having a success rate which far exceeds any monetary gain that you could place on a program that was funded.

Ms JULIE BISHOP—Do you have any statistics or percentages of people that have been through your programs that have not reoffended?

Mr McCormack—Statistics are an unfair way to judge a program.

Ms JULIE BISHOP—I agree. I am trying to work out how we can judge success, rather than just anecdotally.

Mr McCormack—Twelve of our most serious offenders still have not reoffended. The last one was a federal prisoner released after 12 years for very serious crimes. He has been 12 months without reoffending. He is now in a Housing Commission home. Gregory Kable is seven years. Of the 12, none have reoffended. John Kaden, 30 years, out 12 months still has not reoffended. You cannot measure that success in the same quantitative way as when you actually take people from the courts. If the courts send someone down to us on, say, a community service order, the success rate is very poor.

CHAIR—Is that right?

Mr McCormack—These people do their order and go on.

Ms JULIE BISHOP—What does that tell us?

CHAIR—So you are saying the non-custodial sentences really do not work.

Mr McCormack—About 30 per cent of the people who come down to us on community service orders learn something and maintain contact. With the remainder, we are finding that where there is an underlying drug problem we are not handling that. It is a specialised field. We have looked at hugely different and varied ways to try to handle the drug problem, but we find that people with drug addiction problems often need more specialised help than we can provide because they are perpetual reoffenders.

Ms JULIE BISHOP—While they are in the throes of an addiction.

Mr McCormack—We lose our tools and things. We try to bring them back and explain to them. We get the stuff back sometimes. Then we take them out of the program because we realise that, if they are going to steal off us, what chance has anyone else got.

CHAIR—It has become a behavioural—

Mr McCormack—There are some serious difficulties in dealing with people with a drug addiction because often there is a mental illness problem underlying the drug addiction. I am very close to this and I tend to take more time with those people because I had a son who was drug addicted who died of pneumonia at 25. I have a daughter who had a drug addiction and attempted to commit suicide. I have watched these things develop over the years and I have dealt with families who have had drug addicted members and the most difficult thing is isolating them from the drug. You need to isolate them from the drug, with perhaps some other form of intervention that relieves the initial craving—their initial mental needs—and then provide an alternative and some type of lifestyle that they will accept, and acceptance is a hugely important point. The minute they get their backs up, you lose them, so you have to be a little more careful in how you deal with them. It is almost at the stage where you mollicoddle them. Some people say if you do nurse them, they will die in your arms, and they do sometimes.

Ms JULIE BISHOP—Mr McCormack, how did your children get involved with drugs in the first place?

Mr McCormack—My wife and I split up and my wife went with someone who was very close to the drug scene. They lived in a suburb where it was, they mixed with people and it was a gradual drift towards marijuana and then youthful exuberance to try other things. I attempted to deal with it and could have got into a great deal of trouble in preventing heroin dealers getting access to them, but I found you got rid of one and another one popped up around the corner. They were just too smart for me. If I stopped it, they could go around the corner and get it somewhere else.

CHAIR—So they were in an environment where drugs and people using drugs were in their immediate home environment?

Mr McCormack—Within the area. You could walk 10 blocks and find a drug dealer. The drug dealers were so prolific around the Cabramatta and Fairfield areas that you found that most of the drug dealers there were very young, very addicted and quite insistent. They did not care. No penalty will deter people in relation to drugs. The death penalty does not stop them. It is frightening.

CHAIR—Was this in Cabramatta?

Mr McCormack—Yes. I actually lived in Fairfield during this period. I got my daughter into a Housing Commission home and moved her up to Wollongong, which has since become another major area for the distribution and manufacture of amphetamines and a whole range of other things.

CHAIR—Wollongong?

Mr McCormack—Yes. She is actually struggling now, after attempting suicide, to get her life back together. I really do not have an answer, because the drug problem is so widespread and it is so well staffed by drug addicts. To make a dint in the drug problem, you have to somehow cut supply. I cannot understand the NCA allowing heroin into the country to be distributed to get the major players. If they attack every source, no matter how small, that will make a difference. You take one kilo off the streets, it makes a difference. Don't worry about whether they are going to get a smaller sentence; immediate intervention when they see someone dealing will make a difference.

CHAIR—You might have heard the evidence earlier today when it was said that the police would not intervene in people administering a drug to somebody else. You would think that that is just not on.

Mr McCormack—When you talk about safe houses or having someone with them, I have children and I would rather someone was with my child than have them found dead in a back alley. There is an emotive issue there. But the honest answer to that is, the state police cannot be trusted in the administration of drugs. There is just so much profit in it. You need someone totally independent and isolated from it. The police themselves in their own ranks suffer drug addiction and the same sorts of problems that we in the community suffer. I was four years on the royal commission looking into police corruption. We documented 2,500 corrupt police.

What could we do about it? It is not the police who are corrupt; it is the substance that corrupts the system. We need an independent agency that is hands-on, not a large and unwieldy agency, and can attack on all fronts.

Mr MELHAM—I would like to come back to the success of your centre in relation to those 12 individuals who you have given evidence to the committee on. I take it that in each of those cases those people had served long prison sentences.

Mr McCormack—Very long prison sentences.

Mr MELHAM—In terms of the success, it really is as a result of the mentoring and the hands-on approach when they left jail. Did you assist in their placement?

Mr McCormack—We still have Greg Kable and a number of these people with us. They are volunteering for full-time work; they work every day. Once we can get someone working full-time the rate of reoffending drops 90 per cent. We then get them into a stable house in a stable community and we gradually see any chance of reoffending dissipate.

Mr MELHAM—In effect, it is the proactive nature of the service you are providing, including housing and employment, that you would regard as a success in terms of your formula.

Mr McCormack—The greatest success is housing, identifying the person, providing a peer group that is not going to lead them and that can react to them—because these people can be extremely isolated within themselves and can blow up suddenly, almost like a BLEVE of fire. You need to have people around them until these things gradually dissipate, which does not happen overnight. Longer sentences do not cure people. I am looking at an instance now where a person had done 17 years and was due for release. He had been through all the rehabilitation programs and was refused parole. This bloke has now gone back 10 years in his rehabilitation process because he was at a stage where something could have been done. But now the anger, the violence, the hurt and the upset because he was not released have brought up all the old feelings. We need to watch them very closely. When these people come to that stage we need to say, ‘They need to go into a program. Get them out.’ If you do not, they come out and they are very wise. They know the crime scene backwards, they have been educated to a stage where they have a PhD in crime and so, unless you pull that up—

Mr MELHAM—At what stage does your syndicate become involved with these individuals—on the verge of their release, after their release or before their release?

Mr McCormack—We get involved when people write to us and say, ‘I’m due for release. I’ve been refused parole.’ In the case of Kable, we had to take his matter to solicitors, have it go to the Federal Court, have a state law set aside. Once you do that, you incur the trust of the person. Once you have the trust, you are able to do other things gradually.

Mr MURPHY—Mr McCormack, I have a couple of quick questions. Very briefly, what evidence do you have of corruption with the New South Wales police?

Mr McCormack—I have 93 megabytes of it, if you want it. It is literally a rack of volumes up there. But when we talk about corruption, we are talking about noble cause corruption and

we are talking about police who get involved in things. The federal government has a simple tool at its disposal which will very quickly identify people. We look at the amount of money that is gambled in this state each year. If a bloke goes down to the casino and takes a gold card and spends \$100,000 this year and is declaring an income of \$53,000, what do we have? If we go from the financial world where banks report suspicious transactions over \$5,000 into the world where most of the money goes from illicit crime and illicit drug use and from a whole range of other things, we would clearly, quite quickly, uncover people who are prone to criminal activity or are directly involved in it. The recent case where a person spent a couple of million dollars of his employer's money—he was earning \$38,000 a year—would have been uncovered overnight.

Mr MURPHY—Do you believe if there were a change of government, for example, in New South Wales you would get rid of police corruption?

Mr McCormack—No. Police corruption is very longstanding.

Mr MURPHY—Are you saying that a government cannot do anything about police corruption?

Mr McCormack—What happens is governments inadvertently create police corruption because, rather than having an agency that oversees the police that is separate to the police force, they allow the police to investigate themselves. Consequently there is very old camaraderie. If we want to stop mass murder, we would not have Pol Pot investigating Pol Pot. We simply need to have independent agencies with full powers at a federal level so that they are not corrupted by close contact with the people they are investigating.

Mr MURPHY—Very quickly, have you given any of your evidence to Commissioner Moroney, for example, about the police corruption?

Mr McCormack—Our position has always been to pass any of that evidence—most of it has been documented by the royal commission anyway—to solicitors acting in cases, because in the main we represent those people who are unfortunate enough to come before the criminal justice system.

Mr MURPHY—You are saying governments allow this to happen. What advice would you give Commissioner Moroney—who will be here this afternoon at 3.30—to root out corruption in the New South Wales police force, irrespective of what shade of government we have in New South Wales?

Mr McCormack—It does not rely on governments. It relies on a separate agency with powers to act in any state, with laws that are Australia-wide, to prevent the actual cover-up. It needs to have a sliding system so that police are willing to talk about other police without fear of being ostracised. The greatest fear that I receive from police who tell you about corruption is, someone will find out, they will be ostracised and they will eventually be driven out of the police force.

Mr MURPHY—Do you accept that whatever one's profession—starting with a profession like mine as a politician—there are bad eggs in all baskets? You could say that even Long Bay Jail is full of doctors, dentists and accountants—a whole range of people. There is obviously

going to be some corrupt police, there is always going to be some corruption. Are you putting to this committee that really the whole police force is corrupt?

Mr McCormack—No, I do not suggest that at all. What happens is that longstanding police in the service who are corrupt then recruit other police over a period of time with little niggles. Even a little niggle means that person will lose his job if he is caught and arrested. We need a system whereby a policeman who has been forced into a little niggle can actually take a conscience vote and go to someone other than his own police force and say, ‘Hey, I’m getting dragged into this,’ without losing his job and then assist an independent body to follow up and get the true perpetrators.

CHAIR—Mr McCormack, thank you very much for coming in and spending time with us. I found your evidence—particularly about the need to give people their identities—significant, and then to work from there. Thank you for coming and giving that evidence. That will be very helpful to us in our deliberations.

Mr McCormack—Thank you very much.

Proceedings suspended from 2.23 p.m. to 2.29 p.m.

WEATHERBURN, Dr Donald James, Director, New South Wales Bureau of Crime Statistics and Research

CHAIR—Dr Weatherburn, would you like to make an opening statement?

Dr Weatherburn—I have a short presentation to give, but it looks as if technology might be going to let me down. Fortunately, technology so often lets one down that I have some alternative arrangements. I will give you a handout. I will not delay you; I know that you are busy. If it is agreeable to you, I will speak to the paper that you have just been given. What I thought I would do is quickly give you some information about recent New South Wales crime trends, comparing those with trends in other states, then compare the situation in Australia with that in other countries. I thought I might then alert you to some important facts about patterns of offending and patterns of victimisation and round off with a couple of points about preventing and controlling crime.

CHAIR—Thank you very much. That would be most appreciated.

Dr Weatherburn—The first sheet headed ‘Change in assault by state’ shows you on the left-hand side the percentage change in the rate per head of population of assaults recorded by police by state. If the bar is above the zero line, it means there has been an increase between 1995 and 2001. If the bar sinks below the zero line, it means there has been a decrease and the change on the left-hand side and the ordinate tells you what size change it has been. All the graphs I am going to show you follow the same pattern or the ones in the next part of the talk do that. For example, you can see that in New South Wales there has been close to a 90 per cent increase in the recorded rate of assault per head of population between 1995 and 2001. I am going over this point slowly because, once you understand this, you will be able to follow all the other graphs.

Ms JULIE BISHOP—Can I ask you the definition of ‘assault’ for the purposes of this.

Dr Weatherburn—The definition of ‘assault’ for the purposes of this is the definition that the Australian Bureau of Statistics has arrived at in concert with state police services. It will include, for example, assault occasioning grievous bodily harm or actual bodily harm. It will also include domestic assault and non-domestic assault. Where there is a need for clarification, I will explain that.

You can see from the first slide that New South Wales has had the biggest increase in recorded rates of assault per head of population. There has also been a sizeable increase in assaults in Tasmania. There have been lesser, although still substantial, increases in the ACT, Western Australia and South Australia. Only Victoria has recorded a small decrease in the per capita rate of assault. There are always question marks over whether or not increases in recorded rates of assault signify real increases in assault because, as you know, for some time victims of domestic violence in particular have been encouraged to report assault to police. It is also true that the advent of victim compensation payments has encouraged people to report assaults that they might not in the past have reported. That said, when you turn to the national victimisation surveys or national crime surveys, which are representative sample surveys of the relevant community, you still find indications of an increase in assault. Although not all of the increase may be real, I think there is little doubt that some of the increase in assault is probably a genuine increase in crime.

Moving across to sexual assault, there are also sizeable increases in the recorded rate of this offence in New South Wales, Queensland, Tasmania and the ACT, with somewhat smaller increases in Western Australia and the Northern Territory, a slight decrease in South Australia and a substantial decrease in Victoria. Again, it is a problematic offence. Victim surveys indicate to us that less than 25 per cent of victims of sexual assault report the offence to police. Governments and police services are continually trying to encourage greater reporting and detection of sexual assault. In this instance, the crime victim surveys do not support the police data. The crime victim surveys do not show an increase in the prevalence of sexual assault in the community, so it is far less certain that there has been an increase in sexual assault, despite these figures, than it is that there seems to have been at least some increase in assault. Is that reasonably clear?

CHAIR—Yes.

Dr Weatherburn—The picture for other offences is a lot clearer, because the police figures are a lot more reliable. If you turn to sheet headed ‘Change in robbery by state’ you will see that quite a number of states have experienced big increases in this offence and there is no doubt whatsoever that these are genuine increases in crime. New South Wales has suffered the worst. We have had more than a doubling of the prevalence of robbery between 1993 and 2001, but New South Wales has not experienced that pain alone. Victoria has also had more than a doubling of its robbery rate. There have been sizeable increases as well in the ACT, Western Australia and Tasmania and lesser increases in the Northern Territory and Queensland. South Australia alone seems to have been lucky enough to escape the problem, with a slight decrease in robbery occurring.

The next figure takes you to ‘Change in break and enter by state’. The pattern here is quite mixed. New South Wales has experienced over a 30 per cent increase in the rate of break and enter over this period. The Northern Territory has experienced a big increase. There has been a small increase in Western Australia, but some sizeable drops, most notably in Tasmania, South

Australia, Queensland and, to a lesser extent, Victoria. There is a very uneven picture there, with New South Wales experiencing something of an increase. Break and enter, of course, is far and away the single most prevalent offence in Australia. About one in 20 households are burgled every year.

The change in vehicle theft rates is shown by state in the next slide. You can see that Tasmania, for reasons I cannot explain, has experienced a tremendous increase in the incidence of this offence. New South Wales has experienced a slight increase, a moderate increase. Victoria has also experienced a somewhat greater increase. The stand out figure is that for Western Australia, which has experienced a big drop in motor vehicle theft. That is very encouraging for Western Australia, which used to have the highest motor vehicle theft rate in the country by far. You will recall 20,000 people meeting outside parliament complaining about the state of the problem. Anybody who has read the *Bulletin* will know that one of the major reasons for the drop off in motor vehicle theft in Western Australia was the mandatory introduction of engine immobilisers.

CHAIR—Can I comment on the Tasmanian figure for motor vehicle theft?

Dr Weatherburn—Yes.

CHAIR—We had evidence from the National Motor Vehicle Theft Reduction Council that they have programs in place in every state in Australia except Tasmania and their statistics for 2002 show a decline across Australia in vehicle thefts.

Dr Weatherburn—They may do. The figures I am giving you are the national figures and the most recent set is 2001. You can always leapfrog one year beyond them by going to the state police figures.

CHAIR—They pointed out that they were yet to have a program in Tasmania.

Dr Weatherburn—They could do with one, although do bear in mind that when you are talking about a state like Tasmania, a big increase in percentage terms is not necessarily a big increase in the absolute number of thefts. Of course, we could go on and on about different offences, but I thought I would single out just one other offence for your attention, because it has received so much attention in the media, and that is the trend in recorded shooting incidents in New South Wales. This is a problem which is pretty much at the moment unique in New South Wales.

Mr MELHAM—Is the definition there just firearms going off?

Dr Weatherburn—No, it is not. These include only offences where there was an intention to shoot to kill or shoot to cause grievous bodily harm. It does not include accidental discharge of a firearm. Quite frankly, I would rather have given it its proper name but the labelling in the PowerPoint package I was using does not like too many words. I had to stick to 'shooting incidents'. You can see that there has been quite a substantial growth. The numbers are still comfortingly small but the change in the growth has been quite substantial.

Mr MELHAM—Do you know whether they were hand guns?

Dr Weatherburn—They are substantially but not only hand guns. If you were looking at a graph showing a hand gun climb, you would see a pattern fairly similar to that.

Mr CADMAN—Are they percentages or numbers?

Dr Weatherburn—Percentages. Percentage changes. Sorry, the previous graphs were percentages. I am sorry, these are all numbers. My apologies. Even with my glasses the numbers are too small for me to read but those are raw numbers of cases. The problem is confined largely to a couple of statistical subdivisions, most notably Canterbury-Bankstown.

CHAIR—Really? Of those shootings, you said that they have occurred in Canterbury-Bankstown.

Dr Weatherburn—Not all of them. That is one area. I am trying to remember the other. There are two or three areas—four areas at most—where these shooting incidents have been occurring. I can give you a full breakdown on those if you would like.

CHAIR—If we could have that later, that would be very helpful.

Dr Weatherburn—Okay. In terms of relative rates, the next slide shows the top three jurisdictions. You often hear the media wanting to know what the crime capital of Australia is. The answer is there is no crime capital. Every state has its problem. For murder, the Northern Territory ranks No. 1; South Australia and Queensland No. 2 and No. 3 respectively. For assault, the Northern Territory ranks No. 1—these are in per capita terms—New South Wales ranks No. 2 and South Australia ranks No. 3. For sexual assault, New South Wales is not in the top three in terms of recorded rapes. Robbery is our stand-out problem. New South Wales is far and away—

Mr CADMAN—How is that determined? Is that per head of population?

Dr Weatherburn—That is per head of population, adjusted for the population size. New South Wales ranks No. 3 in terms of break and enter and does not rank in the top three for vehicle theft or other theft.

CHAIR—That is interesting. If you did raw numbers in terms of volume of incidents, my guess is that New South Wales would hit the top of the pops every time.

Dr Weatherburn—Of course. It is a larger population.

CHAIR—It is true that 50 per cent of all crime in Australia is in New South Wales?

Dr Weatherburn—That I could not tell you offhand. What is true and is highly relevant to this is that New South Wales has about a third of the country's population but about half of the heroin users. I have never tried to do the arithmetic to see in numerical terms what proportion of all crime occurs in New South Wales. At the risk of stating the obvious, what is far more important is the rate per head of population because that tells you the risk of falling victim to crime. You might have a large number of offences and a small risk because you have a large population.

Ms JULIE BISHOP—Can I just ask one question on the first five slides?

Dr Weatherburn—Yes.

Ms JULIE BISHOP—You have done this in terms of percentages over a period of time, 1993-2001 or 1995-2001.

Dr Weatherburn—Yes.

Ms JULIE BISHOP—Would a trend line analysis show any difference? I am trying to ascertain whether or not, taking assault by state in 1995-2001, the New South Wales statistic is heading northward?

Dr Weatherburn—That is a very good point.

Ms JULIE BISHOP—Or has it peaked and it is heading down in any instance?

Dr Weatherburn—We have discussed at some length in the bureau how best to show you all this. Had I showed you the full trend, we would have been here for a lot longer.

Ms JULIE BISHOP—I appreciate that.

Dr Weatherburn—As a rough rule of thumb the increases are more or less continuous but there are some offences and some states where there has been a dip in crime before the rise, or where there has been a rise before the dip.

Ms JULIE BISHOP—But you are saying essentially overall that the trend line is heading up.

Dr Weatherburn—Yes, heading north, as it were, or heading south in those happy cases where there seems to have been a reduction in crime.

Ms JULIE BISHOP—This gives the overall picture.

Dr Weatherburn—Yes. But should you want to know what went on in the intervening years—in other words not just have two points in time; and it is important to know what has gone on in the intervening years—I am happy to provide that to you.

CHAIR—Thank you. We will be happy to see that.

Ms JULIE BISHOP—If you say what is going on in the intervening years, then in order to understand it we will need some sort of analysis as to why there was a dip. Is there a program that was put in place? Was there a heroin shortage? Was there some external factor that caused this?

Dr Weatherburn—I would love, as would all my colleagues, to be able to explain each bump and twist in the figures but it would be less than honest of me to attempt to do so. The broad picture in New South Wales is that there were fairly slow rates of increase in crime in the

early nineties. Then most of the major categories began to accelerate in 1993, 1994, and 1995. It levelled off again and then, as we came up to 1996, 1997 and 1998 it rose again. It levelled off once more and then just recently rose quite sharply. I cannot account for all those dips and jumps.

Ms JULIE BISHOP—It is cyclical.

Dr Weatherburn—I will come to this but there is a whole of range of factors that drive crime, not just one or two. The obvious candidates are things like heroin use, changes in policing; but less obvious things are changes in school retention rates, changes in the size of the pool of long-term youth unemployed, changes in portable consumer goods. The advent of mobile phones and hand guns sparked a frenzy of personal theft. Opportunity and motivation can come out of nowhere.

CHAIR—Have you, by any chance, done a parallel graph with the number of youths aged 17 to 25 at any given time being our major perpetrators?

Dr Weatherburn—That is a good point. We have not looked at what is generally called demography in crime because over this 10-year period there have not been sizeable changes in the age cohorts that you are talking about. But over a longer time scale, 20 or 30 years, that would be quite a material consideration. Your point is good for another reason as well; that is, different factors are relevant to different time scales. Over a long time period it is important to know how many young people there are. Over a short time period that ceases to be of consequence. I know you have many other people you want to speak to so I will try to move along here.

Mr SECKER—Your slides on pages 5 and 6 show that we are the second highest in the world—I presume in the comparable world.

Dr Weatherburn—Yes. Just coming to that very point: how does Australia stand vis-a-vis other countries? This sort of comparison is fraught with difficulty. Different police services in different countries have different ways of recording and defining crime. The best evidence we have been able to gather is that which is obtained through what is called the International crime victim survey. A random sample of people in each country are contacted by telephone and asked whether they have been victims of a series of offences. That is what I am going to show you now and the news is not happy.

You will see that for car theft, for example, Australia ranks No. 2 out of those 17 countries listed. In terms of the prevalence of motor vehicle theft, two per cent of the population lost a motor vehicle in the 12-month period.

Mr SECKER—That is four times higher than the USA.

Dr Weatherburn—It is much higher than the United States and only slightly lower than England and Wales. The situation is even worse when it comes to burglary. There we manage to outrank every other country in terms of the prevalence.

Mr MELHAM—We are true to our colonial past.

Dr Weatherburn—True to our colonial past you may say, or it may have to do with the geography of Australia.

Mr CADMAN—I do not accept that, because it denies the input made by recent arrivals, particularly from Lebanon. They are most law abiding.

Dr Weatherburn—We have had a sizeable burglary problem for 20 years. This is not a new development. I will just move quickly through this. In terms of personal crime as well, Australia ranks top. Personal crime is a mixture of sexual assault, assault and robbery thrown in together.

Mr SECKER—More so than the USA?

Dr Weatherburn—More so than the United States. But having said that and drawn your attention to the evidence that suggests that Australia is not the warm, friendly and safe place many like to think it is, it is important to put a caveat on thi; that is, when you are talking about very serious forms of crime, most notably crime involving the use of firearms, Australia does not rank high in international terms. I have some illustrations of that on the next page where I have prepared—

CHAIR—What makes that a more serious crime? Why is it more serious if it is a gun or a knife?

Dr Weatherburn—In a gun incident you are far more likely to be injured or killed. People who are shot are far more likely to die than people who are stabbed or assaulted with some other form of weapon. In terms of perceived seriousness, there is a world of difference between coming home and finding your television set gone, and having someone bail you up, point a gun at you and demand your possessions. I do not want to leave you with the impression that even at the most serious end of the spectrum Australia is worse than, for example—

CHAIR—But what makes robbery with a firearm a more serious crime than sexual assault?

Dr Weatherburn—Some sexual assaults would not be more serious than a robbery with a firearm.

CHAIR—Oh, really!

Dr Weatherburn—It is a matter of judgment.

CHAIR—Is that speaking as a man? I am speaking as a woman.

Dr Weatherburn—Sorry, ‘would be more serious’ is what I meant to say. My point is that we have been talking about motor vehicle thefts and burglaries. By comparison with an armed robbery involving a firearm—you have tripped me up there—we do not do too badly.

CHAIR—The record will show!

Dr Weatherburn—I will not dwell on the numbers; they are there for you to look at on one of those pages. For example, we have a firearm robbery rate of 6.9 per 100,000 population, compared with 59 in the United States.

Ms JULIE BISHOP—Which would indicate the prevalence of firearms in the United States. If they are going to conduct an assault or robbery, they are more likely to have a firearm.

Dr Weatherburn—Certainly. There are some things, though, you do need to know about crime that are often not known or not understood, and I will just run quickly through them. It is little understood that the prevalence of involvement in crime is very high. That is even true when you confine yourself to crime that is officially recorded. In New South Wales, for example, between 1996 and 2000, one in 14 adults—that is a total of 336,000 people—faced court for a criminal offence. When I say that I include drink-driving but I do not include speeding or any of those other minor infractions that do not warrant the appearance of a person in the court. The figure for males is one in 10—274,000 people.

Mr MELHAM—Does that include, however, multiple offences? Are the figures distorted?

Dr Weatherburn—No, they are just distinct individuals no matter how many offences they turn up charged with.

Mr MELHAM—One in 14.

Dr Weatherburn—Yes.

Ms JULIE BISHOP—Just to clarify that, it could be the same person on different court days.

Dr Weatherburn—No.

CHAIR—Individuals.

Dr Weatherburn—It is not distinct offences. I am not counting multiple offences, nor am I counting the same person twice if they turn up twice. I am talking about individuals.

Ms JULIE BISHOP—We are talking about 336,223 different people.

Dr Weatherburn—That is right.

Mr MELHAM—What were the offences?

Dr Weatherburn—The offences were break and enter, motor vehicle theft, drink-driving, possession of cannabis—the full spectrum. In fact, I have a report here.

Mr SECKER—Would it include possession of cannabis where it does not need a court appearance, as in South Australia?

Dr Weatherburn—It does require a court appearance in New South Wales.

CHAIR—So they are counted in New South Wales, but not in South Australia.

Dr Weatherburn—Would you like an illustration of what you turn up in court for in New South Wales?

Mr MELHAM—Yes. I am staggered at those figures.

Dr Weatherburn—I thought it might surprise you.

CHAIR—So am I, particularly when we only have—

Mr MELHAM—There are statistics and there are statistics.

Dr Weatherburn—No, I am not misleading you about the scale of it. I will just run through some figures for you.

Mr MELHAM—Yes, please do. Do you want to cite where you are getting the figures from for us?

Dr Weatherburn—The source for all this is the New South Wales Criminal Courts statistics report 2001. That is on our web site. There is a full profile of what people turn up for. I will just go through some of the bigger categories for you. Some 23,000 people turned up for assault, of one kind or another.

Mr MELHAM—Is that domestic violence, AVO orders?

Dr Weatherburn—No, it does not include a domestic violence order. It includes only people charged with assault, but it would include men who have assaulted their spouses and partners.

CHAIR—That happens to matter.

Mr MELHAM—I am not saying it does not matter. I am trying to get the reason for that figure.

CHAIR—It is equally an assault whether bashing a stranger or your wife.

Mr MELHAM—I am not arguing that, Bronwyn. I am trying to get the category.

Dr Weatherburn—It includes 23,000 people for theft and related offences, motor vehicle theft, break and enter, and receiving stolen goods. I am just picking the big ones. It includes 11,000 for illicit drug offences; 8,000 for property damage; 15,000 for public order offences, offensive language, offensive behaviour; and 22,000 for driving without a licence.

Mr MELHAM—Okay, so there is driving without a licence. Is there anything that is unusual there which sticks out in terms of a particular category, where there has been an explosion?

Dr Weatherburn—No, there is not. Perhaps if I put it this way: if we looked at offences that, by common concurrence, are serious—say, for example, motor vehicle theft, break and enter,

assault, sexual assault—you would still find a surprisingly high prevalence of appearance in court. I raise this not to alarm you but simply to point out—and you will see its significance in the next page—that a large proportion of the population at some stage in their lives come into contact with or have some trouble with the law.

Mr MELHAM—Yes.

Dr Weatherburn—The next page highlights a crucial caveat on that. The next page shows you how often this happens for individuals. You can see 75 per cent just have one.

Ms JULIE BISHOP—Yes.

Dr Weatherburn—Only a tiny proportion have any further contact with the law. People tend to assume—and my reason for presenting this is to discount this perception—that only a small proportion offend and those who do offend tend to persist. The very opposite is true. A large proportion offend, are picked up by the courts and only a tiny proportion persist.

CHAIR—When you use the word ‘persist’ what do you mean?

Dr Weatherburn—I will tell you exactly.

Mr SECKER—That is interesting because in South Australia it has been the opposite. There are a lot of repeat offenders.

Dr Weatherburn—A repeat offender is someone who keeps offending, keeps getting arrested and keeps turning up in court.

Mr SECKER—I think the figure was 35 per cent of the offences in South Australia were three or more times, whereas this is quite different.

Dr Weatherburn—I can quite happily investigate the similarities, but the point I wanted to make next was that repeat offenders aren’t an important group to be concerned about. For example, between 1996 and 2000 only 10 per cent of those appearing in New South Wales courts appeared more than three times, but that group—that 10 per cent—accounted for more than one-third of all the court appearances.

CHAIR—Do we have any stats? We know that 40 per cent of people who go to jail will offend again, but how many of the 59,000 people on non-custodial sentences reoffend?

Dr Weatherburn—I cannot tell you off the cuff, but we can look into that for you.

CHAIR—Could you do that?

Dr Weatherburn—Sure. Bear in mind that people on non-custodial sanctions will include a disproportionate number who do not have a serious criminal record, because that is what you would tend to be more likely to get if you do not have a serious criminal record. So if you are thinking of comparing reoffending rates of those in jail with those on non-custodial sanctions,

bear in mind that people who have been sent to jail have been sent because they tend to repeat their offending.

CHAIR—The sort of people who go to jail are pretty nasty folk at the end of the day.

Dr Weatherburn—Yes.

CHAIR—The other thing I would like to know is what percentage of people charged get off on what I used to call a 556A, but it is now called section 19. Is that percentage in there?

Dr Weatherburn—It is best if I take that on notice and come back, to save wasting time looking through tables.

CHAIR—Yes.

Dr Weatherburn—Another important and salient point about crime is the incidence of repeat victims of crime. In 1998, for example, of all those households that experienced a break and enter, only 20 per cent experienced two of them in the previous 12 months, but that 20 per cent were responsible for or accounted for 40 per cent of all break and enters. If you could reduce repeat victimisation, you could make a big dent in the crime problem.

Ms JULIE BISHOP—Just extrapolate that for me. What is that telling us?

Dr Weatherburn—It is telling you that crime is far from evenly distributed through the population. Certainly a lot of people experience a break and enter, but those who experience two or more break and enters account for a large proportion of the total.

Mr CADMAN—But isn't there another factor here? We experienced two in a row and I suspect it is because the people that knocked us off the first time knew we had replaced the equipment with insurance paid stuff, and came around to pick up a new lot.

Dr Weatherburn—There may well be a good reason like that, quite right. My point is that by targeting repeat victims you can get a big reduction in crime. We need to focus our resources on households and people who are repeatedly—

Mr MELHAM—So you are saying that lightning does strike twice and that is where you need to focus your resources.

Ms JULIE BISHOP—If repeat victims were able to take steps to increase their security it might have an impact.

Dr Weatherburn—Yes.

CHAIR—Isn't there also a stat that shows a victim who has been assaulted is more likely to be assaulted again?

Dr Weatherburn—It is the very next point I was going to make. Let us take robbery victims, for example—and do bear in mind when I say 'robbery' I mean the legal definition of robbery,

which is taking something from somebody by violence or the threat of it. Do not think of robbery as break and enter. Some 23 per cent of all robbery victims experience two or more robberies. But that 23 per cent who suffered two or more robberies in one year accounted for half of all the robberies that occurred. Assault is even worse: 45 per cent of those who experienced two or more assaults, accounted for 78 per cent, or more than three-quarters, of all the assaults that occur.

CHAIR—If you extrapolate it, bearing in mind the comments I made strongly about domestic violence, does that mean that domestic violence is a large part of that?

Dr Weatherburn—It is true that domestic violence is part of the reason for that high percentage of repeat victimisation, but it is not only domestic violence where you have this problem. There are people whose lifestyle puts them at high risk of getting involved in assault. Part of the lesson from all of this is the obvious one which is that, if you want to reduce crime, it makes sense to target repeat offenders and repeat victims.

Mr CADMAN—Target the crims.

Dr Weatherburn—The justice system is not always terribly discriminating about the way in which it deals with offenders, focusing most acutely on those that cause the biggest burden.

Mr SECKER—You are actually saying we should be concentrating on the victims rather than the perpetrators.

Ms JULIE BISHOP—No, he's not. He's saying as well as.

CHAIR—Teaching them to take precautions.

Dr Weatherburn—Yes. The burglary example is a very good one. One of the things I was going to say is that you take your leverage in crime control where you find it.

Ms JULIE BISHOP—Sure.

Dr Weatherburn—You do not have the luxury of being able to choose between options. You grab your chances of managing it. Break and enter is one where it is often easier to protect the victim from revictimisation than it is to catch the offender. In the case of assault, it is probably easier to catch the offender, but catching is the least of your problems. The next question is what to do with them and how to manage them in a way that reduces the likelihood of further crime.

I thought I would mention some tips on controlling crime. Some of them might seem trite, but they are worth going through. Where crime is planned, the risk of apprehension is more important than penalty severity. That is not an opinion of mine; that is the result of a recent review of deterrence.

Mr CADMAN—Could you explain that a little bit more?

Dr Weatherburn—I mean that, if you want to reduce crime, you get more leverage out of increasing the chances of being caught than leaving those chances where they are and increasing

the penalty. The situation for most property crimes is that you can raise the penalty all you wish but, because people think—and are right in expecting—their chances of being apprehended are quite small, raising the penalty has no effect. Drink-driving is the classic example. You had your biggest effect out of drink-driving when random breath testing came in, because the penalties began to bite. People thought there was a real chance they would get that penalty.

CHAIR—And we will get the same effect when we starting doing it for illicit drugs.

Dr Weatherburn—Break and enter is another example. This is why these developments in DNA testing and the improvements in fingerprinting are so important, because there are repeat offenders. There is good evidence out there to be had and, if you can get that evidence and identify the offenders and prosecute them, you can expect a good result. To my mind, there is a great deal more public attention on the penalty than there is on the risk of apprehension. To my mind, the emphasis should be on the other.

Mr SECKER—So more patrols and more cops on the beat.

Dr Weatherburn—I am not sure about ‘the beat’, but certainly targeted policing and intelligent policing, focusing on crime hot spots, repeat offenders and dreaming up ways to maximise the chances of apprehension are the way to go. There is good evidence that that works.

Ms JULIE BISHOP—If repeat offenders were made aware of the newer technologies, such as the DNA procedures and all these more sophisticated means of apprehension, you think that would have an impact on their likelihood of reoffending. If they thought that there were going to be more sophisticated ways employed to apprehend them, it would have an impact.

Dr Weatherburn—It is not an opinion; it is evidence. The best evidence of recent times is when Commissioner Ryan, for example, introduced the operation and crime review panels. That is the New South Wales equivalent of the New York Comstat process, where they target repeat offenders with a view to increasing their chances of apprehension. There was an immediate reduction in the rate of four offences. That is all documented in a report on our web site. There is also a comprehensive review of penalties versus risk of apprehension in a report that I can make available to you from the United States, which goes through all of the evidence bearing on this issue. If you are keen to pursue the issue of deterrence, it is one I would urge you to read.

CHAIR—There is certainly evidence that in New York the number of police per capita is far higher than we have here.

Dr Weatherburn—You get similar results when you ring people up, show them various scenarios, tell them what their chances of being caught are and compare that with various hypothetical—

Mr CADMAN—That is an Australian thing. If you think you can get away with it, you will. That is, I think, one of the key factors.

Dr Weatherburn—I don’t think it is uniquely Australian.

Mr CADMAN—We seem to be leading the world in most of the statistics.

Ms JULIE BISHOP—We must be leading the world in burglary for a reason.

CHAIR—Yes.

Dr Weatherburn—Part of the reason for burglary is that we have an unusual urban landscape. We have suburbs spread out in acres and acres and most of our crime occurs in those suburbs.

Ms JULIE BISHOP—So does the United States.

Dr Weatherburn—In the United States, a lot of the crime occurs in the city centre, not in the suburbs. Our houses are unguarded during the day. They have more apartment blocks, with a concierge or a security guard at the front, which makes it hard to—

Ms JULIE BISHOP—So it's the flip side of the great Australian dream—the home and backyard.

Dr Weatherburn—It could be the flip side of the great Australian dream. It is also worth bearing in mind that solving one crime problem can sometimes create another. I know the public at large would like to think all these problems are independent of one another. A good example of that is that the heroin drought has been very successful in reducing the overdose problem. A lot of benefits have flowed from the heroin drought, but one of the things it did was drive some dependent heroin users into cocaine and amphetamines. Cocaine and amphetamines are troublesome because people who regularly inject those drugs are prone to paranoid, aggressive and violent behaviour.

Mr CADMAN—You cannot actually relate the number of deaths from heroin to deaths from cocaine.

Dr Weatherburn—It is not so much deaths from cocaine that I am worried about.

CHAIR—It is aggressive behaviour.

Dr Weatherburn—It is violence from cocaine addicts. I am not suggesting the heroin drought was a bad thing. Please do not misunderstand me. I am merely making the point that solving one crime problem can sometimes generate other problems.

Mr CADMAN—That is what you would expect, wouldn't you?

Dr Weatherburn—Sometimes it does not happen. Reducing burglary does not have any downside that I am aware of.

Mr CADMAN—What about hold-ups?

Dr Weatherburn—There is no evidence that the two run opposite one another; when burglaries are down, hold-ups are up.

CHAIR—We did not see a correlation when banks and such institutions gave themselves greater protection.

Dr Weatherburn—That is a good example. They switched to service stations.

CHAIR—They switched to service stations, pizza outlets and so on.

Dr Weatherburn—Another point often overlooked is that what matters in crime control is not effectiveness but cost-effectiveness. All too often people forget that governments have a limited budget and important things to spend their money on—hospitals, schools and roads. I always think the critical question in crime control is not whether a measure is effective but whether it is the most cost-effective way of achieving the result in question. To my knowledge there has only ever been one cost-effectiveness study in crime control policy in Australia, even though it is routine in every other area of government policy to ask for the alternatives, how much they cost and how much benefit you get from them.

The last point I think you are already familiar with: what works today may not work tomorrow. Lastly I have some key crime control issues from a New South Wales or perhaps just Bureau of Crime Statistics perspective: how best to limit the spread of illegal firearms—it is a major problem—and how to reduce the availability of cocaine and other stimulants. We have seen a shift of people from heroin into the use of those stimulants and they are a worry in terms of their propensity to make consumers behave in a violent way. We do have high assault rates and a large part of the problem is violence in and around licensed premises. We recently conducted a survey of people who self-reported being drunk on a licensed premise. Only one in 10 of those who had drunk to excess and who said they showed signs of that indicated that licensed premises had made any attempt to stop serving them alcohol.

Mr CADMAN—Have you got any stats on that?

Dr Weatherburn—We do. We have a bureau bulletin on the web site entitled *Young adults' experience of responsible service practice in New South Wales*.

Mr CADMAN—Great.

Dr Weatherburn—Another major problem is Aboriginal crime and violence. Violence in Aboriginal communities is endemic. They are turning up at court for serious violent behaviour at up to 10 times the rate of non-Aboriginal people. A lot of the violence, of course, is directed towards Aboriginal women and children.

Ms JULIE BISHOP—Does that impact on your slide of the top three jurisdictions where you have got the Northern Territory as No. 1 in murder, assaults and sexual assaults?

Dr Weatherburn—It may well do.

CHAIR—Could you take a look at that and see if that is actually the reason why the Northern Territory is at the top?

Dr Weatherburn—I can't answer your question for the Northern Territory but I can certainly say to what extent the New South Wales assault rates are driven by violence in Aboriginal communities.

Ms JULIE BISHOP—You had a figure of one in four as an involvement in crime. That was just for New South Wales, was it?

Dr Weatherburn—Yes. Just to recap on that, you need further detail on the make-up of offences coming through the court system; more information about the contribution of Aboriginal violence to overall violence; and there was one other.

CHAIR—Why the Northern Territory tops them.

Dr Weatherburn—There was one point you made earlier. Anyway, I will come back to that. The two other issues I would alert you to are crucial, even if long term. The first is how to foster more effective parenting. There is a direct relationship between rates of child neglect and abuse and consequent rates of juvenile involvement in crime. Fostering more effective parenting is absolutely crucial for long-term crime prevention. There is also a strong relationship between the level of long-term youth unemployment and crime. We estimated in one recent study that if you took 1,000 people out of the long-term unemployment queue and got them through to year 12 successfully, you could reduce the burglary rate by about 16 per cent.

CHAIR—You also could have had a stat on literacy and numeracy for that youth category and also the level of any mental impairment. I think that gets overlooked and it is very important.

Dr Weatherburn—There are important facts there. I have just given you the ones I have.

CHAIR—If you have information on those two issues, I would appreciate that.

Ms JULIE BISHOP—And the demographics.

Dr Weatherburn—That was the third one.

CHAIR—The number of youths aged 17 to 25.

Mr MURPHY—Dr Weatherburn, consistent with your presentation here this afternoon, in your paper *Does Australia have a law and order problem?* you identify some of the crimes that exist in Australia—highest for burglary and assault, second highest for motor vehicle theft and third highest for personal theft. You have mentioned a couple of those factors, including the growth in long-term unemployment, child abuse and neglect, the fall in school retention rates, the growth in portable consumer goods and the geographic concentration of poverty. Accepting that those factors also exist in many other countries, I am finding it hard to understand that those are the real reasons for the fact that we have become more crime prone over the last 20 years. Those factors exist in other countries, so what is your evidence to say that those factors which exist in Australia are more relevant than they may be, for example, in the United Kingdom, America, South America or Asia?

Dr Weatherburn—There is a difference between explaining differences in crime rates between countries and explaining a growth in crime within a country. They are different propositions and require different explanations. I was talking about the growth in crime within Australia, not the difference between Australia and other countries in rates of crime. But the evidence on which that assertion was based is in the references. If you go through the references, you will find each and every study that is the basis of the claim. I have not got the paper with me but if you go through the references you will see all the material there.

Mr MURPHY—In that paper you also say that the debate in Australia—and this might have something to do with the media and we were talking about that earlier with another witness—is almost entirely focused on whether we have the police numbers, the police have the powers and whether offenders receive harsh enough penalties. You say that there are two predominant factors with this focus. The leverage over crime provided by police and the criminal justice system is weaker than people might think and there are many ways to reduce crime that do not rely on either police or the criminal justice system. Perhaps within those two very important points lies the answer.

Dr Weatherburn—The answer to what?

Mr MURPHY—To deal with increased crime levels in Australia. Perhaps it is the way we are looking at it—and I do not know whether it is the media but I suspect it is because people have a view about it. Why? Because they get it through the media in one form or other. If the debate does, as you point out, focus on police numbers, police powers and whether offenders receive harsh enough penalties and only that, perhaps that is where we are going wrong, do you think?

Dr Weatherburn—I am not quite sure what your point is. Let me make a number of statements that might be relevant to you. Firstly, I am not suggesting that increasing the number of police or increasing penalties has no effect on crime. There is evidence that those things do have an effect but the effect is not dramatic. If you raise the number of police by 1,000, you do not get a dramatic result. You increase prison populations. You do get some results. You can't scoff at anything. My point was simply that there are quite often other ways of getting a much bigger return on your investment for crime control than simply doing those two things. The example I gave was that, if mobile phone companies had been encouraged to switch off mobile phones that are stolen, we could have nipped the growth in robbery in New South Wales in the bud to a large extent.

Ms JULIE BISHOP—Then there are immobilisers in Western Australia.

Dr Weatherburn—The list goes on and on. You can insure cars for more than they are worth so that people are inclined to commit fraud against insurance companies by burning them. I am not in the camp of those who say it is a waste of time locking up offenders or appointing police. I am merely trying to restore balance to the debate by getting people to focus on other practical measures that you can take to reduce crime.

Mr MURPHY—I would accept that.

CHAIR—Dr Weatherburn, thank you very much for your submission.

Dr Weatherburn—Pleasure.

CHAIR—If we make a time, you could come and join us at one of our private meetings in Canberra where we can pursue some of those other issues that you have kindly taken on notice?

Dr Weatherburn—Sure.

CHAIR—Thank you very much.

Resolved (on motion by **Ms Julie Bishop**):

That the committee receive Dr Weatherburn's submission as part of the evidence.

Mr SECKER—We were talking about demographics before. Could, Dr Weatherburn, follow up how much poverty played a part in those who offended and whether split families played a part.

Dr Weatherburn—We have looked at all of that, yes.

CHAIR—Can you take that on notice.

Ms JULIE BISHOP—It is probably all on the web site.

CHAIR—Thank you.

[3.18 p.m.]

BASHAM, Dr Richard Dalton (Private capacity)

CHAIR—Welcome, Dr Basham. I am aware of the fact that you have been good enough to come and talk about the issues we have been discussing here today. I know that you are on the public record as having made comments about some of the crime that is occurring in New South Wales. I wonder if you would like to begin by making a statement.

Dr Basham—Yes. What my summons or request, such as it was, suggested was focusing on Asian crime issues and perhaps profiling, but there are certain other issues involved. Some of the things I heard, as I heard Dr Weatherburn testifying, have concerned me. Having worked with the police in New South Wales over many years and having been very worried, as many of the police were, that the institutionalisation of the OCRs was very different from the New York model, which was successful. I think that a lot of the drop that one will find in crime—and there are many complaints to the Police Integrity Commission about this—are more apparent than real.

I think when Peter Ryan brought the OCR model, copying New York City, he did not copy it well enough. An important aspect of the OCR model was that you actually knew what was going on in the streets, you offered real suggestions and you had very good intelligence. I think that Peter Ryan's greatest problem was his detachment from what was going on in the New South Wales police service, particularly at the street level, the local level. So very quickly the OCR became an assessment as to how well the commanders were doing rather than a way of deciding what the problems were, what the emerging trends in crime were and how to cope with them. A great many of the commanders realised quite quickly that their own careers would be bettered by underreporting of the reportable offences. It is interesting that of course homicide and drugs were left off the reportable offences.

CHAIR—Yes.

Dr Basham—The whole issue of how it was done was quite interesting. Things like random breath tests and knife searches were elevated. We have had serious problems over and again with knife searches, for example. A lot of what appeared to be a drop I think probably was not a drop. In other words, I think it was probably an artefact of the new policing style and that was the reason it did not persist. I just wanted to mention that.

I probably should focus on the ethnic crime issues because that is more important. First of all, obviously, the topic is quite sensitive. I would like to give you an article I have written on the topic published by the *Australian Journal of Forensic Sciences* by the Australian Academy of Forensic Sciences. I have copies. Obviously the last several decades have seen the arrival of large numbers of Asian migrants to Australia. Although the overwhelming majority of these migrants are not, of course, involved in organised criminal activity, such activity has found a firm foothold in ethnic Asian communities. Most curious to many Australians has been the extreme reluctance of even apparently law-abiding members of these communities to cooperate with police in their investigations of criminal matters. The lack of cooperation of innocents who know the particulars of crimes, ranging from extortion through drug dealing and murder, not

only hampers the police in their inquiries but provides a fertile field for further criminal activity. Criminals can work with confidence that they are unlikely to be apprehended and punished.

Coping with Asian crime is fraught with both political and cultural problems. Politically the mere mention of Asian crime or any ethnic crime is likely to provoke the mantra that crime is crime no matter where it occurs. On the other hand, Asian crime carries with it difficulties in intercultural understanding which makes it very difficult for those without the requisite cultural knowledge to deal effectively with it. Attempting to cope with crime perpetrated by people who live in different cultural worlds, without understanding those worlds, is not only foolish; it is a waste of police time and resources.

There is no question of course that any discussion of ethnic crime can have unfortunate consequences in further stigmatising people who are already oftentimes marginalised. That is the real danger here. Ultimately, however, it is far more dangerous for cultural cohesion to ignore or to attempt to suppress the reality of ethnically based crime. Ordinary Australians are aware of the existence of it and attempts to suppress it only play into the hands of extremist groups which claim that the powers that be are engaged in a conspiracy of silence on the issue.

It is far better to acknowledge that different peoples quite naturally follow different moral and legal codes and that recent migrants to Australia are unlikely to have a complete understanding of, or identification with, Australian law. Essentially it is a cultural matter. It is a matter of acculturation; it is a process that occurs over time. It occurs with every ethnic group coming into a new country. There are lots of reasons for it but primarily it has to do with moral views of the world which are shaped by one's cultural tradition. There is invariably some degree of divergence between those moral views of people migrating into a new country and the people who are already there, the established community.

You get a situation of a lack of identity, of identification. It is manifested in the most obvious ways in underreporting of taxation. Taxation is always a problem in terms of tax evasion, and for migrants it is much more likely to be an issue because one simply does not identify with the apparatus of the state and oftentimes the state does not have the same moral legitimacy yet. This is a process of acculturation. Every country experiences this—Canada experiences it; the US experiences it; Australia experiences it.

One of the ways to enhance acculturation and to eliminate some of the problems that we have seen recently in terms of lack of social solidarity, is to show that so-called ethnics can get the full protection of Australian law, because the primary victims of ethnic crime are co-ethnics. Ordinary white Australians, for example, do not have a great deal to fear from Asian crime. Almost all the victims are co-ethnics. Predictably the more sophisticated crimes require an understanding of the specific language and/or the cultural milieu of extortion, for example. It is pointless to try to play these things with ordinary Australians.

If Asians essentially and various groups—and of course I am talking about a whole series of cultures here—are convinced the law exists to support them, that they can gain protection of the law, that goes a long way towards enhanced cooperation. For example, one family I am aware of—and I know many instances of people who have had serious problems and feel that they cannot turn to Australian law for protection—had a small daughter disappear. She vanished. The family felt—and there was some good reason to feel—that the resources devoted to that child were minimal; in fact, disgraceful. The family was not kept apprised of the investigation even

though one member of the family is a very sophisticated, very knowledgeable businessman who was well able to communicate in English with Australian authorities. When another girl later disappeared in the family—the first girl was never recovered—the family did it themselves and they were successful in recovering the child.

These stories spread far and wide in communities and give people the feeling, ‘If we were white, we would get better protection under the law.’ Whether that is true or not, of course, is open to argument. But there is a perception that, ‘Essentially the law does not protect us to the same degree so we might as well stick with our old tried and true mechanisms for social control.’

I knew of an individual who recently was subject to a major extortion demand. He was a successful Asian businessman who rang me up. He was from an area of China where there is not much Triad activity. He wanted advice on who to contact in Chinatown to take care of the extortion matter. When I suggested the police, he said, ‘No, I don’t want to talk to the police.’ He was afraid to talk to the police, afraid that the matter might leak. He had a feeling that the police either were untrustworthy or might not know the right way to investigate. They might investigate it by being the classic bull in a china shop, allowing the extorters to know what was happening.

He was very reluctant to go to the police. It was only when I was able to ascertain that the people who were making the demands were coming from an area of China that was not represented in Chinatown with any effective underground people of influence who could take care of it, that I convinced him to go to the police. He went to the police. I was able to recommend one police officer who handled it brilliantly, was able to effect an arrest and able to keep the courts from allowing the person out on bail. This spreads also—not in the newspapers—among people and people begin to develop a confidence that maybe Australian law is for them as well.

The principal issue is not the frequency of crime, because I do not think there is a great deal of evidence to indicate that crime in one group is per se greater than crime in another group except when it is judged by a separate third group. In other words, crime among Thais in Australia is quite low. It would be low in Thai terms. It can become higher in Australian terms, in terms of tax evasion, human smuggling issues and so on, simply because it is judged by a different moral code that most people are unaware of.

The lack of identification—and this is an important issue here—with Australian law, lack of understanding of Australian law, oftentimes leads to a perception of Australia as primarily a financial terrain; a place to make money. You have abuse of social security and immigration laws and evasion of taxes, which is relatively easy, and a notion among certain migrants—not all by any means; a restricted number—that, since such things are widespread, one would be a mug not to do it. This is typical of a first generation of migrants, but again these are largely acculturative aspects.

There are a couple of issues that I think are probably worth raising here that are significant in terms of crimes which concern a lot of people. One of the most interesting aspects, for example, of the way in which we attempt to cope with ethnic crime is through quick fixes. The problem of a quick fix—a silver bullet—is that it is always very appealing, but seldom works. Ethnic liaison officers, for example, or ethnic politicians are oftentimes seen as people with

connections, who can both assist and intimidate via local communities. They are seen as solutions often by members of the majority of society, but you have to understand that, viewed from the perspective of ethnics and company-ethnics, they become gatekeepers. Whether honest and aboveboard or not, they become gatekeepers and they can become real problems. The inability of most senior police and politicians to understand the negative roles such figures sometimes play causes some serious problems and, at the very least, they block acculturation.

One of the most interesting aspects of Asian criminal activity overseas is the relative ease with which many Asian criminals seem to be able to deceive westerners into thinking that they are upstanding citizens. In doing so, they have often used wealth and self-confidence to move in important circles in their host countries, becoming conspicuous for their interest in political and charitable activities. Somewhat paradoxically, their regular public involvement, which is often reported with accompanying photographs in the local Asian language press—photographs with senior police, photographs with senior politicians—can send a very chilling and frightening message to their ethnic fellows that these criminal figures are so well connected that any attempt to cross them, do them in or even report crimes that they do not want reported would be suicidal.

Recently, a well known and highly respected Chinese businessman in New York City, Paul Lai, produced more than 50 letters of testimonial at a Senate hearing for conspiracy to commit murder from major figures, including the District Attorney of New York City. Among the many who lauded him as a philanthropist and politician whose political skills transcended his Chinese origins were a number of white American politicians. Interestingly enough, even though Lai was known to be head of the Tsung Tsin Tong, his ability to manipulate westerners led even the United States federal authorities into thinking that his Tong was only a non-criminal social club. Even the FBI thought it was only a non-criminal social club. His control over illegal gambling activities and his connections with the Sun Yee On and Tung On went unnoticed as he hid in plain sight. Although he had been involved in gang murders previously, his underworld connections only came to light after many decades of serious underworld activity, when he ordered revenge against the Ghost Shadows for killing one of his Tung On members and an innocent bystander was killed in the retaliatory raid.

Junior officers started off using RICO—the Racketeer Influence in Corrupt Organisation statute—and eventually they rolled up to Paul Lai, never expecting it would get there, and it stunned everybody. As I said, even the District Attorney of New York City felt compelled to say what a great guy he was. The federal judge was ropable and he dressed them all down for this and attacked them for their naivety. We have had instances in Australia, of course, of similar sorts of situations, in which people who were well regarded politically or locally in the majority community were regarded as very serious, frightening criminals in the minority community.

In my paper, I talk about a lot of these issues and issues of coping with homicide and so on, but one of the things that is important here to bear in mind is how do you police this issue? How do you provide it? The quick and easy fix of hiring Cantonese police officers or ethnic community liaison officers can have certain problems. They restrict the flow of information and people have a real concern that things that they report even to ordinary non-ethnic police may go back to these people. The goal should be, and over time hopefully will be—and this has happened in San Francisco, for example—a situation where you have large numbers of people of Asian background who want to become police officers and that can help, because you have a whole series of that as well.

Most important is to treat people not as members of an ethnic community, but as individuals, having direct access to Australian law and direct access to Australian police. The important thing is to have Australian police who understand the cultural differences and who are able to work within those cultural differences; foster police who are interested in doing this and give the people the confidence that, in effect, they will gain the protection of law, because there are very different attitudes.

One serious problem is corruption. It is a very serious problem here in Australia. When I talked to Asian police recently in Singapore, for example, for the Australian Federal Police program *Managing Serious Crime*—giving the Asian crime lectures to Asian police—one of the things that bothered them was the notion that they were corrupt and the Australian police were not. They knew better. The idea of, ‘You say who can you work with? We say who can we work with?’ and one of the things they found particularly laughable was the notion that corruption is confined to what used to be called the noncommissioned officer ranks. They realise that our integrity commissions do not seem to be able to get any serving police officers who are above the rank of inspector and they know very well, as you would know in Asia, that corruption starts at the top, it is fostered at the top and the small fry would not dare do what they do if there were not this activity. There is this fear from what they can see and we can say maybe a lot of immigrant communities are seeing this the wrong way, but from our perspective things are not all that different.

It is important to bear in mind as well that policing is regarded—like many government activities are regarded throughout much of Asia—as a franchise. You can get a position and you live off it. Your actual salary in some cases can be as low as 10 per cent of what you are expected to make. Police officers in places like Chiang Mai, where I worked for a number of years, at the senior levels pay enormous amounts to get the senior positions, because they are going to make that much money in drug operations and green lighting certain operations. The notion that occurs to ordinary individuals is that you get the justice you pay for. You are not too interested in paying taxes, because you are going to have to pay for the government services. Every time you go into a government office, you are going to have to pay in cash or connections. With police, you are going to have to pay in cash or connections.

The whole issue of corruption is an interesting one. Corruption—probably in Australia as well, but certainly throughout Asia—does not occur when people engage in activity that we might deem is technically corrupt. People tend to look the other way at lots of little things that are regarded as petty; not important. Corruption only begins when you violate what I call the doctrine of reasonable greed, in which you demand too much for your services and you are too stingy in terms of what you pass on to others.

Part of the problem that occurs here—and I get this again and again with Asian friends who have crimes that they want to report or they have problems with the police or local councils—is that the first thing they want to know is who do you have to pay and how much, but it comes from a different milieu. When we tell them it does not operate that way here, they say, ‘Well, so and so did such and such and he got off.’ There is enough concern that it is not a black and white matter where one group of people are corrupt and another is not. Anyway, I have copies of this paper just over here.

CHAIR—Could we admit those papers into evidence?

Dr Basham—There is a more extended version of this which—

Mr MELHAM—Can we just have details of the paper so that we can identify it properly before we receive it into evidence? I know it is in a white envelope and not a brown paper bag, but I want it properly particularised.

Dr Basham—There is one white envelope here that I have marked in Thai.

CHAIR—Have you a copy for each of us?

Dr Basham—I will not give that to you unless I have certain questions asked. This one right here is just a paper that is freely available. It is *Asian Crime—a challenge for Australia*—

Mr MELHAM—When was that commissioned?

Dr Basham—published in the Australian Journal of Forensic Sciences in 1999. It is just a background paper.

Resolved (on motion by Mr Melham):

That the papers be received into evidence.

Mr MELHAM—Is there another document that you wanted to table, Dr Basham?

Dr Basham—Not at this stage, no.

CHAIR—Dr Basham, we are rather pressured for time. I am going to ask other members of the committee if they would like to ask any questions. I am going to keep questions pretty much contained, because we do have to finish by a particular time.

Mr MURPHY—Like a number of other witnesses we have had here today, Dr Basham, who have talked about corruption not only with the police service but with other law enforcement agencies, will you give the committee the benefit of your wisdom: how do we root out corruption?

Dr Basham—The most important way is: do not look the other way and do not promote people who do. Most corruption is fostered by senior officers who are not themselves corrupt or deemed to really be corrupt, but they learn to look the other way. They gain the support of people who do have real problems. The motto, ‘Go along to get along,’ is a motto that is a serious problem in many organisations. It certainly has been a serious problem in much of the police service. There are large numbers of police who are scrupulously honest. There are also issues of police who are concerned that corruption, such as it is, is what used to be called noble cause corruption. But I think the most important thing is for senior police officers, when a serious crime or serious corruption is reported to them, to not look the other way.

Mr MELHAM—I suppose what I am concerned about is the current culture. It seems to be politically correct to now bash police.

Dr Basham—Yes.

Mr MELHAM—In terms of the general allegations. It is the same as the subtle presumption now of guilt if people are in prominent positions. There seems to be a view that there is a presumption of guilt because of the position they hold.

Dr Basham—Sure.

Mr MELHAM—I am concerned to guard against that because we are in a situation where we have an adversarial system. It is not like the French system where we are inquiring as to the truth of the matter.

Dr Basham—Of course, that is the second thing I would suggest, but that is going too far. A system in which one inquires of the truth of the matter, which has supposedly been institutionalised in the Police Integrity Commission but it is really an adversarial commission, might be a better way of going about it, following the French system in which one is concerned with truth.

Mr MELHAM—You are aware now that the National Crime Authority, for instance, have coercive powers as a result of some legislative changes. They are able to require answers to be given.

Dr Basham—Yes, but the NCA have been very reluctant to use those powers.

Mr MELHAM—They have only just acquired them.

Dr Basham—The new ACC—are we talking about the new ACC now?

Mr MELHAM—It is not yet in existence.

Dr Basham—I know it is not yet in existence, but I have read the legislation. It is quite an extensive piece of legislation. I think that will go some way, but it very much depends upon who is the CEO, who is the director. Any organisation is heavily influenced, obviously, by the culture of the man at the top, the nature of the man at the top, who can set the cultural parameters, particularly in a new organisation.

Can I just comment about corruption. I have worked with lots of police on many investigations and I think the overwhelming majority of police do their absolute best and are not corrupt in that sense, so that is not what I am suggesting. What I am suggesting, though, is that there is a concern among many police, particularly whistleblowers, who oftentimes start out whistleblowing over small things and they get themselves locked into a situation of inflexibility vis-a-vis a senior figure. If they report a minor issue, they are ignored, and before long they become a nutter and then they report more and more and more. What is important is that we get a little bit further towards the culture, particularly where there is a feeling among junior police that the police at the top have to suffer the same consequences as they do. That is where I think there is a real matter of concern. One of the best ways to get rid of corruption is to give heart to the junior police that everybody will be treated equally.

Mr MELHAM—You have to have a transparent and open process in terms of dealing with matters, don't you?

Dr Basham—Yes.

Mr MELHAM—Isn't that the key?

Dr Basham—Sure, and that is a very difficult thing to occur, given the culture of the police.

Mr MELHAM—What also concerns me is that there is no doubt that there are different personalities at senior levels and there are what we call faction fights, like there are in political parties.

Dr Basham—Of course.

Mr MELHAM—Sometimes that seems to me to be—

CHAIR—Speak for yourself.

Mr MELHAM—In terms of priorities, different priorities, Madam Chair. Some of the complaints we get really are as a result of people who are well meaning on both sides wanting to take the force in different directions.

Dr Basham—I think the complaints I am talking about are far more serious than that. I am not talking about matters that are simply pulling the force one way or the other. I am talking about very serious matters that I would not want to talk about publicly because this would inject a new dimension. I could do it in camera, but I know you do not have time.

CHAIR—We might say to you, Dr Basham, that if you have things that you think we ought to know about in that way, we do have the ability to take it in camera and we would be prepared to do that, if we can make another time to do that and if you would be willing to do that.

Dr Basham—If you would like to pursue these areas—I am not pressing them because they are matters which I myself am referring, along with several others, to the highest level.

CHAIR—I think we would be interested in hearing that because we are a wide ranging inquiry.

Mr MELHAM—I notice that Dr Basham is an expert on Asian crime. I am interested as to whether you felt that the government policy from 1976 to 1983, where you had Chinese boat people coming here who were not subjected to security checks, had contributed in some marked way to part of the current problem. Are you aware of that?

Dr Basham—Sure, I have been here since January 1978. I am well aware of that problem.

Mr MELHAM—It has now since been changed, of course.

Dr Basham—Sure, it has since been changed. There was a whole series of problems in terms of levels of understanding, sophistication about identity fraud and identity manipulation. There is a history, particularly from Vietnam and you cannot blame ordinary Vietnamese for doing it, if you know the history. I talked a little bit about that in my paper.

Mr MELHAM—But is the point I just made valid; that part of the problem from 1976 to 1983 was that there were not security checks and criminal checks done on a number of boat people?

Dr Basham—Of course that was part of the problem. I have known families, for example, who were knocked back by the French and the Americans for these reasons, who were admitted into Australia.

CHAIR—So they were knocked back by America and got in here.

Dr Basham—Yes. We do not know why they were knocked back but, given what I know about them—these people were involved in homicides, for example, and drug related activities—and then you see the stuff, you check back on the records, you find they had been knocked back in an Indonesian camp by other countries but taken in by Australia and you have to hypothesise, given when you found out where they came from in Vietnam, that the other countries did a more thorough check.

Mr MELHAM—But you are aware that that loophole for 1976 to 1983 has now been closed.

Dr Basham—Yes, but it still is a problem. For example, I travelled through China a few years ago with the Chinese police up to Beijing and talked to the embassy in Beijing. One of the problems that they pointed out repeatedly was the great difficulty of constantly having to be one step ahead in terms of identity fraud. You can alter your identity fairly easily and most of them can pass superficial scrutiny. The people who have better identities can come in as jumbo people, come in on the aeroplane and pass without much problem. There are a number of them who have done that.

They only usually come to attention if they attract the attention of police for criminal matters and suddenly you find you reach out and it is like a PDF file. They are not who or what they say they are. The trouble is that these people who are involved in very sophisticated levels of human smuggling and are never going to cooperate with authorities.

Ms JULIE BISHOP—I have gone through your paper very quickly and I note a statement, ‘Estimated Chinese syndicates are responsible for some 80 to 90 per cent of the heroin imported into Australia.’ I looked at the citation and that is an article in 1991. Are there more up-to-date estimates?

Dr Basham—There are up-to-date estimates, but we are talking about ethnic Chinese. Up in Chiang Mai, for example, where I have worked, and up in the hills in Thailand a lot of the people who are involved in the smuggling are Chin Haw. They are Chinese Muslims who are still ethnically Chinese, and various so-called tribal groups, which are not really tribal groups in many cases. I have not seen anything that indicates, except for Middle Eastern imports, that is still not our greatest concern.

Ms JULIE BISHOP—So that statement would still stand; that this Chinese syndicate is responsible for 80 to 90 per cent of heroin?

Dr Basham—No, you would probably drop it down a bit, but it is still a major factor. Recently when I was in Singapore talking to the deputy director of narcotics in Thailand, we

were talking about this and it is still ethnic Sino-Thais who are the primary people involved that he is concerned with there.

CHAIR—If you got a figure that would be up to date we would be pleased to receive that.

Dr Basham—I will have to see what I can find that is up to date.

CHAIR—All right.

Dr Basham—I am not particularly concerned with what percentage are Chinese, what percentage are Vietnamese or whatever, it is more—

Ms JULIE BISHOP—I just wondered whether there was a change over the last 10 years, that is all.

Dr Basham—Of course a lot of it has to do with the heroin drive at the moment.

CHAIR—At this stage we are getting to the end of our day's time. I thank you very much for being with us today. There may be other things in the future, as our inquiry evolves, where we might like to have you come back and talk to us. If you would be agreeable to that we would be delighted.

Dr Basham—Can I make one final statement that is important.

CHAIR—Quickly.

Dr Basham—The underreporting of crime in ethnic communities is quite high. There are very good reasons for it. Crime stats that are based upon reported crimes, even extrapolating and even attempting—as the federal government attempts to do—to try to contact people and ferret out people who have not reported crimes, invariably do not work. One street in Cabramatta, for example, that has been carefully checked by ethnic Vietnamese, showed that there were something like 85 burglaries in this one street within six months but police reports only showed nine burglaries. There are lots reasons why people do not report. Underreporting of crimes is important to bear in mind because a lot of the jumping around in statistics I think is the result of reporting issues.

CHAIR—Thank you very much for that.

Mr MELHAM—Is there any other document, Dr Basham, that—

Dr Basham—There is another document but it would be gratuitous to wave it about in a public session. If you are going to have me give evidence in camera, I would rather give it to you in camera. It concerns some of the issues we are talking about.

CHAIR—We accept that. Thank you very much. We look forward to seeing you when we deal with those matters. Our next witness was to be the commissioner, Mr Ken Moroney, but I have been advised that he has a family crisis and he cannot be with us this afternoon. In his

place is the deputy commissioner for New South Wales, Dave Madden. We are also going to hear from Cheryl McCoy, the director of Operational Policy and Programs.

[3.52 p.m.]

MADDEN, Mr David, Deputy Commissioner of Operations, New South Wales Police

McCOY, Ms Cheryl Lynette, Director of Operational Policy and Programs, New South Wales Police

CHAIR—Would either or both of you like to make an opening statement?

Mr Madden—Thank you, Madam Chair, and members of the committee. Firstly, if I could apologise for the commissioner. He was called away at short notice with a family problem which I am happy to disclose in camera. At this stage, he has asked us to step in and talk about some of the issues. With your indulgence, I would like to just go through some of the issues that impact upon some of your terms of reference, which are quite broad. I will try to focus on only a few of those and then we can open up to any questions you may have.

We would hope to be able to show that New South Wales Police is doing a considerable amount of activity or work in relation to reducing crime. In part of our discussion we will talk about some of the federal issues or the issues in terms of drug trafficking and firearms importation, and how we would like to see a closer relationship with Australian Customs. I might point out at this early stage that this is in no way an attempt to criticise any of those organisations. It is largely about saying that we are doing a lot now and perhaps, with greater cooperation, greater intelligence and greater resources on our federal counterparts' part, we would actually see a greater attempt to reduce crime.

In terms of the New South Wales Police, our key goal is obviously to reduce violence, crime and, equally important, the fear of crime. One of the things that Commissioner Moroney, who was appointed earlier this year, had as a key goal that he kept thinking about and using as a cornerstone in most of the things he spoke about was not to keep policing or our response based simply on statistical data. It was not simply about responding to where we thought the most robberies were or where we thought the problems were.

Clearly, intelligence is one valuable tool but one of the key issues for us was to address the fear of crime. One of the most debilitating things is not necessarily the actual crime but the fear of crime. As I go through the quick discussion, I will come to some of the points where there is a much higher fear of crime than actual opportunity or potential for the people to become victims of crime. I will talk about some of those issues.

Policing in New South Wales is provided geographically through 80 local area commands. Different states across Australia have different approaches, but we have 80 local area commands reporting through to five region commanders, who are assistant commissioner in rank. There are approximately 9,000 police employed in geographic commands across the state in an organisation of just over 14,000.

I am conscious that you would have had a presentation today from Dr Don Weatherburn. As I indicated, in terms of reduction in crime and violence in New South Wales, we are hopeful that not only in terms of perception of crime but also in terms of actual crime we are seeing a

reduction. Don Weatherburn will ultimately put out statistics through the Bureau of Crime Statistics. I stress that we use their statistics, not ours, in presenting any facts. We have learnt a long time ago not to use police statistics. We try and use the Australian Bureau of Crime Statistics, as they are better and they are more well accepted.

CHAIR—Are you saying that you believe you are reducing crime? Because Dr Weatherburn's stats showed that there is an increase in crime.

Mr Madden—In various areas there are reductions.

CHAIR—Where?

Mr Madden—I am very conscious of a previous commander who found himself in trouble when he talked about overall reductions. If we look across history, we will see an increase over time. But when we talk about periods of time, like three-month or six-month categories, we can actually talk about, for instance, peaks in drug detections or drug issues some time in 2001 and then we saw a decline in the number of incidents of drug detection. Equally, we have seen some reductions in break and enter. I am talking about, for instance, in the last six months when we applied a whole range of strategies. We will not say those publicly or herald any success until such time as we see the results from Dr Don Weatherburn. So we will be looking at his statistics that will be released.

For instance, when he released his statistics earlier this year, he talked about some crime categories that remained stable, some that had seen a decline and some—for instance, robbery with a weapon—that had seen a marked increase. I make no general comment that we are successful in reducing all crime. In some of the areas we are seeing reductions where we are working very hard to achieve those; for instance, with break and enter type crimes where we are trying to use DNA legislation and fingerprinting and other things to have an impact.

If I can talk through those issues, I will come to how we try a strategy, we are thwarted at some point, we try another strategy and we keep on going. Some crimes again are on the increase. There is no doubt about. We are trying to implement strategies to attack those crimes. Does that help you understand, Madam Chair?

CHAIR—Yes, because all the evidence we have had is that Australia, contrary to other countries around the world where they have had a reduction in crime, is having an increase in crime. All Dr Weatherburn's stats, with the exception of one category, showed that crime is on the increase.

Mr Madden—That is the difficulty with stats, I suppose. If we went over a three- or four-year period we would see an increase. In terms of last year, we are seeing a reduction in some areas. I am not saying that since the police started back in 1829 we have seen a decline in that time. We have seen some very large crime—

CHAIR—We are not talking about 1829, with respect.

Mr Madden—I realise that, but in the last 12 months in some areas we have seen a decline—not across all categories.

CHAIR—In your briefing you might like to address the question of the gang crime we are having. That is very controversial in New South Wales. We had a denial of it. We had evidence this morning from people from Cabramatta and from Fairfield as to the fact that you still have that index in place; that drug related crime is still not being added to it; that you have RBT there, which is hardly an indicator of violence in the community. We would be very pleased to hear some evidence about that and also ethnic related Lebanese crime in the Bankstown area. Perhaps you could tell us about some of that.

Mr Madden—As I come to that, Madam Chair, if I have missed out on any of those issues, could you remind me because there are a number of issues there. I will try and answer them as best I can. The difficulties associated with statistics, which Dr Basham alluded to as well—

CHAIR—We will accept that we are yet to see the stats for the last six months. The stats we have before us now show an increase of crime, so I do not think there is much point in talking about mythical stats that might show there has been a lessening in some categories somewhere down the track. Let us deal with what we have in front of us.

Mr MELHAM—They are not mythical. They are up-to-date figures that have not been publicly released, Madam Chair. There is a difference.

CHAIR—They don't exist yet.

Mr MELHAM—They do exist. They have not been publicly released.

CHAIR—Dr Weatherburn would have given them to us if they did. Perhaps we can go on to that.

Mr Madden—Madam Chair, in relation to statistics, there are a whole range of issues associated with the way in which people record statistics, which makes it very difficult for comparisons. For instance, if you were to try and compare one state with another, you might find people will say, 'Hang on, there's a state that leads the crime stats.' If you then start comparing per capita you get into another ball game. It is not sufficient to say that we have less crime than another state or that, in this particular crime category, we are going okay. From our point of view, if there are crimes occurring, we are doing something about it and trying to address it. That is the point I was intending to make about statistics. We do not want to get into a statistical game because we are still talking about perception.

CHAIR—Let us leave the stats and get to the questions.

Mr MURPHY—I would appreciate it, Madam Chair, if you would allow Deputy Commissioner Madden to finish his opening remarks.

CHAIR—I would be delighted if he would.

Mr MURPHY—Then we can ask him any questions we like.

Mr Madden—Thank you, Madam Chair. As alluded to, the statistics is but one thing. There is a complete mix of reasons which underpins the community's attitude to crime in terms of

developing that fear of crime. This includes media reporting and representation by community leaders. We do not have total control over the community's perception of crime or their fear of becoming a victim. However, we believe that we are having some considerable impact on this and I will talk about that.

Regarding your terms of reference, I refer initially to types of crimes committed against Australians. As the committee has identified, there are, broadly speaking, two categories of crime: crimes against a person and crimes against property. Police in New South Wales are concerned with both of those crimes. The Crimes Act defines the types of crimes committed in New South Wales, the structure of legislation and what we do. Crimes committed within Australia affect citizens and non-citizens and, should they fall within our jurisdiction, we investigate those regardless of nationality, victim or perpetrator.

I have already indicated that there are issues associated with the way in which each state defines crimes. Some states use statistics based on prima facie and some states use statistics based on evidentiary. In simple terms that means that a person who reports a crime in New South Wales we take as prima facie. Once we have formed a view, prima facie, that the event has occurred, we record it as a statistic. Other states use what is known as an evidentiary basis upon which they have to gather sufficient evidence to identify that the crime has actually occurred. We do not pull away from that because, from our point of view, we want to know what is going on and we will use those statistics as best we can to define where we are going to deploy our resources.

In terms of that, I refer to a comment in *Recorded Crime—Australia 2001*. I will refer the actual reference to the committee, if they wish. The comment was made:

Although national standards and classifications are used in the compilation of these statistics, some discrepancies remain between the States and Territories. These are due to legislative and procedural differences between police jurisdiction.

This was provided in terms of the Australian Bureau of Statistics efforts to try and do some comparison between states.

When the commissioner and I were appointed earlier this year, we had a real focus on trying to drive down the fear of crime in the community. One thing we observed is that high-visibility presence, high-visibility operations have an effect in terms of the community's perception. Operation Vikings, which I am happy to allude to later on, are about deploying large numbers of highly visible police to areas of problem. Equally we identified that the resources were not necessarily at the right location. As I have already indicated, there are five regions. Under the old structure, there were 11 regions and resources were allocated to the regions, which are a large conglomerate of local area commands. This meant the specific local area commands did not have access to the resources they needed and were competing with other local area commanders.

A restructure occurred which saw the various resources deployed from the regions to local area commanders. Now throughout New South Wales there are minimal resources actually attached to regions. Most of them are with the local area commanders and, importantly, under the command of local area commanders. They do not go begging to regions for use of staff; they actually have them there to be deployed. That places a great deal of responsibility and onus on those individuals as to how they deploy. When I talk later about mechanisms to invite the

community to interact with police through things such as the PACT mechanisms, that is where commanders are held to account by their communities for how they deploy those resources.

Not only do we have the regions which are divided and ultimately report to me as the deputy commissioner; there is another deputy commissioner who has all the specialist support areas. He has reporting to him things like forensics, special services, technical services and a range of other groups within our organisation, all being used to combat crime in New South Wales. Clearly the two big issues on most people's agendas—in terms of our community surveys this is certainly shown—are the illegal drug use and distribution, and also that of firearms presence in the community.

A public satisfaction survey was undertaken on behalf of New South Wales Police by A.C. Nielsen, titled *Community Attitudes Towards Policing*. It identified that New South Wales Police were committed to tackling illegal drug use and its distribution and that the issue is at the forefront of police crime fighting. But the issue of illegal drug use and distribution is one of the most significant concerns to the community in New South Wales. The *Community Attitudes Towards Policing* study further indicates that motor vehicle theft and housebreaking are the next two types of criminal activity which New South Wales residents are most fearful of.

Interestingly, and as I alluded to earlier, the fear of becoming a victim is actually higher—about 80 per cent of those surveyed felt that they would become a victim—than the potential for them to become a victim. For instance, whilst one in 20 persons are likely to be a victim of assault and one in every 15 households is likely to be a victim of break and enter, 80 per cent of the community felt that they were likely to become a victim of crime.

To some extent our performance is not simply measured on the basis of clear-ups, arrests or detentions but about how the community perceive us.

CHAIR—Why do you say that? I would have thought that arrests and convictions would have been a good test.

Mr Madden—They are one important measure. The point I am trying to make is that we could make a lot of arrests but at the same time there is a perception that we do not necessarily have control. For instance, in the recent Sayda instances of gang rape across various parts of western Sydney there were some very good arrests. Some 14 or 15 people appeared before the court and there were some of the highest sentences ever issued in New South Wales.

CHAIR—Absolutely.

Mr Madden—At the same time, the perception of fear was rampant. We were trying to manage both a perception of fear and the reality without spreading absolute panic throughout the community.

CHAIR—But isn't the reality that there are a whole lot more rape trials to come?

Mr MELHAM—No.

CHAIR—Are there?

Mr Madden—There are still people continuing to face court, yes.

CHAIR—Quite a lot.

Mr Madden—I cannot tell you the exact number but I could find out.

CHAIR—Would you find out for me. That would be very good.

Mr Madden—I can take it on notice.

CHAIR—Thank you.

Mr Madden—But the perception is another issue. This is where we get into a bit of a balancing match and it is probably something I will talk about later. If you take the young people who hang around railway interchanges, for instance, there is a perception of fear generated by their presence. Often they are referred to as a gang. The reality in many cases is that they are simply school teenagers who are on their way home, but there is a perception generated that they are in fact gang members—by their behaviour, their attitude. I am not saying that these kids are sitting there lining up, but their behaviour is intimidating to other people, so it is about how we deal with perception. If you looked at the number of arrests for an area around an interchange, they may be very low. The measure for us in terms of performance is not that we made one or two arrests at that interchange. The measure is how do we reduce the people's concerns for that particular area?

CHAIR—Deputy Commissioner, we heard evidence this morning about Cabramatta and that the police have said they will not intervene where a young person is seen administering a drug to another young person. They will not intervene.

Mr Madden—Madam Chair, I was not privy to that evidence and certainly I would not support it.

CHAIR—I have the name of the person.

Mr Madden—My view is that, if we see people administering drugs to one another, we would take action of some type.

CHAIR—But the whole point about the evidence this morning was that there was not sufficient police intervention happening in Cabramatta as a deliberate policy. Are you saying that is not the case?

Mr Madden—I think Cabramatta was a specific and difficult problem area—

CHAIR—No, this is now.

Mr Madden—I have been looking at how Cabramatta has been going and I have referred to some of the reports that were previously completed by Helen Sham Ho MP et cetera. I am buoyed in part by the comments recently made by the chamber of commerce to various reporters for the local media.

CHAIR—They were here giving evidence this morning.

Mr Madden—If I could refer to the comments made by Mr Ross Treyvaud, who is the head of the chamber of commerce, on 18 September—

CHAIR—He was here this morning.

Mr Madden—His comments to Ray Hadley were in response to the Cabramatta of now as compared to years ago:

Well, there's been great improvement in Cabramatta. We've seen a huge reduction in the amount of crime on the streets, certainly the availability of drugs has reduced significantly. The exodus of drugs in the streets have reduced dramatically and it's a very good place to visit now for shopping or enjoying the cultural experience of Cabramatta.

Mr MELHAM—When were those comments made to Mr Hadley?

Mr Madden—Mr Harker, sorry—18 September 2002. I am prepared to provide this transcript to the committee if it so desires.

Mr MELHAM—I am happy to move that that transcript be received into evidence.

CHAIR—You are happy for that to be received into evidence; I am talking about the evidence that was given by Councillor Heggie this morning.

Mr MELHAM—I am now happy to move that it be received into evidence because it is inconsistent with the evidence that was given this morning.

CHAIR—No, it is not. He did not give evidence to the contrary. I am talking about Councillor Heggie's evidence.

Mr MURPHY—Madam Chair, could I ask a question through you, and with respect, to Deputy Commissioner Madden. How long will he take to finish his presentation? I will say again that I prefer that he be allowed to finish his presentation and then any of us ask whatever questions we like.

CHAIR—He has quite a few pages there actually.

Mr MELHAM—I think it is in our interest to let him say what he has to say, and then we can ask him questions.

Mr Madden—I will probably take about another 10 minutes.

Mr MURPHY—Fine.

Mr Madden—I would like to continue my response in relation to Cabramatta and the actual issue. We recently received a report in relation to heroin distribution. We compared a number of local area commands in terms of what happens with various measures of drug activity such as ambulance call-outs to overdoses; evidence of the needle exchange programs—the numbers of needles that are being exchanged, and the rate at which they have been provided over the last

few years—to determine how it is going in an area. That is one indicator for us of the amount of drug activity within an area. I will compare the figures of 2000-01 with the first five months of 2002. In terms of ambulance call-outs to overdoses, in the year 2000 there were 670; in the year 2001 there were 109; and, in the first five months of 2002, there were 63.

CHAIR—This is the heroin drought.

Mr Madden—This is about drug activity in Cabramatta and linked to the heroin drought, yes.

CHAIR—We heard that this morning.

Mr Madden—In the year 2000, the figures for needle exchange show that approximately 629,000 needles were exchanged; in 2001, approximately 272,000; and, for the first five months of 2002, approximately 57,000. They are not sole indicators of drug activity within the area, but they are some of the indicators we would look at to see how we are going in terms of the activities of Cabramatta. Cabramatta is not perfect, but it is a lot better than it was in previous times. We still have a way to go and we are continuing to work on that. We believe that the strategies that have been put in place by the commander are working quite well.

CHAIR—The crime index used to be assault, robbery, stolen motor vehicles, break and enter and stealing. I understand that RBT has been added to that, but drug possession, supply and conspiracy to supply still have not been added to the index. Is that true or not?

Mr Madden—I am a little confused because I do not have the crime index. I receive statistics of the commands on a monthly basis.

CHAIR—So you do not have a crime index any more?

Mr Madden—In years gone by there was a crime index which for instance rated a command as No. 1 across the five crime categories. I am not in receipt of any crime index of that nature. When I get my monthly figures, I can list the commands in terms of, say, stealing as an offence of one to 80 in terms of raw numbers.

CHAIR—What about drugs?

Mr Madden—I look at the control chart, but it does not list the data for me.

CHAIR—Does it list drugs?

Mr Madden—No. It shows me the control chart, which is the incidence of detections for the whole state across a period of time, but I do not receive an index like we used to have back in 1997.

CHAIR—So you do not receive any command information on a regular basis that includes drugs?

Mr Madden—No. I receive what we call ‘the crime card’, and it shows me the state picture for major crime categories and will show me on an individual basis—for instance, stealing or motor vehicle theft—those commands that are high. It will list those. There is no conglomerate of those activities to give me an index.

CHAIR—I will desist and let you go back to your reading.

Mr SECKER—It does not include drugs?

Mr Madden—It includes drug detections, yes, on a state-wide basis.

CHAIR—But they are aggregated figures. You do not now look at area specific, so you cannot tell me about Cabramatta to date?

Mr Madden—No, I cannot. I can find out. If you would like me to, I can gather that information.

CHAIR—But you do not get it on a regular basis, including drug activity?

Mr Madden—I get a monthly statement of drug detections for the state of New South Wales.

CHAIR—So you do not get anything on area specific?

Mr Madden—For some areas this will be broken down into regions but not commands per se. No, I do not get an index of drug activity. So that I do not mislead the committee, I am not aware of it being produced currently but I can find out whether an index is being produced. But certainly I am not receiving it.

CHAIR—It is worse than that because you are not receiving anything that is specific to that area.

Mr Madden—I can print up the crime stats for a local area command from the Enterprise Data Warehouse, which is a computer program. I can print up finances.

CHAIR—Including drugs?

Mr Madden—Yes, including drugs.

CHAIR—Could you do that for me for Cabramatta?

Mr Madden—Yes, I can.

CHAIR—Thank you. Could you take that on notice and do that for us?

Mr Madden—Yes, I will take a note of it. I can produce it for any other command that you wish as well.

CHAIR—We had evidence about that this morning; that is why I want to look at it.

Mr Madden—Okay. I will stress again that I do not receive a crime index per se, but we have access to any data on any command.

CHAIR—You are telling me that the crime index is now abolished?

Mr Madden—I thought it had been abolished a number of years ago. I am surprised to hear that it is still being referred to. That said, however, I am not 100 per cent sure that every database in our organisation and every corporate information unit and every person who has access to the data does not create their own index. But I am not aware of a corporately supported crime index that lists those commands based on crime or a conglomerate of stats. I do have an index that I look at which talks about a whole range of factors such as command size, issues about HR, issues about industrial relations, issues about the command not performing well in terms of finance and a range of other factors.

CHAIR—But you no longer have an operational crime index that rates each command on an overall scale of one to 80 against five heads? You do not have that any more?

Mr Madden—Not that I am aware of. I do not receive it, but I will find out for you.

CHAIR—Thank you very much.

Mr Madden—As I have already indicated, the two big issues that the community is concerned about and also that we are interested in are those of illegal firearms and illicit drugs. We believe they are major concerns and ones that we have to focus on very strongly. States and territories have the necessary laws creating penalties in relation to drug trafficking and firearms offences, including antfirearms trafficking laws, and they have been strengthened considerably in recent times. However, as I indicated at the start of this presentation, we believe that greater border controls are required to identify illegal firearms being smuggled into our country either through shipping containers or through the mail system.

Again, I stress that these comments should not be construed as a criticism of our federal colleagues but rather they reflect my support for enhanced Commonwealth services. We simply cannot respond to criminal activity or deal with perceptions of crime or reduce crime hotspots if our federal counterparts are not adequately resourced to deal with the broader issues of importation. The amnesty on firearms was able to achieve a significant reduction in the offences traditionally associated with semiautomatic firearm offences and we welcome this important initiative.

Illegal hand guns are so critical. As Don Weatherburn indicated in the earlier release this year of some crime stats about robbery, the use of hand guns was the feature that the media took and raised and that the community became critically aware of. That prompted us to examine our strategies for how we were dealing with illegal firearms in the community. Indeed, the way in which hand guns are imported and distributed was a key discussion point for the steering committee charged with the responsibility for providing the terms of reference to the Australian Crime Commission.

The laws are useful and over time the laws, we hope, will make a huge impact, but tighter border controls need to be considered as part of a broader strategy to identify firearms and hand guns being smuggled into the country. We will continue to work with Customs and ensure that

there is an exchange of intelligence based on cargo examination, but we are keen to develop further protocols to have much more exchange of information with Customs and other services. We fear that the Australian Customs Service is simply not able to search enough cargo to ensure that the number of hand guns arriving into the country is limited. We hope that, as a result of parliamentary inquiries into this, the Commonwealth is able to ensure that the Customs Service has the equipment to detect the importation of illegal hand guns and parts. Again I stress: this is not to be critical but constructive.

With regard to the importation of heroin and other drugs, the New South Wales Police operate a number of maritime vessels that are used in the interdiction of small boats suspected of carrying firearms and drugs. Intelligence exchange is useful to make sure that we maximise the benefit of those resources. With reference to the term of reference 'The impact of being a victim of crime and fear of crime, strategies to support victims and reduce crime' we have a number of strategies to assist victims of crime and to provide support to individuals and committees. There are a number of policies and procedures which emphasise consideration for and in respect of victims in order for the issues to be appropriately addressed. These include but are not limited to domestic violence policies and standard operating procedures, adult sexual assault policy and standard operating procedures, procedures for the care and protection of young people, a victim support policy and standard operating procedures and victim support standard operating procedures in cases of homicide. The New South Wales Police has copies of these policies and will provide them to the committee for its consideration if you so wish.

With regard to apprehension rates, there are different rates for different crimes. Apprehension rates are dependent upon a number of factors which impact on the New South Wales Police's ability to charge an offender and bring the matter to court. Policing is largely reactive in this sense. We rely very much and very heavily on witness accounts and statements in order to charge offenders.

The Evidence Act requires us to obtain evidence in a certain way and for this process to be fully accounted—for instance, taking forensic examples from a homicide scene requires the taking of samples in a prescribed and systematic manner. Equally, the way in which interviews are conducted, the way in which search warrants are conducted and a whole range of other things ensure there are strict rules and procedures that must be followed in terms of obtaining this evidence.

One of the key things we rely on are witness support statements and the fact that witnesses are required to appear in court, but we know that there are a number of reasons—and some of those, I am sure, have already been identified by the committee—why victims of crime may be reluctant to report the crime to police and a range of legal and personal reasons why the victim will not wish the matter to proceed. For example, and unfortunately in New South Wales it is all too common, we see the reluctance on the part of victims of sexual assault to actually carry through with the matter. In only recent times, I have seen a number of sexual assaults where we are informed of the original event but the victim chooses not to proceed with the matter at a later time. We need the victims to continue on with the matter for us to do anything.

One example is that of an overseas student from an Asian country who was the victim of a sexual assault but she flew home rather than go through with it because of the fear of humiliation within her family. She went home with a view to not talking about the incident ever again. There was recent major publicity associated with the Sayda trials. Whilst, from our point

of view, the sentence of 55 years was a fantastic thing and it was reported on and received headline news, so was the way in which the victims in that matter were interrogated in court by barrister after barrister. Whilst, to some degree, we say we were very successful, the impact of the way in which that matter was conducted could also have a bearing on further witnesses coming forward at a later date.

In terms of community safety and policing we are committed to a range of safety community strategies. Earlier, I mentioned Operation Vikings. Operation Vikings is about putting out large numbers of police in various areas to both combat the reality of crime—that is, they are intelligence based—but they are also based on information we receive from police in terms of perceptions. That leads into the next issue about PACTS, which is about setting up local community PACT panels. It is about the police and the community working together. It is about having a small group comprising the local member, the chamber of commerce, mayors from the councils and the police and trying to force them to meet four times a year, with the local member being required to attend to discuss issues that come from the community. It is a chance for the commander to be held to account for his policing activities. It is about his saying, ‘This is where I am deploying my people,’ and it is about trying to encourage understanding. That is exactly the same as the high visibility policing. We want the PACT committee to look at where police should be deployed.

For some commanders, PACT is about sitting around a table, as we are now, and discussing the issues that are facing policing. In some other areas—for instance, Kings Cross—the commander calls in members of the community, gets large forums together and sits in front of them and answers all their questions about policing issues and what their concerns are before dealing with the PACT committee, which is comprised of the local member and others.

In some areas it has been dealt with by police attending a whole range of community incidents and giving them maps of the area and saying, ‘You tell us where you think the problems are.’ The community members—for instance, schoolchildren, will draw on a map where the problems are or where they perceive there to be a problem and that is where we will start deploying police, because it is about trying to combat the perception as much as anything else. In addition, we have a range of liaison officers, including crime prevention officers; Aboriginal community liaison officers; domestic violence liaison officers; ethnic community liaison officers, which was mentioned by Dr Basham; and youth liaison officers. We are at the point where we are not only trying to get a closer alliance with the community so they better understand policing but we are also opening up many more mechanisms by which they can raise issues with us.

In all of those categories, as I have indicated, we do not work in isolation. We are trying to get closer ties with the community through recruitment, by trying to be more representative of the community and in any way we can to ensure that we have adequate representation and that the community are involved. We invite people to come forward. Dr Basham indicated he had concerns about senior police—I was sitting in the forum here. I invite Dr Basham to raise those issues with the Police Integrity Commission, which sits as a standing review tribunal for all the police and with whom we have constant dialogue. Madam Chair, I will not go on any further. I prefer to answer any questions people may have.

CHAIR—Thank you very much. I wonder whether I could put my question to you, as I did before, about the policies you have with regard to gang related crime, particularly in the

Bankstown area and in Cabramatta. To make the point about the transcript that you read out, nothing you read out in the transcript is at variance with what Councillor Heggie had to say this morning. She was asked the question: 'Are you satisfied with the way it is in Cabramatta?' Her answer was no. She asked why she had to live in fear, with crime so rampant in the area, when the area of Roseville—an example was given earlier on in which Commissioner Ryan said Cabramatta was as peaceful as Roseville—was given less effective policing and their quality of life was less. That was in no way in contradistinction to what Councillor Treyvaud said when he said it is better. Councillor Heggie said that it is better but it is not good enough and went on to say there that was still an unwillingness or a policy not to intervene with juveniles who are drug abusing. I am told that it was Frank Hansen who told a local area committee that was in fact the policy of the police. Is that true or not true?

Mr Madden—I am not aware of that policy, Madam Chair, but I am happy to take the question on notice and find out if there is any standing policy in relation to that. I am not aware of any policy along those lines.

CHAIR—Do you have a particular concern about Cabramatta or do you think it is just like anywhere else?

Mr Madden—To be fair, I have a varying degrees of concern about 80 local area commands and their complexity, both with crime and other issues. Cabramatta is a problem and has been a problem and will continue to be a problem for a while as we try to address the various issues. We are working with the commander, and the commander is trying to address it through a range of different strategies. To answer your question, yes, I am concerned about Cabramatta.

CHAIR—What I would like you to do is to read the transcript from this morning's evidence and come back to us with a reply about why people have to put up with that. Would you be able to do that?

Mr Madden—Yes. I can speak to Commander Hansen about the comment he made or any unwritten policy or written policy that he has been using out there.

CHAIR—Evidence was given this morning with regard to cautions, and I understand that is part of the policy. Would you like to explain the caution policy for me?

Mr Madden—There is a use of cautions for first time offenders and young people. It is a diversionary type of program. It is about trying to keep them away from the criminal justice system per se—that is, trying to deter them from further crime by not necessarily putting them before the court. There is a policy, which again I am happy to provide to the committee in due course, that identifies the type of offences and how the cautions are to be run.

CHAIR—Could you tell us about the drug part in particular—when you get a caution with regard to drug usage and possession?

Mr Madden—I will have to take it on notice, Madam Chair, because I am not 100 per cent across the caution on drug activities for juveniles at the moment.

CHAIR—Isn't that a No. 1 issue?

Mr Madden—Again, I am not 100 per cent across it in terms of juveniles and the cautions for drugs and the weights et cetera. I would be more than happy to take that on notice and provide you with it or refer it to the youth policy—

CHAIR—Is there a policy that gives a caution under the possession of a certain weight?

Ms McCoy—In the act, there are guidelines around cautions and warnings and when juveniles are being referred for conferencing. So there is a certain standard that has to be met. It also includes serious and violent crimes as well.

CHAIR—I asked whether there is a policy whereby, below a certain weight of drug possession—a certain size of the amount of drug the person has—a caution is administered. Is there a policy for that?

Ms McCoy—No, there is not at this point in time.

CHAIR—So action should be taken against anybody who is caught in possession of a drug?

Mr Madden—No, there is not.

CHAIR—Including juveniles?

Ms McCoy—There is a certain amount, a certain weight that—

CHAIR—That is what I asked you: what is it?

Ms McCoy—I do not recall off the top of my head, but I can certainly produce that information for you.

Mr Madden—We are happy for her to obtain that for you, Madam Chair.

CHAIR—In evidence this morning, it was said that in Cabramatta there were no cautions given, so presumably all the possession was above that weight.

Mr Madden—Again, I am not sure off the top of my head, Madam Chair, but I am happy to find out for you and come back to you on that.

Mr MURPHY—Thank you for your presentation. Bearing in mind the terms of reference of our inquiry, from a Commonwealth perspective we have to look at effective measures for the Commonwealth in countering and preventing crime. You made reference to the problems with an increase in the importation of hand guns, the need for tighter border controls and for greater resources in Customs. Without wanting to be exhaustive here today, because we do not have the time, I think it could be useful for us if you were to ask Commissioner Moroney to give us the New South Wales Police Service's views on what the Commonwealth could be doing to support you.

There have been lots of issues raised this morning by the witnesses particularly with regard to perceptions in the community and the increased levels of crime, and some of what you are

saying is in conflict with what we heard this morning. I think it would be useful if you could give us a list of things that we could take into account under the terms of reference of our inquiry to strengthen Commonwealth legislation that might assist law enforcement agencies like yours, which would have an impact on the reduction in crime. Could you do that?

Mr Madden—Certainly. I think a number of initiatives or suggestions have gone before the Police Commissioners Conference and the Police Ministers Conference as well—the APMC—in relation to firearms trafficking and various issues. I think some of those have been progressed, and I would be happy to find out the exact state. The commissioner represented himself at those forums, but I am happy to find out where they are up to.

Ms JULIE BISHOP—Deputy Commissioner, you made a point about the 55-year sentence being obviously one of the more high profile sentences of late. Could you comment on any concerns you have about the media reporting of trials? It seems that one of the points you were making was that, whatever deterrent effect such a significant term of imprisonment might have had on potential offenders, it might well have been counterbalanced by the deterrent effect on witnesses or victims to come forward and go through not only the rigours of a trial but also the media circus that accompanied such a trial. Could you comment on that?

Mr Madden—There are several issues in there. The point I was trying to make was that, historically and for a whole range of reasons, there has been a reluctance on the part of victims of sexual assault to come forward to report and, once they have reported, to go right through—from the time of reporting and statement taking, right through to prosecution in court.

Ms JULIE BISHOP—And that is not confined to domestic violence type sexual assault? You are talking across the board?

Mr Madden—For a range of offences but particularly for sexual assault and domestic violence—where there is personal embarrassment and that type of thing. Bear in mind that there are appeals pending on some of the Sayda trials, so I will avoid those issues. Generally, when we herald a 55-year sentence—which is fantastic from a policing point of view and there was a great deal of satisfaction for a whole range of people—at the same time there were articles about the way in which the victims had been interrogated in court, even to the point of where they provided personal evidence of the horror occur not only at the beginning and in the middle but also subsequently. My fear is that there will be a reluctance on the part of further and future victims to actually come forward and report those incidents because they will fear that they will go through exactly the same thing.

I was a commander at Bankstown when those initial incidents occurred back in 2000. Whenever you combine ethnicity with crime—that is, a sensational and horrific crime occurs and, by appearance, the people who are alleged to have committed the crime belong to a certain ethnic group—the reporting of that is something that we cannot control. As much as we will try to talk about criminals and criminality and offenders, the fact is that, the way in which it will be managed, we will be talking about ethnic tensions and religious issues, such as Islam, which take it away.

We spend a lot of time firefighting in that regard—calming down the general media when they sensationalise the issues, dealing with the facts and also dealing with the community. We spend a lot of time trying to build the relationships with the outraged community—let us take

the Middle Eastern community, for instance—and encouraging cooperation et cetera while all the reporting is going on. There is a real balance that police have to walk in terms of the information they give out and how the matter is dealt with in the local press. Over time, there has been a history of trying to deal with those issues. I am not sure whether I am answering your questions, but we encourage our commanders to stay straight down the line—for example, ‘We are looking for people of the following appearance or description,’—and to stay out of the issues associated with religion and ethnicity.

Ms JULIE BISHOP—But, in some instances, isn’t that avoiding the absolute truth? In some instances, as unpalatable as it might be, aren’t some women targeted because they are who they are—ethnically, racially or whatever—by people who are what they are?

Mr Madden—Again, we are straying into an area that is before the courts.

Ms JULIE BISHOP—I am not talking specifically; I am just talking generally.

Mr Madden—Hear me out if you can. I will continue. When I was in Bankstown, I found that in a lot of cases that where people had talked about cases where the offenders were of Middle Eastern description or appearance, they were in fact Australian born. There were people who actually chose to call themselves a particular nationality because they hoped that it would provide some form of intimidation. We try to go down the line of talking about appearances because, for us, we do not know whether the person who has committed an offence is Islamic, Baptist or anything else. We know them in terms of their appearance, which might be that of a Pacific Islander, Aboriginal, Middle Eastern or Mediterranean. Some years ago we went out to find out the descriptors that most of the population responded to—for example, what they identified with when we talked about someone who was of Middle Eastern appearance. We try to use descriptors rather than countries.

Ms JULIE BISHOP—Because it conjures up something different in different people’s minds?

Mr Madden—Often a person who is from Iraq might not look like they are from Iraq, so the appearance in terms of the description might be Caucasian. We try to keep it in terms of descriptions. People say we are naive about that because we are avoiding the real issue of nationality or ethnicity, but it is not. We try to talk about descriptions—a criminal commits an offence, and the criminal is described.

Ms JULIE BISHOP—Perhaps where I am straying you do not want to go, and I can understand that, but somewhere along the line I would not mind—

CHAIR—I think that Ms Bishop is quite right. It is no good denying it. The evidence was there in those trials that there were organised Lebanese gangs—Muslim gangs—designed to rape, in the words of the evidence given, Australian girls, known as ‘Aussie sluts’. As an Australian woman, I have to tell you I find that very offensive. There is no good denying it; the evidence was given. What sort of strategies are you now developing to ensure that we do not see a repetition of that? As I understand it, there are more to come in the courts. Am I right or am I wrong?

Mr Madden—I am told there is one outstanding trial to be faced next year. If you are asking whether I can absolutely determine that there will be no sexual assaults of that nature, I can't. If you are asking me whether we are trying to work with the various communities and whether we are trying to improve our methods of sexual assault investigation, the answer is yes. If you are asking me whether we are trying to get into the schools to talk to the young girls about programs for safety et cetera, the answer is yes. We have established Task Force VAR, which is a high level interdepartmental committee with the education department, on which I sit and a group of people with the education department sit. This also links back to your question about the issue of gangs in schools or gangs generally.

CHAIR—This is hearsay and I would be obliged if you could tell me whether you are aware of it. I have been advised that there are instances of gangs from the Bankstown area going into high school end of year parties and recruiting new members for their gangs. Are you aware of anything like that?

Mr Madden—No, I am not aware of that.

CHAIR—Perhaps quietly afterwards I can tell you the schools.

Mr Madden—I would be happy for you to do so. Could I finish on Task Force VAR and indicate what that is. We identified earlier this year that there was a lack of intelligence coming from schools to us as police, as well as the education department, about activities in various schools. This case received notoriety when a group of boys from Randwick went over and were involved in a serious assault at Kingsgrove. We identified that the school from which they had come knew that these kids were away and knew that there had been an altercation but had not passed on that information. As a result, both the minister for education and the minister for police joined together and we created Task Force VAR.

That task force is headed by an ex-region commander, and ex-assistant commissioner, and we have police attached to that task force working within the education department. All issues associated with intelligence from schools is provided to that task force, as is information from the schools. The critical issue that we are still working through is overcoming issues of confidentiality. But it is through that task force that issues such as crime prevention programs in schools, related to sexual assault and what young women et cetera can do, are directed. We review their crime prevention programs and try to encourage greater crime prevention programs.

Ms JULIE BISHOP—I have two more questions. You said a couple of times that the 55-year sentence was a fantastic result. I can understand the sense of satisfaction people would have about that sort of sentence, but we have had evidence today that it does not actually act as a deterrent; that it would not matter whether it was a 20-year sentence, a 30-year sentence or a 55-year sentence. Can you comment on that?

Mr Madden—I think the sentence does act as a deterrent, but I also think there are people who will be hell-bent on committing crime irrespective of what punishment we impose. Throughout the world, if you look at places where there is the death penalty, there are still those crimes occurring.

Ms JULIE BISHOP—Sure.

Mr Madden—For the person who is on the periphery or who might not yet have chosen his life of crime, it may be a very strong deterrent.

Ms JULIE BISHOP—Who is on the edge of making a judgment.

Mr Madden—Yes. I don't want to bore you but a lot of research shows that particularly young males go through that stage of deciding which path to take and that in part is what conferencing, the cautioning scheme, is all about. If we divert that person from going through the university of crime, alias the prison, we can get them to go to an alternative and see the problems they have caused. A good example is that I went out to the fires that occurred at Engadine this morning and looked at the devastation. To take a kid who has lit one of those fires through that type of area, to meet members of the family who are out there crying, must have a very strong deterrent effect as against coming before a court. It is that sort of thing we are looking for and trying to operate with the cautioning schemes.

Ms JULIE BISHOP—It would be fair to follow up with the evidence I was referring to. The evidence was also that the risk of apprehension is a greater deterrent than the actual sentence imposed at the end of the day. Could you comment on that proposition? If they think they are going to get court they are less likely to do it.

Mr Madden—I think you would be right, but the risk of apprehension needs to be high. One of the issues associated with that is, as I indicated before, the number of victims who do not go through with their matter. I can think of some recent cases where, as advances have been made in terms of technology—for instance, DNA and other evidence-gathering techniques—at the end of the day, unless the person is under age, we still rely on the victim to come forward. There are a lot of cases that could be prosecuted if the victim went through with the matter. The more people who are arrested, as you have indicated, the greater the deterrence because of the fear of apprehension. We are trying to do the best we can but at the same time we need to encourage more victims to come forward. In a lot of those cases, where we do make an arrest, we will call for people who may have been the subject of one of these assaults to come forward.

Ms JULIE BISHOP—It was interesting for Dr Basham to say that the little survey that he or somebody conducted showed 85 burglaries in a street in Cabramatta, yet the police report showed nine. There are a lot of burglaries in one street that were not being reported. Presumably, had they been reported, the police success rate might well have been better, which would provide the greater statistic for apprehension.

Mr Madden—Yes. In areas such as that we are trying to encourage people to come forward. We are using programs such as ECLOs, programs where we getting information out to people in different languages to encourage them to come forward and advise. You can take Cabramatta with the ECLOs or many other places that have very varied demographics in terms of ethnic populations. We do use ECLOs, we encourage them and they are out there in the community. One of the roles is being out there talking about police issues.

If you go wider, though, there are cultural issues, particularly with the Vietnamese community, not about what happened in Australia that formed their value or their opinion of policing but what happened in their home country. It is exactly the same for some of the other cultures.

Ms JULIE BISHOP—That determines their perception.

Mr Madden—The best we can do still will not overcome their perception of what policing is all about.

Mr SECKER—In previous evidence we were told that New South Wales has always had a higher crime rate than Victoria, for example; 20 to 30 per cent in just about every case. Have you some explanation for that?

Mr Madden—I go back to what I opened with. Firstly, you have to look at a whole range of issues associated with statistics. As people say, there are statistics, damn lies and statistics. I do not have an explanation for any particular category; suffice to say that crime rates are related to a whole lot of factors, including demographics, population size, geography and the SEIFA index, and a whole range of different issues that would need to be explored, probably on an individual basis, to determine why one place is higher than another.

I also go back to how you record crime rate data—whether it is evidentiary or prima facie. I go back to the ABS, which indicates that different crimes have different definitions in different states. There is a whole range of factors. If we wanted to look at a specific crime, I would have to start saying, for instance, ‘Why are break and enters higher than in Victoria?’ Then you would have to look at what drives break and enters, and that is associated with drug abuse. Do we look at the prevalence of drugs in New South Wales versus Victoria? Each time we would have to break it down and go further. For crime generally, I do not have an answer as to why New South Wales would be higher. I do believe we have a much larger population. That is also a contributing factor.

Mr SECKER—In a perfect world where you might have double your budget—and I think all police forces would like that—where would you spend that money? Would it be in extra police on the beat? Would it be more on the technical computer side?

Ms JULIE BISHOP—Intelligence gathering.

Mr SECKER—Yes. Where would you spend that money?

Mr Madden—What I would try and do is spread it across a range of areas. On one hand, I would be talking about increasing police numbers because it does make a difference. We know that. At the same time, I would be looking at the increases in the technology areas. The changes in forensics and even surveillance and those more specialist areas need to be increased as well. If I had an unlimited budget, I would be looking at increasing across a whole range of areas. It is not sufficient to have police out on the beat if we cannot get the right forensic support. Equally, it is not sufficient to have police out there conducting murder inquiries if we cannot immediately access surveillance groups. We have large numbers of these people but in a perfect world it would be great to have more.

Mr SECKER—I notice you use the term ‘first offenders’ and it seems to be a pretty common term, whereas in actual fact it is the first time they have been caught. I would say it is rarely the first time they have offended. They have probably offended several times before they get caught. Has the police force ever thought about a different term than ‘first offenders’?

CHAIR—Primary offender?

Mr Madden—Not that I am aware of. If I could clarify, though—and this is anecdotal more than factual—when we are talking about young people, often it is their first offence. They will do something stupid and they will get caught for it. When we are talking about an armed robber, 25 years old, with a drug habit who gets caught doing an armed robbery, you are probably right; it is the first time they got caught but not their first offence. There is a difference between the way in which we describe the people and their propensity. It goes back to that issue about alternatives. How do we deal with the young kid as against the armed robber who has a huge drug habit? That is the big issue for us. The evidence from the caution system shows that a huge number do not reoffend. It is the most successful of all the alternatives.

Mr SECKER—You put the wind up them.

Mr Madden—Rightly so. But those who go to court often end up going back to court. The success of the caution scheme is evidence in itself, but at the same time it is an unsatisfactory or unpalatable option for many members of the community who want to see retribution.

Mr CADMAN—I have been listening with interest to your discussion about the identity of people in criminal activities. Dr Basham presented some interesting information. In his paper he says:

Ultimately, however, it is far more dangerous for cultural cohesion to ignore—or attempt to suppress—the reality of ethnically-based crime. Ordinary Australians are aware of the existence of so-called “Asian crime” and attempts to suppress discussion of it only play into the hands of extremist groups which claim that the “powers that be” are engaged in a conspiracy of silence on the issue.

Do you agree with that?

Mr Madden—I think that is the debate that is raging. At the same time we do not ignore that there are—and previous commissioners have said it—ethnically based crimes or crime associated with particular ethnic groups. For instance, within our state crime command we have a South-East Asian crime team who are looking at crimes associated particularly with people from a South-East Asian background.

Mr CADMAN—What sorts of crimes would they be looking at?

Mr Madden—They would be looking at drugs, drug importation and a range of other things.

Mr CADMAN—Prostitution, people smuggling—those sort of things?

Mr Madden—Yes, and some of those which have received some public notoriety in recent times. Equally, there are other cultural groups who would engage in particular types of crime. We do not ignore those. We do try and respond to them. At the same time, I suppose we do not want to fuel that other debate, so we just do it quietly and we address the issue.

Mr CADMAN—Would the same thing apply to crime from the Middle East as to Asia? Is there a profile for Middle Eastern crime?

Mr Madden—It is difficult to categorise according to crime. For instance, in a lot of the crimes that are being committed in Bankstown-Punchbowl, you would get a group of people who are of Middle Eastern appearance who may engage in drug distribution, prostitution and vehicle rebirthing. Equally, we could go to a motor cycle gang made up totally of Australian-born Caucasians who will involve themselves in prostitution, drug distribution and vehicle rebirthing. So it almost comes down to the social group that you are with and your propensity to commit various crimes. We avoid categorising everybody who is South-East Asian and therefore they are catalogued or categorised as being involved in drug distribution. We tend to look at the crimes of different groups which usually link up with friends and peer group.

Mr CADMAN—So you do not see any advantage in describing a group or a gang as a triad gang, for instance, or a tong?

Mr Madden—I am not sure exactly what you mean. The use of the term ‘triads’ is a common enough term and it is used around the world. There are those types of gangs. If you talk about Asian gangs, you might have Big Circle, or Singh—one of those type of gangs. People will often take on their own name. Equally, if you go to Punchbowl, you will have a group called the Telopea Street Boys, who are relevant to one particular group. Within other areas of Sydney, you will find a group who called themselves the Gordon Freedom Fighters, because they have taken up their suburb name. Putting that aside, if we are talking about crime, if there is a general description that is valuable then it should be used.

Mr CADMAN—The other question I had was about PACT committees. Just looking at your description, it appears that there is no consistency in the way in which they operate.

Mr Madden—There is consistency. At one state we even looked at introducing legislation, but we backed off from it with the view that we could do it across—

Mr CADMAN—But what you described to us was with a great variation in the way they operated.

Mr Madden—Perhaps I have been poor in my description. Would you allow me to describe it again. Within 80 local area commands a PACT is operating or is being developed and implemented as we speak. Each PACT within the local area command meets four times every year and is always chaired by a police officer or the local area commander, who cannot delegate that responsibility. Equally, on that panel is the local member, the mayor—or a number of mayors or local members if they cross a number of boundaries—representatives of the chamber of commerce and any other person who the commander in that group thinks is appropriate; for instance, a community representative who should be represented.

They are not able to send delegates and so we maintain uniformity and conformity in terms of consistency of decision making. The minutes are taken of those meetings and they are posted—and this is what we are trying to do at the moment—on the police Internet so that members of the community can look at them. We are also encouraging the commanders to release those minutes to their local press in two ways—not so much as an advertisement but the local reporter will be interested in decisions made by the PACT committee, so there will be references made about the PACT committee. It is a standard reporting format, it is a standard membership core, bar that a couple are added in each area, and it is standard that it occurs in every local area command four times a year. Does that help?

Mr CADMAN—That does help. What is the objective? Is it a public relations process, or is it aimed to get at crime?

Mr Madden—No. One of the key things we identified was insufficient dialogue between elected representatives—that is, members of parliament and councillors et cetera—with their local area commanders. Decisions were being taken by local area commanders, often in good faith and in good facts, where the underpinning knowledge and information was not immediately clear to members of the community. PACT is about reducing crime by identifying the hot spots, the crime trends and explaining police actions. If a local member asked, ‘Why have you got this many people here?’ or ‘Why would you have that many?’ there is an explanation provided for it. It is an opportunity for a local member to say, ‘I’m getting concerns from residents who live in this area about vehicles at nights doing wheelies or burn-outs,’ and so they can respond to community issues, whatever those community issues may be.

One of the things we are finding is that the explanation by commanders about their deployment decision is what is of most benefit to the community or the members on the PACT.

Mr CADMAN—Thank you.

Dr WASHER—Around the edges of policing are important issues like education. You mentioned the police going into schools, educating kids about various things, such as drugs et cetera. I will get you to elaborate on just a couple of things.

Ethnic communities have been brought up. How is your recruiting going? Are you recruiting people? You said that you had liaison officers. Could you flesh out whether you are recruiting police officers from these areas and whether you have people negotiating amongst the communities, talking to them about issues out of uniform? The PACT you mentioned is part of that, I guess.

There is obviously an overlap between the police and the health authorities. How well is that being coordinated and worked out—if someone is not handballing or duckshoving it, so to speak? Is that panning out well? Lastly, you mentioned witnesses and witness support. Obviously there are witnesses who are going to need a lot of psychological help, back-up and that type of thing to keep them coming back to the stand. They are also going to need some sort of protection, not just from a physical point of view, but from an emotional and mental point of view. Can you flesh that out and tell me how the police operate in those sorts of areas, which are on the edge?

Mr Madden—I will try to remember the order in which you presented them. The issue about recruitment is that we do not have target figures in terms of recruiting from ethnic communities, but we are actively out there trying to recruit people from various ethnic communities. We cannot say that a target of five per cent in each class will be from various ethnic communities. We have tried, through ethnic press, through special programs run by the recruitment section, going to schools—for instance, Punchbowl Boys and others—where there are large numbers of minority groups, to encourage them to join the police. We have even had articles in the papers by officers from various ethnic backgrounds, reporting on ‘A day in the life of Constable X’, trying to encourage young people to join. But we are still falling short of where we would like to be.

If you ask me whether I think we are adequately representative of all community groups at the moment, we are not, but we are actively trying to address that problem. We even did research last year on why people are not joining and there was a whole range of reasons—sometimes cultural, sometimes historical. For instance, one of the surveys of an Asian community found that they do not think policing is an honourable profession. Another group thought there were no educational qualifications required. What we did then was target our press to mention the fact that our students come out with diplomas; our police officers start with diplomas. We are trying to get an angle on each thing, trying to address those specific issues in order to encourage them. We have been working with some of the various groups who represent different ethnic groups, trying to hold career market days for them, just to encourage that.

The second part of your question was related to the use of ECLOs. ECLOs are not police officers; they are civilian employees of the police force who are used in commands and who a history of and demonstrated ability of working with different communities. Their job is to go out and deal with the different communities to explain and get an understanding of the policing role and police actions.

As an example, we ran some very large-scale operations in Bankstown in early 1999. Many of the parents of kids who were of Middle Eastern appearance—their parents were in fact from various Middle East countries—thought that it was a major crackdown and we were actually just oppressing all kids—that is, if we saw a Middle Eastern child, they were immediately picked on. In fact, in relation to a series of incidents and events that occurred, we used the ECLOs to go and talk to the parents. This was the case even with many of the churches. I would go and talk to heads of the mosques and other people—the sheiks—to try and get them to bring about some understanding of what was going on. The ECLOs are used on that basis. We have brought them into troublespots. We also bring them in to try and defuse situations, if it is at all possible. We are using civilians, and one of their key roles is contacts. The third part of your question was in relation to—

Dr WASHER—Witnesses and victims.

Mr Madden—I will use domestic violence as an example. If a person comes in and says that they have been the victim of domestic violence, we do not take their partner and immediately throw them before the court and then say, ‘Thanks. That’s good. We’ve got a good result here. See you later.’ The domestic violence liaison officers are the first port of call. You might report that you have been subject to a domestic incident, but the person who will be contacting you after the initial report and may be present throughout will be the domestic violence liaison officer. There are a number of schemes operating where the victims are being contacted and being brought together in groups with the domestic violence liaison officers. When the matter is presented in court, the domestic violence liaison officer sits next to them; they are the ones who are finding the refuges, who are doing everything they possibly can. In terms of victims and victim support, we do not leave them and hang them out to dry. We work with them.

If you look at the recent Sayda example, the victims talked regularly about the support they were provided as victims and witnesses by the police who worked with them. It is not uncommon to find the police after hours contacting victims and going and spending time with them. Again, we are pushing that right through. We can do more. I will not sit here and say we have that perfect, because in the daily life of an officer, when you are flooded with police work and other things, it is sometimes easy to forget about the victims, particularly for crimes like

break and enters, and just go to the next job. We need to work on how we make them really conscious of the fact that we are dealing with people. The last part of your question, I think, was in relation to health authorities—

Dr WASHER—Overlaps, yes.

Mr Madden—and overlaps with government groups.

Dr WASHER—Yes. That was illustrated this morning. There seemed to be this impression given to us that, because the drug problem is also now addressed as a health issue, the police had walked back a bit from it and said to the health people, ‘Well, for God’s sake, take this on; we’re backing off.’ I was wondering about the liaison still between the two authorities.

Mr Madden—In a number of community projects that are going on throughout New South Wales, we have adopted a whole of government approach. Police are but one government group represented on these forums to look at issues. The Cabramatta project is one example where a whole range of government departments will be involved in trying to improve a community’s health. That is happening in a number of places, identified with the Premiers Department—injecting funds and strategies into these areas, and the police are but one part. I would be disappointed if the police simply pulled back and did not play a part any more. But, equally, there is a very strong feeling of satisfaction within me which says that it is good that the problems are being recognised as much larger than simply policing problems. For many years we have dealt with issues as being the last port of call and the problem has sat with us. A recognition is growing right across the community about sharing these problems and it is of great satisfaction to me.

Dr WASHER—Do you feel you get enough help from the health authorities on this basis? Do you get enough backing from them?

Mr Madden—I think we are getting a lot of support in these different areas. There is a real contribution now. I know that the Premier and various parts of government are actively working with police in these different areas to try to get a result. As a simple answer, we are getting a lot in those places. But we still have work to do in identifying the locations that need further help.

Ms JULIE BISHOP—I wanted to ask about an issue that has arisen throughout the course of this inquiry. Today Dr Weatherburn said, ‘Solving one crime problem can sometimes create another.’ I want your comments on the sort of liaison that occurs between federal and state police and the strategic approach that is taken. Let us use the heroin drought as an example. Obviously, there were some very successful drug busts at a customs level and perhaps at a street level and you gave us some pretty impressive statistics in relation to heroin related offences, the ambulance use, the needles handed out between 2000 and 2002, showing that it was dramatically decreasing. But what that meant, if you go back on the street, is that it drove some people into cocaine and amphetamines and the like.

Whilst there is a pretty impressive record in dealing with heroin, which created a drought, of course; like squeezing a balloon, it popped out somewhere else. Was that anticipated? Was it anticipated that if you take it away it is going to occur somewhere else in some other way? If that was anticipated, what sort of strategies were being thought about or put in place? Was there an appropriate level of liaison between federal and state? I am using this as an example for—

Mr Madden—When we take these actions and try to implement a strategy, we always try to think through the consequences of that. What might happen if we do that? As you have just indicated, the heroin drought forced people into other drugs. Equally, as it became more difficult to obtain heroin and more costly, it forced more people into robberies, so an increase in robberies occurred.

Ms JULIE BISHOP—Because they had to get more money.

Mr Madden—Because they had to get more money and they became more desperate.

Ms JULIE BISHOP—It was more expensive.

Mr Madden—So you saw that type of increase. We try and foreshadow what some of those increases might be, or what the impact might be, but we cannot always have enough strategies to deal with it. I could keep giving examples. We know that CCTV, which covers a certain area, will eliminate a certain amount of crime—opportunistic crime—but it will not eliminate all crime because, as I mentioned before, those who are intent on committing a crime will do so anyway; they will go down the back lane. At our level we are trying to forecast and foreshadow what might be the potential end result of any of our actions. Could that occur in greater dialogue with the Commonwealth? I believe it could. But we need to think more clearly about the strategies that are being undertaken by the Commonwealth and at the same time about the strategies that we are undertaking.

There will be dialogue, for instance, in the drug area between the various police who are involved at the state level and the federal level, about how we might combat drugs. But there is a whole range of other activities where it would be good to know what is occurring so that we can work in tandem—to talk about those activities, to publish those activities, research those activities and do a whole range of other things. The simple answer to your question is that we try and think through as many results as we can, and sometimes we get the unexpected, but we need to do more.

Ms JULIE BISHOP—Do you see that as a role for the ACC? Are you anticipating that this is the sort of thing the new body to replace the NCA will be able to do, given that there is going to be state police representation?

Mr Madden—I would hope so. I would hope that might be one of the outcomes. But we need to look at other ways as well.

CHAIR—I wonder if I could just raise something that is of a slightly different nature. I have here an affidavit with the name of the swearer blacked out. He is someone who describes himself as having been involved in criminal activity from the age of 12, a heroin user at 13—now on methadone—associated with 5T, Asian Power, 108 Dragon and 14 K gangs. He basically went into a witness protection program. He says in this affidavit that he met with Assistant Commissioner Clive Small and with Detective Matthew Appleton and that he was asked to sign a paper of which he would be given a copy. He said he could not understand the paper and that he gave it to his mother. His mother did not have glasses and could not read it either. But he signed the paper. He was guaranteed a copy of the paper that he signed. He has never been given it. He has asked for a copy of the tapes of the interviews that were given. He says that he has never received those tapes. I ask you to inquire of Mr Small as to why those

have never been given to this young man. Will you assure me today that you will cause him to be given a copy of the paper that he signed and a copy of the tapes of interview? Will you do that today?

Mr Madden—I am aware of that inquiry. That is a matter which has been raised in other quarters, including the Police Integrity Commission, and as such I am unable to make any comment in relation to it.

CHAIR—In that case, I would like this affidavit to form part of the evidence.

Resolved (on motion by **Mr Secker**):

That the affidavit be received into evidence.

CHAIR—I am concerned about that because the young man apparently feels he has been let down. Do you have confidence in the way it is being handled?

Mr Madden—I am not prepared to comment on that at this point.

CHAIR—You cannot comment on it?

Mr Madden—No.

CHAIR—And you cannot guarantee to me that this young man will be given that tape or the piece of paper. Do you believe he would be entitled to something?

Mr Madden—That matter is out of my control and with the investigating authorities. I cannot make any comment on it.

CHAIR—I find that of some concern.

Mr Madden—I am sorry; I cannot comment on it.

CHAIR—Can you take it back and come back to the committee?

Mr Madden—I can take it back and speak to the commissioner and the other authorities. However, it will be a matter for them to determine what information they provide to you.

CHAIR—That will be published now. It has been accepted as an exhibit, so it can be published. I would like you to take that on notice and if you can search your conscience a bit more and find out if you can help this young man, I would be obliged.

Mr Madden—That may require a formal written request from the committee to the Police Integrity Commission of New South Wales, seeking any information on matters in relation to that. Whilst I could take it to them on a verbal request, I do not think that would be sufficient in this case.

CHAIR—All right. We can possibly write to them.

Resolved (on motion by **Mr Secker**, seconded by **Ms Julie Bishop**):

That the Committee write to the Police Integrity Commission.

CHAIR—Are there further questions that anyone has to ask? In that case I thank you both very much for coming today. We have touched on issues, but we have said of this committee that we are not going to be guided by political correctness. Sometimes we have to ask questions that are blunt and use common parlance as the people see it, rather than try to be politically correct. We do thank you for coming today.

Mr MURPHY—Just before you close, Madam Chair, just in case Deputy Commissioner Madden has forgotten, it would be very helpful for this committee in relation to the terms of reference if Commissioner Moroney could give us a submission in terms of how he believes effective measures for the Commonwealth in countering and preventing crime could be taken up at a federal level. That is the purpose of the inquiry.

Mr Madden—I will raise it with the commissioner.

Resolved (on motion by **Ms Julie Bishop**, seconded by **Mr Secker**):

That this committee authorises publication, including publication on the parliamentary database, of the proof transcript given before it at public hearing this day.

Committee adjourned at 5.12 p.m.