



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON ECONOMICS, FINANCE AND
PUBLIC ADMINISTRATION

Reference: Tax file number inquiry

WEDNESDAY, 5 APRIL 2000

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HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON ECONOMICS, FINANCE AND PUBLIC ADMINISTRATION

Wednesday, 5 April 2000

Members: Mr Hawker (*Chair*), Mr Albanese, Ms Burke, Ms Gambaro, Mrs Hull, Mr Latham, Mr Pyne, Mr Somlyay, Dr Southcott and Mr Wilton

Members in attendance: Ms Burke, Ms Gambaro, Mrs Hull, Dr Southcott and Mr Wilton

Terms of reference for the inquiry:

The House of Representatives Standing Committee on Economics, Finance and Public Administration will investigate administrative, policy and client service issues of TFN management, as recently reported by the Australian National Audit Office in audit report no. 37 1998/99. The committee will also inquire into other aspects of the TFN system in Australia.

The committee will pursue its investigation under House Standing Order (324b), which states that the reports of the Auditor-General stand referred to the relevant committee for any inquiry the committee may wish to make.

WITNESSES

WILLIAMSON, Mr Gordon James, Director of Intelligence and Operations Support, Australian Federal Police163

Committee met at 10.06 a.m.**WILLIAMSON, Mr Gordon James, Director of Intelligence and Operations Support, Australian Federal Police**

ACTING CHAIRMAN—I declare open this public hearing of the House of Representatives Standing Committee on Economics, Finance and Public Administration as part of our inquiry into tax file numbers. Today we will hear from the Australian Federal Police, and I welcome Federal Agent Gordon Williamson from the AFP to today's public hearing. I remind you that the evidence that you give at this public hearing is considered to be part of the proceedings of the parliament. I therefore remind you that any attempt to mislead the committee is a very serious matter and could amount to a contempt of the parliament. The AFP has not made a submission to the inquiry so, Federal Agent Williamson, would you like to make an opening statement to the committee, following which I will invite members to proceed to questions.

Mr Williamson—The Australian Federal Police did not make a submission to this committee but is, however, quite willing to provide whatever assistance it can. The AFP's role in relation to tax file number fraud is quite limited. The fraud control policy of the Commonwealth provides that the responsibility for the investigation of routine cases of fraud lies with the agency affected. In the case of tax file number fraud, usually the Australian Taxation Office more so than the Australian Federal Police would become involved in the investigation of those matters. The AFP has referred to it more serious matters, more complex matters, matters that the tax office feels it cannot handle in its own right.

We are unable to identify significant matters where tax file numbers are the essence of the fraud that is referred to the AFP. Many of the frauds that are referred to us are frauds committed within the true identity of the offender rather than through some assumed identity—that is in the case of our investigation of tax frauds. Our overall investigation of fraud and the details which are reported in our annual reports show that the number of matters referred to the AFP has declined over the past five years, and concurrent with that decline in numbers has been a decline in the overall value of fraud that has been referred to us. However, it is important that we draw the distinction that the AFP is only one part of the mechanism for dealing with fraud on the Commonwealth. Over that period of time, individual agencies have assumed a greater responsibility for the investigation of routine cases of fraud. The AFP does not maintain statistics on fraud other than the fraud referred to it. Therefore, it is not in a position to produce whole of Commonwealth figures in relation to fraud.

As I said at the start, the number of tax file number frauds investigated by the AFP is very, very small. It is usually something dealt with by the tax office. Examples where they have been relevant have included people applying for benefits through Centrelink using as part of their identification false tax file numbers, and some employment fraud whereby people seek to have the amount of tax deducted from their pay reduced through the use of a false tax file number. Our research in preparation for this committee has not established any information concerning the involvement of organised crime in tax file number fraud. Our observations or analyses are that fraud, when it has occurred, has been opportunistic and a low level of conspiracy between individuals more so than organised crime. We have not ascertained any circumstances where false tax file numbers have been the basis of money laundering investigations.

Specifically dealing with tax file number fraud, based on our analysis in preparation for this committee, it is of relatively low significance to the AFP's overall fraud workload. We are, however, quite concerned about the general issue of false identity, which this committee has touched on in a number of its hearings. These concerns essentially revolve around the ease of availability of some documents which can be then used to prove identity and the ease with which technology permits the falsification of documents. We are most concerned about identification in the electronic environment as more and more Commonwealth, government and other services are delivered online to the community. Fraud can be committed in that way, and we are concerned about identity there.

There are a number of initiatives under way to deal with identity fraud. The Australian Bureau of Criminal Intelligence has an initiative which I can talk about, if you are interested, as well as a number through a conference known as the Heads of Fraud Conference, which has addressed wider issues of identity fraud. At this point, I would welcome any questions.

ACTING CHAIR—Thank you, Mr Williamson. That is a most comprehensive overview and, in fact, has answered several of the questions that many of us had proposed to ask. Your 1998-99 annual report cited some 308 cases of economic fraud with a value of about \$104 million that were reported to the AFP in that financial year. Would you have any sort of broad view as to what proportion of those cases of economic fraud would relate specifically to identity fraud?

Mr Williamson—To identity fraud aside from tax file number fraud?

ACTING CHAIR—Yes. Perhaps you could answer that in two parts—aside from and as well as.

Mr Williamson—As I said in my introductory comments, tax file number fraud per se is insignificant to that which is reported to the AFP. In terms of more general identity fraud, the estimate would be that approximately 25 per cent of reported frauds to the AFP involve the assumption of false identities. The great bulk of the frauds involve people committing offences in their own name.

ACTING CHAIR—Does the AFP detail categories of fraud? If so, what would you define as serious fraud?

Mr Williamson—The only statistical data we retain is fraud committed on the Commonwealth and fraud committed by Commonwealth officers. They are the only distinctions we draw statistically. Serious and complex fraud are matters referred to the AFP because it is beyond the capacity of the affected agency to deal with it by itself. It may involve circumstances where specific law enforcement powers are required. It may involve circumstances where a person has committed fraud against multiple agencies. They may have committed tax fraud, fraud against Centrelink, or fraud against some other agency at the same time. That is the general test. There is no dollar value ascribed to it. The AFP has a prioritisation model, which it applies in consultation with other agencies, to determine which matters it will accept for investigation and which it will not.

Ms BURKE—I would like to go back to identity fraud and, for the record, I would like to thank you from the outset for taking the time and effort to investigate what you are appearing before the committee about. I appreciate the effort you have gone to. Would you have any idea about to what extent tax file numbers are used by people establishing a false identity?

Mr Williamson—No, we do not have that information. We do not routinely collect intelligence on that issue.

Ms BURKE—One of the other issues that we have had some discussion about is obviously illegal immigrants and the use of tax file numbers. Has the AFP been involved in those sorts of areas?

Mr Williamson—The AFP's main involvement in illegal immigration in recent times has been in dealing with people as they are apprehended trying to enter the country. We have conducted a number of multi-agency investigations with the tax office, the Department of Immigration and Multicultural Affairs and Centrelink where people who are illegal immigrants have engaged in work in particular localities or particular industries. The multi-agency approach has been successful in apprehending those. Clearly, in each of those cases the people have required identification and in most of those cases have acquired tax file numbers.

Ms BURKE—Something that has been drawn to our attention is an article in the *Herald Sun* on 3 March regarding people acquiring instant identity kits and the use of those and people coming up with false identities fairly quickly. Could you sort of elaborate any more on that issue and the use of tax file numbers in those kits?

Mr Williamson—I have not seen the article in question. However, that issue is one which has been in existence for some time and is, in our observation, increasing in availability, particularly due to the ability of modern technology to generate forged documents of very high quality. The article, I believe, quoted a particular sum of money to purchase a complete identity comprising different things. Our intelligence shows that identity documents of various types are available for the payment of money—either forged documents or genuine documents which have been stolen and otherwise dealt with.

It is an area in which we have taken a considerable interest, particularly its availability through electronic means. There are many sources of this sort of material, particularly on the Internet. Equally, there are many sources of what one might describe as legitimate identification documents which can be misused. That is, you can quite easily send off your photograph and some details and debit your credit card and receive a very impressive looking document which purports to be an employment certificate, a membership of some group or an international drivers licence. A vast range of these things is easily available.

We have recently looked at the issue of international drivers licences. For instance, whilst there are a limited number of organisations who ought issue them, you can order them from any number on the Internet for anything from \$US10 to about \$US100. They look impressive. They look like the real thing. Quite a number of newspaper articles are addressing that and how easy it is to go into a car rental agency, for instance, and hire a car using something that looks like a driver's licence.

Mrs HULL—The Australian Bureau of Criminal Intelligence is currently putting together a web site and developing a database for fraud. Are you aware of, and can you give us information on, that fraud database and how you might be able to link in to that fraud database, or whether or not you have any ability to be able to utilise it? How might the Commonwealth benefit from it?

Mr Williamson—Certainly. The Australian Bureau of Criminal Intelligence database was unveiled on 3 March this year. It comprises a secure intranet web site which is aimed at providing investigators with up-to-date information on emerging trends and techniques in fraud at this point in time. That is what it is aiming to do. Subject to the agreement of the board of commissioners of the ABCI, it will be available to all law enforcement agencies, including the Australian Federal Police. It may—and one would hope will—become available to agency investigators from other Commonwealth agencies who will also be able to contribute to it. Subject to the appropriate safeguards, the trends and other information will be made available to people who have a legitimate interest in detecting, investigating and prosecuting fraud.

It is, however, as I say, a first step. It is about methodology. It is about what is happening now. The ABCI intends to provide, and has a project aimed at providing, a national fraud analytical capacity, and that is being developed by the ABCI in partnership with all of Australia's police services, including the AFP. It is hoped that it will provide information relating to e-commerce, plastic card fraud—credit or debit—banking and insurance fraud, identity fraud, tax fraud and proceeds of crime and money laundering. Any police service is now able to access the first stages of that project, which are things such as fraud alerts—a fraud alert would be: here is a new scam which has been identified—extracts from fraud legislation, given that Australia does not have a common legal framework; and intelligence circulars which come from police services. We are hoping that it will be available in Australia and overseas.

It is part of the ABCI's general service to policing in Australia and it is available to all police services through the Australian Law Enforcement Intelligence Network. Some of the material that is on there is open sourced—that is, from newspaper articles, from research from the Institute of Criminology and other bodies, OSCA. It is material provided by law enforcement agencies directly into ALEIN from other government agencies, which might include the tax office—I am not too sure whether that is the case or not—and people in the private sector who are involved in investigating and detecting fraud. At the moment, it contains case studies, methodologies, trends, techniques, the sorts of initiatives which are being followed by law enforcement and the private sector to deal with fraud and relevant publications and papers, sometimes by way of link to the actual document for the investigators. We are hoping that law enforcement, as part of the whole picture, will help to shape strategies which will be proactive in dealing with fraud rather than merely responding to it after the event. The ABCI has a working party on identity fraud, and the ABCI hopes that the fraud desk will provide relevant information to that working party.

The next stage of the project, which is a little less easy, one might say, is to have a database of fraud offenders and their details in terms of criminal intelligence. Clearly, that needs to be much more closely restricted to law enforcement than is the case with methodologies, and that is currently being scoped. It is intended to integrate fraud intelligence from all of the police services. As I said earlier, in the same way that a fraud might be committed against multiple

agencies, it might also be committed against multiple jurisdictions. You cannot say, 'This is a state matter,' or 'This is a Commonwealth matter,' because quite often there is considerable overlap. That is where that project is at.

Mrs HULL—The Commonwealth had a database that was not considered to be meeting its objectives.

Mr Williamson—That is correct.

Mrs HULL—Can you just outline if any alternatives to this Commonwealth database have been decided upon, or is there any thought in process?

Mr Williamson—Certain documents which have been circulated for consultation envisage the formation of a fraud trends information network as a replacement for the Commonwealth Fraud Intelligence Database. It is envisaged that that network would enable effective sharing between Commonwealth agencies on fraud trends more so than statistical data. That is, the vulnerabilities that one agency may have could be addressed by other agencies in a preventive mode rather than the CFID approach, which was to attempt to collect statistical data.

Mrs HULL—Is there a relationship between the ABCI fraud database and the earlier Commonwealth Fraud Information Database?

Mr Williamson—The ABCI database will not provide the same functionality as was intended from CFID, no. They are complementary strategies—one does not replace the other.

Ms GAMBARO—Can you just speak to us about how identity fraud cases are prosecuted? Also, are there any legislative things that are hampering the progress of prosecutions?

Mr Williamson—Questions of prosecution are actually matters for the Director of Public Prosecutions, who has carriage of matters after they are investigated by agencies such as the AFP. So it would not be appropriate for me to talk about prosecution issues. They are something that the DPP would need to address you on.

Ms GAMBARO—Is there a dollar value? I know it is an issue for the Director of Public Prosecutions, but is it decided on a dollar value basis?

Mr Williamson—In terms of which matters are investigated?

Ms GAMBARO—Or prosecuted, for example?

Mr Williamson—The question of prosecution is dealt with under the prosecution policy of the Commonwealth. It is something for the DPP. In terms of the AFP and what matters it investigates—and we have a reasonable expectation that matters we investigate will ultimately be prosecuted, if there is an offence disclosed—we actually analyse the matter against seven criteria in deciding whether or not it is a matter for the AFP to take on. The principal things we consider in making that decision are the impact of the matter—that is, the nature of the criminality—and what impact does it have on Australian society, which is not driven so much

by dollar values but by the type of crime. For instance, if a public officer commits fraud, that is in its own right of very high impact because it is a breach of trust and, therefore, it would rate very highly on that grid. It is not a question of how many dollars are involved there.

In some instances, we have ascribed dollar values indicative of what might be of very high impact. For instance, we might say that any fraud which is valued at more than \$5 million is of very high impact. The effect of saying it is of very high impact basically means the AFP will investigate it. If the allegation is that someone has in fact illegally obtained \$5 million, that is a very serious matter. At the other end of the scale, however, there is no minimum amount of money which we investigate. Once again, it comes down to the nature of the criminality involved.

Ms GAMBARO—Do you have many tip-offs—I will just give you a hypothetical example—from, say, someone working for a nursing home whose proprietors are defrauding the Commonwealth? Do you often have private individuals come to you who may suspect that some fraud is occurring where an individual is in receipt of Commonwealth funding? In cases like that, what is the process involved? It is a lengthy process before you can ascertain whether a fraud has been committed.

Mr Williamson—From the AFP's perspective, we are not inundated with that sort of information. We do receive it in some significant amounts from time to time. Our process on receipt of that is to refer it to the agency which is affected. You used an example of nursing homes. We would refer that to the Department of Health and Aged Care and it would evaluate it itself, determine whether it was a routine matter that that agency would handle itself or whether it was a serious and complex matter which would be referred back to the AFP. So, in terms of receipt of information, our process is one of dissemination to the appropriate agency rather than investigation from scratch.

Ms GAMBARO—The time frame on cases like that are long. What are the major impediments? I know I am asking a very general type question, but is it lack of evidence, or is it lack of cooperation from various government departments?

Mr Williamson—We generally find that government departments are very cooperative because they are referring matters to us and would like us to investigate them. The sorts of delays which arise arise in part from the fact that we are dealing with something which is historical by the time it comes to the AFP. That is, more often than not, this is something that has happened some time in the past; it is not ongoing. Therefore, it does not have a sense of urgency. It does not have to be dealt with today, so it does not necessarily go to the top of a priority list.

The delays which arise come when, for example, we are seeking banking records. We need to go through some very lengthy processes to obtain search warrants to then obtain banking records. That does cause us considerable delays. The banks and other financial institutions are not able to provide information quickly, particularly if it is aged information. The nature of their commercial operation is such that they do not maintain everybody's cheques from a particular branch in that branch in date order. It is quite difficult for them to actually obtain information that we seek sometimes. Quite often it is an iterative process that, having executed a warrant on

a bank and obtained banking records, we identify a flow of funds to another bank account, so we go through the whole process again with another bank.

It is largely a procedural delay of that type which causes us the most problems—that is, the necessity to get judicial authority to access records such as banking records and then the nature of their storage. They are the major impediments. In terms of where we think we are going to face difficulties in the future, it is the replacement of traditional paper records with electronic records.

Ms GAMBARO—And that will make it harder for you and easier for fraud to be perpetrated?

Mr Williamson—It will make it easier to obtain the information about the transactions. It will make it considerably harder to prove the identity of the person responsible for the transaction. At the present time, if we have a paper document, there are certain physical characteristics of the document, there are people who have seen the document, who might have received the document from somebody, there may be forensic evidence on the document itself. All these may be able to link to a particular person. If in the future we have an anonymous transaction—that is, there is no witness to the transaction, there is no actual hand-over of paper; it is done through a keyboard—all of those avenues of inquiry disappear so we will then need to focus on other avenues of inquiry.

ACTING CHAIR—Mr Williamson, you have outlined that responsibility in particular for tax file number fraud lies with the ATO. To the extent that the AFP is involved in tax file number fraud investigations, do you consider that the relationship or the lines of communication between your agency and the ATO and those between your agency and other government departments are sufficient?

Mr Williamson—We consider that we have a very good relationship with the Australian Taxation Office in terms of fraud committed on the office. We undertake quite a number of joint investigations with the tax office of major frauds committed on them. We also have a good relationship with the tax office with respect to matters of internal control that might arise from time to time. We have a good relationship with most of the Commonwealth agencies against whom fraud is committed. We are in the process of entering into service agreements with Commonwealth agencies on fraud investigation so that they can have a greater degree of certainty about what matters we will accept for investigation and those we will not and the alternative methods that they might care to adopt to deal with fraud referrals.

ACTING CHAIR—To that end, you would not make a particular suggestion as to how coordination between you and other government departments might be improved?

Mr Williamson—No, there are no obvious impediments to cooperation. There are, of course, legislative requirements which need to be met in terms of the disclosure of information between agencies.

ACTING CHAIR—Would it be the view of the AFP that the national Crimes Act should be amended to include identity fraud as an offence? Do you have a particular view as to whether or not that would increase the number of prosecutions?

Mr Williamson—Are you referring to the Crimes Act of the Commonwealth?

ACTING CHAIR—Yes.

Mr Williamson—The process of revision of that legislation has been ongoing for many years. The model criminal code tries to provide a uniform set of legislation across Australia. The report on fraud has been in existence for some time. Adopting that process would be appropriate. Identity fraud in its own right is a nebulous thing. We ought to be looking at the ultimate crime that is committed, not necessarily the methodology of committing it. That is, if you have defrauded the Commonwealth of a particular sum of money, what ought to be of issue to us is that you have defrauded the Commonwealth of the money, not so much whether you did it by identity fraud, by sticking your hand through a window or by whatever method.

ACTING CHAIR—Would the AFP aspire to achieve more effective fraud prosecution by a more national approach involving the Commonwealth, the territories and the states being implemented? Is that basically a sort of ultimate dream of the AFP? If so, do you have any broad overview as to how that might be achieved?

Mr Williamson—I am sorry, I am not in a position to comment on that issue.

Mrs HULL—Mr Williamson, if you discover tax file number fraud, what does the AFP usually do about that? What would be the procedure for, say, tax file number fraud, even if it is insignificant?

Mr Williamson—We have in total 23 matters where tax file numbers are relevant in the AFP. If we came across other material in the course of another investigation which suggested a person had committed tax file number fraud, we would refer that information to the Australian Taxation Office.

Mrs HULL—Would there be any follow-up procedure between you and the ATO to determine what action was taken with respect to that tax file number fraud?

Mr Williamson—No, we would pass the information to the tax office. They are responsible for the investigation of routine and usual matters such as that. If there was something that they felt brought it back within the AFP's jurisdiction, they would refer it back to us.

Mrs HULL—So there are no statistics kept as to whether or not there has been a successful litigation on that tax file number fraud, or there are no statistics sort of handed back to the AFP?

Mr Williamson—No, we only maintain statistical information about the matters we take on ourselves.

Mrs HULL—I am not meaning to create a whole host of extra work, but do you think that it would be worth while to keep a database of your referrals to other departments and their outcome, or would it not present any benefit?

Mr Williamson—I doubt that it would be of any benefit, given that the AFP is a very, very small referrer of matters to other agencies. Proportionate to the amount of work that the other agencies do, the AFP does not provide those agencies with very much information at all.

Mrs HULL—So you would not know how the ATO respond to the referrals that they get from you? After you have actually done the referral, you would not really have any idea how the ATO has responded to that referral?

Mr Williamson—No, we do not because they are not investigating it for us. If they refer something to us, we report to them on a regular basis and at the conclusion of what we have done with the matters they have sent to us because they are our client in that respect.

Mrs HULL—So you believe there is really no benefit in having that feedback?

Mr Williamson—That is correct.

Ms BURKE—Do you consider there are any steps the government should be taking to reduce identity fraud?

Mr Williamson—I do not know that it is appropriate to comment on government policy in these processes.

Ms BURKE—The Australian Bankers Association has recommended that the government introduce a national standard for identifying documents and develop an electronic gateway that would provide a single point of online verification for identifying documents. Do you consider this process would be effective in reducing identity fraud?

Mr Williamson—It is a strategy which may be effective in reducing identity fraud, giving people the ability to know whether a document produced is genuine or not. With very limited technology, a person can produce something that looks like a good birth certificate. At the present time it is not possible, by and large, to, say, verify with an independent agency that their birth certificate is genuine or not. It is a challenge-response situation. Challenge-response, as a concept, does have the support of all the Australian police agencies.

Ms BURKE—Certainly the report we are looking at found that the ATO fraud control measures in relation to proof of identity fraud were not adequate. Would the AFP be able to provide advice to the ATO on ways to improve their fraud control measures and have you done so in the past?

Mr Williamson—Yes, we do. The AFP participates in a process whereby all Commonwealth agencies have fraud control plans, and those fraud control plans are coordinated by the Attorney-General's Department. The AFP participates in the process of assessing those fraud control plans, and in that process then provides feedback. We also conduct quality assurance

reviews of investigations conducted by agencies to identify best practice for agency investigations.

ACTING CHAIR—Just on the issue of identity fraud, the committee has heard from the New South Wales Registry of Births, Deaths and Marriages that, in a trial of their certificate validation service run with Westpac, some 13 per cent of birth certificates presented as ID were fraudulent. In your view, does this reflect the level of identity fraud across the broader community?

Mr Williamson—I do not have a statistical base for answering that question. I would make the observation that, when I was a fraud investigator, most fraud offenders had multiple identities available to them, whether they were used or otherwise, in the form of driver's licences, birth certificates, school records, employment certificates, armed forces certificates—a range of identification documents.

ACTING CHAIR—I will just go back to the ATO and your relationship with it, which, as we said, is very good. Are you in a position to say whether or not in your view the ATO has taken adequate steps to prevent identity fraud? The Audit Office report reviewed cases of proof of identity fraud against the ATO, and these cases demonstrated the ease, as you would be well aware, with which false documents could be produced and accepted as valid under existing ATO practice and procedures.

Mr Williamson—We would not have a view to express on that.

Mr SOMLYAY—To sum up, you are telling us that tax file numbers are not a real problem that needs to be focused on by the AFP, or maybe it is being handled by other agencies rather than yourselves. Maybe the DPP can tell us if there are concentrated efforts in crime concerning tax file numbers.

Mr Williamson—That is correct. As I said, we have a total of 23 matters where tax file numbers have appeared in some way, which in our case is very insignificant.

ACTING CHAIR—That concludes our questions today, and I thank you for appearing before the committee this morning, Mr Williamson.

Resolved (on motion by **Mr Somlyay**, seconded by **Ms Burke**):

That this committee authorises publication, including publication on the parliamentary database, of the proof transcript of the evidence given before it at public hearing this day.

ACTING CHAIR—Once again, I thank you for attending and for, as Ms Burke has iterated already, the comprehensive nature of your well-researched answers.

Committee adjourned at 10.43 a.m.