

Chapter 2

Australian Crime Commission Annual Report 2006-07

Legislative reporting requirements

2.1 Under section 61 of the *Australian Crime Commission Act 2002* (the Act), the Australian Crime Commission (ACC) is required to prepare a report of its operations for each financial year ending 30 June.¹ This report must include:

- a description of any investigation into matters relating to federally relevant criminal activity that the ACC conducted during the year and that the ACC Board (the Board) determined to be a special investigation;
- a description, which may include statistics, of any patterns or trends, and the nature and scope, of any criminal activity that have come to the attention of the ACC during the year in the performance of its functions;
- any recommendations for changes in the laws of the Commonwealth, of a participating State or of a Territory, or for administrative action;
- the general nature and the extent of any information furnished by the CEO during that year to a law enforcement agency;
- the extent to which investigations by the ACC have resulted in the prosecution in that year of persons for offences;
- the extent to which investigations by the ACC have resulted in confiscation proceedings; and
- particulars of the number and results of:
 - applications made to the Federal Court or the Federal Magistrates Court under the *Administrative Decisions (Judicial Review) Act 1977* for orders of review in respect of matters arising under the Act;
 - other court proceedings involving the ACC;
- being applications and proceedings that were determined, or otherwise disposed of, during that year.

2.2 This annual reporting obligation is supplemented by other reporting obligations, which are as follows:

- Subsection 49(2) of the *Financial Management Accountability Act 1997* (the FMA Act);²

1 Section 61 of the *Australian Crime Commission Act 2002*

2 For the 2006-07 Finance Minister's Orders, see: www.finance.gov.au/ace/fmos.html (accessed 22 May 2008)

- Requirements for Annual Reports;³
- Section 8 of the *Freedom of Information Act 1982*;
- Contracts with greater than \$100 000 value;⁴
- Listing of file titles;⁵ and
- Statement of legal services expenditure.⁶

2.3 In the ACC's Annual Report 2006-07 (the Report), the ACC has included a comprehensive index to its compliance with section 61 of the Act, and the Requirements for Annual Reports. The Report also contains certification of compliance with the FMA Act from the Auditor-General of the Australian National Audit Office (ANAO), and the ACC's Acting Chief Financial Officer and CEO. Appendix F of the Report provides the freedom of information statements, and up-to-date details concerning the last three reporting requirements are provided on the ACC's website.⁷

Accountability and governance

2.4 In addition to its reporting requirements, the ACC has a number of internal and external governance and accountability mechanisms. These mechanisms provide oversight of the ACC's operations, and assist the ACC to achieve its outcomes. There are eight bodies with such responsibilities, including:

- the Minister for Justice and Customs (the Minister);
- the Inter-governmental Committee on the Australian Crime Commission;
- the ACC Board;
- the Parliamentary Joint Committee on the Australian Crime Commission (the Committee);
- the Commonwealth Ombudsman (the Ombudsman);
- the Australian Commission for Law Enforcement Integrity (ACLEI);
- judicial comment and review; and
- the ANAO.

3 Department of Prime Minister and Cabinet, *Requirements for Annual Reports*, 13 June 2007. See: www.dpmmc.gov.au/guidelines/index.cfm (accessed 22 May 2008). Part 1 paragraph 3 notes that these requirements apply to the ACC 'as a matter of policy only'.

4 Murray Motion as amended December 2003 J.2851

5 Senate Order J.270 (as amended 3 December 1998 J.265)

6 Paragraph 11.1(ba) of the Legal Services Directions 2005

7 Australian Crime Commission, *Annual Report 2006-07*, pp 110-112; 159-163; and 166-168. See: www.crimecommission.gov.au (accessed 22 May 2008)

2.5 For 2006-07, the ACC's interaction with these bodies is summarised in Chapter 3 of the Report. However, the Committee was particularly interested in the following bodies and issues in its inquiry into the Report.

Australian Crime Commission Board

2.6 The Board is comprised of the following office-holders:

- Commissioner of the Australian Federal Police as Chair;
- Secretary of the Commonwealth Attorney-General's Department;
- CEO of the Australian Customs Service (Customs);
- Chairperson of the Australian Securities and Investments Commission;
- Director-General of Security, Australian Security Intelligence Organisation;
- Commissioners of all State and Territory police forces;
- Chief Police Officer of the ACT; and
- CEO of the ACC (as a non-voting member).

2.7 The Board met four times during 2006-07: 13 September 2006; 29 November 2006; 20 March 2007; and 14 June 2007. Half of the Board members attended every meeting, with the majority attending at least half.⁸

2.8 Assistant Commissioner Michael Phelan, ACT Chief Police Officer, attributed this strong record of attendance to the seriousness with which Board members take their responsibilities. He also stated that it would be hard to find a more influential law enforcement board, adding that:

In the meetings that I have been to the discussions of the board have been extremely robust and views generally from across Australia are able to be brought to bear...⁹

2.9 The Committee has previously recommended that the Commissioner of Taxation be appointed to the Board.¹⁰ In 2006, the government's response was that the recommendation was under consideration,¹¹ but to date, a more substantive response has not been forthcoming.

8 Australian Crime Commission, *Annual Report 2006-07*, p. 70.

9 Assistant Commissioner Michael Phelan, Chief Police Officer, ACT Policing, *Committee Hansard*, Canberra, 9 April 2008, p. 23.

10 Parliamentary Joint Committee on the Australian Crime Commission, *Report on the Review of the Australian Crime Commission Act 2002*, November 2005, Recommendation 6, p. ix; Australian Crime Commission, *Annual Report 2004-05*, p. 6.

11 Parliamentary Joint Committee on the Australian Crime Commission, *Report on the Examination of the Australian Crime Commission Annual Report 2005-06*, p. 7.

2.10 The Committee notes the Board's view that its current structure is effective but that the addition of the Commissioner of Taxation to the Board would be desirable.¹²

The matter of course is not one for the board or indeed the ACC. Positions on the board are legislated, so it requires a change in legislation for that to occur. It is a matter for the government.¹³

2.11 The Committee acknowledges the 'excellent relationship' which the Australian Taxation Office has with the ACC and its Board.¹⁴ But the Committee believes that the inclusion of the Commissioner of Taxation on the Board would be beneficial to the operation of the ACC, and that the government has had ample opportunity to consider the Committee's recommendation.

2.12 The Committee reiterates its earlier calls for the inclusion of the Commissioner of Taxation on the Board.

Recommendation 1

2.13 The Committee urges the government, without further delay, to amend Part II Division 1 Subdivision B Sub-section 7B(2) of the Act to include the Commissioner of Taxation on the ACC Board.

Commonwealth Ombudsman

Controlled operations report

2.14 A publicly available report on the activities of the Ombudsman in monitoring controlled operations was released in February 2008.¹⁵ This report covered ACC controlled operations for 2006-07. The Ombudsman inspected nine ACC records and concluded that there was general compliance with Part 1AB of the *Crimes Act 1914* (the Crimes Act). But the Ombudsman identified several compliance issues that would benefit from management attention, including the following two recommendations:

- Recommendation 2: That the ACC ensure that applications and certificates acknowledge and detail the involvement of all persons who are not law enforcement officers in a controlled operation.
- Recommendation 3: That the ACC review the training given to officers responsible for preparing controlled operation applications and provide

12 The Committee also reflects on the value of having the Commissioner of Taxation on the Board at paragraph 2.80 of this report.

13 Assistant Commissioner Michael Phelan, Chief Police Officer, ACT Policing, *Committee Hansard*, Canberra, 9 April 2008, p. 22.

14 Mr Alastair Milroy, CEO, ACC, *Committee Hansard*, Canberra, 30 March 2007, p. 11.

15 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's activities in monitoring controlled operations 2006-07*, February 2008.

supplementary training to those officers and regions which appear to have ongoing difficulties in understanding the requirements of the Crimes Act.¹⁶

ACC response to recommendations

2.15 The Ombudsman advised, and ACC Chief Executive Officer Alastair Milroy concurred, that the ACC generally agreed with the recommendations, and many of these had been incorporated by the ACC following a comprehensive review of its policies and procedures.¹⁷

2.16 In relation to Recommendation 2, ACC Executive Director Michael Outram reiterated that current Commonwealth legislation does not permit the ACC to include covert human intelligence sources, or informants, on controlled operations certificates. This is in contrast to some State legislation, whose controlled operations can be inspected by the Ombudsman of his own motion. The Committee bears in mind:

The use of different legislation, whether Commonwealth or state, is one of the beauties of the ACC, and, of course, one of the reasons the ACC was created was so that there could be an effective use of state and Commonwealth law to enhance the fight against the criminal environment right across the country. So it is quite appropriate that there be a mixture.¹⁸

2.17 Regardless of the legislative position, the ACC advised that it does not support inclusion of informant details on controlled operations certificates and has implemented an alternate practice.

We would provide a pseudonym so there would be an audit trail back, and that would be our preferred position because it protects obviously the identity of an informant and there are inherent risks and dangers for informants...Even within our own organisation there are very few people who would know the identity of an informant other than those who are immediately handling the informant or managing those who are handling the informant.¹⁹

2.18 The ACC believes that its approach satisfies both legislative requirements and the need to protect informants' identities. Mr Outram also noted that the Ombudsman's

16 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's activities in monitoring controlled operations 2006-07*, February 2008, p. 9.

17 Mr Alastair Milroy, CEO, ACC, *Committee Hansard*, Canberra, 9 April 2008, p. 4.

18 Assistant Commissioner Michael Phelan, Chief Police Officer, ACT Policing, *Committee Hansard*, Canberra, 9 April 2008, p. 25.

19 Mr Michael Outram, Executive Director, ACC, *Committee Hansard*, Canberra, 9 April 2008, pp 8-9. Also see ACC, Additional Information, Answer to Question on Notice, No. 5 (received 21 May 2008)

inspections take place at secure ACC premises, and are undertaken by security cleared inspectors.²⁰

2.19 The ACC told the Committee that the Ombudsman has now agreed that reference to informants by a unique code number in controlled operations applications, certificates and quarterly reports meets the requirements of the Act and provides a comprehensive audit trail whilst still protecting the identity of the covert human intelligence source.²¹

2.20 In relation to Recommendation 3, Mr Outram advised that the ACC has an internal 'excellence in compliance program'. This program includes training, learning, and development with the ACC's in-house lawyers. Prior to authorisation, all applications for controlled operations are vetted by the in-house lawyers.²²

2.21 The ACC advised that only officers who have undergone this training, that is, investigators or the area which deals with informants, can apply for controlled operation certificates. However,

If another agency were to ask for one of our informants to participate in one of their operations, then we would ask to see the applications but we would want to check that their policies and procedures pretty well mirror ours to make sure that, firstly, either our undercover officer or our informant were not being asked to do anything not within the bounds of legality and, secondly, they were not being placed in any position of harm or risk that could not be managed.²³

2.22 A Standard Operating Procedure Manual has also been developed by the ACC, including, in consultation with the Ombudsman's office, a chapter on controlled operations. This chapter has been provided to the Ombudsman, and the latest version is available at inspections on request. At each inspection, the in house lawyers also provide a briefing on any revisions to the chapter.²⁴

2.23 The Committee is satisfied with the ACC's response to these two recommendations from the Ombudsman, and notes that the ACC and the Ombudsman continue to work in a highly co-operative and effective manner. The Committee commends this professional attitude and relationship.

20 Mr Michael Outram, Executive Director, ACC, *Committee Hansard*, Canberra, 9 April 2008, p.9.

21 ACC, Additional Information, Answers to Question on Notice, Nos. 4 & 5 (received 21 May 2008)

22 Mr Michael Outram, Executive Director, ACC, *Joint Committee Hansard*, Canberra, 9 April 2008, p. 8.

23 Mr Michael Outram, Executive Director, ACC, *Committee Hansard*, Canberra, 9 April 2008, p.10.

24 ACC, Additional Information, Answer to Question on Notice, No. 6 (received 21 May 2008)

Complaints

2.24 The Report observes that the Ombudsman can also receive and investigate complaints made against the ACC. In 2006-07 the Ombudsman advised the ACC of three complaints, two of which required investigation. The Ombudsman found that one of these complaints was unsubstantiated, and the second complaint was referred to ACLEI for further investigation.²⁵

2.25 Complaints about the activities of the ACC generally and/or specific members of ACC staff can also be made direct to the ACC. The Report states that the ACC received 13 complaints during the reporting period. Seven of these complaints have been finalised. The remaining six are under investigation: one internally; three by ACLEI; one by the Queensland Police Service; and one by the (Queensland Crime and Misconduct Commission).²⁶

Australian Commission for Law Enforcement Integrity

2.26 In January 2007, the ACC brought six matters to the attention of ACLEI, several of which would not meet the legislative definition of 'corruption' but which were referred to provide an overall picture of ACC internal investigations.²⁷

That was really for them to have some understanding of the cases that were currently being looked at by the ACC. Of course we have a policy that any matter that is considered serious is investigated by an external investigator not an internal investigator.²⁸

2.27 In these six cases, the ACLEI Commissioner decided to oversee the external investigation of two matters, and review the investigation of another matter. The remaining three matters did not fall within ACLEI's jurisdiction. In the balance of the reporting period, two more matters were formally referred by the ACC to the Commissioner, making a total of five referred matters outstanding.

Judicial comment on and review of ACC powers and actions

2.28 An individual may seek a review of a decision by the ACC or an examiner under the *Administrative Decisions (Judicial Review) Act 1977* and section 39B of the *Judiciary Act 1903*. Challenges may also be made to the validity of the Act or other relevant legislation, such as the Crimes Act.

25 Australian Crime Commission, *Annual Report 2006-07*, p. 72.

26 Australian Crime Commission, *Annual Report 2006-07*, pp 83-84 and Appendix D. Also see ACC, Additional Information, Answer to Question on Notice, No. 8 (received 21 May 2008). As at 21 May 2008, of these six matters, only the Queensland Police Service and two of the ACLEI investigations are continuing.

27 Australian Crime Commission, *Annual Report 2006-07*, p. 73; Ms Jane Bailey, Executive Director, ACC, *Committee Hansard*, Canberra, 9 April 2008, p. 13.

28 Mr Alastair Milroy, CEO, ACC, *Committee Hansard*, Canberra, 9 April 2008, p. 13.

2.29 The Report states that, in 2006-07, the ACC was subject to significant challenges in the Federal Court of Australia and the High Court of Australia. These challenges have generally concerned the exercise of search warrant powers, mutual assistance requests, disseminations, legal professional privilege claims, and the exercise of coercive powers. While the Report notes that it has succeeded in all these challenges, a number of cases are ongoing.²⁹ And there have been challenges in the lower courts.

2.30 In particular, the Committee refers to recent comments of His Honour Justice Smith in the Victorian Supreme Court. His Honour has found that the existence of a document recording the reasons of the examiner for issuing the summons was a condition precedent to the valid exercise of the power to issue the summons.³⁰

2.31 As a direct result of these comments, the Parliament amended subsections 28(1A) and 29(1A) of the Act.³¹ The amendments were controversial when introduced in Parliament, but were enacted in haste due to overriding concerns. The amendments continue to raise concern among Senators and Members alike. So much so that the Committee is currently undertaking an inquiry into the relevant provisions of the Act.

2.32 Given the need for the Parliament's intervention, the Committee sought further comment from the Board and the ACC about His Honour Justice Smith's decision.

2.33 The Board had no specific response about what it views as an essentially operational issue but admits to being very conscious of it.³² The ACC's response was based upon its interpretation of subsections 28(1A) and 29(1A) of the Act, which it believes were ambiguous prior to the amendments.

The amending legislation merely provided legislative confirmation that an Examiner may record reasons in writing before, at the time of, or as soon as practicable after the issue of a Summons or Notice. The Examiners adhere to those requirements and will be consulting further with the Commonwealth Ombudsman to identify whether an appropriate regime for inspection of their records can be arranged.³³

2.34 The Committee notes this response and suggests that, in addition, it would be highly desirable for the ACC to also address an appropriate and consistent method of

29 Australian Crime Commission, *Annual Report 2006-07*, Appendix C, p. 155.

30 *Australian Crime Commission v Magistrates' Court of Victoria (At Melbourne) and Michael Richard Brereton* [2007] VSC 297 at 8.

31 Items 2 and 7 of the *Australian Crime Commission Amendment Act 2007*. Also see Senator Eric Abetz, *Senate Hansard*, 18 September 2007, p. 14.

32 Assistant Commissioner Michael Phelan, Chief Police Officer, ACT Policing, *Committee Hansard*, Canberra, 9 April 2008, pp 27-28.

33 ACC, Additional Information, Answer to Question on Notice, No. 2 (received 21 May 2008). Also see Mr Alastair Milroy, CEO, ACC, *Committee Hansard*, Canberra, 9 April 2008, p. 5.

recording reasons for decision. The Committee further notes that the ACC has not voluntarily undertaken such action, notwithstanding the circumstances that lead to the legislative amendments. The Committee does not believe that this is satisfactory.

2.35 At issue was whether ACC examiners were recording reasons for the issue of summonses and notices in accordance with the Act. The Committee is not persuaded that the ACC's practices fully appreciate and acknowledge the reasons for the legislative safeguards.

2.36 It is extremely concerning to the Committee that judge-made law, and/or, in this instance, the urgent intervention of the Parliament, has had no impact upon the ACC's interpretation of its primary legislation. This is especially so when that interpretation has been found to be incorrect. It is unacceptable to maintain that the law has been applied as interpreted, if that interpretation under values basic notions of natural justice, or runs contrary to the spirit of the legislation.

2.37 The Committee will comment further upon these concerns in its inquiry into the amendments.

COMMITTEE COMMENT: *Accountability and governance*

2.38 The Report appears to fully and accurately describe the various external mechanisms and bodies that act as an effective accountability framework for the operation of the ACC.

2.39 Evidence from both the Report and the hearing leads the Committee to observe that, in the fourth full year of its operation, and with some exceptions, the ACC appears to be establishing sound accountability and governance processes.

Performance

2.40 The ACC has one outcome – Enhanced Australian Law Enforcement Capacity – which is supported by two outputs and their associated key performance indicators (KPIs).

Output 1 – Criminal Intelligence Services

2.41 The performance measures for output 1 are:

- provision and maintenance of effective and efficient criminal intelligence systems;
- quality and value of strategic criminal intelligence assessments, threat assessments and other products and services;
- provision of timely, high quality advice to the Board on National Criminal Intelligence Priorities (NCIPs); and
- number and value of disseminations to law enforcement agencies and other relevant agencies.

Provision and maintenance of effective and efficient criminal intelligence systems

2.42 The Report states that, in 2006-07, the ACC continued to upgrade and support its information and communications technology infrastructure to keep pace with the increasing demands required by the business.³⁴ Six intelligence systems were briefly described on pages 18 to 21 of the Report, including the Australian Criminal Intelligence Database (ACID).

Australian Criminal Intelligence Database

2.43 The ACC advised that major enhancements to the ACID have significantly increased engagement with the system. This appears to be evidenced in the performance statistics quoted in the Report:

- 1 713 users ceased their usage, making a total of 3 172 users;
- 133 586 information reports were uploaded, an increase of nearly 20 per cent;
- 947 618 searches were conducted, an increase of over 75 per cent; and
- 1 784 475 new entities were created, an increase of nearly 392 per cent.³⁵

2.44 The Committee believes these statistics are very encouraging as:

Criminal information and intelligence shared through ACID's system arms law enforcement nationally with the means to combat and dismantle the activities of serious and organised crime.³⁶

2.45 An independent expert, Mr John McFarlane³⁷ confirmed that the ACC has made a big effort to close the gap between criminal intelligence and criminal investigation. But he remained sceptical as to the effective collection of criminal intelligence.

In reality, criminal intelligence is the major tool in the investigative or operational process because it describes the who, why, how, when and where issues. Although there is a lot of talk about intelligence led policing, the effective introduction of this approach still has a long way to go. By and large the police culture is more directed towards investigation and prosecution than intelligence collection, especially where such collection is not seen to contribute directly to the prosecution of a particular case.³⁸

34 Australian Crime Commission, *Annual Report 2006-07*, p. 18.

35 Australian Crime Commission, *Annual Report 2006-07*, p. 20.

36 Mr Alastair Milroy, CEO, ACC, *Committee Hansard*, Canberra, 9 April 2008, p. 2.

37 The Committee refers to Mr John McFarlane in the report but notes that he is recorded in Hansard as Mr Alastair McFarlane.

38 Mr Alastair McFarlane, *Committee Hansard*, Canberra, 9 April 2008, p. 30.

2.46 Based on the ACID performance statistics, the Committee is not convinced that the ACC's partner agencies place a low value on the need for criminal intelligence collection, or are underutilising whatever criminal intelligence has been collected. But if such intelligence or databases such as ACID are not being fully utilised, for whatever reason, then this is clearly to the disadvantage of law enforcement efforts. The Committee encourages all law enforcement agencies to contribute to intelligence collection and to take advantage of the database repositories maintained by the ACC.

Quality and value of Strategic Criminal Intelligence Assessments, threat assessments and other products and services

2.47 The Report notes that the ACC produces a wide range of intelligence products which vary according to the needs of the client. These intelligence products are identified and described on pages 22 to 28 of the Report. At the hearing, the Committee briefly discussed two particular intelligence products: the Picture of Criminality in Australia (PoCA) and the Illicit Drug Data Report (IDDR).

Picture of Criminality in Australia

2.48 The PoCA is the ACC's principal strategic intelligence product. It informs the strategic and operational decision-making of the ACC, the Board, and key stakeholder agencies. The PoCA outlines the changing nature of the strategic environment for law enforcement, identifies the major developments that may occur in Australia's crime markets over the next two to three years, and assesses the social, political and economic harms associated with each of the National Criminal Intelligence Priorities.³⁹

2.49 Throughout the reporting period, the 2006 PoCA was used to inform decisions regarding ACC determinations, task forces, collaborative activities with law enforcement partners, and intelligence development. It was also used by Board member agencies to make decisions about policing priorities and resourcing, and has been used to support successful applications for funding to combat emerging crime threats, and serious and organised crime.⁴⁰

2.50 In January 2008, the ACC released a declassified 15 page version of PoCA called *Organised Crime in Australia*.⁴¹ ACC Executive Director Kevin Kitson told the Committee that:

It is designed for information and awareness, as a starting point for debate and to encourage others to talk to us—particularly those who might not

39 Australian Crime Commission, *Annual Report 2005-06*, p. 22.

40 Mr Alastair Milroy, CEO, ACC, *Committee Hansard*, Canberra, 9 April 2008, pp 14-15.

41 Australian Crime Commission, *Organised Crime in Australia*, January 2008.

recognise that they have a role to play in building resilience against organised crime.⁴²

2.51 As part of this awareness campaign, the ACC is consulting with 100-200 CEOs across a wide range of sectors.

We are also progressing some of those discussions to raise the awareness level of CEOs in certain sectors that we believe could be vulnerable to an attack by organised crime, and that is work that is underway at present.⁴³

2.52 The ACC told the Committee that an evaluation of the *Organised Crime in Australia* product has not yet been conducted but that "initial indications are that the product is useful in providing an authoritative aggregation of some of the key issues that organised crime represents."⁴⁴ This conclusion was endorsed by Mr McFarlane:

It seems to me that it quite concisely puts into 12 or 14 pages—whatever it is—the nature of contemporary crime in a way that can be understood not only by police agencies, governments and other authorities but also by thinking members of the public, who need to know a little bit about this. I think that the drivers behind organised crime have been well spelt out; the links between crime and globalisation and those sorts of issues have been well spelt out. So from my point of view that was a good document. What it does not do, of course, is to go on at the public level to talk about exactly what sort of organised crime syndicates are of concern and why they should be of concern. I presume that would be covered in the classified version. But that is the first time that I have seen a document in Australia which has provided a good, solid foundation to a description of what is involved in serious and organised crime.⁴⁵

2.53 The Committee recalls that the original intention of the *Organised Crime in Australia* product was to inform policy setting.⁴⁶ But the ACC maintains that the product is not designed to shape either law enforcement policy or any other responses. This might partially explain why the *Organised Crime in Australia* product lacks detail:

The distinction between this document [and PoCA]...is really the classification level. The Picture of Criminality contains a lot of methodology based information that we generally do not think is appropriate to release to a wider audience, but there are aspects of that

42 Mr Kevin Kitson, Executive Director, ACC, *Committee Hansard*, Canberra, 9 April 2008, p.15. Also, see Mr Alastair Milroy, CEO, ACC, 'Collaboration is the key to fighting organised crime', Press Release, 17 January 2008.

43 Mr Kevin Kitson, Executive Director, ACC, *Committee Hansard*, Canberra, 9 April 2008, p.15.

44 Mr Kevin Kitson, Executive Director, ACC, *Committee Hansard*, Canberra, 9 April 2008, p.15.

45 Mr Alastair McFarlane, *Committee Hansard*, Canberra, 9 April 2008, p. 36.

46 The Hon. Duncan Kerr SC MP, *Committee Hansard*, Canberra, 30 March 2007, p. 9.

which we will take forward in our discussions with certain parties in the affected sectors so that we can work with them to target harden.⁴⁷

2.54 In the United Kingdom, the Serious and Organised Crime Agency has released a 42 page document with similar objectives and which details the way in which serious and organised crime operates in the UK.⁴⁸

2.55 When asked by the Committee why the ACC could not produce a public document similar to that of the United Kingdom, Mr Kitson replied:

A lot of the material in the Picture of Criminality document contains information which has some original material in much more highly classified information. Our initial attempts to disentangle that but still leave sufficient meaning in it left us in the position where we wanted to go with a slightly broader ranging and higher level document. But we acknowledge that there is scope to come closer to the SOCA model, and that is part of our thinking for the out years, although not necessarily next year. There is scope for something a little more detailed.⁴⁹

2.56 The Committee is highly encouraged by this response and looks forward to being provided with updates in the matter, including, ultimately, a more substantial version of the *Organised Crime in Australia* product. The Committee particularly notes that this product was developed by the ACC on its motion, and commends the Commission for developing this innovative and informative product.

Illicit Drug Data Report

2.57 The 2005-06 IDDR was launched by the Minister on 11 May 2007.⁵⁰ It provides an overview of the illicit drug market in Australia, including information and data relating to drug seizures, arrests, prices, and purity levels, and incorporates data from a range of agencies. It is the only report of its kind in Australia. As Mr McFarlane noted:

The old Australian Bureau of Criminal Intelligence started to produce an annual report on the Australian illicit drug situation...In comparison with any other country I have seen that produces an annual, simple-to-read, concise, well-illustrated and well-documented definition of the nature of the drug problem, I think that particular document was outstanding. Although the document that the ACC is producing now is not quite the same, it still produces extremely valuable information.⁵¹

47 Mr Kevin Kitson, Executive Director, ACC, *Committee Hansard*, Canberra, 9 April 2008, p.15.

48 Serious and Organised Crime Agency, *The United Kingdom Threat Assessment of Organised Crime 2006-07*, 2006. See: www.soca.gov.uk (accessed 22 May 2008)

49 Mr Kevin Kitson, Executive Director, ACC, *Committee Hansard*, Canberra, 9 April 2008, pp15-16.

50 Australian Crime Commission, *Annual Report 2006-07*, pp 23-24.

51 Mr Alastair McFarlane, *Committee Hansard*, Canberra, 9 April 2008, p. 36.

2.58 The Committee notes the value and high quality of the IDDR.

Provision of timely, high quality advice to the Board on National Criminal Intelligence Priorities

2.59 The Report states that the NCIPs for 2006-07 were considered by the Board just prior to the commencement of the reporting period. These followed comprehensive consultation with Board member agencies. The Board also considered NCIPs for 2007-08 in late 2006-07. The principal mechanism for informing the Board of NCIPs was the 2006 PoCA report. But the ACC also provided information on the NCIPs with the provision of a range of intelligence products.

2.60 In 2006-07, ACC intelligence products addressed 10 different NCIP crime types, including identity crime, drugs, corruption, firearms, money laundering and terrorism. Thirty-two different NCIP crime type sub-issues, for example amphetamines, criminal convergence with terrorism and superannuation fraud, were addressed 223 times: 62 per cent were Category A (highest priority); 38 per cent were Category B NCIP issues. A number of ACC products also addressed lower priority and emerging issues.⁵²

2.61 The question of whether NCIPs are of any practical value in combating serious and organised crime was raised by Mr McFarlane, who essentially argued that there is an application problem.

Unless it directly affects the role of the individual state or territory police, it is difficult for the commissioner to justify overturning his own priorities—which he is under quite a lot of pressure from his own government and the community to adhere to. There may be times—for example, following the Port Arthur gun incident or following the 9-11 incident—where the national interest is so overwhelming that every state and territory government and police force would fall into line. But, short of something of about that level of seriousness, it is difficult to see how any of these could be anything other than advisory.⁵³

2.62 Mr McFarlane submitted that significant federal funding for law enforcement would probably constitute a financial lever for adherence to the national interest and NCIPs.

2.63 The Committee acknowledges that in some instances board members may find it hard to justify adherence to the NCIPs. In other instances, NCIPs might not be relevant to a particular jurisdiction.

2.64 But the Committee believes that the existence of the NCIPs is a significant, coordinated measure in combating serious and organised crime nationwide. The Committee also believes that the manner in which the NCIPs are formulated is likely

52 Australian Crime Commission, *Annual Report 2006-07*, p. 28.

53 Mr Alastair McFarlane, *Committee Hansard*, Canberra, 9 April 2008, p. 31.

to infuse the NCIPs with jurisdictional interests which at times may detract from a more national approach to serious and organised crimes. The Committee encourages the ACC and its Board to maintain a strong, coordinated and national focus.

Number and value of disseminations to law enforcement agencies and other relevant agencies

2.65 The Report states that, in 2006-07, the ACC made 2 452 intelligence disseminations. The Committee has previously noted the inherent difficulties of assessing the value of intelligence disseminations. The ACC appears to be on top of this issue, having initiated a joint research project with Victoria Police and Macquarie University to measure the effectiveness and efficiency of intelligence information.

2.66 The ACC advises in its Report that the first of two stages has been completed. Phase one developed a return on investment model to identify and measure the return from ACC law enforcement investigation activities in combating serious and organised crime. A specific example is given on page 81 of the Report.

2.67 Phase two was due for completion in late 2007. It aimed to identify and recommend appropriate performance indicators for intelligence outputs, and develop a model which identifies the value of the intelligence outputs and the consequential return on investment.⁵⁴

2.68 The ACC reports that phase two has recently been completed. The resulting recommendations, to further formalise the ACC's partner-client approach and to include 'quantity', 'impact' and 'cost per output' metrics for intelligence products, are currently being considered.⁵⁵

2.69 The Committee notes that an update on the 'effectiveness and efficiency framework' will be forthcoming in the 2007-08 annual report.

COMMITTEE COMMENT: Output 1

2.70 The Report provides a comprehensive view of the advice, information disseminations, intelligence products, intelligence coordination activities, intelligence capability development and other coordination activities, conferences and working groups that the ACC uses to produce criminal intelligence products and services, and achieve the outcome of enhanced Australian law enforcement capacity.

2.71 The Committee observes that the ACC has continued to refine and improve the intelligence and information systems and services it maintains and provides. The Committee commends the ACC's commitment to developing better systems for measuring the value of its products and services.

54 Australian Crime Commission, *Annual Report 2006-07*, p. 80.

55 ACC, Additional Information, Answer to Question on Notice, No. 10 (received 21 May 2008).

Output 2: Investigations and Intelligence Operations into Federally Relevant Criminal Activity

2.72 The KPIs for output 2 are:

- effective collaboration with partner law enforcement and other agencies to progress criminal intelligence and investigative priorities;
- effective use of coercive powers to support criminal intelligence and investigative objectives;
- disruption of criminal syndicates;
- effective and efficient delivery of the Board approved criminal intelligence and investigative priorities;
- number and value of disseminations to law enforcement and other relevant agencies;
- number and significance of arrests and charges; and
- value of proceeds of crime.

2.73 The focus of output 2 is the disruption and deterrence of serious organised criminal activity by conducting special intelligence operations, special investigations and intelligence operations into federally relevant criminal activity in collaboration with partner law enforcement agencies.

2.74 Special intelligence operations and special investigations (collectively called 'determinations') must be approved by the Board in accordance with section 7C of the Act.⁵⁶

2.75 The Board approved Special Intelligence Operations in 2006-07 were:

- Amphetamines and Other Synthetic Drugs;
- Serious and Organised Fraud;
- Crime in the Transport Sector (CiTS);
- Illicit Firearm Markets;
- Illegal Maritime Importation and Movement Methodologies; and
- People Trafficking for Sexual Exploitation (PTSE).

2.76 The Board approved Special Investigations in 2006-07 were:

- High Risk Crime Groups;
- Established Criminal Networks – Victoria;
- Money Laundering and Tax Fraud (Midas); and

56 Definitions of the three types of operation are provided at page 30 of the Report.

- Wickenby Matters.

2.77 In 2006-07, the Board also approved three intelligence operations and task forces: Outlaw Motor Cycle Gangs National Intelligence Task Force; National Indigenous Violence and Child Abuse Intelligence Task Force (NIITF); and Task Force Gordian.

Summary of results (KPI 6 & KPI 7)

2.78 The table reproduced below from page 33 of the Report shows overall results for all ACC determinations in 2006-07.

Table 1: Overall results for all ACC determinations 2006-07

	2003-04	2004-05	2005-06	2006-07
People charged	203	294	218	176
Charges laid	626	1,665	894	429
Examinations conducted	355	629	605	703
Notices to produce documents issued	453	516	480	604
Drug seizures	115	175	106	86
Firearms seized or quarantined	3,522	284	1,300	323
Estimated street value of drugs seized	\$19.9m	\$66.6m	\$4.9m	\$1 562m
Proceeds of crime restrained	\$16m	\$13.4m	\$20.7m	\$6.68m
Proceeds of crime forfeited	\$2.4m	\$0.9m	\$1.6m	\$6.44m
Tax assessments issued	\$19m	\$12.2m	\$6.3m	\$5.5m
Tax recoveries		\$0.3m	\$20.8m	\$0.49m

Source: *Australian Crime Commission Annual Report 2006-07*, p. 33.

2.79 During the hearing, the Committee sought an explanation regarding the decrease in the number of people charged and the number of charges laid, as compared with 2005-06. Mr Milroy explained:

A lot of the investigations the ACC conducts are quite protracted and they run across more than one reporting period, so you see some fluctuations in relation to the arrests and charges, seizure of assets and seizure of drugs from one reporting period to another.⁵⁷

2.80 The ACC observed that its comments in relation to arrests, charges and convictions were equally applicable to tax assessments and recoveries.

We do a lot of work, as you would appreciate, with the tax department. You might have seen some recent press where there was an acknowledgement by the government that the \$75 million in tax assessments as a result of ACC intelligence has put quite considerable pressure on criminals.⁵⁸

2.81 Mr Milroy pointed out that the ACC's menu of work is subject to review at each Board meeting. A decision to increase the number of intelligence operations will correspondingly decrease the number of areas under investigation. This affects the number of arrests and charges. Also,

A lot of the arrests and charges that are derived from our work are achieved by our partners because in intelligence operations we refer the intelligence to them and in a joint operation they do the investigative work and claim the credit.⁵⁹

2.82 While statistics are a performance indicator, the ACC argued that a more significant measure would be the quality and effect of the disruption:

Police agencies are normally assessed on arrests and charges; that is a significant performance indicator. We are not a police agency, and arrests and charges are sometimes not a significant indicator of success...It is more about the disruption to the syndicates and individuals, in which you will see there has been a 14 per cent increase on the previous years. We are averaging per annum in the vicinity of 25 to 30 groups and individuals being put out of business.⁶⁰

2.83 Mr McFarlane agreed,

[Performance] must be judged not just on the actual figure but also on the quality of the operations and the nature of the targeting. In the case of firearms, is it down simply because the number of firearms that are available out there in the public area is much less than it was before? In the case of drugs, what has given rise to the sudden spike? Is it because of greater importation of amphetamines, cocaine or heroin?⁶¹

57 Mr Alastair Milroy, CEO, ACC, *Committee Hansard*, Canberra, 9 April 2008, p. 5.

58 Mr Alastair Milroy, CEO, ACC, *Committee Hansard*, Canberra, 9 April 2008, p. 7.

59 Mr Alastair Milroy, CEO, ACC, *Committee Hansard*, Canberra, 9 April 2008, p. 5.

60 Mr Alastair Milroy, CEO, ACC, *Committee Hansard*, Canberra, 9 April 2008, p. 6.

61 Mr Alastair McFarlane, CEO, ACC, *Committee Hansard*, Canberra, 9 April 2008, p. 37.

2.84 The Committee acknowledges that the ACC's disruption of criminal entities and significant individuals (KPI 3) has been significant in 2006-07.⁶² This remarkable outcome is also reflected in the statistics for its 97 criminal prosecutions, which resulted in 79 convictions, 13 offences being proven without conviction, and five cases being withdrawn or discharged. The 79 convictions resulted in 53 imprisonments, 11 non-custodial sentences, and 15 fines. Details appear in Appendix A of the Report.⁶³

2.85 The Committee also acknowledges that a great deal of the ACC's work occurs in support of other agencies or jurisdictions for which recognition is not always publicly forthcoming. And that its results are hard to quantify and cover a diverse range of ever-changing criminal activity. Viewed in context, the ACC's results for 2006-07, as in previous years, has been outstanding.

Effective use of coercive powers (KPI 2)

2.86 In 2006-07, the ACC extensively used its coercive powers, issuing 856 summonses to attend an examination.⁶⁴ But not all of these summonses were without complication. The Committee particularly noted seven instances in which persons were charged for refusing to answer questions, or for providing false and misleading information, at an ACC examination.⁶⁵

2.87 However, Mr Milroy informed the Committee that the issue was much larger as to date the numbers failing to co-operate with an ACC examiner had resulted in:

- 39 persons having been convicted and sentenced; and
- 26 persons awaiting either trial or sentencing.⁶⁶

2.88 The failure to co-operate at an examination has significant implications for the ACC, and law enforcement generally. But as Assistant Commissioner Phelan observed:

These process challenges occur through all sorts of legislation and processes...Having been a police officer for 23 years, I have seen many laws challenged in many different forms and it is not sometimes until these laws are challenged that appropriate steps are taken. But at the end of the day that is a matter for the parliament.⁶⁷

62 Australian Crime Commission, *Annual Report 2006-07*, p. 31.

63 Australian Crime Commission, *Annual Report 2006-07*, p. 34.

64 Australian Crime Commission, *Annual Report 2006-07*, pp 37-38.

65 Australian Crime Commission, *Annual Report 2006-07*, p. 38.

66 Mr Alastair Milroy, CEO, ACC, *Committee Hansard*, Canberra, 9 April 2008, p. 12.

67 Assistant Commissioner Michael Phelan, Chief Police Officer, ACT Policing, *Committee Hansard*, Canberra, 9 April 2008, p. 22.

2.89 Mr Milroy had a similar view, commenting that in such instances, 'we take other steps to move on and hopefully find the intelligence legally by other means'.⁶⁸

2.90 However, the Committee has also been told that:

There appears to be a tactic emerging amongst certain types of crime groups and the counsel who are representing them. I know the examiners are increasingly concerned that, over time, that will undermine the effectiveness of the powers in dealing with serious and organised crime. I am particularly talking about criminals with access to good legal counsel who operate with a degree of sophistication.⁶⁹

2.91 An independent review of the Act conducted by Mark Trowell QC (The Trowell Report) considered, among other things, whether the Act should be amended to provide the ACC with the power to certify persons for contempt for not fulfilling their obligations under the Act. It was Mr Trowell's specific recommendation that the procedural provisions for dealing with contempt be modified, including expanding the definition of contempt to include circumstances where a person,

(a) refuses or fails to attend a hearing and (if required to do so) also fails to or refuses to produce any document or thing in accordance with a summons; and

(b) responds in a manner that amounts to a 'constructive refusal' to answer any question put to the person by an examiner presiding at an examination.⁷⁰

2.92 The Committee invited the Board and the ACC to comment upon Mr Trowell's recommendations. But both declined as the matter is still under consideration by the Attorney-General's Department.

2.93 The Committee understands that the matter is complex and controversial. However, the Committee is concerned that delaying tactics are being used by certain individuals to not only advance serious and organised crime, but to frustrate the efforts of law enforcement agencies.

Recommendation 2

2.94 The Committee recommends that the government expedite its response to the Trowell Report and in particular, address the emerging problem that refusal to co-operate with the ACC examiners and examination process is being employed as a delaying tactic to thwart or frustrate ACC operations.

68 Mr Alastair Milroy, CEO, ACC, *Committee Hansard*, Canberra, 9 April 2008, p. 12.

69 Mr Michael Outram, Executive Director, ACC, *Committee Hansard*, Canberra, 9 April 2008, p.13.

70 Mr Mark Trowell QC, *Independent Review of the Provisions of the Australian Crime Commission Act 2002: Report to the Inter-Governmental Committee*, March 2007, p. 6.

Investigation and Intelligence Operation Outcomes (KPI 4)

2.95 Pages 39 to 62 of the Report describe the outcomes; future outlook; and options for progressing legal, regulatory, administrative and policy reforms of the various intelligence operations, or determinations, pursued by the ACC.

2.96 Mr Milroy advised that the Board regularly reviews the determinations. But while the Board does look at the strategic three- to five-year outlook, if a review indicates that some of the objectives set out in the determination framework have been completed:

Then, of course, we indicate that our intelligence suggests that we should move to another area because we have completed the objectives. We go back to the board and indicate that there may be some variation in our work in that particular area...It is important to remember that we should not be doing the work of traditional police because that is not what we are there to do in determinations. We are very conscious that we need to be going in a different direction and not duplicating what police forces do.⁷¹

2.97 One such example was the People Trafficking for Sexual Exploitation (PTSE) determination. The Report states that the PTSE determination was active in 2006-07 for only a brief period, with 4 section 28 notices issued in the months of July and August 2006. These were issued in support of partner agencies finalising PTSE-related inquiries. After receiving findings in April and November 2006, the Board concluded that the determination had met its objectives and could be concluded.⁷²

2.98 It was not quite so clear to the Committee why the PTSE determination had been concluded, and the Committee was unable to obtain clarification for this decision.⁷³ The Committee has previously stated that PTSE is a matter of grave concern and will seek a fuller explanation as to why the determination has been concluded.

2.99 The Crimes in the Transport Sector (CiTS) determination was similarly of interest. This determination develops intelligence into the nature of serious and organised crime in the aviation, maritime and surface transport sectors. Mr Milroy succinctly summarised the current position with respect to the CiTS determination:

At this stage we have nearly completed the work in the airports and the maritime sector and also of course we have collected intelligence in relation to transport a lot broader than that. We will be providing the board with a submission in June this year in relation to the work that we believe we have completed. It will show that we have met the objectives that were set in relation to airports and maritime and will also provide the board with the

71 Mr Alastair Milroy, CEO, ACC, *Committee Hansard*, Canberra, 9 April 2008, p. 17.

72 Australian Crime Commission, *Annual Report 2006-07*, p. 49.

73 Assistant Commissioner Michael Phelan, Chief Police Officer, ACT Policing, *Committee Hansard*, Canberra, 9 April 2008, p. 27.

intelligence that we have collected relating to the transport environment. The board will then be in a position to make a decision as to whether or not the ACC is required to do anything further in that area.⁷⁴

COMMITTEE COMMENT: Output 2

2.100 The Report outlines in appropriate detail the ACC's investigations and operations into federally relevant criminal activity, which serve to achieve the outcome of enhanced Australian law enforcement capacity. The ACC appears to be appropriately targeting the dynamic and changing nature of criminal activities in Australia, as is reflected by the shifts in its determinations and activities.

2.101 The Committee will continue to monitor the ACC's active determinations (including those that are discontinued in any reporting period for whatever reason), and requests the ACC to keep the Committee informed, in a timely fashion, of the Commission's changing priorities.

Financial and physical performance

2.102 Chapter 3 of the Report describes in some detail the financial and physical aspects of the ACC's performance. The ACC's financial performance was of particular interest to the Committee, and at its public hearing, certain issues were discussed as follows.

Budget surplus/deficit and efficiency dividend

2.103 The ACC's financial result for 2006-07 was a surplus of \$1.795 million.⁷⁵ The table on page 87 of the Report shows the resources allocated for outputs 1 and 2 under outcome 1. It shows the budget for 2006-07, actual expenses for the same period, revenue from government and other sources, and budget for 2007-08.

2.104 The recent introduction of a two per cent dividend efficiency measure will significantly affect the ACC as the ACC is forecasting a small operating loss for 2007-08.⁷⁶ This is consistent with Mr Milroy's advice at the 2007-08 Additional Estimates Hearing:

We are affected this financial year to a reduction of \$443,000...the forward years are: in 2008-09, the impact will be \$1.896 million; then in 2009-10, it will be \$1,797 million; and 2010-11, \$1.813 million.⁷⁷

74 Mr Alastair Milroy, CEO, ACC, *Committee Hansard*, Canberra, 9 April 2008, p. 16.

75 Australian Crime Commission, *Annual Report 2006-07*, pp 110-113.

76 Australian Crime Commission, *Annual Report 2006-07*, p. 86.

77 Mr Alastair Milroy, Chief Executive Officer, ACC, *Estimates Hansard*, 18 February 2008, p.55.

2.105 For the next 12 months, and based on revised estimates, the Board is actually projecting a \$3 million deficit.⁷⁸ However, after the May 2008 budget, the ACC will formulate its budget for 2008-09, incorporating the efficiency dividend, and bring it to the Board for approval.⁷⁹ The Committee notes that a deficit is expected in the 2007-08 and 2008-09 budgets, and will continue to closely monitor this aspect of the ACC's financial performance in the next two reporting periods.

2.106 The ACC's appropriation for 2006-07 was \$89.613 million.⁸⁰ The Board closely monitors matters of finance as part of the process of evaluating priorities and making determinations. Notwithstanding the predicted budget deficit, the Board conceded that the ACC would work within budget constraints.

The ACC through the board...work within the budget framework that we are given. The menu of work determined by the board for the ACC to implement is done within the budget constraints that are there. Like everybody else, we know there is a finite amount of money. Whatever the allocation is is whatever the ACC work within, and the board makes its decisions accordingly.⁸¹

2.107 The Committee commends the ACC and the Board for adopting an attitude of fiscal responsibility. However, the Committee is very much aware that the nature of ACC operations and determinations might occasionally cause unforeseen expenses. The Committee notes its concern that the increasing demands which are placed upon the ACC's resources could adversely affect the effectiveness of the agency.

2.108 The Committee would not like the ACC to be hindered in its work on account of budgetary constraints. If there is a legitimate need for increased funding, then the Committee encourages the ACC to voice these requests.

Human resources

2.109 Chapter 3 of the Report describes the human resource practices and procedures of the ACC. The Report states that the ACC highly values its employees, and recognises the significant contribution that staff make in shaping the objectives and outcomes of the agency.⁸²

78 Assistant Commissioner Michael Phelan, Chief Police Officer, ACT Policing, *Committee Hansard*, Canberra, 9 April 2008, pp 24-25.

79 Assistant Commissioner Michael Phelan, Chief Police Officer, ACT Policing, *Committee Hansard*, Canberra, 9 April 2008, p. 23.

80 This included tied funding of \$30.8 million.

81 Assistant Commissioner Michael Phelan, Chief Police Officer, ACT Policing, *Committee Hansard*, Canberra, 9 April 2008, p. 22.

82 Australian Crime Commission, *Annual Report 2006-07*, p. 88.

Our emphasis on developing a highly skilled and dynamic workforce has been a significant contributor to the many successes the agency has achieved.⁸³

2.110 As noted on previous occasions, the Committee is concerned that the knowledge and experience of the ACC is being lost with the continuing turnover of staff. While the turnover rate has slightly declined, more than half of those ceasing employment with the ACC in 2006-07 resigned, and a significant proportion of terminations was due to staff relocating to other APS agencies.⁸⁴

2.111 At its inquiry into the ACC's Annual Report 2005-06, the Committee was told that the high rate of turnover was strongly linked to the scope of work impacting on opportunities for staff:

Satisfaction levels will vary, naturally. We have a turnover rate that we would like to reduce...obviously we have gone through a significant transition over the last three years. We have been setting an organisation up for the future and recruiting extensively.⁸⁵

2.112 The Committee also heard that succession planning and staff-retention issues were being addressed through the ACC's recruitment and training processes, such as its graduate program.⁸⁶

2.113 In 2006-07, recruitment and training processes do not appear to have resolved the high turnover problem, and while not a primary concern for the Committee in this reporting period, it is a concern which the Committee will continue to monitor.

Conclusion

2.114 The examination of the ACC Annual Report 2006-07 has enabled the Committee to review the agency's activities against a performance framework of outputs and outcomes, and relative to its performance in recent years.

2.115 With some reservations, the Committee found that the ACC appears to be working efficiently and effectively, with appropriate governance and accountability arrangements, and a clear sense of purpose and direction in achieving its goal of enhanced Australian law enforcement capacity in the area of serious and organised crime.

2.116 The Committee acknowledges that the ACC, its officers and its partner agencies have produced significant results in 2006-07, and promoted and advanced

83 Mr Alastair Milroy, CEO, ACC, *Committee Hansard*, 9 April 2008, p. 3.

84 Australian Crime Commission, *Annual Report 2006-07*, p. 100.

85 Mr Lionel Newman, Executive Director, ACC, *Committee Hansard*, Canberra, 30 March 2007, p.13.

86 Mr Alastair Milroy, CEO, ACC, *Committee Hansard*, Canberra, 30 March 2007, p.13. Also see ACC, Additional Answers, Answer to Question on Notice. No. 12 (received 21 May 2008)

national efforts to combat serious and organised crime. Further, the inquiry has once again demonstrated the flexible nature of the agency, and its ongoing efforts to improve its overall performance and reporting methods.

2.117 The rapid establishment of the NIITF deserves particular mention as a clear demonstration of the ACC and the Board's ability to mobilise staff and resources to achieve an important outcome. The Committee commends the ACC for its response in this matter.

2.118 On a final note, the Committee reminds the ACC that it is vitally important for an organisation in which the parliament has invested substantial powers to be open to appropriate and meaningful scrutiny. This includes informing the Committee of significant matters within the Committee's area of legislative responsibility. The Committee suggests that notice after the event inhibits and precludes the parliament from serving its oversight function. In future, the Committee expects the ACC to give appropriate notice in all matters.

Senator Stephen Hutchins
Chair

