

PREFACE

Introduction

At its meeting on 16 March 2000 the Committee gave consideration to the issue of witness protection. The Committee was aware that several incidents involving witnesses, both protected and not, had occurred in the immediately preceding period. These incidents fell both within State jurisdictions and that of the NCA.

In the former category the Committee was aware of the murder of Vicki Jacobs in Bendigo, Victoria, in June 1999 after she had given evidence against her former husband and an accomplice in a South Australian murder case. Her murder was described at the time by an investigating officer of Victoria Police as 'one of the most calculated, brutal crimes we've seen in this State in recent times'.¹ It was reported that Ms Jacobs had rejected several offers by South Australian police to join its witness protection program because she had not wanted the lifestyle restrictions that would come with living under protection for herself and her six year old son.²

There was considerable controversy in Western Australia in relation to the death of protected witness Andrew Petrelis in November 1999. Mr Petrelis died before he was able to give evidence.³ On 2 December 1999 the Western Australian Minister for Police, the Hon Kevin Prince MLA, appointed a senior barrister to conduct a review of the Western Australian Police Service's Witness Protection Program. The management of Andrew Petrelis by the Witness Protection Unit was a particular focus of the review. The inquiry report was tabled in the Western Australian Parliament on 9 August 2000. The report found deficiencies in the handling of Mr Petrelis's case and made 41 recommendations for action or reform.

In relation to the NCA, the Committee's attention was drawn to an item on the *Sunday* program in November 1999 which aired allegations of improper treatment of an NCA protected witness.

1 Reported in *Police raid bikie gang in search of murder probe clues*, AAP, 13.7.99

2 *The Australian*, 15 June 1999, p.1

3 The people who Mr Petrelis was due to give evidence against were subsequently acquitted.

Finally, the Committee had regard to the fact that in 1988 one of its predecessor committees had conducted a comprehensive inquiry into the issue of witness protection and that its report⁴ had led directly to the introduction at the Commonwealth level of the *Witness Protection Act 1994* and to mirror legislation in several States and the Australian Capital Territory. While there is a requirement to table an annual report on the operations of the Commonwealth Act, of which there have been three such reports tabled to date,⁵ its application to the NCA's operations had not specifically been examined.

In view of these several factors, the Committee felt that it was appropriate and timely that it should examine in detail the efficiency and effectiveness of the NCA's witness protection arrangements. The purpose of the inquiry was to seek to enable the Committee to assess as comprehensively as possible the present practices and procedures of the NCA's witness protection arrangements, without compromising or prejudicing the operational security which necessarily attaches to this important area of law enforcement activity.

Terms of reference

The Committee adopted the following terms of reference for its inquiry:

The Parliamentary Joint Committee will inquire into the National Crime Authority's arrangements for witness protection, with particular reference to:

- (a) the efficiency of the witness protection program administered by the Australian Federal Police on the National Crime Authority's behalf;
- (b) whether the criteria used to offer witness protection, and to discontinue that protection, are appropriate, especially having regard to the social impacts on participants in the program; and
- (c) whether payments made to protected witnesses are administered effectively, especially the payment of taxation liabilities.

The inquiry is being conducted under paragraphs 55(1)(a) and (d) of the *National Crime Authority Act 1984* which provides the Committee with authority to monitor and review the NCA's performance of its functions and to examine the environment in which the NCA operates, with a view to reporting to both Houses of Parliament any reforms it believes should be made to the NCA's functions, structure, powers and procedures.

4 *Witness Protection*, Report by the Parliamentary Joint Committee on the National Crime Authority, AGPS Canberra, Parliamentary Paper No. 193/88, tabled on 26 May 1988.

5 The Act received Royal Assent on 18 October 1994 and commenced on 18 April 1995. A report on the operations of the Act during the years ending 30 June 1995, 30 June 1996 and 30 June 1997 was tabled on 28 October 1997. A report on the operations of the Act during the year ending 30 June 1998 was tabled on 8 December 1998. The annual report on the operations of the Act for 1998-99 was signed by Minister for Justice and Customs, Senator the Hon Amanda Vanstone, on 6 December 1999 and tabled in the Senate on 15 February 2000.

The inquiry

The Committee's inquiry was advertised in the national press on 18 March 2000. The Committee received 15 submissions, of which four were accorded confidential status. Details of submitters are shown in Appendix 1.

The Committee conducted a public hearing in Canberra on 23 June 2000 with representatives of three key agencies. Details of the hearing are detailed in Appendix 2. Evidence was also taken in camera. While this evidence is not expressly cited or referred to in this report, it played an important role in framing the Committee's understanding of the issues.

The report

The report sets out general background information in relation to the operations of witness protection in Australia in Chapter 1, before outlining the Committee's deliberations on each of its terms of reference in the succeeding chapters.

It is the finding of this report that the National Witness Protection Program, which provides witness protection services for the NCA, is well run and that there are only a small number of areas of its administration in need of attention. The Committee would hope that its discussion in this report of the issues associated with witness protection will prove of value to the public debate and that the public will be assured that they can have confidence in the general efficiency and effectiveness of the Program.

Acknowledgements

The Committee wishes to express its appreciation to submitters and personal witnesses to its inquiry, especially for their efforts in seeking to provide the Committee with frank responses into matters of some sensitivity.

The Committee also wishes to recognise the efforts of its Secretary, Michael McLean, and its Principal Research Officer, Yvonne Marsh, in assisting it with the conduct of this inquiry.

Peter Nugent MP
Chairman