

## **Additional comments by Senator Mark Bishop**

1.1 The terms of reference for this inquiry into organised crime by the Committee highlight the committee's critical role in reviewing the performance of the commission as well as examining trends and changes in criminal activities.

1.2 As the Committee's report has noted briefly, this inquiry has canvassed its terms of reference broadly through public submissions and hearings in the normal parliamentary committee style. It has gained a considerable amount of evidence on organised crime, and I concur with the committee's concerns at the breadth and depth of the issues which face law enforcement agencies. Responsibility for addressing these issues rests with each state jurisdiction as well as the Commonwealth, in its own right and as national focal point for coordinated effort through the ACC, AFP, AIC and other Commonwealth agencies.

1.3 I note the generality of the inquiry's evidence has made it difficult for the Committee to remain within the inquiry's terms of reference. Essentially, the reference was to examine future trends of organised crime, recommend strategies for countering such crime and check the adequacy of legislative and administrative arrangements in meeting those strategies.

1.4 To that extent, I appreciate difficulties faced by the Committee to make anything other than general recommendations. For while it heard alarming evidence on the nature of the issues confronting the national fight against organised crime, there was insufficient detail to make anything other than general recommendations.

1.5 The ACC and this Committee have made positive and progressive steps in overcoming problems which beset its ancestor, the National Crime Authority. That body was a first attempt to bring a national focus to fighting national crime across all jurisdictions.

1.6 The ACC governance model, in terms of accountability, is primarily to its stakeholders viz, from the CEO to the Board, from the Board to the Intergovernmental Committee (IGC), and thence to ministers.

1.7 I note the Committee's role does not seem to be part of that hierarchy. I suggest a clarification of the Committee's role, which, in light of this current inquiry, may be far more limited than previously realised. Certainly that appeared evident from the manner in which this inquiry has been conducted, and the content of the report.

1.8 Considering the terms of reference set out in Section 55 of the Act it would seem that while the ACC is not accountable to the Committee, the Committee is accountable to the Parliament for assessment of the way in which the ACC operates and the function it performs nationally in accordance with its charter.

1.9 Hence in taking evidence during this inquiry, important questions are declined on the basis that this is a matter for government policy.

1.10 An example would be seeking a view as to whether Customs should have telephone interception powers or not. This is a standard and appropriate response to a parliamentary committee such as this, but it does not assist the Committee in its terms of reference where such questions can be important in assessing the adequacy or otherwise of the means by which organised crime is being addressed.

1.11 It may be prudent to re-examine the Committee's role as set out in its terms of reference, and then examine more discrete segments and the way they are being pursued within the ACC framework.

1.12 These subjects should in the first instance concern those parts of organised crime which fall more clearly within the Commonwealth's responsibilities, so avoiding intervention in matters of state responsibility. The Committee's recommendations in this report on further subjects for scrutiny (such as communication interception, money laundering, and internet crime) would be a good starting point.

1.13 Within this role as "systemic mentor" of the ACC model, it may be necessary for the Committee to approach its work with a modus operandi than might otherwise be the case with parliamentary committees. This will entail continuing development of the special relationship of trust with the ACC, and mutual respect for the complementary responsibilities. None of this, however, should preclude the Committee from operating as a watchdog of the parliament, including regular assessment of the operational performance of the ACC model within its legislative charter.

1.14 In light of the above, I suggest the following matters be addressed:

- The Government, when re-establishing this Committee, consider whether the task warrants parliamentary committee oversight, whether the function might be conducted instead by way of an annual review by a retired judge or eminent lawyer with relevant experience, or whether the Committee might be assisted from time to time by the latter;
- That the Committee on reappointment in the new parliament, be tasked with examining its own role, and consider a new modus operandi more consistent with its legislated purpose and function; and.
- That the Committee examine those matters identified in this report worthy of more detailed examination, particularly those entailing Commonwealth function.