

CHAPTER 3

THE NATIONAL CRIME AUTHORITY FROM 1984 TO 1990

Introduction

3.1 Comments made during the present evaluation indicate that the priority and direction given to the Authority's activities tend to show the management style and approach of the individual Chairman of the Authority.

3.2 Royal Commissions typically bear the stamp of their heads. The same has been true of the Authority, which in some respects is a permanent Royal Commission. The priorities and the management style of the Authority have been stamped by the aims and personality of each Authority Chairman. Accordingly, the Committee considers it is useful to evaluate the Authority by the periods of office of its Chairman.

3.3 This chapter focuses on the first three Chairmen of the Authority, with the main focus being on the longest serving Chairman, the Hon. Justice Stewart. Chapter 5 deals with the chairmanship of the current Chairman, the Hon. Justice Phillips.

3.4 The first three Chairmen of the Authority were:

- . the Hon. Justice Stewart - 1 July 1984 to 30 June 1989;
- . Mr Peter Faris QC - 1 July 1989 to 12 February 1990; and
- . Mr Julian Leckie (as Acting Chairman) - 12 February 1990 to 14 August 1990.

CHAIRMANSHIP OF JUSTICE STEWART

Committee - Authority Relations

3.5 Relations between the Committee and the Authority from the time of the Authority's establishment in 1984 were characterised by the Committee's difficulty in obtaining information the Committee regarded as adequate to enable it to properly carry out its work.

3.6 One example of this difficulty was the Authority's insistence that special procedures be adopted for the conduct of meetings between the two bodies, including objection to the taking of a Hansard record of proceedings.⁴⁷

3.7 The Committee's *First Report*,⁴⁸ tabled in the Parliament on 29 November 1985, addressed the difference of opinion between the Committee and the Authority over information the Authority should provide to the Committee and, in particular, on application of section 55 of the NCA Act. The Report recommended that the NCA Act be amended to provide:

(a) that the Parliamentary Joint Committee on the National Crime Authority should have the power to do such things and make such inquiries as it thinks necessary for the proper performance of its duties; and

(b) that where information sought by the Committee is of such a nature that its disclosure to members of the public could prejudice the safety or reputations of persons or the operations of law enforcement agencies then it should be made the subject of a separate report

47. The Committee gives an account of the differences with the Authority in its *First Report*, in the section 'Relationship Between the Committee and the Authority', particularly paras. 40-42 and paras. 56-58.

48. Parliamentary Joint Committee on the National Crime Authority, *First Report*, AGPS, Canberra, 1985.

to the Chairman and Deputy Chairman of the Committee.⁴⁹

3.8 Following the tabling of the *First Report*, the then Special Minister of State, the Hon. M.J. Young MP, - the Minister responsible for the Authority - convened a meeting between the Committee and the Authority on 1 May 1986 to allow both to address the difficulties discussed in the *First Report*. As a result one matter was agreed: that the Authority prepare a comprehensive briefing on its operations for the Committee. As preparation for this briefing the Committee produced a detailed 'matters of interest' document indicating the aspects of the operations of the Authority on which it sought information.⁵⁰

3.9 The Government response to the Committee's *First Report* was tabled in the House of Representatives on 5 June 1986. The response noted discussions between the Committee and the Authority had taken place and that:

As a result of these discussions, there has been clarification of the apparent differences between the Authority and the Committee. The Government is confident that these discussions will lead to the development of a sound relationship between the two bodies.⁵¹

3.10 The Committee's *Second Report* was tabled on 27 November 1986. It described the gradual improvement in the working relationship between the Committee and the Authority, including the commencement of regular briefing by the Authority. The Committee reported satisfaction with the amount of information provided by the Authority and observed: 'The resolution of the threshold problem to the qualified satisfaction of both bodies has

49. *First Report*, p. xiii.

50. Parliamentary Joint Committee on the National Crime Authority, *Second Report*, AGPS, Canberra, 1986, para. 3.

51. Senate, *Hansard*, 13 June 1986, p. 4032.

allowed a more effective working relationship to develop'.⁵²

3.11 The *Second Report* also stated:

This relationship is characterised by a degree of mutual trust, a regular exchange of information and a willingness by each body to allow the other to discharge its statutory duties. At this stage, it is neither possible nor desirable for the Committee to make a definitive judgment as to the efficacy of the Authority's operations, however, it believes that its current relationship with the Authority will allow it to formulate such a judgment in due course.⁵³

3.12 In relation to the changes and improvement to Committee-Authority relations and information provided by the Authority, the *Second Report* said:

The Committee will also continue to meet regularly with the Authority. These joint meetings provide opportunities for the Committee to receive briefings on matters of interest raised by members. These matters, as indicated elsewhere in this Report, deal with a range of issues from organisational and administrative matters to a variety of operational aspects of the Authority's functions. The Committee will also continue to meet with other law enforcement agencies, Government officials and academics involved in, or observers of, the fight against organised crime. In this way the Committee will build up a reasonably complete overview of the effectiveness of the National Crime Authority. These activities will allow the Committee to make a substantial contribution to the evaluation process which must take place as the Authority's

52. Parliamentary Joint Committee on the National Crime Authority, *Second Report*, AGPS, Canberra, 1986, para. 6.

53. *Second Report*, para. 7.

statutory time limit draws closer.⁵⁴

3.13 The response by the Government to the *Second Report* was tabled in the Senate on 25 February 1987 and in the House of Representatives on the following day. The response noted the apparent improvement in the relationship between the Committee and the Authority following the May 1986 discussion between the Committee and the Authority. In relation to the Committee's observation about the evaluation of the Authority foreshadowed in the Report, the response noted:

In reviewing the NCA's performance the Government will need to take into account a wide range of views, and acknowledges that the joint committee will have a particularly important contribution to make to this process.⁵⁵

3.14 The Committee undertook an evaluation of the Authority in early 1988. *The National Crime Authority - An Initial Evaluation*⁵⁶ was tabled on 17 May 1988. The Initial Evaluation was made of the Authority's performance of its functions 'so that the Parliament may have the benefit of this Committee's knowledge and views when it comes to consider the legislation lifting the sunset clause'.⁵⁷

3.15 The *Initial Evaluation* did not claim to be a comprehensive examination of the Authority's activities for two reasons: it had been in existence for little more than three and a half years, and the incomplete nature of the Authority's investigations and legal proceedings resulting from them would have made it premature to comment on the Authority's achievements in that area of activity.⁵⁸

54. *Second Report*, para. 41.

55. Senate, *Hansard*, 25 February 1987, p. 643.

56. The *Initial Evaluation* considered 22 written submissions and took evidence *in camera* on two days from a limited number of witnesses.

57. *Initial Evaluation*, para. 1.4.

58. *Initial Evaluation*, paras. 1.4 and 1.6.

3.16 The *Initial Evaluation* concentrated on the Authority's achievement of its initial objectives, and whether amendment of the NCA Act was required, or increased resources were required by the Authority, to enable it to meet its objectives.⁵⁹ The *Initial Evaluation* recommended that a comprehensive evaluation of the Authority's work, and of the success of the law enforcement strategy underpinning the establishment of the Authority be undertaken after the Authority had been in existence for seven years.⁶⁰

3.17 The Committee's *Third Report* was tabled on 30 November 1989. The *Third Report* did not attempt to give an exhaustive account of the Authority's activities, nor set out to make further evaluation of the Authority's performance beyond that carried out in the *Initial Evaluation*.⁶¹ The *Third Report* did address a number of criticisms about the Authority, including an examination of several specific cases arising from Authority investigations which had failed at the committal stage of proceedings.⁶²

59. *Initial Evaluation*, para. 1.7.

60. *Initial Evaluation*, para. 4.31. The Government Response to the *Initial Evaluation* noted this recommendation, and that such an evaluation would be '... consistent with the Joint Committee's function under the NCA legislation ...', *Government Response to the Report of the Parliamentary Joint Committee on the National Crime Authority Entitled 'An Initial Evaluation'*, tabled in the House of Representatives on 3 November 1988 and in the Senate on 7 November 1988, p. 3.

61. Parliamentary Joint Committee on the National Crime Authority, *Third Report*, AGPS, Canberra, 1989, para. 1.7.

62. *Third Report*, paras. 2.5 to 2.37. The Committee recommended (Senator Cooney dissenting) that the Authority be provided with a greater role in the choice of counsel by the DPP in relation to prosecutions arising from Authority investigations: *Third Report*, para. 2.13.

Criticisms of the Authority under Justice Stewart's Chairmanship

3.18 During Justice Stewart's chairmanship, the management and direction of the Authority was the subject of comment and criticism in relation to its administration and its capacity to effectively combat organised criminal activity. Elements of this comment and criticism were reflected in submissions and evidence to the present evaluation.

3.19 The principal comments and criticisms were:

- . the Authority was excessively secret with intelligence it had gathered and did not share it with other law enforcement agencies;
- . Authority investigations relied too heavily on teams led by lawyers rather than skilled police investigators;
- . the Authority did not have a clear strategy for combating organised criminal activity;
- . the Authority neglected its statutory functions of setting up and co-ordinating joint task forces with other agencies;
- . the Authority neglected its role of promoting law reform and administrative change that would assist both it and other law enforcement agencies in combating organised crime;
- . the Authority was excessively secret; and
- . results of Authority activities were unsatisfactory, given the resources allocated to it.

∃ Investigation team structure

3.20 The principal criticism about the organisation of Authority investigation teams was that they were exclusively under the leadership of lawyers rather than police investigators. This criticism, which was repeated to the Committee during the present evaluation, was considered by the *Initial Evaluation* which recommended that:

in the management of its investigative teams the Authority give greater recognition to the expertise of

experienced police officers and ensure that they have a greater involvement in the relevant investigations.⁶³

3.21 In terms of the more general question of police involvement in the Authority the *Initial Evaluation* considered that the 'Authority would have better acceptance from police if one of the members of the Authority were to be a senior and respected serving or former police officer'.⁶⁴ The *Initial Evaluation* recommended that 'consideration be given to the appointment of a senior and respected serving or former police officer as a member of the Authority'.⁶⁵

3.22 The Government's response to the *Initial Evaluation* recommendation noted that consultation with State and Territory Ministers was required to make appointments of members to the Authority: 'The Government will, therefore, bear in mind the Joint Committee's recommendation when considering future appointments to the Authority and has ... drawn the recommendation to the attention of the Inter-Governmental Committee'.⁶⁶ No senior police officer has since been appointed as a member of the Authority.⁶⁷

3.23 A matter considered as a related issue to investigative team structure by the *Initial Evaluation* was identified by police associations; that police officers seconded to the Authority worked subject to the terms and conditions of their home force, with consequent differences in pay and conditions. This situation had resulted in 'friction and dissatisfaction'.⁶⁸ The *Initial Evaluation*

63. *Initial Evaluation*, para. 4.15.

64. *Initial Evaluation*, para. 4.16.

65. *Initial Evaluation*, para. 4.17.

66. *Government Response to the Report of the Parliamentary Joint Committee on the National Crime Authority Entitled 'An Initial Evaluation'*, tabled in the House of Representatives on 3 November 1988 and in the Senate on 7 November 1988, p. 4.

67. See paras. 8.156 to 8.158 below for the present Committee's recommendation on this issue.

68. *Initial Evaluation*, para. 4.18.

recommended that police officers attached to the Authority be employed on contract rather than being seconded from their parent forces.⁶⁹

∃ Intelligence gathering and distribution

3.24 According to critics, intelligence the Authority acquired through its investigations was either not shared with other agencies, or was not shared in a timely and effective way. So as to enhance the exchange of information and intelligence, Operations Conferences have been convened by the Authority on a regular basis for some years. They are attended by a wide range of law enforcement agencies from around Australia. These Conferences were, however, criticised by one police Commissioner for failing to facilitate the free flow of intelligence and information.⁷⁰ The perception was one of an Authority reluctant to share information.

3.25 The Authority's emphasis on direct investigation resulted in less attention to the other functions, particularly intelligence sharing, it was given by the NCA Act. Mr Graham Sinclair, an Assistant Commissioner of the Victoria Police and the Director of Investigations for the Authority in 1989-90, said that the Authority's earlier concentration on an investigatory role had been to the detriment of the Authority's intelligence-gathering role.⁷¹

3.26 The *Initial Evaluation* observed that intelligence gathering and analysis was considered to have been a low priority in Authority activities at the time. The Authority's approach to intelligence gathering and distribution was described in this way:

It established its own intelligence branch early in 1987 but intelligence gathering is still viewed as incidental to

69. *Initial Evaluation*, para. 4.19.

70. Submissions from Commissioner Hunt of the South Australia Police, 12 October 1990, p. 2 and 4 February 1991, p. 4. For similar criticism see Evidence, p. 506 (Police Federation of Australia and New Zealand).

71. Evidence, p. 1255.

the Authority's investigative functions rather than as an end in itself. It appears that in the near future, at any rate, the Authority will continue to rely on the Australian Bureau of Criminal Intelligence (ABCI) and, to a lesser extent, on other law enforcement agencies, for intelligence gathering. It also makes use of the ABCI for the dissemination of intelligence which has come into its possession but which is not relevant to its current investigations.⁷²

∃ Development of a defined strategy

3.27 A central aspect of the Authority's role which has attracted comment has been the extent to which it fulfils its charter of combating organised crime. To a number of critics of the Authority, this issue is defined by how the Authority has developed its role following the repeal of the 'sunset clause' in the NCA Act in 1988.⁷³

3.28 The Authority's submission to the present evaluation stated that the July 1989 Arthur Andersen report, discussed below in paragraphs 3.50 to 3.52, 'identified the absence of a clearly articulated and communicated vision of the NCA's direction and role as one of the major causes of the organisation's difficulties'.⁷⁴ In comments to the present evaluation, Justice Vincent described his perception of the Authority as an organisation that had 'proceeded in a relatively directionless fashion' in its early years.⁷⁵

3.29 Following the Authority's establishment in 1984, the Authority focused on direct investigation of major figures and

72. *Initial Evaluation*, para. 3.21. See paras. 5.38 to 5.41 below for the increased emphasis the Authority has given to intelligence matters since 1988.

73. The Committee analyses the development of the Authority's strategy under Justice Phillips in chapter 5 below.

74. NCA submission, p. 10.

75. Evidence, p. 372.

syndicates believed to be involved in drug importation and distribution. These included matters taken over by the Authority from the Costigan Royal Commission.⁷⁶

3.30 A criticism of this focus was that direct investigation was a misconception of the Authority's real role in the fight against organised crime. Mr Frank Costigan QC has consistently put such a view.⁷⁷ In evidence taken during the course of the present evaluation in November 1990, which echoed views he put to the Committee in 1988, he said:

It is really a question of how you see the role of the Crime Authority. I would see a lot of the investigation not being done by the Crime Authority at all but by law enforcement agencies and the Crime Authority exercising one of the roles it is given under the Act, to join task forces, and supervising and keeping its hand on what is going on and making itself available to collect additional evidence. I would see the Crime Authority very much in the intelligence area and particularly in the money laundering area where the skills that one learns as a lawyer and as a policeman, combined, can be very powerful.⁷⁸

3.31 When the Authority was established in 1984, its investigation function was intended as its central role. Targeted investigations recognised what was seen as the Authority's primary statutory function. Moreover, the Authority's special investigations into drug related crime relied directly on references from Ministers with the approval of the IGC. It was always apparent that the Authority's focus at the time of Justice Stewart's chairmanship had the support of the State, Northern Territory and Federal Governments. Its focus also had the support in general terms of the

76. An account of these matters is in the *Initial Evaluation*, paras. 3.26 to 3.29.

77. Evidence, p. 411.

78. Evidence, p. 434.

then Committee.⁷⁹

3.32 The Authority's performance, and the *modus operandi* of the investigations during Justice Stewart's chairmanship until early 1988, were examined in detail in chapter 3 of the *Initial Evaluation*.

3.33 In relation to conduct of special investigations, the *Initial Evaluation* noted that:

At present the Authority's investigations appear to divide fairly evenly between so-called 'white-collar' crimes such as corporate fraud and tax evasion on the one hand, and drug trafficking on the other, with a smattering of bribery, corruption, murder and other criminal activities on the side.⁸⁰

3.34 Looking at general investigations, the *Initial Evaluation* noted that the seven investigations undertaken up to early 1988 by the Authority had similar characteristics: 'As is the case with its special investigations, the criminal activity at issue in the Authority's ordinary investigations ranges from corporate fraud to drug trafficking'.⁸¹

3.35 The *Initial Evaluation* concluded that the Authority would foreseeably be hampered in its ability to change the environment in which organised crime operates by two factors: the absence of its own stand-alone intelligence capacity, and the lack of a clear strategic overview of organised crime.⁸²

3.36 These factors made it difficult, both for the Authority and for those monitoring the Authority's activities, to know whether the Authority was a success or a failure. When examining the necessity

79. See for example, *Initial Evaluation*, para. 2.40; *Third Report*, para. 2.3.

80. *Initial Evaluation*, para. 3.10.

81. *Initial Evaluation*, para. 3.17.

82. *Initial Evaluation*, paras. 4.27 and 4.28.

for a stand-alone intelligence capacity, the *Initial Evaluation* noted:

Given the thrust of the Royal Commission reports which led to the establishment of the Authority and the Authority's own belief that it has uncovered evidence of the existence in Australia of more highly structured criminal groups which have been operating for some time without interference from other law enforcement agencies, the lack of its own independent intelligence function may prove a weakness in the longer term.⁸³

3.37 The *Initial Evaluation* also concluded that without a strategic overview of organised crime the Authority ran the risk of conducting individual investigations without a focus.

It is not clear, however, that the Authority's present investigations form a coherent whole or that in structuring its investigations the Authority is looking beyond immediate success to the consequences of that success.⁸⁴

∃ Task forces

3.38 The *Initial Evaluation* noted criticism by police and a police association of the apparent reluctance by the Authority to pursue its statutory power to arrange and coordinate joint task forces with other law enforcement agencies.⁸⁵

3.39 The *Initial Evaluation* regarded the use of task forces by the Authority, pursuant to its statutory powers under paragraph 11(1)(c) of the Act, as of potential importance and observed that they

83. *Initial Evaluation*, para. 4.27.

84. *Initial Evaluation*, para. 4.29.

85. *Initial Evaluation*, para. 4.22. The *Initial Evaluation* noted that the Northern Territory Police, the Australian Federal Police Association and Mr Vic Anderson had proposed to the Committee that greater consideration should be given to the use of task forces involving other agencies to conduct investigations on behalf of the Authority.

had been used by the Authority:

only as an adjunct to its powers to conduct ordinary and special investigations. Thus, although the Authority speaks in its Annual Reports of 'separate task forces' administered, serviced and maintained by the Authority, in effect such task forces are simply the investigative teams used by the Authority in the allocation of its resources to particular investigations.⁸⁶

3.40 The *Initial Evaluation* indicated how such forces could be employed:

The Committee considers that at least two of the Authority's ordinary investigations could have been passed to police task forces co-ordinated by the Authority and that in the longer term it may be possible for the Authority to hive off aspects of its special investigations in this fashion. This course would relieve pressure on the Authority's own resources and it would also demonstrate a greater degree of confidence in the capacities of police forces than the Authority has hitherto manifested.⁸⁷

3.41 The Government response to this finding by the Committee was to note that 'this matter is basically one for the Authority to determine in the context of its management and operational responsibilities.'⁸⁸

∃ Law reform and educative functions

86. *Initial Evaluation*, para. 3.20.

87. *Initial Evaluation*, para. 4.22.

88. *Government Response to the Report of the Parliamentary Joint Committee on the National Crime Authority Entitled 'An Initial Evaluation'*, tabled in the House of Representatives on 3 November 1988 and in the Senate on 7 November 1988, p. 5. The Committee discusses the proposed use of task forces under Justice Phillips' chairmanship in paras. 5.56 to 5.67.

3.42 The Authority's law reform function was not actively pursued in the opinion of several commentators. Disappointment was also expressed during the present evaluation that the Authority had not exercised leadership in recommending legislative change over the early years of the Authority's existence that would have assisted all law enforcement agencies.⁸⁹

3.43 In its early years, the Authority regarded law reform and education as being a low priority compared to its investigative functions.⁹⁰ The *Initial Evaluation* observed:

The Authority has therefore contented itself with being consulted by the Commonwealth Government in relation to proposed legislation such as the recently enacted *Proceeds of Crime Act* 1987 and with making its views known in appropriate quarters.⁹¹

3.44 In relation to the Authority's educative activities, the *Initial Evaluation* noted the Authority's advice that, whilst it had held public sittings, as provided for by section 60 of the NCA Act, on two occasions: 'Once again the Authority believes that other matters - specifically its investigative functions - have priority'.⁹²

∃ The Authority and secrecy

3.45 It was argued by critics of the Authority during Justice Stewart's chairmanship, as now, that it was not possible to properly assess the Authority's effectiveness due to excessive secrecy. Submissions to the Initial Evaluation argued that the secrecy surrounding the Authority's operations made any sensible comment

89. Evidence, pp. 524-25 (Police Federation of Australia and New Zealand).

90. *Initial Evaluation*, para. 3.24.

91. *Initial Evaluation*, para. 3.24.

92. *Initial Evaluation*, para. 3.25.

from the public difficult.⁹³

3.46 The problem posed by the Authority's secrecy for any evaluation of its role and achievements was recognised by the *Initial Evaluation*. The *Initial Evaluation* recognised the statutory basis of the requirement for secrecy in Authority operations, but commented that the Authority 'has perhaps been over-zealous in its application of the secrecy provision in the Act, section 51'.⁹⁴ The *Initial Evaluation* also noted that the provisions of section 51 would need review if they hampered the proper release of intelligence information.⁹⁵ The issue of section 51 and intelligence information is dealt with in paragraphs 7.61 to 7.64 below.

∃ Unsatisfactory results

3.47 Since an early stage of its existence a criticism of the Authority is that it has failed to produce results that justify the resources allocated to it.

3.48 The measurement in quantitative terms of the results achieved by the Authority will always be a most difficult aspect of evaluation of the Authority. The *Initial Evaluation* noted: 'The success or failure of the Authority in meeting its objectives is not susceptible to evaluation in quantitative terms'.⁹⁶ It also observed

At first sight statistics on numbers of persons charged, charges laid and convictions obtained may seem to provide a ready quantitative indicator of the Authority's effectiveness. However there are two objections to this method of evaluation. In the first place such statistics cannot provide an objective measure of the Authority's success or failure since it is impossible to set targets for

93. *Initial Evaluation*, para. 4.32.

94. *Initial Evaluation*, para. 4.33.

95. *Initial Evaluation*, para. 4.33.

96. *Initial Evaluation*, para. 4.1.

prosecutions, charges or convictions against which performance may be assessed on any rational basis. ... Secondly, as the Williams, Stewart and Costigan Royal Commissions all stressed, in the area of organised crime it is the significance of the persons convicted rather than the mere number of convictions that is of importance.⁹⁷

Assessment of Chairmanship of Justice Stewart

3.49 In general comment on the period of Justice Stewart's chairmanship, the *Third Report* noted that Justice Stewart's style of direction and management derived from his experience as a royal commissioner in three royal commissions. The *Third Report* said:

Rather than standing back as a manager he was involved in the day to day running of the Authority's investigations. With the lifting of the 'sunset clause', however, there was a need for the organisational structure of the Authority and the role of the Chairman in particular to change to reflect the Authority's new status as a permanent body. Mr Justice Stewart had initiated a review of the Authority's organisational structure, management practices and support systems in November 1988 [the Arthur Anderson report] and the final report of this review was presented in July 1989 to the new Chairman, Mr Peter Faris, QC.⁹⁸

97. *Initial Evaluation*, paras. 4.4 - 4.5. See also, C. Corns, 'The National Crime Authority: An Evaluation', *Criminal Law Journal*, vol. 13(4), August 1989, pp. 241-43.

98. *Third Report*, para. 1.18.

Review of the Authority by Arthur Andersen & Co - 1989

3.50 Following expression of dissatisfaction by Authority staff about the Authority's management and administration in mid-1988, and a series of extended discussions between staff of the Authority on ways of addressing staff grievances, a management consultant, Arthur Andersen & Co, was commissioned in late 1988 to conduct a review of the Authority.

3.51 The terms of reference for the review were:

- (a) identify any significant inadequacies, or areas where improvements could be made, in the present working arrangements for conducting, managing and supporting investigations and related activities;
- (b) examine ways of eliminating any such inadequacies and/or making the necessary improvements; and
- (c) recommend the implementation of any necessary changes as quickly as possible.⁹⁹

3.52 The Authority's submission to the present evaluation stated that the Arthur Anderson report, which was presented to the Authority in July 1989:

identified the absence of a clearly articulated and communicated vision of the NCA's direction and role as one of the major causes of the organisation's difficulties. Many of the conclusions and recommendations expressed in the Report reflected this view.¹⁰⁰

99. NCA, *Annual Report 1988-89*, AGPS, Canberra, 1989, p. 57.

100. Submission, p. 10. The Committee refers to the fact that the Arthur Anderson report has not been made publicly available in paras. 7.84 - 7.87 below.

CHAIRMANSHIP OF MR FARIS QC

3.53 Mr Peter Faris QC, was appointed Chairman of the Authority from 1 July 1989. The Committee has not reported to the Parliament on the management and direction of the Authority during the period of Mr Faris's chairmanship, with the exception of the matters raised in its examination of the Authority's Operation 'Ark' investigation.¹⁰¹

3.54 The *Third Report* had noted the fact of Mr Faris's appointment and stated:

Mr Faris has already indicated to the Committee that he proposes to take the Authority in new directions and that, unlike Mr Justice Stewart, he will not be involved in the day to day running of investigations. Instead he intends to take on an overall management role, with responsibility for the Authority's policies and procedures.¹⁰²

3.55 Implementation of the change of management style foreshadowed by Mr Faris was only partly achieved by the time Mr Faris resigned from the chairmanship of the Authority.

3.56 Soon after taking up his appointment, Mr Faris described his aims for the Authority:

As for the direction the Authority will take in the future, it is perhaps still too early for me to give a detailed plan of action. However, I can say with some confidence that the drug trade and white collar crime will be two key targets of the Authority's investigations...

Regarding white collar crime, such as tax evasion, fraud

101. Parliamentary Joint Committee on the National Crime Authority, *Operation Ark*, Canberra, 1990.

102. *Third Report*, para. 1.18.

and insider trading, I hope that the Authority will be able to devote more of its resources to combating these activities. It can be argued that these sorts of crime pose almost as much of a threat to the social fabric as drug-related crime.¹⁰³

3.57 Mr Faris's view of the Authority's role differed from Justice Stewart's to the extent that he saw the Authority having an overall coordinating role:

The Authority's unique, national perspective also creates the opportunity to develop as coherent a picture of organised crime as is possible, given its inherently secretive nature. I see the Authority's role very much as a co-ordinator of the fight against organised crime. It is much too small an agency to attempt such a fight on its own. With the development of a better strategic intelligence function in the Authority, and through the use of the power to convene task forces..., I believe the Authority can make a valuable contribution to the efforts of all Australian law enforcement agencies working in this difficult area.¹⁰⁴

3.58 Mr Faris proposed that the Authority's law reform and educative activities should be given greater emphasis, particularly given his belief that the Authority was 'well placed to spot inconsistencies and weaknesses in the law ... and to recommend appropriate changes to State and Federal governments'.¹⁰⁵

3.59 Discussions between Mr Faris and the Committee were held in December 1989. By that time Mr Faris had acted to implement changes to the Authority's activities broadly in line with

103. 'The Role of the National Crime Authority in Australian Law Enforcement', text of speech delivered at Queen's Inn, University of Melbourne, 8 August 1989, pp. 26-27.

104. *ibid.*, p. 27, emphasis in original.

105. *ibid.*

his stated aims of changing the Authority's direction. A review of all current Authority investigations was undertaken.¹⁰⁶

3.60 Mr Faris also detailed actions he had taken to change the Authority's focus, including the initiation of the following:

- . greater intelligence sharing;
- . proposal for a new reference to the Authority on money laundering by the IGC;
- . establishment of a new task force with the Cash Transactions Reports Agency;
- . allocation of an Authority officer part-time to law reform issues;
- . proposal for establishment of offices in Perth, Brisbane and Adelaide;
- . initiation and development of contact between the Authority and State, Federal and Territory Governments, police and other agencies, including Directors of Public Prosecutions; and
- . change to the administrative structure of the Authority, making the Chairman responsible for the day to day administration, with members responsible for the conduct of investigations.¹⁰⁷

3.61 Mr Faris's resignation in February 1990 resulted in considerable media comment.¹⁰⁸ At a meeting held on 16 February 1990, the Authority was unable to tell the Committee whether it had commenced an investigation into the matters which were the subject of comment or to provide any detail of inquiries it was making on the matter because of the secrecy provisions of the NCA Act.

106. *In camera* Evidence by Mr Faris, 1 December 1989, p. 968.

107. *ibid.*, pp. 1039-51.

108. See for example, 'NCA Chief "a victim of smear"', *Sunday Age*, 18 February 1990, p. 3. The Minister for Justice, Senator the Hon. Michael Tate, was reported as saying that Mr Faris had submitted his resignation on the grounds of ill health, after less than eight months in the job: see 'Urgent hunt for successor as ill-health forces NCA head to resign', *The Canberra Times*, 13 February 1990, p. 2.

3.62 The Authority told the Committee in July 1990 that the Authority had completed a report on the resignation of Mr Faris, which had been presented to the IGC, and that the Committee would need to approach the Attorney-General in his capacity as Chairman of the IGC for access to a copy.¹⁰⁹

3.63 The Committee wrote to the Attorney-General on 7 August 1990 requesting a copy of the Authority's report to the IGC. The Committee advised the Attorney the basis of its request was that the Committee could not perform its statutory duty of monitoring the Authority, if it was unable to inform itself fully about an investigation into the circumstances of the resignation of the Authority Chairman.

3.64 The Attorney responded to the Committee on 19 September 1990. The Attorney advised:

The IGC considered your request at its last meeting on 31 August 1990, in Melbourne. The report was prepared for the IGC and it is therefore a matter for IGC determination as to its circulation. As Chairman, I have been asked by the IGC to inform you of the following IGC resolution:

that the IGC was satisfied with the report into the resignation of Mr Faris presented by the NCA at the March 1990 IGC meeting, and considers the matter one within the IGC's jurisdiction and that the matter is now closed.¹¹⁰

109. Letter from the Acting Chairman of the Authority to the Committee dated 19 July 1990.

110. Letter from the Attorney-General to the Committee dated 19 September 1990.

ADMINISTRATION OF THE ADELAIDE OFFICE OF THE AUTHORITY IN 1989

Introduction

3.65 The Adelaide office of the Authority was set up on 1 January 1989 for the purpose of conducting investigations under a special reference given to the Authority by the IGC at the request of the South Australian Government. The South Australian Government requested the reference - South Australian Reference No. 2 - in late 1988. Matters referred to the Authority for investigation included:

bribery or corruption of or by police officers and other officers in South Australia; illegal gambling; extortion and prostitution; the cultivation, manufacture, preparation or supply of drugs of addiction, prohibited drugs or other narcotic substances; and murder and attempted murder, in so far as these matters relate to, or are connected with, a list of nominated persons.¹¹¹

3.66 Mr Mark Le Grand was appointed as the Adelaide Member of the Authority for the period 1 January 1989 to 31 December 1989, with the principal task of overseeing and directing investigations under South Australian Reference No. 2.

3.67 The Authority conducted three principal investigations under the terms of South Australian Reference No. 2: Operation 'Hydra'; Operation 'Ark' and Operation 'Hound'. A report on Operation 'Hound' was made to the South Australian Government in December 1990 and tabled in the South Australian Parliament on 12 February 1991.¹¹² A report on Operation 'Hydra' was made to the

111. National Crime Authority, *Operation Hydra: South Australian Reference No. 2*, February 1991, para. 1.1.

112. Operation 'Hound' inquired into allegations of illegal conduct on the part of South Australian Police officers in the withdrawal of charges for Road Traffic Act offences, and other criminal charges, together with an allegation of improper conduct against the current Crown Prosecutor. See

South Australian Government in February 1991 and tabled in the South Australian Parliament on 5 March 1991.¹¹³

3.68 Operation 'Ark' arose from 13 allegations that serving or former police officers were involved in or protecting drug trafficking. The allegations were received by South Australian Police officers during the February 1989 Operation 'Noah' phone-in.¹¹⁴ The South Australian Police Commissioner was told of only one of the allegations. The Authority was not told of any of the allegations, although the Authority was investigating possible police corruption in South Australia at the time.¹¹⁵ The 'Ark' investigation was into: whether there was any dishonesty or corruption in the failure to tell the Commissioner or the Authority of the allegations; and whether there was any failure to investigate the allegations adequately.¹¹⁶

3.69 The preparation in mid-1989 of the Authority's report on Operation 'Ark' for the South Australian Government is dealt with in the Committee's report *Operation Ark*, which was tabled in the Senate on 17 October 1990 and in the House of Representatives on

National Crime Authority, *Operation Hound: South Australian Reference No. 2*, December 1990, para. 2.

113. Operation 'Hydra' was an investigation into the potential for blackmail in the operation of the vice industry in Adelaide in the late 1970s and early 1980s which was raised by a media program, and whether there was any evidence that any public official, particularly the South Australian Attorney-General, was being blackmailed by operators of vice establishments to ensure favourable treatment, or whether there was any evidence that the Attorney-General made an improper decision because of an association with known or suspected criminals: National Crime Authority, *Operation Hydra: South Australian Reference No. 2*, February 1991, para. 1.14.

114. Operation 'Noah' is an annual phone-in when the public can provide information anonymously to police about drug dealers and drug distribution.

115. See para. 3.65 above for the terms of South Australian Reference No. 2.

116. National Crime Authority, *South Australian Reference No. 2: First Report*, December 1989, para. 5.

the following day.¹¹⁷ Matters examined by the *Operation Ark* Report related to a specific issue: whether a report on Operation 'Ark' prepared by the Authority was completed and despatched prior to the end of Justice Stewart's term as Chairman of the Authority on 30 June 1989.

3.70 Following the tabling of the Committee's *Operation Ark* report, Justice Stewart wrote to the Committee on 30 November 1990 claiming that two of the Committee's conclusions were factually incorrect. The Committee tabled Justice Stewart's letter in the Parliament on 21 February 1991 and announced at the time of tabling that it would deal with several questions regarding management of the Authority and the Adelaide office as part of the present evaluation.¹¹⁸

3.71 The Committee took evidence from Justice Stewart on 11 March 1991. This evidence was taken *in camera* and was published by the Committee on 18 November 1991.

3.72 The Committee took evidence about the administration during 1989 of the Authority's Adelaide office. This evidence centred on two issues: conflict over the management of the office which followed change of membership of the Authority at 1 July 1989, and the appropriateness of the terms of reference of South Australian Reference No. 2.

3.73 The Committee considered the following issues:

- . whether a mechanism should exist to resolve disputes that arise between new and old members of the Authority;
- . whether a 'new' Authority should be able to alter a decision of a previous Authority;
- . whether it is appropriate for the expiry of the term of more than one member to coincide;

117. Parliamentary Joint Committee on the National Crime Authority, *Operation Ark*, Canberra, 1990.

118. Senate, *Hansard*, 21 February 1991, p. 1070.

- . where more than one member's term ends on the same day, whether some mechanism should exist for clarifying the powers of a new Authority over matters put in train by a previous Authority; and
- . what mechanisms could be employed by the Authority during any changeover period of members to minimise discontinuity and uncertainty within the Authority.¹¹⁹

Change of Authority Membership - July 1989

3.74 One matter considered by the Committee was whether management problems in the Adelaide office could be attributed to the change of Authority membership that occurred on 1 July 1989. The Committee indicated reservations about the way this change was effected in its *Third Report*.¹²⁰

3.75 On 30 June 1989 Justice Stewart, the Authority's first Chairman, and two other long-term members, Mr Peter Clark and Mr Lionel Robberds QC, retired. On 1 July 1989 the new membership of Mr Faris QC, Chairman and Mr Leckie and Mr Cusack QC commenced three-year terms of appointment. Mr Mark Le Grand continued as Adelaide member.

3.76 Two issues are raised by the change of membership: whether disputes and differences of views on operational matters between two successive 'Authorities' should be addressed; and whether a better way should be found for managing the change of Authority membership than that followed in 1989.

119. cf. Senate, *Hansard*, 21 February 1991, p. 1070 (statement agreed to by the Committee).

120. *Third Report*, para. 1.18. See also Senate, *Hansard*, 25 May 1989, p. 2717, where a member of the Committee, Senator Hill, drew the Government's attention to the concern about the loss of continuity that was to occur on 30 June 1989. Media reports had also raised concerns; see for example, 'Confusion grows as NCA appointment deadline approaches', *The Age*, 5 May 1989, p. 5.

3.77 A re-examination of the conflicting claims about the preparation and completion of the Authority's Operation 'Ark' report would not assist the Committee's examination of how changeover of Authority membership might be better managed.

3.78 Previous Committees and the Authority have always strongly believed that the staggering of membership is important to the maintenance of continuity and ensuring experienced membership.

3.79 The Senate Standing Committee on Constitutional and Legal Affairs in its 1984 report on the clauses of the National Crime Authority Bill foresaw the possibility of problems occurring in management of the Authority where terms of membership did not overlap. It noted that:

It is important for the effective operation of the Authority that there should be continuity of leadership and direction. This could be jeopardised where all three members' terms are congruent. The Committee favours a system whereby the members' terms are staggered, so as to ensure a significant overlap between the terms of experienced members and those of incoming members.¹²¹

The Senate Committee recommended that 'provision should be made upon the Authority's establishment to stagger the terms of office of members, so as to enable continuity of experience and leadership'.¹²²

3.80 Justice Stewart indicated his views to the Committee's predecessor in June 1989 shortly before the end of his term as Chairman.

One thing that ought to be made very clear, by some-

121. Senate Standing Committee on Constitutional and Legal Affairs, *The National Crime Authority Bill 1983*, AGPS, Canberra, 1984, para. 7.9.

122. *ibid.*, para. 7.10.

body, to the Government is that for the sake of reason do not appoint them all [ie, the replacement members] for three years. When their appointments finish on 30 June 1992, they are going to be in the same terrible position that Mr Faris now finds himself in, of trying to learn everything in five minutes and with no continuing assistance from members who have been here and know the ropes. We are giving him all the help we can but it is a fast learning curve. He is a fast learner; I know that; but he will have to be pretty fast. I would just flag that. If anybody has any influence about the place, and I am sure there is, that is something that really should be avoided if at all possible, and it is possible, obviously.

CHAIRMAN (Mr Peter Cleeland) - That has been recognised. People have spoken to Ministers and suggested that there are grave problems with what is occurring now and that it should not happen again.

Mr Justice Stewart - It should be staggered.

CHAIRMAN - There has to be continuity at the top levels of the organisation.

Mr Justice Stewart - I can tell you it is bad enough, Mr Chairman, when one member goes and you have to get the next member. Lionel Robberds has been with us for 18 months, and he is a fast learner, too, let me tell you, but it took him several months before he could really get a feel for what was happening and what his role was.¹²³

3.81 Prior to the change from the 'old' Authority, chaired by Justice Stewart, to the 'new' Authority chaired by Mr Faris QC in July 1989 there was a period of some 2 months during which Mr Faris worked at the Authority in the position of special counsel so as

123. *In camera* Evidence, 2 June 1989, p. 943.

to familiarise himself with the Authority's program. Justice Stewart told the Committee about this arrangement:

He was given a brief to be a sort of de facto counsel assisting and, as such, he had the full run of things. We made an office available to him in Melbourne and he came to Sydney and he went to Adelaide. Nothing was kept from him and we made every possible effort to make him comfortable and at home and give him every assistance.¹²⁴

3.82 Justice Stewart also told the Committee:

It just seems to me that a sensible arrangement would be to have the time staggered when people retire; so that with Mr Faris, for example, if my retirement had not been 30 June but had been brought forward to some time in April or May or something, I would have gone; he would have been the new Chairman. If Clark's time or somebody else's time had been staggered there would have been this continuity, which was something which we were concerned about. Robberds was concerned about it, I was concerned about it, and Clark was concerned about it. ...

In point of fact, the way it was overcome was, as I say, in this rather unusual way to appoint Mr Faris as counsel assisting. That was the way that the Government saw fit to do it. But I think in future there ought to be some staggering of the period of retirement of the members so that there can be continuity. As I say, so far as we could we made everything available to Mr Faris; but he was not a member and he was not the Chairman.¹²⁵

124. Transcript of Evidence given by Justice Stewart, 11 March 1991, pp. 5-6.

125. Transcript of Evidence given by Justice Stewart, 11 March 1991, pp. 13-14.

3.83 In a written question to the Authority, the Committee asked it about the conflict over management of the Adelaide office that arose following the July 1989 change of membership:

The Committee considers that a major cause of the problems encountered in and by the Adelaide Office was due to difficulties consequent on a change from an 'old' Authority under the Chairmanship of Justice Stewart to a 'new' Authority under Mr Faris QC in June 1989. Should there be administrative provisions governing the changeover from one Authority membership to another so as to ensure such transition does not lead to administrative confusion due to a change of policy or approach?

3.84 The Authority's written response was:

The Authority concurs with the Committee's view that a major cause of the problems encountered in and by the Adelaide Office were difficulties consequent on a change from an old Authority under the Chairmanship of the Hon. Mr Justice Stewart to a new Authority under Mr Faris QC in June 1989. The Authority believes that such problems could be alleviated in the future by having the Chairman-elect begin work with the Authority three months before his term of office commences, and Members-elect six weeks before their terms of office commence. The question of what other action might be taken is not so easily answered and there are different views within the Authority (both Members and staff) on this aspect. One view is that there should be a complete changeover of membership at one time so as to enable the new Chairman to redirect the operations and policies of the Authority and to minimise differences between old and new guards; an opposing view holds that this has too disruptive an effect on the staff of the Authority who in fact perform

the work of the organisation.¹²⁶

3.85 The Authority also gave the Committee its view on how disputes might be avoided in the future:

The experience of the difficulties encountered between the Adelaide and National offices in 1989 has provided a number of lessons for senior management of the Authority. Ultimately however, personality differences played some role in this conflict and there is no way in which such problems can be completely avoided by structural or management practice solutions.¹²⁷

3.86 Evidence to the Committee from Authority staff who worked in the Adelaide office in 1989, confirmed that the personality clash between Mr Le Grand and the other members of the Authority was sufficiently serious as to affect the work and efficiency of the office.¹²⁸ The Committee heard evidence from Mr Graham Sinclair, the Authority's Director of Investigations during the period covered by the changeover, that differences existed between the Adelaide office and the Authority head office before July 1989.¹²⁹

3.87 The Committee accepts this view as the most feasible explanation of the reasons for the conflict over management of the Adelaide office in 1989. The fact that there was overlapping membership of the Authority during June-July 1989, and that Mr Faris had spent some two months with the Authority prior to taking up the position of Chairman, supports the conclusion that to some extent the differences between the Adelaide member and Mr Faris following the change of Authority membership in July 1989 was as described by the Authority - 'a clash of personalities'.¹³⁰

126. NCA, Written Answers, July 1991, C4.

127. *ibid.*, C5.

128. See Evidence, pp. 1571-1580 (Mr Carl Mengler); pp. 1603-1626 (Mr David Smith).

129. Evidence, pp. 1276-78.

130. NCA, Written Answers, July 1991, C1(f).

3.88 Nevertheless, the comments made to the Committee by Justice Stewart and in the written answers provided to the Committee by the Authority indicate that achieving a changeover of Authority membership with least impact on the continuing investigations and the Authority's activities generally should be a high priority in the Government's administration of the Authority.

3.89 The appointment of new members of the National Crime Authority is an important aspect of the Authority's administration. The Government should ensure that the terms of appointment of members allow for an overlap of membership and that a complete change of membership of the Authority at one time is avoided.

Terms of Reference for South Australian Reference No. 2.

3.90 The Committee also heard evidence during the present evaluation that the administration of the Adelaide office in 1989 was affected by difficulties in the investigation of the matters raised by South Australian Reference No. 2. In particular, a difference of interpretation arose between Mr Le Grand on the one hand and the Chairman and the other members of the Authority on the other.

3.91 Inspector John Johnston, a Tasmania Police officer attached to the Authority's Adelaide office in 1989, told the Committee that the terms of South Australian Reference No. 2 had made it difficult for the office to produce a report within a reasonable time. This delay in pursuing the investigation led to media criticism in Adelaide during the early part of 1989.¹³¹

That was one of the issues that the NCA was being criticised for: not having produced the report in time - and, of course, the investigators took that on board and were quite upset by that. But when you consider that the matters being investigated were up to 10 or 12 years

131. Evidence, p. 1208.

old and to find the females who may have been prostitutes at that time, the 10 or 12 years before, most of whom of course did not use their real names in their occupation, and to then track them down to where they may be now and whatever identity they may have now is a very laborious task.¹³²

3.92 Assistant Commissioner Graham Sinclair of the Victoria Police, who was the Authority Director of Investigations at the time that investigations under South Australian Reference No. 2 were being conducted, told the Committee:

I believe that the reference that was originally constructed was perhaps not given the thought that it should have had. There were many names on that reference, in my view, that probably should not have been there. Some of the matters were old and at least one of the persons referred to was deceased. I think it had a very significant effect on the attitude of those who staff the office that they were given a task without any consultation with them. That was extremely difficult to tackle. I also think that the staff in that office did not perhaps bite the bullet on that issue as they should have, and did not take the matter back to the South Australian Government for clarification or amendment or whatever. They chose to veer off the reference and look at other issues that, whilst they may have been in the broader ambit of the reference, were not matters specific to the reference, to put it that way.¹³³

3.93 The Committee asked Mr Sinclair how his description of the office choosing to 'veer off the terms of reference' affected the working of the Adelaide office:

Mr Filing - So the problems arose in the office as a

132. Evidence, pp. 1208-9.

133. Evidence, p. 1276.

result of not following the reference correctly, or let us say not sticking within the parameters of the reference?

Mr Sinclair - Yes, that is basically what I am trying to say too, that I think there was an attitude that they had to put a score on the board over there. I am talking about the very senior people. They had to put a score on the board, and following that reference slavishly was going to take them months if not years before anything was achieved, if anything was achieved.¹³⁴

3.94 The Committee asked the Authority in a written question for its response to Mr Sinclair's account. The Authority told the Committee in its written response:

Mr Sinclair was perhaps echoing the newly constituted Authority's views on the drafting of References, i.e. whether they should be broadly or narrowly construed. It is worth noting in this context that the problems arose because of the unusual nature of SA Reference No.2. It is so far the only Reference which was issued solely by a State Government with no parallel Commonwealth Reference. The office was therefore entirely funded by the State Government. The expectations of the South Australian Government and particularly of the local media as to what the Authority could and should seek to achieve were in hindsight perhaps somewhat different from what the legislation enabled the Authority to do in practice. The Reference was not broad enough to enable the Authority to take a wide-ranging view of corruption and indeed perform the role of a corruption commission such as the New South Wales ICAC.¹³⁵

3.95 The Authority also stated:

134. Evidence, pp. 1276-77.

135. NCA, Written Answers, July 1991, C2.

Prior to the expiry on 30 June 1989 of the Hon. Mr Justice Stewart's term and the terms of Mr Clark and Mr Robberds QC, there had been some discussion about whether SA Reference No.2 ought to be widened. After Mr Faris took up his appointment however, the matter involving allegations about Mr Sumner and alleged blackmail by vice operators, became a matter of high priority and the question of widening the Reference was not pursued as the office began to reprioritise its work to give that matter greater importance. ... The Authority as newly constituted, with the exception of Mr Le Grand, took a different view of such matters as whether References should be construed broadly or narrowly.¹³⁶

3.96 Having considered this advice from the Authority, the Committee asked the Authority what steps, if any, were taken prior to 1 July 1989 regarding the problem with the terms of reference.

3.97 The Authority wrote to the Committee and advised that on 26 May 1989 the Authority had authorised Mr Le Grand to discuss with the South Australian Attorney-General the question of whether the terms of reference needed to be amended, particularly 'so as to delete the need to refer to an underpinning list of names'.¹³⁷

3.98 A process of re-drafting the terms of reference had progressed to the point where a draft of new terms of reference was circulated for discussion by Authority members on 5 June 1989. In the event, the membership and Chairmanship of the Authority changed on 1 July 1989 and apparently the question of re-drafting the terms of reference of South Australian Reference No. 2 was dropped.

3.99 The Authority advised the Committee that on 17/18 July

136. NCA, Written Answers, July 1991, C1.

137. Attachment to a letter to the Committee from the Chairman of the National Crime Authority, 2 September 1991.

1989 the new Authority met and resolved that the Adelaide Office concentrate on investigation of matters within the ambit of South Australian Reference No. 2, and that while new terms of reference may be required or desirable, they would not be in the terms suggested in June 1989 by Mr Le Grand.¹³⁸

3.100 The difficulties that developed in 1989 in the conduct of its investigations under South Australian Reference No. 2 were unusual to the extent that such a problem had not, to the Committee's knowledge, been previously encountered by the Authority.

3.101 The Authority's opinion on the causes of the difficulty it had in conducting the investigation - quoted in paragraph 3.94 - indicates that a reference drafted for a State office of the Authority, funded by the Government of the State in whose jurisdiction the reference was to be pursued was the most unsatisfactory factor in the process. As the Authority pointed out: 'The expectations of the South Australian Government and particularly of the local media as to what the Authority could and should seek to achieve were in hindsight perhaps somewhat different from what the legislation enabled the Authority to do in practice'.¹³⁹

3.102 A second unsatisfactory element in the Reference was in its drafting. It is clear that a broadly worded reference involving a wide range of possible criminal activity, which also required investigation of the involvement of named people, made the completion the investigation a drawn out and difficult process.¹⁴⁰

ACTING CHAIRMANSHIP OF MR LECKIE

3.103 Mr Leckie was appointed to the position of Acting Chair-

138. *ibid.*

139. NCA, Written Answers, July 1991, C2.

140. The nature and extent of these difficulties, particularly in relation to allegations involving named prostitutes, is described in the Authority's Operation 'Hydra' report, paras. 1.35 - 1.37.

man of the Authority on Mr Faris's resignation on 12 February 1990. Mr Leckie held discussions with the Committee on several occasions during 1990 in his capacity as acting chairman. Mr Leckie's report on the Authority's activities in the Authority annual report for 1989-90 reflects the Committee's discussions with Mr Leckie and other Authority members. Those discussions essentially indicated that the changes to Authority management and direction initiated by Mr Faris and which are described earlier in this chapter, were implemented pending the appointment of Justice Phillips in August 1990.