

APPENDIX 1

NATIONAL CRIME AUTHORITY

CHAIRMAN'S PROPOSALS FOR FUTURE DIRECTIONS

A SUBMISSION TO THE INTER-GOVERNMENTAL COMMITTEE

OVERVIEW

Essentially, I envisage the Authority as a body which should act as a partner to the other law enforcement agencies. It should not be - or appear to be - a competitor. Rather, it should follow the roles of a coordinator and an agency offering complementary services to the other agencies. It must not act so as to give rise to it being perceived as a "ninth police force". It should follow an operational mode based on the successful multi-disciplinary task force format - teams composed of police, financial and intelligence advisers and lawyers - and develop that so as to attain expertise in co-ordinating multi-agency task forces. It must give high priority to collection, analysis and dissemination of relevant criminal information and intelligence together with recommendations for relevant law reform.

NEW REFERENCES/INQUIRIES

The Primary Selection Vehicle

I propose as the primary selection vehicle for references/inquiries a Consultative Committee which would become an integral part of the twice yearly Police Commissioners' Conference. This Committee would be advisory in nature and no member of it would have the right of veto. It would be composed of the State/Territory Commissioners of Police; the Commissioner of the Australian Federal Police; the Chairman, National Crime Authority; the Chairman, Australian Securities Commission or his representative and representatives of ABCI and CTRA.

(Representatives of ATO and Customs might attend from time to time upon invitation.) This Committee would be serviced by a Secretariat comprising a representative* from each State and Territory Police service, the AFP, the NCA and the CTRA.

These representatives would be assigned the task of identifying matters which might prove suitable for references/inquiries with NCA involvement. It would meet some six weeks to two months before the relevant Commissioners' Conference and prepare a shortlist of proposed references/inquiries and briefing papers for the consideration of the Consultative Committee. Criteria for the selection of such references/inquiries would include the circumstances that they cross jurisdictional boundaries or reflect offences of a like character being apparently committed in several States or Territories.

In my opinion, the advantages of this vehicle are as follows:

Firstly, being a national body, its composition should help to identify references/inquiries of a national character and thus appropriate for the attention of the NCA. Secondly, its composition should ensure that duplication of effort is avoided. Thirdly, its composition should assist to remove the "territorial" disputes and tensions which have occurred in the past.

References/inquiries would otherwise still come from Governments directly.

CONDUCT OF FUTURE REFERENCES/INQUIRIES

No more "open-ended" references or inquiries will be commenced. In future, references/inquiries will be both focussed and conducted according to time frames. Time frames will apply to both the preliminary work carried out in order to ascertain if the references/inquiries should be undertaken and to the references or investigations themselves. Those responsible for these matters

* In the Police services - at Assistant Commissioner (Crime) level.

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will understand that ordinarily failure to complete work in a time frame will result in discontinuance of the matter and a report thereof to the Inter-Governmental Committee. However, if those responsible can demonstrate very exceptional circumstances (the onus being on them to do so) which circumstances would justify a limited extension to a time frame, then such an extension may be granted.

I referred earlier to multi-agency task forces. The NCA already has expertise in this method of operation but it must be developed and refined. It has recently assembled and is co-ordinating another such task force. This will work on an inquiry time-framed for 12 months. Its objective is to investigate whether certain licence fees have been fraudulently avoided and to assemble admissible evidence for the relevant prosecuting authorities. This investigation involves no fewer than four States and two Territories. The NCA hopes to learn from this investigation much which will be of application in others conducted in a like manner.

SPECIFIC PROPOSAL FOR A REFERENCE

I propose that the foreshadowed reference relating to an investigation of the methods of money laundering throughout Australia be approved. This inquiry would be time framed and would concentrate on the methods of money laundering. If particular criminal activity was uncovered in this process it would be handed forthwith to the relevant police service for investigation. This reference would be conducted by all Members other than the Chairman. There would be a need for some interstate travel for the conduct of hearings which would involve all States and Territories. Until the new State Offices are established in Perth (1991) and Brisbane (1992), existing State Offices would have to assume responsibility for other States and Territories.

SERIOUS WHITE COLLAR CORPORATE CRIME

It must be accepted that in the last decade there has not been a single body which was in fact responsible for combating serious white collar corporate crime or perceived by the public to have such a role. That must change. On the other hand, it must also be accepted that effective control of such white collar crime is beyond the capacity of any one agency Commonwealth or State. Because it usually transcends State boundaries, it requires for its control an organisation with a physical presence in all the States and Territories. The Government in this year's budget approved funding of \$19 million over three years for NCA Regional Offices in Perth, Adelaide and Brisbane. Although the ASC has regional offices in each State and Territory, it is undertaking at least 16 extremely large corporate investigations. This will place a considerable strain on its investigative effort. The task is, however, within the capacity of a cohesive combination of existing agencies utilising joint task forces; allocation of clearly defined responsibilities and proper supervision and co-ordination. Within this concept I propose that the NCA perform both co-ordinating and participating roles in partnership with the existing agencies.

PROPOSAL

Because the joint task force concept has proved itself in Australia and in many jurisdictions overseas, I propose that in each State and Territory a Serious White Collar Crime Task Force be set up. Essentially, these task forces would be involved in investigations into the sort of activities in the corporate area which have caused so much adverse comment in recent years. Each Task Force would have a designated leader so identified for the public and the business community in each State and Territory. A typical task force would involve a police component (possibly from the State/Territory Fraud Squad); an NCA component; an ASC component; a CTRA component and retained lawyers and accountants as necessary. There is a clear need for flexibility. In some States and Territories the task forces might be quite small; in

others a larger group would be required. A leader might be a police officer, an NCA staff member, an ASC staff member or any other person deemed appropriate. As it is inevitable that their inquiries will transcend jurisdictional boundaries and as a national effort is required, I would propose that these task forces be co-ordinated and supervised by a small and cohesive group. This group would comprise the Chairman of the NCA; Commonwealth DPP; Chairman of the ASC or his nominee; Commissioner, AFP, and by rotation (perhaps each 12 months) a State/Territory Commissioner. This co-ordination group would, in turn, report to the IGC. If liaison with the Standing Committee of the Attorneys-General be needed, the Chairman of the IGC could perform this function.

If these proposals are implemented, a substantial reduction in direct drug-related references/inquiries will ensue. In those such references that continue, the NCA will perform a specialised role with emphasis on co-ordination and provision of complementary services to other agencies. Thus, there will be a change of direction from the earlier years of the Authority when the great expertise of a previous Chairman led to a degree of concentration on drug-related matters.

PROPOSAL FOR OTHER "PARTNERSHIP" ACTIVITIES

- 1) I propose that the NCA organise and provide a venue for an Annual Intelligence Dissemination and Operational Debriefing Conference to be attended by representatives of all the Police services, NCA, ASC, ATO, Customs, CTRA and ABCI.

Representation from the Police services should include representatives from their intelligence sections. The Conference would have two components:

- (a) Intelligence Dissemination

I envisage this component as providing a forum for a full and frank exchange of intelligence. I declare the Authority

to be fully committed to such an exchange.

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(b) Operational Debriefing

At this component the following questions would be posed. "With respect to operations against organised crime in the last 12 months - what went right? Why? What went wrong? Why?" The NCA would be responsible for the collation and distribution to the constituent agencies of material emerging from the Conference.

This conference should provide the basis for the Authority to provide a national overview of organised crime and to discharge its operational law reform role.

- 2) I propose that the NCA organise and provide a venue for an Annual Conference on a Criminal Justice Theme. From early 1992, over a dozen extremely large white collar prosecutions are likely to be commenced in superior courts before juries. Irrespective of whether convictions or acquittals result, the public will demand that the prosecutions are, and are seen to be, fairly and competently conducted. I propose a conference for July 1991: "The Presentation of Complex Corporate Prosecutions to Juries". (Date now fixed 22-24 July 1991). Mr Mark Weinberg QC, Commonwealth Director of Public Prosecutions, will be the opening keynote speaker. Other speakers will include Mr Allan Green QC, the English Director of Public Prosecutions, and Ms Barbara Mills QC, Director of the English Serious Fraud Office.

The Conference will be public and held at the Commonwealth court Complex, 9th Floor, 10 Queens Road, South Melbourne. It is intended that a courtroom appropriate for the 1990s will be designed and set up at that site. It will include the most advanced technology available. This Conference will be open to the media.

CURRENT REFERENCES/INQUIRIES

A review is already being conducted to identify non-viable references/inquiries.

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The resolution of the Inter-Governmental Committee on 9 March 1990 will be utilized. This resolution noted "... the current practice of the Authority to cease or scale down inquiries at what it considers is the appropriate point".

I commend these proposals to the Committee.

Mr Justice J.H. Phillips

15 November 1990