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COMMISSION

Reference: Future impact of serious and organised crime on Australian society

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**JOINT STATUTORY COMMITTEE ON THE
AUSTRALIAN CRIME COMMISSION**

Monday, 30 April 2007

Members: Senator Ian Macdonald (*Chair*), Mr Kerr (*Deputy Chair*), Senators Bartlett, Mark Bishop and Polley and Mrs Gash, Mr Hayes, Mr Richardson and Mr Wood

Members in attendance: Senators Mark Bishop and Ian Macdonald and Mr Kerr and Mr Wood

Terms of reference for the inquiry:

To inquire into and report on:

The future impact of serious and organised crime on Australian society.

With particular reference to:

- a. Future trends in serious and organised crime activities, practices and methods and their impact on Australian society;
- b. Strategies for countering future serious and organised crime;
- c. The economic cost of countering future organised crime at a national and state and territory level; and
- d. The adequacy of legislative and administrative arrangements, including the adequacy of cross-jurisdictional databases, to meet future needs.

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Committee met at 9.29 am

CHAIR (Senator Ian Macdonald)—Ladies and gentlemen, I declare open this public hearing of the Parliamentary Joint Committee on the Australian Crime Commission. This is the first hearing of the committee's inquiry into the future impact of serious and organised crime on Australian society. The terms of reference are on the committee's website. The committee will also be holding hearings in Melbourne tomorrow and later on in Brisbane, Sydney and Canberra.

The committee's proceedings today will follow the program which has been circulated. These are public proceedings. The committee may agree to a request to have evidence heard in camera or may determine that certain evidence should be heard in camera. Giving evidence to the committee is protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of the evidence given to a committee, and any action of that nature may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to the committee.

I mention these general rules for the record. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether or not it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer, the witness may request that the answer be given in camera, and that request may be made at any time.

I remind members of the committee that the Senate has resolved that witnesses like those before us should not be asked to give opinions on matters of policy and should be given a reasonable opportunity to refer questions asked of an officer to superior officers or to a minister, if that is appropriate. This resolution prohibits only questions asking for opinions on matters of policy and does not include questions asking for explanations of policies or factual questions about when or how policies were adopted.

[9.32 am]

GREGSON, Assistant Commissioner Wayne, Portfolio Head, Specialist Crime Portfolio, Western Australia Police

PORTER, Detective Superintendent Kim, Divisional Superintendent, Organised Crime Division, Western Australia Police

CHAIR—I welcome the Western Australia Police and I thank Assistant Commissioner Gregson and Detective Superintendent Porter for coming along to give evidence to our committee. We very much appreciate your time and your contribution to our inquiry. We also appreciated your contribution to our previous inquiry into amphetamines and other synthetic drugs. Your submission and other submissions assisted us in coming to conclusions for a report which we think, and some independent people also think, was a worthwhile report and recommendation to the government. In passing, can I thank you for your assistance there. Commissioner and Superintendent, if you would like to make a short introductory statement, we would appreciate that, and then we will put some questions to you.

Assistant Commissioner Gregson—Western Australia Police are privileged to be here. We have provided a written submission in accordance with the terms of reference, which articulates a number of key future trends that we consider are emerging. They revolve around identity fraud and security concerns, the trafficking and manufacturing of drugs, and financial and fraud crimes. We have made some comments about them each separately and specifically. I do not know if you wish me to go through the submission or to take it as read. Then I have a couple of additional matters that I would like to put before you. They are interrelated to the matters that are raised in the written report.

CHAIR—Perhaps you could just very briefly highlight the major aspects of your submission, which we have all read—and again I thank you for that—and then make any additions that you wish to make.

Assistant Commissioner Gregson—With respect to identity fraud and security concerns, again we have some serious concerns about the infrastructure and the way in which access to government and private assets is gained by people who are security agents. There is, as you are aware, an acute labour shortage problem, and just about anybody, with very limited training, can assume the roles and responsibilities of a security guard or a crowd controller. We are seeing the infiltration by organised motorcycle gangs, particularly, into those key roles, which is a concern for us.

With respect to the trafficking and manufacturing of drugs, Western Australia is a stepping stone oftentimes for the assembly and manufacture of precursors before they head east. We also see a significant involvement of outlaw motorcycle gangs dealing with illicit drugs, particularly precursors and finished product in amphetamine development. We see some threat emerging in the drug markets in terms of European crime syndicates. They are prominent in the area of the higher-end product or the purer methamphetamine, and we have seen indicative evidence of

Romanian and Serbian crime syndicates prominent within Western Australia having strong links to international and interstate crime figures.

I would like to emphasise the point about organised crime knowing no boundaries, because they are certainly not bound by state boundaries or even regional boundaries. Half of an emerging problem is the way in which law enforcement agencies and other areas of government work together, and that is a point that I would like to come back to because it is quite an important theme throughout all of these aspects.

Financial crimes and fraud are becoming a game. Almost every crime now has some form of computer involvement or telephony issues. We are seeing emerging technologies such as voice over IP, where you can use internet protocols to have telephone conversations. We are seeing sophisticated phishing or researching or delving into computers for data. Not only are organised crime gangs using the technology as an enabler but it in itself is providing opportunities for them, particularly in the fraud and identity crime areas.

We believe there are some issues concerning countering future and serious organised crime, and this relates to how we work together as law enforcement agencies. Information sharing between government agencies is unsatisfactory. To take you back to when I was a young detective, it was possible for a detective to source information in just about all areas of government, and there was community spirit. You would find help from every aspect of government, whether it be health, whether it be social security, whether it be the local doctor—whether it be even the local tax office. You had a community effort against criminals. Now law enforcement agencies are frustrated by a lack of protocols or protocols where the barrier is too high. There are privacy concerns that no-one wishes to address.

These are issues between state agencies and between state and Commonwealth agencies. If it is not circumvented by access to the information, it is circumvented by the bureaucracy or the red tape, and the timeliness of that information is an inhibitor. The economic cost of addressing crime will continue to be a major drain in the future, particularly as we see the state moving into roles which have traditionally been those of Commonwealth agencies, and probably because of the Commonwealth agencies' commitments to things which were, a few years ago, inconceivable.

I am talking specifically about the Australian Federal Police's involvement in international projects. Of course, there is slack, and that slack is taken up by the state agencies. Oftentimes, dare I say, having funding made available to the states is not the answer. We have problems with recruiting. We find there is a significant drain on our resources for analysts, fingerprint experts, bomb techies, blood spatter analysis—the whole range. It may take us seven to 10 years to train a fingerprint specialist and then that person is gone because we cannot compete in what you might say is the free market for this select talent. So we see increasing problems fighting organised crime across the levels.

I have mentioned the adequacy of cross-jurisdictional information sharing, but there seems to be a lack of standardisation in operational methodologies. I know some significant work is already occurring and the ACC has a role in various joint management groups, but the standardised approach would help consistent multijurisdictional or multistate investigations.

One of the issues that seem to be emerging, particularly with outlaw motorcycle gangs, is that, where there is some emphasis or focus on them in metropolitan capital cities, they tend to go into regional areas. We are seeing evidence of a shift of some of these gangs to areas such as Bunbury, Geraldton and Kalgoorlie, where they are perhaps a step away from a more focused effort.

In relation to telecommunications legislation, we raised in our submission the issue of SIM cards. A whole range of cartoon characters can have SIM cards and that stymies our inquiries because anyone can potentially buy a SIM card and there is no requirement for a 100-point check or some form of validation. Dare I say, the reluctance of telecommunications carriers to assist police with their inquiries is certainly on a downward trend. There are particular carriers who will tell you quite openly: 'Law enforcement is not our core business. We frankly don't intend to cooperate with you. You will go through our business processes at our pleasure,' and there is nothing to force them to cooperate. We regularly have interaction with telecommunications carriers who are less than helpful. We have put to them scenarios of the gravest kind, where lives may potentially be at risk, and the answer that they come back with is, 'Well, we're not interested,' and there is no support for that.

Mr KERR—You say there is nothing to force them to cooperate?

Assistant Commissioner Gregson—Yes.

Mr KERR—Aren't there legal obligations in these areas for their cooperation? As I understood it, certainly there are.

Assistant Commissioner Gregson—I do not think there are legal obligations that go far enough in terms of time frames. For example, if we have a life-at-risk situation, they say, 'We'll process your inquiry in seven days.' In other countries they can ring up the information in real time and give you a real-time answer. Certainly that is the case in the United Kingdom with one particular carrier; they have a user interface that will allow them to access data there and then.

Mr KERR—I am just trying to clarify this. It is not that they do not have a legal obligation to cooperate; it is that there is no adequate definition of circumstances in which they have to cooperate quickly? I am trying to tease out what the problem is.

Assistant Commissioner Gregson—My understanding is that it is both. I do not think that the scope or the ambit of the legislation is wide enough, and certainly timeliness of compliance is an issue.

Det. Supt Porter—Perhaps I can clarify the issue a little further. We are pretty much reliant upon the goodwill of the telcos to give us information. In many cases we do get that and we get quite a bit of cooperation. The difficulty is that there is no specific legislation that says, 'You will provide the information and provide it in a timely manner.' We have very good relations with many of the companies, and we do get the information we need, but there are many others that do not comply. In fact, there is one I can think of that flatly says, 'Our priority is not law enforcement. We're not particularly interested in what you're doing. That's all there is to it.' That is a very surprising response but it is one we do get. That is the context of the comment that we

make in the environment that we operate in. You can go to the extent of taking out search warrants, but that takes time.

CHAIR—Yes.

Det. Supt Porter—If you were to take out a search warrant every time you wanted a small piece of information of that nature, you would have to employ a squad of people to do that. That is the point that we make.

CHAIR—We might come back to that and investigate whether there are solutions.

Assistant Commissioner Gregson—There are a couple of other more general comments. In terms of legislative speed, we understand that there is always a time frame and a necessary process to have legislative change. But there are times when very small changes, which may not rate a high mention or might not be a high legislative priority for the legislators, are for us in law enforcement a high priority. The use of buy money is an example. Or take another example: with cybercrime, we can impersonate a child online but we are not yet entitled to impersonate an adult. That would be wonderful for us; we would be able to go online and pretend that we were a paedophile and link into other paedophile networks et cetera and gain access to photographs of children at risk or perhaps infiltrate into those areas. That would be a small legislative change, and it is something that we are pushing through, but that could take six, 12 or even 18 months. I am not sure that there is anything that can be done about that but there are a number of very small legislative changes that could be made which would make law enforcement much more effective.

I have mentioned workload. We are in very interesting times in Western Australia, particularly with recruiting and retention. The retention of expertise is an issue as our workload expands, because we are expanding into things such as CT investigations, cybercrime, ANCOR—all these types of things that are not our old roles. We do not seem to be able to shed any of our previous core functions, and that is a problem for us.

In terms of judicial support, I tend to look at siloing. The three functions of government looking at the solution to organised crime are the legislative, the police or executive and, of course, the judicial. Oftentimes it appears that the judicial function at least is not acting in accordance with the legislative and the executive. So, if you are looking for a holistic approach, that, we find, is quite bemusing sometimes in terms of long-term results.

Finally, there is some new legislation. Our legislation in Western Australia concerning unexplained wealth and confiscation of criminal profits is one of the best in Australia, but working through some of the areas of unexplained wealth inquiries with the various DPPs around Australia we are seeing some reluctance to pursue it. I understand it is a common problem. The legislators have brought in the legislation but it is perceived as draconian by others and so there seems to be this reluctance. We are working very closely to try to build up those relationships and address any other barriers. I am not sure whether they are common law or precedent type barriers to it, but we need to work closely with the DPP because the way to effectively break down organised crime is to strip them of their assets. Ostensibly, they are the additional comments that I had to make to that which has been tabled to your committee.

CHAIR—Thanks very much for that. There is a great deal in that which we are very interested in. The committee has raised some of those concerns, so we are delighted that you have and that we can get a bit of expert advice from you on those issues. You raised the issue of getting suitably qualified people to do IT work and then all the forensic work. I—and, I suspect, very average Australians—know what these things can do, but how to do them requires real training and professionalism. You said you have trouble getting the right experts. Is the solution more money?

Assistant Commissioner Gregson—The solution may be more money, but there are the impediments of bureaucracy banding, public service banding, and also we cannot compete with other government agencies in what we can pay. If you take criminal analysts, for example, they take a significant amount of in-house training. We get them to a certain level and then, of course, they are given an offer that they cannot refuse. We are oftentimes the only agency or one of the few agencies that can train and accredit certain people, particularly with fingerprints, for example. It takes seven years to become a fingerprint expert, or an expert on bomb or blast residues or something of that nature, and then of course—God bless them—the Australian Federal Police or ACCC or the ACC will come along and say, ‘We’ve got a job for you,’ and it is a constant churn for us and very problematic.

CHAIR—So you need to be able to pay more, but you need the bureaucratic systems to enable you to do that. Is that what you are suggesting?

Assistant Commissioner Gregson—That would be one solution. We are going for a reclassification and, honestly, the only reason we are is so that there is a reward that comes closer to what is being offered. You would not reclassify, based on the job, to a level 4 or a level 5, if that makes any sense.

CHAIR—Are you able to engage as consultants at the market rate private people who have these skills? Is that something you do regularly or that you would like to be able to do? Is it safe to do that?

Assistant Commissioner Gregson—We could probably not do it. The people come from areas of expertise which are internal to policing, and I use the term in its general sense, whether it be policing, intelligence or forensics. Those people would not exist in the broader community.

CHAIR—Let me put this scenario to you: you have trained someone who is an expert but he is not getting enough money, so he resigns from you, sets up an office over the road and puts up a sign saying, ‘I’m a professional expert.’

Assistant Commissioner Gregson—But he does not. He goes to work for the ACC or he goes to work for the ACCC. He goes to work for another body.

CHAIR—But if he did go across the road and put up his own shingle, would you then be able to pay him the market price—more than ASIO or the ACC are paying him—as a commercial undertaking so that you avoid the bureaucratic level?

Mr WOOD—It comes down to rank structure, doesn’t it?

Assistant Commissioner Gregson—We have endeavoured to divorce from the rank structure to some extent by creating brevet positions. In the area of IT, for example, computer analysts forensically examine a hard drive and sometimes we give brevet promotions just to give them a little extra money. I am not so sure you want to give computers which have certain information to the private sector or farm out a forensic evaluation when there is very sensitive material on that machine.

CHAIR—I understand the Army these days is engaging majors as consultants. People who left the Army become expert engineers and then they are contracted back to the Army to go into Timor and build a bridge or something.

Assistant Commissioner Gregson—You would have some inhibiting factors in terms of budget, because if you went to the commercial sector they would not be as cheap on a per job basis.

CHAIR—But at least you would have them.

Assistant Commissioner Gregson—I actually doubt you would. For example, there are not enough analysts in Australia to go round all of the agencies. As I understand it, there is a plan to expand the ACC by about 140 staff. A large percentage of those are intended to be analysts, so we expect a mass exodus of analysts. We will have to recruit and upgrade their positions to something closer to what others are paying, and then of course we will have the weaning, training and upskilling to do.

Mr WOOD—But the greater danger obviously would be in computer IT. You have your computer crime people, you train them up and they become absolute experts, and it is private enterprise coming and giving them an offer which they just obviously cannot refuse.

Assistant Commissioner Gregson—That happens very often indeed—not just in computer areas but in the whole range of policing and investigative skills.

CHAIR—But then how do you solve that? If you were, as I say, God, King and country and could make any decision you liked, how would you address that? What is the solution?

Mr WOOD—Is it just money?

Assistant Commissioner Gregson—If I were a benevolent dictator, we probably would not have the organised crime problem that we do. I am not so sure there is a solution in our current economic environment because of the sheer requirement capacity issues. We are at maximum means of production.

CHAIR—They are not available overseas?

Assistant Commissioner Gregson—We are currently recruiting—I am not sure of the exact numbers—up to 800 officers from the United Kingdom and overseas so that we can cover our attrition rate and also have some marginal growth in numbers. That marginal growth, given the expanse of the suburbs in Perth and Western Australia, is going to again make it problematic as to whether or not we have got the numbers right.

CHAIR—For a top-flight analyst, what would the going rate be? What would you have to offer? Do you have that sort of information?

Assistant Commissioner Gregson—I do not have that. I think we are going for a reclassification at levels 4 and 5—whatever the public sector equivalent is of those.

Det. Supt Porter—Levels 4 and 5 are around the \$55,000 to \$65,000 a year mark and we have a number of outside agencies which offer people sitting on that level \$10,000, \$20,000 or \$30,000 a year more, depending upon the qualifications of that person. As Assistant Commissioner Gregson points out, we do not have the ability in our bureaucratic system to pay more money for that person unless we reclassify, and sometimes it is very difficult within the system that we have to justify the reclassification of a person to \$2 or \$3 higher just to keep them in a particular role which the general community would look at and say, ‘Well, it’s actually a level 4 or 5 job.’

On the issue of outside agencies or outside consultants, I do appreciate where you are coming from, but the engineering point of view is different from the security point of view which attaches itself to organised crime investigations or, indeed, investigations that relate to computer forensics.

If we go back to issue with the crime analysts, I have attended on a number of occasions the Australian Crime Commission’s national criminal intelligence and operations forum; indeed, I was there last week. We have had a lot of discussions about trying to retain crime analysts. We came to a conclusion that probably the best way is for us to start nationally training these people so that more law enforcement agencies would have some opportunity to tap into those resources. The difficulty, of course, is trying to find the enormous amounts of money that it would take to do that on a national basis, so it is an issue that we have not quite resolved but it has been considered in that way. Perhaps that is an issue that you could flag in your report.

CHAIR—Okay. Thank you for that.

Det. Supt Porter—Crime analysts are very difficult to find. When you do find them, you have to upskill them a little. As Assistant Commissioner Gregson points out, once we upskill them, they become a valuable commodity for other people to poach from us, and that is exactly what happens.

Mr KERR—In the same context, you also face a different attitude to lifelong careers that is common to most public sector agencies now. People who sit on the intelligence committee face exactly the same issue. It is what they call the generation Y effect, which is that people do not necessarily see themselves committed to a single career for the whole of their lives.

Det. Supt Porter—That is right.

Mr KERR—Getting a supply system that enables you to have a constant renewal of recruitment and also attractive means of drawing people back in after they go to some other role for a while are things that police organisations historically did not do very well or at all.

Assistant Commissioner Gregson—That is very true. When we joined the police, it was for life. Now you see the X and Y generations; they are very different in terms of many values.

Mr KERR—Just like my colleague Jason Wood, who has made a lateral career move.

Mr WOOD—That is right.

Mr KERR—One of the things that stood out when I was reading another submission, from the Corruption and Crime Commission, was that the Commissioner of Police has made only two applications under the framework that enables the grant of exceptional powers—the fortification removal and the capacity to apply an inquisitorial examination: one instance of each. Given what you have essentially said is that there is a series of weaknesses in the legislative framework, it seemed odd that these very exceptional and quite strong powers have been availed of on only those two occasions. I wondered whether you could give me some sort of background explanation as to why that might be so.

Assistant Commissioner Gregson—In terms of the antifortification one, it is still on its way to the High Court, I believe, so I understand there is a general view that we wait until that is resolved before we press further. I am not so sure that there is a great current need, as much as there once was—because there seems to have been some compliance to a lesser or greater extent by some bikie gangs—to wind it back a little bit. But I understand that is on its way to the High Court.

The other thing in terms of extraordinary powers hearings or inquisitorial hearings is that there is quite a limited scope within which we can go to the CCC to initiate an inquisitorial hearing. Secondly, there are a number of concerns anecdotally amongst many of my detective staff about the way in which the CCC conducts the inquiry as opposed to alternatives that are available through the ACC. The operational detectives prefer the arrangement of the detectives almost working with counsel in the ACC environment to the more adversarial, legalistic methodology that appears to be employed with the CCC.

Mr KERR—Just to clarify, it is not that inquisitorial processes are not being used; it is that they are being used through the ACC rather than through the CCC?

Assistant Commissioner Gregson—Yes. Additionally, the CCC has given full disclosure of material to the defence on the extraordinary hearing that we had. That is something that we do not believe the ACC would do. It seems to us that if you are going to run an inquisitorial hearing and then be prepared to disclose everything lock, stock and barrel to the defence, it would probably be defeating part of your operational objectives. The ACC do not do that, so we are more inclined to leverage off the ACC to do that.

Mr KERR—With respect to the ACC, there is nothing in your submission that suggests that the relationship between the police in Western Australia and the ACC is anything other than satisfactory in relation to those arrangements. That is really the focus of any inquiry that we have. Are there any concerns?

Assistant Commissioner Gregson—I think our relationship with the ACC is excellent. I think that we are starting to put together standardised processes for joint management groups

across Australia. Our joint management group in Western Australia has been suboptimal, so we are reinvigorating that. The ACC sit on that committee with us and other law enforcement or pseudo law enforcement agencies. We are intending to use the ACC's national intelligence priorities to facilitate a more powerful focus or to determine our focus for proactive organised crime investigation so that there is a natural progression from the intelligence work that is done by the ACC in the operational arena.

We have a very good relationship with the ACC. The ACC, I know, have an investigative area and perhaps it is time to consider whether they should in their own right have the powers of constables rather than relying on becoming special constables under the auspices of the Australian Federal Police. In terms of the ACC's future, our suggestion would be that it looks at becoming not the sole agency but the primary agency for intelligence with our posted officers in the state, rather than having an ad hoc arrangement where we have bureaus of criminal intelligence or state intelligence divisions—or whatever you may call it. Perhaps it is time to consolidate that functional intelligence. Then there may be less of an inclination for them to become an operational arm to the extent that they have. I just proffer that as food for thought.

Mr KERR—Can I ask you to speculate? One of the things that has troubled me about evidence over a decade in this committee—because I have been on this committee for that length of time—is that we are constantly hearing that outlaw motorcycle gangs are the driving force for the distribution of amphetamines, and that they are growing in power and influence. They have been the subject of references for the former National Crime Authority. They continue to be a focus of the Australian Crime Commission.

It seems odd that a group that self-identifies its membership in such an overt way would be so difficult to contain. I am puzzled at the failures of, I suppose, a decade of law enforcement to really get a grip on outlaw motorcycle gangs. Is there anything that you can tell us that we should be reflecting on in this area? On its face, it is surprising that a group that stands out in such an identified way is not capable of being addressed in a pretty straightforward manner. There must be obviously much more complexity to it than I am suggesting there.

I think your evidence suggests that Western Australia has the highest rate of amphetamine use in the country. We know that Western Australia has been a place where outlaw motorcycle gangs have really consolidated and built a strong presence. You do have legislation that allows you to knock down fortresses. You now have both state and federal coercive powers. They have been applied against outlaw motorcycle gangs, and yet we have this constant repetition of this being a growing rather than a reducing area of concern.

CHAIR—I am sure there is an answer to this.

Assistant Commissioner Gregson—Yes. It is an extremely complex issue and, notwithstanding the fact that they advertise their membership, they do not advertise their illegal activities. Of course, there is that constant balance between the powers that we have and when we can gain access to those powers. It is oftentimes problematic because, as legislators, you balance other competing priorities of a Western parliamentary democracy with the types of law enforcement powers that could be employed in other systems to eradicate the scourge of outlaw motorcycle gangs.

We have taken many opportunities and we have made a difference. We have seized clubhouses under the new legislation. A lot of the legislation that we have is relatively new, and oftentimes operations into organised crime are long term. We are only now leveraging off some of our antifortification legislation and our confiscation of criminal profits. But they are smart, too; they will divest their ownership of these assets to others so that they themselves have no tangible, seizable assets. We have to work out where they reside. I think they are a by-product of our community, albeit an unwanted by-product, and we are targeting them, but I do not have the answer to your question as to why we have not been able to successfully eradicate them, nor can I say to you what piece of legislation you could give me which would facilitate that.

CHAIR—You need the evidence, don't you?

Assistant Commissioner Gregson—That was what I was alluding to in terms of competing scales.

Mr WOOD—It comes down to resources. My background is also in organised crime. I worked on outlaw motorcycle gangs, and to be watching these guys 24 hours a day, to have all their telephones intercepted and all their houses installed with listening devices you need a huge resource pool. I remember once we had the whole of the organised crime squad devoted to an operation for two or three months, which meant that every other major crime syndicate was not touched for three months.

Assistant Commissioner Gregson—It is tremendously resource intensive. I could ask you, 'Please allow me to put a listening device in the home of every bona fide member of an organised motorcycle gang,' and that would be fantastic, or, 'Please allow me to intercept telephones based solely on the fact that they are members of an organised motorcycle gang,' and that would be fantastic, but I suspect it is unlikely to happen.

CHAIR—In your opinion, do the people who join these gangs know that they are joining gangs that have very intense criminal connections, and do they themselves usually expect to be part of that, or are they just ordinary, innocent members of the public who join these gangs because they like motorcycles?

Assistant Commissioner Gregson—My understanding is that the gangs actively recruit nominees. They are the ones that select the apprentices that are going to fit their mould. I do not think you would knock on the local bikie hall door and say, 'I'd really like to join your club.' I think bikie gangs see that such and such a security company has a good market share of the nightclub industry in Northbridge and say, 'Why don't we approach a couple of their employees and start a security company?' That is the way in which they recruit.

Mr KERR—I am not necessarily advocating this, I am just testing your thinking and your approach, but there are instances of RICO legislation in the United States and anti-Mafia legislation in Italy where you have groups of that nature which are identified and where you can impute a degree of understanding and knowledge that you are actually joining an illegal distribution system for narcotics, standover and a whole range of other things, so you could use those kinds of approaches.

We now have proscription of various organisations on national security grounds. Membership of those organisations is itself an offence. I personally have some concerns about making membership of organisations which might have a political manifestation an offence, but I am trying to tease out the situation with a motorcycle gang and how law enforcement might propose to deal with it. If, as seems to come through over a decade, the market is such that profits are enormous in this area and law enforcement resources are not able to get a handle on it—if it is spreading to a degree where it is potentially an issue of grave concern—do you have suggestions for us to consider?

Assistant Commissioner Gregson—I think you have some fundamental philosophical issues with RICO legislation. There is no doubt that RICO legislation and like types of legislation can be very effective. The issue that you have, of course, is that as legislators you will have to come to philosophical determinations, because the devil in these issues is always in the detail. The issue you will have is what they will morph into, because organised crime generally will work around whatever it is that you do and it will morph into a body which does not fit the proscription. Hypothetically, they could pander to your reservations and take up a political aspect to their group. If you specifically said, ‘Well, they’re excluded,’ therefore they are in a new space. But there are examples of anti-association legislation which can be very effective. Whether or not that undermines some of the key principles of Western parliamentary democracy, of course, is another issue.

Det. Supt Porter—On that point, I think what Assistant Commissioner Gregson alludes to is that, yes, we have problems with outlaw motorcycle gangs, but the issue that Mr Kerr raises actually relates to organised crime generally, not just outlaw motorcycle gangs. We have a problem with outlaw motorcycle gangs because they are so disciplined. It is very difficult to deal with them because they actually stemmed from the military years ago. Outlaw motorcycle gangs started in America when people disbanded after the war and were looking for some form of camaraderie similar to that which they had in the military. That is how motorcycle gangs actually started. As a consequence of that, if you have a look at their constitutions and their charters et cetera, they have a very regimented, hierarchical structure. They have rules that are like the army and the police. In fact, if you read a couple of the books on undercover issues in relation to them, they are frighteningly like the police, except their motives are different. They are very strictly controlled and disciplined.

CHAIR—We hope so!

Det. Supt Porter—I can assure you they are. I have read a couple of these books, and it is frightening when you look at the way they operate, their camaraderie, their esprit de corps, their attitudes, their discipline, their hierarchical structure, their constitutions and their rules. All of those things are very similar to a military structure. As a consequence, they are hard to deal with. They also have an attitude of, ‘We don’t care if we go to jail.’

If you spread those attitudes across the organised crime spectrum, those attitudes are starting to be cross-pollinated into other groups around the place as well. We have some very strong Middle Eastern and other ethnic groups who have moved into Australia who come from backgrounds where the police do not ask you questions; they shoot you. We do not have that ability and, as a consequence, they look at us, laugh and say: ‘We know you can’t do anything to us. We’re not going to talk to you.’

They have also become very aware of the techniques that police use and of law enforcement generally. There was a television program last night on forensic issues in relation to *CSI*. Those programs do law enforcement a huge disservice because every method that we use is being exposed in the general media and to the public every day of the week, and these people in organised crime areas are becoming much more aware of that and they actually employ methods to get around what we do. In fact, they have greater access to money than we do to buy more sophisticated methods of doing that. The answer to your question is very complex, but that is a portion of it, along with what Assistant Commissioner Gregson has pointed out.

Senator MARK BISHOP—I do want to follow the train of discussion, gentlemen. As you would be aware, we have recently had a very public set of inquiries in this state, via the CCC, into allegations of improper behaviour at a bureaucratic and political level reaching up into the executive. My observation from the press was that there were huge sums of public moneys allocated to that entire process—the administrative side, the investigatory side, the public hearings, the bureaucratic side—that there were hundreds of officers involved in the investigation and that there were tens and tens of days of public inquiry. There was a lot of information not released. It was done in an inquisitorial sense. There were no rules of evidence applying. There was no cross-examination or re-examination.

Your submission draws attention to the growth of organised crime, to its spread into a whole range of areas, to the flexibility and to the seriousness of strategic thinking engaged in by those persons who run those bodies. The powers that you have seen your colleagues in the CCC use are publicised in the press and are apparently the most effective in terms of that charter's organisation. Do you seek those sorts of inquisitorial powers: the ability for your officer to bring in tens and tens and tens of these people who work in motorcycle gangs, to not allow them the benefit of lawyers, to not allow them the benefit of cross-examination, to not allow them the benefit of re-examination, to use hearsay evidence—all of those techniques that apparently have been effective? Do you seek those sorts of powers to be effective in your fight against these groups, or is there not a ready place for those types of powers in a policing sense?

Assistant Commissioner Gregson—We have access to those powers through the CCC or through the ACC. What I seek is a commensurate budget to the CCC's, so that I can put the same resource base into my targets as they can into theirs. But, in terms of the CCC's investigative priorities, that is up to them.

Senator MARK BISHOP—Allegations have been made of corrupt or criminal behaviour reaching into the executive of government. There has been a public inquiry in the press every day over here. That information has been made available because of, essentially, inquisitorial techniques and the publication thereof.

Assistant Commissioner Gregson—It is a double-edged sword, though, for a politician, isn't it, because you cannot get up there like a bikie and refuse to talk.

Senator MARK BISHOP—That is right.

Assistant Commissioner Gregson—We could put bikies before an inquiry, and they would do a quick cost-benefit analysis and work out whether it is in their interests to talk or whether it is in their interests to go to jail. Either one is not going to be of particular concern to them. They

are not going to furnish you with information just because they are called before the CCC which says, 'You will now tell the truth.' That is not likely to happen.

CHAIR—But your answer to Senator Bishop's question, if I am interpreting it correctly, is that you do have those powers, using either the CCC or the ACC. They can use the inquisitorial approach.

Assistant Commissioner Gregson—That is correct. Notwithstanding that, we would like to see some expansion of the access. The CCC's scope is quite limited.

CHAIR—I think Mr Kerr mentioned that earlier in respect of the CCC's own submission. He raised that point and we will be talking to them about it later.

Senator MARK BISHOP—If those types of powers that are available to the CCC do not particularly find favour on the policing side for the reasons you have outlined—that these people do not care if they go to jail or if the offenders are exposed—is the resource allocation at a state level sufficient for you to sufficiently hinder these people?

Assistant Commissioner Gregson—The age-old response to that is to say, 'I can always do more if I've got more resources.' My challenge is to optimise the resources that are made available to me. If I can take you back to your earlier point, though, I would have some reservations about the contempt provisions in both of those august bodies because I do not think it is a case of saying: 'Answer the question. If you don't answer, you go directly to jail.' I think there is quite a convoluted resolution to that for all types of reasons, but I do not think they throw you into a dungeon and you do not come out until you tell the truth. Perhaps that might be more of an impetus to do so, but they have to have a full inquiry. Then it gets locked into the Magistrates Court, and I do not know what the Magistrates Court is like in the eastern states, but I bet there is a significant waiting list. Similarly, with the CCC—again, I do stand to be corrected on this—I do not think the contempt provisions are adequate enough to force an answer. Of course, with politicians, it is a public hearing and so they are being examined for what they do or do not say. If they were to say, 'Well, I'm not saying anything,' then there would be other implications that are not necessarily extant with bikie gangs.

Det. Supt Porter—I think the short answer is: yes, we would love to have the powers. We do have them and we have access to them, but not to the extent that we would like, which is what Assistant Commissioner Gregson is pointing out. I think there is also a huge issue in relation to contempt. It is an issue that was discussed last week amongst members of the ACC meeting I went to. When a person refuses to answer or conveniently has a loss of memory, by the time some mechanism is put in place to deal with that person, the reason for which they need the answer evaporates, and the system is used tactically. The witnesses use the system tactically to evade having to give the information. What we probably need is a power more readily available to the ACC—or, indeed, the CCC, because they have a very similar problem—to say, 'Well, if you're not going to answer the question then you can linger in a cell until you decide what you're going to do.'

CHAIR—These are the contempt provisions of the Supreme Court?

Det. Supt Porter—That is right. Ultimately, the result is probably going to be the same. A person can be placed in that position, but they will tactically delay in order to allow the reason for the questions asked to evaporate so that there is really no issue by the time it gets to court. The teeth of the system have gone.

CHAIR—Mr Wood has a lot of questions on databases, which you mentioned in your submission.

Mr WOOD—I have a series of questions. The first one is regarding DNA. I am hearing through my police sources that there are great legislation impediments to trying to use DNA evidence between the various states. Is that correct?

Assistant Commissioner Gregson—My understanding is that there has been a significant amount of work done into that, so those difficulties have been overcome. It is all state-based legislation, so it allows some interoperability, for want of a better word, to exist between the states and to also have some consistent arrangements for presentation of exhibits and continuity of evidence.

Mr WOOD—To have a national approach.

Assistant Commissioner Gregson—Yes. I think we are almost there.

Mr WOOD—Good.

Assistant Commissioner Gregson—There is different legislation, depending on which state you are in, so methodologies for obtaining samples, retaining samples and utilising samples from witnesses are slightly different. But I think they are almost there in terms of a workable approach.

Mr WOOD—In your submission you refer to the database arrangements as an ad hoc manner of sharing information or obtaining information from the various departments. One of my personal greatest concerns is the lack of interoperability between the state police databases. In Victoria, you can find out who has a boat, a trailer or a motorbike registered in their name, but you cannot find out if they have a licence to possess explosives. Bilal Khazal, a terrorist suspect, was a baggage handler at Qantas. The law enforcement agencies would not have known, even if they put his correct details in, that he had an aviation security identification card. They would not know that a bikie works in the maritime industry and has a maritime security card. That is one of the issues I am very concerned about. Do you have the same views? Would you like to know who is buying explosives and who works in the aviation and maritime industries, whether this be limited to the squads? You can put a person's name in and find out that Joe Blow is a bikie. You know that, but you do not know he is a baggage handler.

Assistant Commissioner Gregson—In an ideal world, to have a common information-sharing platform where you can effectively regulate either people's access to information or the scope of the information that they can access would be fantastic. What tends to happen is that different states have different databases designed around their different legislation, which means that law enforcement tends to be a secondary consideration of the information holdings, so what

you have by consequence is a large number of disparate databases holding different tranches of information.

If a way forward were to come up through a central intelligence agency, for want of a better word, to have some form of interfaced services as a solution, such that you have a capacity to interrogate a large number of disparate databases, that might be a way of the future rather than—in endeavouring to standardise the rail gauge—having a railway carriage that can operate on a number of different tracks.

Mr WOOD—The area I have been looking at is CrimTrac. How effective have you found CrimTrac? I have proposed that, for example, the maritime ID cards and the aviation security cards could be incorporated on CrimTrac so that we have all the law enforcement agencies across Australia using the one centralised database where this information could be held. What are your thoughts on that?

Assistant Commissioner Gregson—My initial view is that CrimTrac is very effective. There is nothing wrong with including that particular matrix on the CrimTrac database—it might be laudable—but I think, as a conceptual model, the idea of having central interfaced services that could interrogate a whole range of disparate databases would be a better solution than trying to have one ‘HAL’ that will know all.

Mr WOOD—I suppose what it comes down to is what information, as law enforcement agents, you would want to have. We are obviously not talking about intelligence, which is obviously ACID, the Australian Criminal Intelligence Database. This is more identification. For example, you talk about crowd controllers. Again, you could have a crowd controller who is a bikie in one state, and the local law enforcement agencies know about that, but in another state he has a crowd controller’s licence.

Assistant Commissioner Gregson—I understand the problem. If I could give you an example, we are amalgamating our licensing between commercial agents—second-hand dealers and the like—and our firearms people so that we can start to see if there are any linkages. We can do that because we are insular and have a relatively contained database, but to do that across Australia and have one centre is much more problematic, I suspect, than having a central agency that has access to—

CHAIR—Why is it problematic?

Assistant Commissioner Gregson—Because the datasets are held in different servers, different types of information holdings—

CHAIR—You are talking about the physical means of making that information available.

Assistant Commissioner Gregson—I think that, if you have one system that collects all, it is going to be, from an IT architecture perspective, much more difficult to construct than having a number of separate and distinct databases but each of which can be accessed. Currently, if we conduct a search on someone, we can put in a name and it goes off and searches six or eight databases.

CHAIR—Let me put it this way: is there any information which you hold in Western Australia with which you are familiar, in your own area or in any other area which you have dealings with, that could not be made available to police in Queensland or the ACT?

Assistant Commissioner Gregson—No, I do not believe so, but there would be stuff in other government agencies. If you were talking about explosives, for example, the permit to have explosives is with Mines. The brothels in this state are registered with the Department of Health, I think, or someone like that. I do not have a problem sharing any intelligence holdings that I have with any law enforcement agency, but then you get back to one of my very first issues about intelligence information sharing across government agencies, which is more problematic.

CHAIR—But is the inability to do that simply a physical inability to put your hand on it and get it or is there a legislative component?

Assistant Commissioner Gregson—Their individual designs will change over time. I would not think that the department of mines in Queensland is going to want to contribute to—

CHAIR—But, if you needed it for some reason, could you ring or somehow contact the department of mines in Queensland and instantly get information on who they have issued explosives licences to?

Det. Supt Porter—Sometimes and sometimes not.

Assistant Commissioner Gregson—It would depend, yes.

Mr WOOD—This is the point I am trying to make. I find it amazing that you, as a law enforcement agency, would not want this information. We had a situation in Queensland where a schoolteacher that a lot of police knew to be dangerous had a licence to purchase explosives. They never knew he was buying explosives till they actually executed a search warrant on his place. As a law enforcement agency, you would desperately need this information, because the last thing you would want to find is that you have a person in Western Australia who is connected to a bikie group and you do not realise he has actually been purchasing explosives. Surely you would want that information.

Det. Supt Porter—The answer is, yes, we would certainly want to know that. The point that Assistant Commissioner Gregson makes is that you have to have regard to all the different types of databases, the systems and indeed the legislation. Some of the privacy legislation which would preclude you from having access to that information would have to be dealt with.

Mr WOOD—Yes, that is what I am saying.

Det. Supt Porter—The mechanics of it would be difficult.

Mr WOOD—Yes. Based on the information I am getting from the IT experts, there are two ways of looking at this. One is having what we call the central database, where all of the information gets put in. The second way is where you have an interface, where it actually has the ability to go into a database, whether it be the Department of Health or the Department of Mines and Energy, but those people cannot go into your central police database.

Assistant Commissioner Gregson—That is correct.

Mr WOOD—I am not trying to put words into your mouth.

Assistant Commissioner Gregson—That is if you could get over the legislative issue.

Mr WOOD—That is what I am saying. Our issues would be privacy, the legislation and also the mechanics of how to get into the database.

Assistant Commissioner Gregson—Yes.

Mr WOOD—What departments would you like information from?

Assistant Commissioner Gregson—We have some government departments that are paying benefits, for example, to people whom we have outstanding warrants to arrest, and they will not tell us where they live, so we continue to look for them, as one government agency, and they continue to provide financial benefits to them.

Mr WOOD—You are talking about social security?

Assistant Commissioner Gregson—That is one example.

Mr KERR—Is that the Commonwealth or state department that you are talking about?

Assistant Commissioner Gregson—The Commonwealth department. If I have a bench warrant for somebody, or a warrant in the first instance for somebody, I cannot ring up the Commonwealth government, which knows where he is and is providing him with money every fortnight, so that I can go and get him. We have one branch of government effectively working, in that particular instance, at odds with or against another. The community is paying for him on the one hand and the community is looking for him on the other. When you take the community perspective, it seems a little anomalous.

CHAIR—‘Anomalous’ is a polite way of saying it.

Assistant Commissioner Gregson—I didn’t know whether the media had gone!

Mr WOOD—I thought the idea about the SIM cards was great. What would you like to see done with SIM cards? Are all the bikies getting SIM cards and changing them daily? Is that what you are seeing?

Det. Supt Porter—Yes. Most of the people who are involved in drug dealing or any other criminal activity where they are aware that we might be trying to track them through telephone intercepts or whatever will change their cards two, three, four times a day. They might change them every second conversation. They will have them in false names, and in many cases there is no name attached to the purchase. That is partially because there is no requirement but also because we have a situation where some of the providers themselves are involved or complicit with these people. So, yes, some ability to determine who has a SIM card, as you would with a telephone number, is an ideal way to go.

Mr WOOD—What would be your recommendation? The 100-point check?

Assistant Commissioner Gregson—That is the same as you have for a bank account. That would be what we would like to see: you having to do a 100-point check before you can get a SIM card.

Senator MARK BISHOP—Is the problem with the SIM cards essentially one of public policy not having yet caught up with new technology development? Once upon a time, you had to apply in writing to the old Postmaster-General for a landline. The technician would come out and install the landline to your house and there was a record of it everywhere. Now a lot of people have two or three phones to use for a range of things. Is it simply that the public policy framework has caught up with the old requirements, or is it more than that?

Assistant Commissioner Gregson—I am not so sure. There is always a lag between legislation and what is occurring, obviously, and, where technology is involved, even when the technology is introduced you cannot envisage sometimes—even as policy and law makers—the probable consequences that necessarily follow. So, yes, it is one thing where technology has moved ahead.

Senator MARK BISHOP—In terms of the SIM cards, you advocate the 100-point check. Are there any other solutions? Is your purpose simply to get a registration database of every mobile phone user?

Assistant Commissioner Gregson—There already is a database which registers every single phone user but I imagine that there would be a lot of blank spaces on the database. There is a requirement for there to be a database but there would be a lot of Mickey Mouses and Donald Ducks on the database.

Senator MARK BISHOP—Why is that? Where does the current requirement for the database rest?

Assistant Commissioner Gregson—With the carrier.

Senator MARK BISHOP—So they have a database which they are required to establish and maintain under law?

Assistant Commissioner Gregson—I believe so, yes.

Senator MARK BISHOP—And you have access to it.

Assistant Commissioner Gregson—We may get access to it based on certain protocols or search warrants. There is no open access to it.

Senator MARK BISHOP—Okay. Sometimes when you get a limited form of access for investigatory purposes, you find that the database is essentially—

Assistant Commissioner Gregson—There are times when the data is either inadequate, incomplete or false.

Senator MARK BISHOP—Or false?

Assistant Commissioner Gregson—Yes.

Senator MARK BISHOP—It being inadequate or incomplete might be due to technical problems, but there being false data is a different issue. What is the scale of that problem?

Assistant Commissioner Gregson—I am not in a position to answer that, but it would be significant. When we make applications to it, it is significant.

Det. Supt Porter—We probably cannot give you an exact percentage.

Senator MARK BISHOP—What you have told us is that readily accessible SIM cards are being misused by criminal types and, under current legislation as you understand it, there is a requirement to maintain a database. In a lot of instances, that database is not being maintained properly and sometimes you are frustrated by telcos. You said in your earlier comments that there were major problems with one or two telcos. Can you outline to us the heart of the problem, why it is occurring, what your preferred solution is, and whether there is a role for the Commonwealth in this area?

Assistant Commissioner Gregson—I think there is a role for the Commonwealth because I could not see how you would have state legislation impose its will over a national carrier or a number of national carriers. The issue, of course, is that when you buy a SIM card you can basically feed whatever data you like into the telco to activate the SIM card, and there is no expectation that the carrier will check the validity of that information. So there can be a difference between what goes in and what comes out when we go and research it. There is no data cleansing or verification of the data. In terms of your more general question, with some of the smaller carriers—which was the issue that we canvassed earlier—there is a reluctance based on business sense or on a business model evaluation. The matrix that the commercial carrier runs on is financial.

Senator MARK BISHOP—Is your complaint then about some of the telcos? Are Telstra and Optus generally cooperative in providing information that could be used for criminal investigation purposes?

Assistant Commissioner Gregson—My understanding is that the larger carriers, Telstra and Optus, have a much greater preparedness to assist law enforcement than the smaller carriers.

Senator MARK BISHOP—The smaller carriers, who are engaged in a competitive market, are getting a business advantage by not being able to provide that information that their competitors Telstra and Optus and the like are providing.

Assistant Commissioner Gregson—I suppose they would, because if they are not prepared to give you the time of day, they are not making a time investment in acceding to or endeavouring to accede to law enforcement regulations.

Senator MARK BISHOP—The 100-point plan for opening bank accounts and those sorts of things has been most effective in terms of reducing the incidence of financial transactions

attached to criminal activity. All of the agencies that come and give us evidence generally praise its proven capacity to assist. Would registration of SIM cards or legislative direction to all carriers to be more amenable to legitimate policing inquiries be of major benefit to you or be simply on the margins and be nice to have?

Assistant Commissioner Gregson—We would say that it would be a major benefit. The suggestion for the 100-point check is just one thing—you are correct. It has been very effective with bank accounts and it has reduced shadowy accounts significantly.

Senator MARK BISHOP—Fraud.

Assistant Commissioner Gregson—But that is just one suggestion. You could legislate to make the carrier responsible for confirming the validity of the entries on their database. The type of impost from that would have to be considered. We would certainly like to see the onus shifted to the carriers to respond to the requests of law enforcement, not just on SIM cards but with regard to the turnaround times on requests for information. If we have a job that is classified as urgent—for example, a life-threatening emergency—and we go to a carrier, it is not, I would say, in the public interest to be told: ‘Well, we don’t really care. It’s not our business. We’re not interested.’

Senator MARK BISHOP—Thank you, Assistant Commissioner Gregson. You might take on notice and ask your policy people to drop us a note of two or three pages outlining the problems and your suggested remedies, so that we could receive it as a supplementary submission and give it more consideration. Would you mind doing that?

Assistant Commissioner Gregson—Certainly; no problem.

CHAIR—Coming back to the carriers, is there any suggestion in what you are saying—in what you are not saying, perhaps—that some of the smaller telcos are marketing the fact that if you buy their phone they are not going to give any information away to the police or anyone else?

Assistant Commissioner Gregson—No, I do not think so.

CHAIR—You would not go that far?

Assistant Commissioner Gregson—I certainly would not go that far. I do not have any knowledge to that effect. I do not think that is the case.

Det. Supt Porter—Getting back to Senator Bishop’s question, there is certainly no doubt that the larger carriers are suffering an impost financially in order to provide us with the information that the smaller carriers do not, and there is a competitive advantage for them. It is something that they remind us of when they give us the information.

CHAIR—The OMCs would know that x carrier does not cooperate with you, so if they are going to buy a phone they would buy it from x carrier.

Det. Supt Porter—Indeed. Another reason why you need to legislate is because they buy their own telephone suppliers so that they can get those cards without having to answer the questions. The situation is that we need to have legislation to make sure that the actual supplier is required to comply.

Mr WOOD—What do you mean by ‘they buy the supplier’?

Det. Supt Porter—They run their own telephone supply company; their own retailer.

Mr WOOD—Whether it is Telstra or Optus or whoever, you say that they are doing the police a great favour. In my dealing with Victoria Police, it was a very expensive process for the police to get the information for a reverse call charge record. Committee members may be interested to know that to get the approval you would have to go through a senior officer, because I think it was in the vicinity of \$30 or \$40 every check. For example, the homicide squad’s telecommunications bill was up to \$300,000 or \$400,000 seeking all this information. Is there a different mechanism up here?

Assistant Commissioner Gregson—No, there is no different mechanism. It is horrendously expensive for us to request information from carriers. They charge us as you see reflected in all our phone bills.

Mr WOOD—That is what I am saying. When you say that the carriers are coming back to you and saying, ‘Hey, we’re doing you a huge favour,’ in actual fact they are not because the charge is—

Assistant Commissioner Gregson—They are doing us a favour by doing it for us. It is probably a close to cost-neutral favour. In financial terms, we pay.

Mr KERR—I invite you to explore something. It seems to me that we have reached a position where the evidence suggests that the robustness and resilience of organised crime has at least matched the capacity of the law enforcement environment to keep up and that it is becoming much more professional, much more resilient.

Don Stewart recently pointed out his change of heart in relation to the principle of prohibition in an area which is essentially driving most of this, which is the amphetamines and drug supply chains, but I am wondering whether we are really moving towards something like the Chicago scenario of Al Capone, where a policy has an unintended consequence of creating an organised crime framework that will only be disbanded when you cut off the underlying policy which creates the market for this illicit trade.

Assistant Commissioner Gregson—I could reflect on that from a philosophical point of view and say that, if you were to legalise all drugs—this is just a hypothetical—and you took out all of the profit from unlawful drugs and you invested some of the money that is currently being invested in law enforcement in education and other paradigms for addressing the drug problem, you might have a different policy outcome. But that would be a hypothetical, probably one I could not dwell on. It would certainly be an issue for policy makers.

It is an argument long held that, if you legalised alcohol during the Prohibition, you would have ended up with a lot of redundant law enforcement officers that were chasing liquor carts through the streets of Chicago, so then the policy makers made cannabis illegal and gave them something to do.

Mr KERR—As long as we do not end up with machine gun fights. That the two silos that are demanding more and more resources, powers and intrusions are becoming more and more robust and capable does seem to be an unfortunate side effect of this particular policy regime.

Assistant Commissioner Gregson—If what you are suggesting is that there is a need for a more out-of-the-box policy determination, then I think you are on the right track.

CHAIR—Thank you very much for that. As always, I think we could go on for another two or three hours with this, but we do have time constraints. We understand that your time is valuable, so thank you again for making the time available to come to us. If you could give us that additional information that has been requested, that would be very useful.

[10.53 am]

SILVERSTONE, Mr Mike, Executive Director, Corruption and Crime Commission of Western Australia

CHAIR—Mr Silverstone, thanks very much for coming. I will not run through the rules. I think you have appeared before committees before and understand what they are all about. If you do have an opening statement, we will be pleased to hear that. Otherwise, we can proceed with our questions. Thank you very much for your submission and your attendance.

Mr Silverstone—Senator, thank you. I do have an opening statement which I would like to read. Thank you for the opportunity for meeting with you this morning. The Corruption and Crime Commission provided to you a submission based on its earlier submission of 7 December 2005 to the Western Australian parliament's Joint Standing Committee on the Corruption and Crime Commission.

This commission, under the Corruption and Crime Commission Act 2003, has two purposes: first, to combat and reduce the incidence of organised crime and, second, to improve continuously the integrity of, and reduce the incidence of misconduct in, the public sector. The submission notes that the commission's capacity to deal with organised crime is limited by its act to granting access to exceptional powers to the Western Australia Police on a case-by-case basis on assessing an application from the Commissioner of Police.

Further, our submission indicates that, since the act's inception in January 2004, the police have made only one fortification removal application to the commission, which is currently subject to an application for special leave to the High Court of Australia, and one exceptional powers application under the CCC Act. The commission has received no other application since making its submission to you and no others are foreshadowed at this time.

This submission contains the commission's opinion that the intent of the parliament of Western Australia with regard to organised crime, as represented by one of the stated purposes of the act, being to combat and reduce the incidence of organised crime, cannot be achieved under the current legislative arrangements. Further, the commission expressed the view that legislative amendment was the preferred course of action, and this remains the commission's position today.

In terms of developments, I note that the commission's role in regard to organised crime is currently subject to two processes of review. First, the Joint Standing Committee on the CCC is inquiring into this matter. Further, section 226 of the CCC Act stipulates that its operation and effectiveness be subject to review by the Attorney-General as soon as possible after the expiration of three years after its commencement. I understand that that review is imminent, and clearly the operation and effectiveness of the commission's organised crime powers should be one of those matters subject to review.

I do not intend summarising the commission's earlier submission to you. I do, however, wish to make comments with regard to your committee's terms of reference.

Future trends in organised crime: the commission has no formally concluded position on this, for two reasons. First, having no authority to investigate organised crime, the commission has not invested any great amount of resources in monitoring future trends in this area. It does, however, maintain active liaison with the Western Australia Police and the Australian Crime Commission and other law enforcement agencies concerned with organised and serious crime, both formally and informally, so it remains broadly aware of trends and developments. For example, the commission provided input to the consultative development process of the ACC's 2007 *Picture of criminality in Australia* and it was represented at the ACC's recently conducted National Criminal Intelligence and Operations Forum.

Second, the commission has been and continues to be focused on conducting a number of high-priority, high-profile investigations into alleged misconduct by Western Australian public officers. It is the opinion of the commission that organised and serious crime remains a considerable, costly, evolving and growing threat to law and order in all Australian jurisdictions. Further, its insidious nature means that particular and continuing attention must be paid to it in order to seek it, expose its processes and then excise it. While the AFP, the ACC and WAPOL work to address this issue within the Western Australian jurisdiction, their efforts are necessarily constrained.

The capacity of the AFP to respond to organised and serious crime within the Western Australian jurisdiction is limited by both its national jurisdictional focus and the diversion of its scarce resources to other, higher priority activities including its various overseas deployments. The ACC has an important role to play. However, it too is limited by the resources available to it and the need to satisfy priorities based on a process of multiple jurisdictional rationalisation. Thus, what may be a national priority with regard to organised and serious crime may not be one for this stage.

Finally, with regard to the Western Australia Police, in the commission's view its capacity to meet effectively the threat of organised and serious crime is limited by the methodologies and resources available to it. With regard to methodologies, WAPOL relies on traditional policing methods linked to occasional access to ACC resources and powers. Western Australia Police, in meeting its policing responsibilities, quite properly gives a high priority to community safety and such matters as the need to be seen to effectively address high-volume crime. This necessarily limits the capacity of the Western Australia Police to engage in long-term, targeted, organised-crime investigations, particularly when resources are diverted to respond to relatively high-profile, high-priority serious crimes that arise from time to time.

In making this point, the commission is not criticising the Western Australia Police; indeed, it is composed of highly capable and professional police. Rather, it is merely noting the facts of life in the current policing and economic environment in Western Australia and the consequential pressures this places on WAPOL's capacity to deal with organised crime.

The commission further notes that this necessarily reactive response to high-profile crimes that arise suddenly requires the diversion of resources at cost to lower profile, protracted operations. In comparison to proactive crime investigations, reactive operations are: relatively more numerous, attracting considerable resources and resulting in more charges but of less significance; frequently have little follow-up of investigating and closing down of the less visible and less accessible supporting criminal infrastructure, leaving it to grow and to fill the

newly created vacuum; tend to lack operational flexibility, reducing the capacity to respond to high pay-off but fleeting targets of opportunity and resulting in the arrest of less significant criminals, with the resultant reduced opportunity for the seizure of significant assets; and are less likely to result in the prosecution of the top echelon of the criminal organisation.

Protracted proactive operations provide the opportunity for agencies to identify and target highly successful criminals who either have not been able to be prosecuted as a result of traditional investigative techniques or have been able to fly below the radar so that the extent of their criminality has not been apparent. With regard to serious crime, Western Australia Police does not have available to it the resources of a crime commission able to focus on assisting the successful investigation of intractable serious crimes not able to be solved by traditional policing methods.

The constraints affecting the AFP, the ACC and Western Australia Police within this jurisdiction are further accentuated by the level of organised crime in Australia. I am yet to hear anyone assert that organised crime is in decline. Rather, the problem appears to be too many, and an increasing number of, identified real and potential organised crime targets and an insufficient capacity to respond to them.

Traditional law enforcement agencies, supported by appropriately resourced and targeted crime commissions, provide the mechanism to enable the conduct of an appropriate mixture of reactive and proactive organised and serious crime investigations. Other jurisdictions have taken the position that the application of just traditional investigative techniques, augmented by the ACC, is clearly not sufficient. Both New South Wales and Queensland have established crime commissions within their jurisdictions to deal with the threat of organised and serious crime. The provision of access to coercive investigative powers, dedicated resources in terms of technical support to investigations in the form of telephone intercept and surveillance capacity, and expert financial intelligence and analytical capability are recognised as supplementing and enhancing state police capacity to respond to this threat.

There is a recognised and valuable role to be performed by state based crime commissions, both in assisting to meet the requirements of their particular jurisdiction's priorities and in complementing the national response to organised and serious crime. It is a matter for the parliament of Western Australia whether it is to amend the commission's legislation to enable it to accept a fuller role in countering the threat of organised and serious crime.

With regard to the economic cost of countering future organised crime, the commission has no opinion to express on this term of reference other than to note that the question arises whether there is better value in increasing the resources available to the police rather than in any crime commission. In response to that question, the commission merely notes, having made the argument for a more strategic approach to combining state police and state crime commissions, that, as a small and relatively transparent organisation, it is simpler to measure the return on investment in terms of resources allocated to a crime commission than to complex police forces in which a larger proportion of each dollar invested is necessarily diverted to sustaining the overall infrastructure costs of the police. Of course, it is also important to be prepared to increase the resources available to the police in order to enhance their capacity to respond to the threat of organised and serious crime. The question is: where is the balance to be struck in terms of value for money and return on investment when weighing this judgement in terms of the provision of

resources to a crime commission? It is the commission's view that a relatively small investment in a crime commission capability can provide a measurably larger return on investment while enhancing the response to organised and serious crime.

With regard to legislative and administrative arrangements, given the nature of its passive organised crime function the commission contributes little to the ACC's cross-jurisdictional database. It does acknowledge that the principle of data-sharing is essential to a congruent national approach to organised and serious crime and it has participated in a recent workshop to enhance that process. I note that the recognition of the importance of access to live operational data is almost universally recognised, but there appears to be little confidence across jurisdictions to enable the appropriate sharing of sensitive current investigative intelligence. The requisite interagency trust is still to be developed.

The commission notes and supports the priority accorded the enhancement of this requirement by the ACC and its CEO. Additionally, given its relative youth, this commission has to date focused on the development of its own case managed systems, databases and intelligence systems in terms of its pre-existing data holdings and access to state databases, as is appropriate for an agency primarily concerned with state and local government public sector misconduct. The commission is currently considering its future data-mining requirements. The full development of these systems would necessarily incorporate the need for access to and sharing data with other agencies.

CHAIR—Thank you, Mr Silverstone, for a very concise and focused response to the inquiry's terms of reference.

Senator MARK BISHOP—Mr Silverstone, you concluded your remarks by saying the primary task of your organisation was state and local government public sector misconduct. You earlier identified that one of your legislative directions was oversight of organised crime. Firstly, do those two direct legislative purposes necessarily work together? They strike me as being somewhat at different ends of the spectrum.

Secondly, deriving from that, you make the very bold statement, unusual in these types of inquiries, that your own agency cannot achieve its purpose in terms of organised crime reduction. As I understand your submission, that relates to the deficiencies in design of powers granted by the parliament. Could you develop that further? As my colleagues have said, and you have conceded, organised crime numbers are not reducing, so one asks the obvious question: if the parliament has created an organisation that cannot achieve its purpose, why the hell were you created?

Thirdly, your organisation has achieved notoriety recently through the inquiries you have been engaging in with the executive and some politicians on public sector mismanagement. Is the level of organised crime and the harm it inflicts in our community at least equally as damaging as, apparently, the harm inflicted by some elements of the executive and the public sector?

Mr Silverstone—I think the answer to the first two questions lies in the same area. Our act has two purposes: one is to combat and reduce the incidence of organised crime and the other is to continuously improve the integrity of the public sector. In doing that, there are considerable

resources and material within the act that describe the way we go about our misconduct function, and we have considerable freedom to do so.

With regard to organised crime, whilst the purpose of the act is stated as it is, the responsibilities of the commission under the act are very limited. We rely on applications from the Commissioner of Western Australia Police for access to the act's exceptional powers; then, having been assessed and if granted access to those powers, we are required to monitor the use of those powers. Included in those powers, for example, is the conduct of coercive hearings. The commission has no role in the preparation or conduct of those hearings or in the investigation of the matters connected with them; we merely provide the venue and the authority of the commissioner in oversighting the conduct of the hearing itself. This means we are dependent on Western Australia Police to form a view that it is appropriate to access the powers. As I have indicated, they have made one attempt with regard to fortification removal which has been challenged through the Supreme Court and is currently an application to the High Court, and with regard to an organised crime investigation there has been but one application.

So we are in the hands of the Western Australia Police with regard to that. I would note and come back to the decision to pass the act. The act, of course, is a matter for parliament. But I would note—as is covered quite clearly in our submission, I believe—that our act actually encompasses the previous exceptional powers act and is essentially being picked up out of an earlier act and placed within our act, providing to the commission a quasi-judicial function which is at odds with our investigative responsibilities. Finally, with regard to your last question, we do not have a position on the degree and nature of organised crime in terms of its threat to Western Australian society because we are not currently in that business.

Senator MARK BISHOP—And you are not in that business because you cannot be in that business?

Mr Silverstone—Because we cannot be in the business.

Senator MARK BISHOP—Because you have not got the powers to carry out the function that was delegated to you by parliament?

Mr Silverstone—There is a purpose to the act. In the act, the parliament saw fit to have the exceptional powers legislation, which essentially provides the initiative to the Western Australia Police. There are powers within the act; it is the way that they are accessed and they are used. The initiative lies with the Western Australia Police rather than this commission.

CHAIR—Senator Bishop's question also relates to this aspect: are you the right people? You have obviously been very successful in the 'corruption' types of responsibilities you have. Are you the right group to be looking at serious and organised crime at a state level in WA?

Mr Silverstone—We believe that we are. We believe that the forensic investigative skills that are appropriate to the investigation of quite complex misconduct matters can be transferred to the organised crime arena. Our processes and practices have been based on the experience not only of the previous police royal commission here—people from the Police Integrity Commission—but also of a number of people with prior experience with the New South Wales

Crime Commission. Our director of operations is a former senior AFP police officer with extensive experience in that area. We are quite comfortable that we have the skills.

Mr WOOD—Mr Silverstone, first of all, as a former police officer, I would like to congratulate you for the investigations you have done. I was fairly amazed by some of the evidence which came out and you must be congratulated for that. It sounds like they have given you a task but tied one hand behind your back and said: ‘Go down a certain path. Obviously look at what is happening with public office, but not with organised crime.’ What is your relationship with WA Police in investigations? Are you a body set up completely separate to the Western Australia Police or do you have members seconded from the Western Australia Police? What is your budget for the crime commission to perform your current role? And if you are not going to be doing serious crime, what would be the future of the crime commission?

Mr Silverstone—We have a complex relationship, a multifaceted relationship, with the Western Australia Police in the sense that on the one hand we perform a function of oversighting misconduct within the police and on another hand we engage in investigations in other areas of the public sector where we work in partnership with the Western Australia Police. We work with them in terms of their corruption prevention policies and education programs but at the other stage we have a partial relationship in terms of the organised crime function. That relationship would necessarily grow if we had a fuller investigative function, but, once again, it is not as though we have one hand tied behind our back. The way parliament chose to establish the act means that the powers are established in a certain fashion. The fact is that there have only been limited applications for gaining access to those powers, therefore the act is not meeting its purpose. Your last question was?

Mr WOOD—Obviously you can investigate more crime if you have a larger budget. What is your budget for investigations you have been undertaking compared to the organised crime squad and the police? It sounds like you had a fairly substantial budget to undertake your tasks.

Mr Silverstone—The commission has approximately 150 staff and we have a budget of about \$26 million a year.

Mr WOOD—That is my point. If you compare that to, for example, the Western Australian organised crime squad, I doubt they would have a budget or that many resources there.

Mr Silverstone—Yes, but I would note that our expenditure to date on the organised crime issue has been of the order of \$100,000 or so out of that budget.

Senator MARK BISHOP—That is on public sector mismanagement?

Mr Silverstone—Yes.

CHAIR—Some would say it is very good value, I might add.

Mr WOOD—My question was more just to find that out, because obviously it comes down to budget and resources.

Mr Silverstone—If the parliament were to choose to expand our powers, there are three choices in terms of our budget: we leave it as it is and we prioritise the way we approach our work; they give us a lot of money and we have a Rolls Royce solution; or we have a Black and Gold solution for something less. We have not contemplated the quantum of that because it is a hypothetical circumstance.

Mr WOOD—So you do not have members from the Western Australia Police or the Federal Police seconded?

Mr Silverstone—We have had Federal Police officers seconded and we seek secondments from other jurisdictions outside Western Australia. At the present time we have none because of the pressure on policing across the Commonwealth at the moment. We have no police officers from the Western Australia Police seconded to us. At this stage, seven of our investigators are former Western Australian police officers who resigned from the police to join us. That approach is working very well for us. They are very high quality officers and they provide us with great insights into the nature of the police business in our state.

CHAIR—Do you say you do not get Western Australian police officers because, as a Western Australian, you do not want to interfere with the Western Australia Police because they are short-staffed, so you go to other states and make them short-staffed, or is it that you prefer to keep your investigators separate from Western Australia?

Mr Silverstone—If you contemplate the arrangements of the Crime and Misconduct Commission in Queensland and the PIC in New South Wales, the Crime and Misconduct Commission relies extensively on large numbers of seconded Queensland police officers going into their organisation who then return to the Queensland Police Service. The PIC will not have any New South Wales or former serving New South Wales officers within their establishment. Our view is a middle ground. We are happy with the number of Queensland officers and extraordinarily happy with their quality, but we want to be careful because, with our function in overseeing the Western Australia Police, it would not do anybody any good to become the outpost of the Western Australia Police on St Georges Terrace. Our intention is to try and strike a middle ground.

CHAIR—Sure.

Mr KERR—I have two questions. First, I would ask you to respond to the comments that were given to us in evidence from the Western Australia Police. They indicated that the reason why only one application had been made for an inquisitorial examination under the act was that when they did seek it there was a disclosure of the nature of the police prosecution case in an extensive manner which, in a sense, undermined the effectiveness of the request they made. Could you respond to that criticism. Is it an obligation of yours under your statute or is it a misplaced criticism?

Mr Silverstone—When this particular matter was coming to trial, the commissioner of our commission at the time, the former Chief Judge of the District Court, formed the view that the commission was obliged to disclose the matters as a matter of law.

Mr KERR—So, to make you more effective, that would require a legislative amendment, or have you reconsidered your view in relation to that?

Mr Silverstone—We have gone to other agencies around Australia and sought advice from them on their practices. We are currently assessing that internally and will provide our views on that to the forthcoming review of our legislation. The other matter—and I think some Western Australian police officers do not appreciate this—is that the commission merely lifted the restriction on disclosure to the Western Australia Police for the purposes of them being able to make a judgement about meeting their disclosure obligations.

It was open to the Western Australia Police to seek public interest immunity or not to disclose matters as they saw fit because, as I have noted in our earlier comments and in our submission, the investigation that was conducted—in which they sought access to the commission's powers—was their investigation.

Mr KERR—I am afraid I am not familiar enough with the detail to understand the answer, but I did take from that that you were giving consideration to whether or not the criticism could be addressed in either a legislative way or an administrative way.

Mr Silverstone—Yes. There is the legislative issue but there is also the procedural issue. Part of the procedural issue is that the police investigation took refuge in the belief that there was nondisclosure of information presented to the commission in private hearings. There is a view that that information might necessarily be disclosed under the disclosure requirements in this state. The commission, in taking that view, merely lifted the restriction on the material for the police to form a view about what should be disclosed or not, and there are some procedural issues around that.

Mr WOOD—What was the result in the court case?

Mr Silverstone—The case was dismissed.

Mr WOOD—Was it because the defence was not made aware of the evidence?

Mr Silverstone—I do not have a view on that. I understand there were many other complications.

Mr KERR—Essentially, the thrust of your submission is that you would be able to undertake the kind of finely focused work on the big end of town in serious and organised crime were you given the resources and legislative authority to do it. I will address the same general comment to you that I did to Western Australia Police, which is that we are discovering a constant demand for more and more resources, greater powers and more focused resources to go into the attack on serious and organised crime, but a constant refrain running through that is that serious and organised crime is at least matching, if not outstripping, the capacity of various legislative and administrative structures designed to thwart it.

If I take you back to Don Stewart's recent comments about his reassessment of the overarching rationale for the work of the National Crime Authority when it first established the Australian Crime Commission, he says that we are creating this very large infrastructure doomed

to failure. I wonder what your response is in relation to that, in the sense that our own committee has made several reports looking at the need to balance the commitment and the means to reduce supply on the drug side with attempts to make certain that we give proper attention to harm minimisation.

If this continues, with law enforcement continually demanding more and more resources and a greater capacity for intrusion and the like, but the underlying economics being that you can make a fortune quickly down and dirty in the streets through transactions which are being used by about a third of the Australian public—and Western Australia is said to be the place where the greatest amount of amphetamines are to be found and where you have a growing group of people in distribution, like motorcycle gangs and the like—maybe we just need to have a pretty fundamental rethink about that kind of approach of just adding more and more silos to the armed conflict. We are creating the market that establishes the equivalent of the Chicago organised gangs under Capone. Then we are saying that in order to respond to that we have to build up our law enforcement. Of course, in the United States, the solution to that only emerged when the underlying policy was changed. What is your response to that?

Mr Silverstone—Law enforcement agencies generally—in this case particularly—would say, ‘Our act has a purpose and it is not being achieved. If you want that purpose achieved, this is what you’ve got to do.’ It is a matter for parliament to judge the balance between social policy and—

Mr KERR—I am a parliamentarian, and I then say, ‘Well, that’s a very interesting argument you’re advancing, but are we advancing into Iraq with no prospect of success, or do we actually have an outcome?’ What are the terms of exit here? Is there a success, given the underlying framework? Do you say you can solve the problem if you are given this resource?

Mr Silverstone—Of course not.

Mr WOOD—But it gets worse if you do nothing.

Mr KERR—That is the question I am asking.

Mr Silverstone—Our thesis is that a traditional law enforcement approach in terms of the investigation of these matters—and particularly dealing with the underlying infrastructure in terms of the protracted exposure of those, taking the more senior members of the criminal organisations off the street rather than the middle-level areas—is the product of so-called proactive operations. If there is a view that there should be an appropriate mix of reactive and proactive operations, then, within the Western Australian jurisdiction, more needs to be done in terms of the powers of a crime commission.

Mr KERR—I hear what you say. I am not convinced that you have given me an answer.

Mr Silverstone—No, I have not, because fundamentally the answer is one of social philosophy and where, in this case, the people of Western Australia stand on that.

Mr KERR—It is not really; it is a question of whether you actually do form a view that we can have a successful outcome. What I am really asking for is your judgement about the

conclusion that Don Stewart reached. His conclusion after decades of experience in this area is that we cannot. That is a serious critique of a continual escalation of these kinds of responses. To say that it is a philosophical issue is not an answer, because his is a hard-headed conclusion of fact.

Mr Silverstone—Let me just cut to the chase then, knowing that—I apologise—I have to go to see the President of the Legislative Council. On the other side of our business—the misconduct business—our agency replaced a previous agency which was solely coercive and was secret. Our agency, in terms of our misconduct function, is not secret and not solely coercive. We have a very considerable corruption prevention and education function.

Our view is that you are never going to be rid of public sector misconduct. The nature of man is thus that he will always seek opportunities. So what do you do? You have in place methodologies that deal with those people who are permanently corrupt and not able to be influenced in terms of their conduct. At the other end of the spectrum you have education policies that remind people of their social obligations and, in between, you have a measure of part carrot and part stick in terms of moderating the behaviour of those people who are able to be influenced to act for good or ill. That is the sort of approach we take to corruption prevention. I would argue in general terms that that is the reason why you avoid speeding in this state on public holidays—because they double the demerit points. There is an element of public education and there is an element of coercion in terms of people's behaviour.

Mr KERR—Yes, but the difference is that in speeding you do not make yourself a millionaire overnight.

Mr Silverstone—Indeed.

CHAIR—That is not a case for debate in this committee. Thank you very much for your answers, Mr Silverstone. We appreciate that you are busy. We all read just how busy you have been, so we very much appreciate you coming along and your contribution.

Mr Silverstone—Thank you.

[11.29 am]

MITCHELL, Associate Professor Margaret Campbell, Director, Sellenger Centre for Research in Law, Justice and Policing, School of Law and Justice, Edith Cowan University

CHAIR—Professor, thanks very much for joining us today. We very much appreciate your coming to talk to us, your verbal submission and the giving of your time to help the committee with its inquiry. As you are probably aware, this is an inquiry of the parliament and parliamentary rules as to public privilege and coercion of witnesses do apply. If there is anything you want to say that you prefer to say in camera, that is available should you so wish. We invite you to make an opening statement and then subject yourself to questioning from the committee.

Prof. Mitchell—It has been very interesting so far, I have to say. I do have some points I would like to make. I have 18 years of experience of working in partnership as a university researcher with police agencies in Australia and, before that, in Scotland. My particular areas of interest currently are in investigative interviewing—the role and function of investigators and of intelligence practitioners within police organisations. I have provided advice frequently to police organisations on matters of procedure and practice and was employed for that purpose by the New South Wales Police Force between 2000 and 2003, following the Wood royal commission.

I am going to concentrate specifically on the strategies for countering future serious and organised crime, based on the inferences from relevant existing research, much of which is from the UK at present. Australia is amongst many countries and private companies concerned about organised crime, but have we made best use of the existing information and experiences of other countries? The Police Foundation in the UK has said:

Despite real concern over the increasing threat from organised crime, there is very little rigorous analysis of its nature, scale and impact.

A careful and comprehensive overview, analysis and synthesis of the nature of the problem and its causes is needed. There is extensive existing research—very interesting research too—which, if combined with information on successful and unsuccessful operations, observing security issues of course, can create a direct bridge between this research and alternative approaches that police and other law enforcement and intelligence agencies may be able to apply.

Most responses to organised crime have obviously and correctly been based on law enforcement methods aimed at arrest, incarceration and incapacitation. Response to organised crime has made relatively little use of analytical, problem oriented, preventative approaches that have demonstrated some successes in what I call—I was looking for another word—‘regular’ crime. These preventative approaches have really made some differences there—in other words, borrowing some of the methods used in crime prevention, such as target hardening, designing out crime and crime-proofing on the basis of anticipation of crime risks—but there is relatively little known about the opportunities and vulnerabilities that allow the crime to occur.

I am speaking in generalities just now, but we can put some more specifics on it later. And I can see that I am not going to solve the problem; I can merely put forward some suggestions and

approaches. A comprehensive analysis of existing research, intelligence and interventions by public organisations, including police and private organisations in Australia, would, however, inform preventative approaches since they would uncover actual or likely vulnerabilities in people, systems, organisations or cultures that facilitate or at least do not stop the crime from taking place.

Our problem is also the difficulty of evaluating the effectiveness of any intervention in reducing organised crime. This is because of the complexity of the issues as well as the fact that the scope and impact of organised crime often eludes specific measurement beyond an estimate—for example, the street value of a drug seizure or the effect of the interruption, usually temporarily, of criminal activities. The longer term effect and the displacement effects are often not known.

As an example of how little is known objectively about the extent of the problem, one researcher in the UK states: ‘There is only the haziest order of magnitude of estimation of money laundering globally and we have no accurate before-and-after measure of the extent of money laundering in any sphere, whether broken down by type of crime or by place or by method or by organised crime group’—referring here to the impact of law enforcement interventions. A detailed analysis combining the research with information about operations that is provided voluntarily by police and other relevant agencies will identify what allows the crimes to occur—that is, the vulnerabilities in the systems. In the same way, we can build out the opportunity in a sense. This parallels the work on corruption prevention as well as crime prevention.

Taking the example of organisations that are pivotal in the control of financial fraud and money-laundering strategies, the strategies can include assessing and supporting the working culture of these organisations that are pivotal, like financial organisations. Greater effort, for instance, would need to be exerted to ensure that customer check procedures were followed and that irregularities and things that do not look right are acted upon in some systematic way. You can have these procedures in place—and I might mention this a bit more later—but making sure that people do them and then following up on them are completely different matters. The working culture of organisations can make or break these procedures.

A second point would be to check staff, both at the point of hiring and during their employment. Typically, checks on staff occur at the very beginning. We then welcome them into the organisation and only find there is a problem later. Also, staff might find out the opportunities that exist within their new role only after they have been taken into employment. Continuing checks on people’s morality and their security would be, I think, an important addition.

Another is to raise awareness of specific threats amongst potential victims. These are not new suggestions; I am just putting them all together in one list. There should be systematic checks at key points of vulnerability in business processes, some of which are already done. This issue of the sharing of data keeps coming up: international, interjurisdictional sharing of contemporary databases—it seems to be in some areas an intractable problem—and making sure that there is crossover between datasets. Other strategies are victimisation surveys—find out what are the experiences of the victims—self-report studies and even learning from the criminals themselves.

I know this is going to sound naive, and I have listened with interest to what the police were saying earlier about not providing information, but, at the Crime Research Centre at the University of Western Australia, one of my competitors, a study of people in jail who had committed break and enters was carried out. A lot of very useful information about modus operandi and vulnerabilities, why particular houses were broken into and what the thief then did after leaving that house was obtained from interviewing people in jail to find out more information from them. I wonder if any methods like that could be applied in this area.

Something that I was reading talked about mystery shopping, which is basically testing systems in continuous ways—for example, offering laundering and other crime opportunities to test control and reporting mechanisms in the same way that integrity tests are applied in relevant organisations, and certainly tackling document forgery. It is an escalating problem because of the cleverness of machines and the computing facilities that we have. In banks and other places, greater emphasis on awareness of forgery would be a useful thing. Maybe these things are done, but they need to be done aggressively.

Once vulnerabilities and opportunities for crime have been identified, commitment is needed from all interested parties to act on it. The criminological and police practice literature gives very few examples of evaluations of crime reduction initiatives in the area of organised crime. Those that do exist seem to have suffered from a lack of commitment or follow-through by the relevant partners, underlining how difficult it is to get the authorities to act against organised crime in a cross-jurisdictional, interagency way.

In addition to augmenting law enforcement with crime prevention approaches, the following I would see as being essential components and strategies to counter future organised crime. Overall, we need to distinguish between the opportunities or the potential for organised crime and the actual instance of organised crimes. The definition of what constitutes organised crime varies between different agencies, it varies internationally, and it varies not necessarily according to the legislative issues that surround organised crime.

With reference to the communication problems both before and after 11 September 2001, the 9-11 Commission report stated:

A “smart” government would *integrate* all sources of information to see the enemy as a whole.

Joint initiatives across Australia, New Zealand and with our other partners are essential and are an underpinning of much existing strategy in which information, intelligence and resources are shared. The Australian Institute of Criminology and others—including certain jurisdictions—have, however, described current arrangements as still cumbersome.

One researcher has talked of intelligence officers ‘drinking from a fire hose of information’, which I think is an amazing image. It reminds us that it is not the quantity of information and intelligence that is the problem, it is the systematic analysis of it and understanding really what you have got there—drinking from the fire hose of information, analysts are drowning in information. There may be real opportunities here to reflect on the complementary role of intelligence analysts and investigators within law enforcement organisations and to break down some of the information and practice silos that exist in law enforcement, building a more complementary model of the investigation function and the intelligence function.

We are currently conducting research at Edith Cowan University looking at investigation practices. We started off looking at interview practices and then we moved into looking at investigation practices and the role of intelligence in policing. By that I mean the almost social role which intelligence has within the organisation and what people think of the intelligence function. Do they use it? How do they use it? When do they use it? I think there are quite a few assumptions about what investigation practices and intelligence functions are. One method within organisations is, for example, to follow the data. A piece of information will come into the organisation, a piece of intelligence will come in. How does it move through the organisation and how is it used at various points in the organisation? I think there are some interesting things to look at in that kind of area.

Researchers have also examined the supposedly straightforward issue of moving information across and within institutional boundaries. While sharing information is vital to the development of intelligence-led initiatives, sharing per se represents just one of the problems that must be overcome if intelligence is to fulfil its most basic promises. You will also be aware, of course, that since 2001 the focus on intelligence and intelligence practice has escalated enormously and some of the methodologies may not have kept up with that interest and people's expectations about what intelligence can provide.

Other important challenges include: finding ways to usefully manage the enormous amount of information already available to police and security officials, the difficulty of analysing and interpreting this data, the problem of data quality and the prospect that analysts may tend to use easier sources of information rather than more complex or difficult-to-achieve sources of information. In that, I would include qualitative data about people, motivations, places, systems and, broadly, opportunities and knowledge that can assist these crime prevention approaches.

Agencies are keen to exploit the intelligence opportunities contained in databases of assorted private organisations as well. I quote from Levi and Wall, who said that in the UK: 'Legislation requires financial institutions to report certain types of suspicious transactions, but the lack of meaningful standards for accumulating and transmitting data remains. When financial institutions, police, airlines and Customs officials collect data according to entirely different protocols, a daunting process of synthesis must occur before data can meaningfully be shared.'

That has obviously been alluded to earlier today. Complicating this process is the fact that the process of standardising data definitions is often highly politicised—and that is a small 'p'—as different institutions have political and organisational investments in their preferred definition, for a myriad of phenomena. There are often intense backroom struggles, we might call them, over which definition would be officially sanctioned.

Partnering with private sector organisations is essential to managing organised crime and depends on whether the company has—and this is quite a nice expression which I found—'reputation-defensive needs'. That is, whether they feel that they need to accord with security issues and with preventing organised crime if they feel that they have reputation-defensive needs. That is, whether, beyond the healthy governance of their organisation, a commitment to security and anticorruption is broadly important to the profits and to the customers. These systems approaches complement an individual criminal approach.

The Australian Institute of Criminology has underlined the need for the involvement of the private sector with other agencies—for example, understanding the relationships between amphetamine use, fraud, identity crime and money laundering. It needs proactive partnerships between law enforcement agencies, relevant government departments and the private sector.

There is also a need to create outcome criteria for organised crime reduction and to find and measure indirect crime reduction outcomes that relate less specifically to falls in crime and more to reducing the operational innovative capacities of criminal organisations or reducing the number of niches available for organised crime to exploit. These are wonderful aims. They are wonderful goals. How we get there is one of the practical challenges, of course. Levi and Maguire have called these ‘crime indicators’ rather than ‘crime measures’. Measures, they say, ‘can give a spuriously objective aura to what may be an approximation judgment’. The community will want observable signs of police catching criminals and dealing with them. I believe that the AFP is working with Macquarie University just now, looking at its own performance measures in this area, but I do not know what stage that is at.

Thinking now about possible futures, anticipating trends in organised and serious crime might be assisted by looking at a typology from which these developments may emerge. Future trends will likely embrace: emerging markets, new products and opportunities and scarce products and resources; in emerging markets, affluent teenagers, young people—very young people actually—with assets to spend and an experimental approach to life; and different Third World countries. Certainly organised crime is interjurisdictional, international; we do not need to be reminded of that. Just on new products, I myself—I should not say this—got some DVDs when I was in Kuala Lumpur. I did it only for research purposes, of course!

CHAIR—Of course!

Prof. Mitchell—Water is, of course, a scarce product. Are there ways that we can anticipate that organised crime could get involved with that in terms of restricting access or making it very expensive to access? And there are other products that are heavily taxed by governments; they are not necessarily expensive themselves but do, of course, incur tax.

Psychological and social approaches which I have alluded to previously, will help, I hope, in the prediction of illicit business activity, particularly when hard evidence seems to be elusive. Understanding social, cultural and ethnic aspects of social groups and widely dispersed networks and how they are organised is as important in this area of crime as it is in understanding the precursors to terrorism and its prediction and prevention. Some of the methodologies that have been developed in looking at precursors to terrorism could be adapted and applied in this area as well.

There may also be utility in applying sophisticated or not-so-sophisticated business models to the activities of organised crime groups and the individuals that comprise them, based on the principles of economic rationality. This has been done before, but we might revisit some of those areas. That would provide insight and it may be used as the basis of prediction for the next step in the business. Big is not always better. We seem to be very concerned about the expansion of organised crime, but several researchers have pointed out that big businesses are not necessarily better businesses. And it may be better for them to remain small, although networked, and then they will remain below the radar for longer.

Most importantly, there is a need to out-innovate criminals—a need to better anticipate the what, where, when and how of the crime, to look at the opportunity and the motivation, aiming to reduce the operational and innovative capacities of criminal organisations and to reduce the number of niches available for organised crime to exploit. Research like this, involving lateral thinking and creativity and even thinking like a criminal, may depend on far more qualitative approaches that encourage and facilitate lateral thinking.

Social science research methodologies can be adapted to forecast or anticipate future developments in serious and organised crime. One example might be the Delphi technique, in which you get experts together and feed back their information to them; then they further develop and systematise some of their ideas. There are a range of techniques like that, that can be used. It is a systematised whiteboard exercise, in a sense, but it feeds the information back to the participants and you get more focused outcomes than you would from just a discussion or a whiteboard exercise.

Even more lateral in approach are some of the war game strategies that are used sometimes in management development. That is a situation in which there are opposing parties, and current weaknesses in readiness, or vulnerabilities and limitations in systems and structures, can be revealed through an aggressive sort of verbal war situation. These methods could be applied to anticipating new crimes in a geographical area, given certain parameters known to exist, whether new activities or the characteristics of particular groups.

In closing, I would like to recommend to the committee an article by Michael Levi and Mike Maguire of the University of Cardiff, written in 2004. It makes very dismal reading in terms of our ability to curtail organisational crime activities, given the current approaches and methods. I can provide the specific reference to you.

CHAIR—I do not know that we want to read it, do we?

Prof. Mitchell—No, it is very long. Michael Levi has done a lot of work from the financial perspective. He has always had an interest in organised crime but he has looked at it particularly from the financial point of view. I have to say that there is a lot of good research out there. The research on evaluating interventions by police is relatively rare. But, just as one attempts to evaluate counterterrorism strategies, there are many issues of security and an inability to share information about operations that make it very difficult to evaluate the impact of police and other agency interventions.

CHAIR—Thank you very much for that, Professor.

Mr WOOD—You mentioned that the analysts were not sourcing difficult information. What do you mean by that?

Prof. Mitchell—There is tremendous pressure on intelligence practices just now; there has been a real rise of interest in it since 9-11. Because of the pressures on analysts—possibly wanting them to come up with more solutions in order to be able to provide services—under those circumstances people may tend to focus on information that is easier to get. What I am talking about here is the usual attention that is paid to quantitative data rather than qualitative data. It is far easier to enumerate and to make some sense—at least, you try and make some

sense—out of quantitative data, but perhaps we need to look more at qualitative data to understand the systems and processes that are being brought to bear on facilitating organised crime. I did not say that intelligence analysts use data that is easier to get to; it is a possibility when there is increased pressure on them.

Mr WOOD—You would have heard all of the earlier conversation about databases and everything before that.

Prof. Mitchell—Yes.

Mr WOOD—I know that the analysts' task is to look at a target and work out everything about it. I am probably pre-empting the question. If they are putting a person's name in a computer, as I said earlier, they are not really interested in whether the suspect has a trailer at home. They are more interested in knowing whether he has a licence for explosives or he works in the aviation or maritime areas. What are your comments on that?

Prof. Mitchell—It is obviously the case that the databases are only as good as the data, and interrogating them sometimes does not achieve the information that you want. I made a note earlier; it was in reference to something that the Western Australia Police were saying. When you are interrogating a dataset, you almost need to know what you are looking for, because if you go on phishing trips through datasets, you can go down a whole lot of blind alleys. The development of hypotheses and multiple hypotheses about the sorts of things that you are looking at might help in terms of looking at these disparate datasets. I do not think that there is a problem with the amount of information. It seems that there are difficulties in terms of accessing the information and legislatively getting access to it, and there certainly seem to be continuing difficulties about combing datasets. A solution was suggested earlier.

Some research was done with doctors. They were testing their ability to diagnose what was wrong with the person—these were hypothetical cases—and they found that the more information the doctor was given, the less certain they became about their diagnosis. We need to think in terms of smarter intelligence analysis, rather than having access to more information, so that it is a focused collection of getting the data from specific datasets, having hypotheses in mind about what it is that you are looking for and knowing when that hypothesis is not achieving anything and shifting on to the next one.

Mr WOOD—You also raised the point about having war games and gathering intelligence but, at the same time, looking at terrorism and crime. We now have ammonium nitrate licences for fertiliser. If you look at terrorists like Timothy McVeigh and Terry Nichols, you see that was a weapon of choice of the IRA. Obviously that is one of the bits of information that the police need at their fingertips, especially when dealing with terrorism. They do not want to, all of a sudden, have an incident occur and find out that the person was purchasing explosives.

Prof. Mitchell—Yes.

Mr WOOD—That brings me to another question. You were talking about precursors to terrorism. Can you elaborate on what you were referring to?

Prof. Mitchell—There is some research that is going on. Really, the only application that it has at the moment is in analysing what is now known about occurred and what may have occurred prior to, for example, a bombing and, from that, trying to develop risk factors in terms of the sorts of things to look for. Just as in organised crime, terrorists of course change and adapt, and the development of risk factors or precursors may be old fashioned by the time you develop the risk. I think there is an opportunity here to look at the conditions that were in place that allowed the crime to take place. That is all that I am saying.

Mr WOOD—As you would with September 11. Again, I am pushing this database issue. If you have a pilot's licence, obviously police need to know that. You can have activities which, on their face, are not harmful—are pleasure activities, like flying a plane—but if you find that there is a combination of those—

Prof. Mitchell—Together they are lethal.

Mr WOOD—Yes, especially when you always come back to the connection to terrorist organisations.

Mr KERR—I am interested in your analysis of the issues of vulnerabilities and opportunities. One of the instances that we heard about in earlier evidence was the availability of SIM cards. I do not know whether you were present during that discussion.

Prof. Mitchell—Yes.

Mr KERR—I suppose you would give that as an example of a vulnerability. Is that the sort of thing you were speaking of?

Prof. Mitchell—Yes, it is. This was the case, for example, in Scotland following the Dunblane massacre, when the children were killed. Because of gun control, people had to turn their guns in. Licensing of a gun became very difficult indeed. I have to say that, having started this sentence, I am not sure of the long-range impact of that in terms of violence. Of course, knives are the weapon of choice in Scotland.

CHAIR—There is an historical reason.

Prof. Mitchell—Yes.

Mr KERR—You have at least two people with Scottish ancestry at this table, so you have to be very careful how you approach it!

Prof. Mitchell—That is right. The point is—and this is the concern that is always there—that the law-abiding people will fill out the forms and the non-law-abiding people will not. So there are clever ways of looking at those vulnerabilities. The idea of changing a SIM card four times a day—I can barely do it once in my lifetime! What can you do with that? Clearly, there need to be technological solutions to those areas. In terms of looking at those points of vulnerability, some of them are very obvious. But, if it depends on people filling out forms and giving a name other than Donald Duck, then it is probably destined to not produce anything very useful.

Mr KERR—You said that the evaluation of the effectiveness of interventions by police is relatively rare. There is literature about the economics of organised crime, most of which suggests that the market for illicit opportunities creates the crime. In terms of academic analysis of interventions in that environment, are you suggesting that we should recommend some more work be done in this area? If so, what sort of work should be done? It was a tantalising point, but I do not know where it takes us.

Prof. Mitchell—What was it?

Mr KERR—Your point was that evaluation of the economic effectiveness of intervention by police was relatively rare.

Prof. Mitchell—The point is that there may be other things to look at. If you intervene in a crime, stop a criminal and incarcerate them, you stop that person from committing another crime. Clearly it has that immediate effect. You need to look at the impact of, for example, displacement problems after police intervention, look at likely scenarios in terms of how modus operandi might be adapted after a successful police operation and look more broadly at the outcomes.

Mr KERR—Some people say it weeds out the least efficient criminals and privileges the more efficient.

Prof. Mitchell—Yes, I think that is right. One of the things that are said about terrorism in Northern Ireland is that some of the terrorist incidents that they were able to prevent were a combination of stupidity on the part of the terrorists and good policing on the part of the police.

Mr KERR—The response to that, of course, is the submission we had from the Corruption and Crime Commission of Western Australia, which says, ‘We don’t want to go for weeding out the least efficient and privileging the more efficient; we want to have more targeted law enforcement going after the Mr Bigs.’ That is a perfectly understandable response and one which I am sympathetic to intellectually. Is it possible to do this work rigorously? Is it possible to have analysis of the impact of policing, upon which public policy can be made, undertaken in this way?

Our committee has been struggling with this. Measures of performance are often the number of arrests and the like. You can always increase the number of arrests. If your budget is being determined on the number of arrests, you can always go out and find the small fish, the more vulnerable and pull them in. I have always accepted that we should never use the number of arrests as a benchmark.

You have raised this point about economics. What options are there for us to suggest, supported by academic work, that give us better measuring tools for effective evaluation of resource allocation, judgements about what we should be doing in the law enforcement area and getting better public policy outcomes?

Prof. Mitchell—Certainly analysis of the specific crime; intervention by the police; intervention of how they did it; any further intelligence that can be obtained from that crime; a very detailed analysis of what actually took place; and, as I said, predicting or looking at likely

outcomes as a consequence of that police intervention having taken place. There is work that has been done in the States which I can refer you to. A review of this was carried out by Michael Levi, and I can refer you to that.

We need to look at what resources the police need—what they say they would have needed to make that operation more efficient—not just more people, not just more money; what specific training and preparation they would have needed to have made that operation more efficient and, having done that operation, what they can do now to target other potential crimes in the future. These are not specific responses. We can look at certain examples and draw from the research that exists.

What you clearly want to do is go beyond simply measuring your arrests and measuring the amount of drugs that have been off the street. There are different sociopsychological methods that can be applied to this area, which have not typically been applied, to look at modus operandi both by the criminals themselves and by the police and looking to see if there are policy, procedure and legislative constraints that they are operating under that could be changed. I think that research does have a large role to play in influencing public policy and the development of policy. Very often it is not taken into consideration, because there are usually other imperatives in place to implement policy quickly.

Mr KERR—If I can go to the area of defence—and Mark Bishop would probably be more sharply up to date with this subject, given his previous shadow portfolio—there is the Australian Strategic—

Senator MARK BISHOP—ASPI, the Australian Strategic Policy Institute.

Mr KERR—Yes, and a number of other research bodies which look at, for example, the wisdom or otherwise of acquiring particular capacity in the armed forces. Then we have the white paper scenario, where the government, with Defence input, sets out over-the-horizon strategic considerations. I think the Australian Crime Commission is going to put out a public document about some of these things. The starting point of it could be a white paper for law enforcement. But we do not have anything like a publicly funded or similar organisation that enhances public discussion about some of the options in law enforcement. You say there is lots of research, but frankly in my decade—

Prof. Mitchell—A lot of it is from overseas in this particular area of organised crime.

Mr KERR—I have done this for nearly 20 years, previously in the National Crime Authority, and as minister.

Prof. Mitchell—And you have not come across much.

Mr KERR—I am now with the Australian Crime Commission and I have not come across it. I was just wondering whether you have a suggestion for us to establish something.

Prof. Mitchell—Yes, here in Perth. That would be a good place for it.

Mr KERR—It is the usual academic, ‘Give us buckets of money and we’ll fix it.’ I am not trying to be cheap and nasty. I am actually saying that we do not have the equivalent intellectual infrastructure that we apply to law enforcement that we apply to defence. Each is a really important element. One we do by sort of seat-of-the-pants, back-of-the-envelope intuitive judgments and the other we try to do with some kind of rigour—looking at threats, opportunities, weaknesses—with a lot of public discourse. One we do on talkback radio, with people saying, ‘You’ve got to crack down on this,’ or, ‘Longer prison sentences.’ The other we do with quite serious, hard-headed analysis, realising that these are big investments. In law enforcement we are now making huge investments but, again, without the datasets that enable us to know whether we are driving the problem towards a solution or making it worse—

Prof. Mitchell—There are some attempts to do that. The Australian Police Professional Standards Council has, over the last month, set up a website to attempt to bring together the research that has taken place in all different aspects of policing practice. It is absolutely in its infancy. The Australian Research Council, over the last three or four years, has attempted to encourage research in crime and in security but these are very long-range projects. Not all of them have a policy focus, which I think is what you are suggesting. The practical outcomes of some of the Australian Research Council pieces of research sometimes do not come to light in the way that we would want them to.

Over in Manly, the Australian Institute of Police Management is, again, making some attempts at drawing together some of its research strands, but frustratingly—and I think you have put your finger on it—it is all very much in its infancy. There are some very capable people working in policy institutes and universities. If we had the opportunity to get together and lift the game in terms of facing these challenging issues, I think we would be in a much better position.

I have recounted to you the three different areas that I am aware of that are attempting to pull things together, but not at the level that we would need to be able to inform government or to influence policy in the way that I certainly feel that we would be capable of doing. I hope that does not sound like, ‘Give more money; build a building and then I’ll be the director of it.’

Mr KERR—But if you wanted to do that, that would be okay.

Prof. Mitchell—Yes, that would be fine. I will give you my CV. But I think there is an opportunity. It is a matter of some frustration that policing research is scattered to such a degree. So in this area, as I said at the outset, I think we can look at some of the research that has taken place. I bow to your superior knowledge of this. From the financial investigation point of view, there is some really excellent work going into this problem, looking at modus operandi. There is clearly concern about the sharing of databases which we would be able to interrogate better to look at policy implications.

There is also a great need for a more social research approach to looking at some of these problems. The research tends to be very quantitative based and I think we need to take more of a social research approach: looking at cultures of morality, for instance, looking at why vulnerabilities exist within society, why it is that there are certain groups in Australia that are, as I would see it, so un-Australian—said in my accent! But why is it? Why do these vulnerabilities exist? What are the training implications for police? What are the training implications in terms of working together with different jurisdictions? We have covered some of the research issues.

What specialised knowledge is needed to move these things forward? There are a range of issues there.

Senator MARK BISHOP—Professor, I may have misunderstood your response to Mr Kerr before. You were talking about some sort of application system or registration system for SIM cards. I thought you were dismissive in saying that such a system was not useful or would not be useful. Did I hear you correctly?

Prof. Mitchell—What I suggested is that the ability of these systems to be preventative quite often depends on the goodwill and honesty of the person who is providing the information. That is a foundation of these sorts of crime preventative systems. That is what I said.

Senator MARK BISHOP—I was thinking it through in the context of CrimTrac, and a reduction in the incidence of shadowy bank accounts and laundering of money had occurred because of the 100-point registration system. A similar system might have a similar effect if established properly and rigorously used, as CrimTrac is, in terms of the outcomes sought by police. Do you share that view?

Prof. Mitchell—Yes, I do, but I hold some concerns that other ways of getting around these systems would be found. These are creative people.

Senator MARK BISHOP—I understand. We heard some concerning evidence before from both the CCC and the police about their inability to carry out their charters, particularly in terms of serious and organised crime. The CCC said simply that their legislative purpose was one thing. The direct powers granted in the act did not allow them to give effect to that purpose; hence there had been no serious work done in the area of serious and organised crime. They said that, in their \$26 million, only something like \$100,000 had been allocated to serious and organised crime in this state. I have two questions: is serious and organised crime under control in this state or is it on the rise, as has been anecdotally suggested; and, in terms of the legislative direction from the parliament to an organisation like the CCC, do you share their view? Would you comment for the committee on the reasons for their apparent ineffectiveness in this area?

Prof. Mitchell—In terms of organised crime in this state, I do not have the statistics. I have just been talking about statistics but I do not have them to hand. Certainly there is concern in this state, in terms of our indices for fear of crime. There is a fear and a concern about organised crime, about motorcycle gangs and, in turn, in terms of fear of crime indices in this state there is a real concern about it across the views of the community. We need to manage the fear of crime as well as the actual instance of crime. That is what I would say about that.

In terms of what sounded like the inability of the CCC to carry out its role, we need to look at what is hampering that. Mr Silverstone did suggest some issues there. An issue that does sometimes arise is: 'Okay, go and do that job, but the procedures and the resources just simply are not provided to be able to do it'—something that is only discovered about six months in. It sounds as though there were some real difficulties with that.

Senator MARK BISHOP—The reason I asked you this question is that the centre that you head up has formed industry partnerships with the Western Australia Police, the Department of Justice, the Corruption and Crime Commission of Western Australia, a range of peak bodies in

this state, and also some interstate and so I conclude that you would have some knowledge of the operational effectiveness, or lack of effectiveness, of a couple of those agencies, particularly as your charter is to teach and do the service excellence in those areas.

Prof. Mitchell—Okay.

Senator MARK BISHOP—That is why I am prodding you here.

Prof. Mitchell—I have to admit to you that what Mr Silverstone was saying in terms of the imbalance in what they were doing was actually news to me this morning.

Senator MARK BISHOP—It has not been raised with you in a professional capacity or in a university capacity?

Prof. Mitchell—There has been no reason to do that at this point.

Senator MARK BISHOP—You had not come across that particular fact situation prior to that in your professional capacity?

Prof. Mitchell—I had not, no.

Senator MARK BISHOP—Did it surprise you?

Prof. Mitchell—The dollar amount that is devoted to organised crime seems very low. It surprised me.

Senator MARK BISHOP—With regard to the apparent shortcomings in terms of legislative response empowering the appropriate agencies to carry out their charter effectively, in your professional capacity do you think that would have any contributory effect to either the growth or the scale of organised and serious crime?

Prof. Mitchell—I would like to look at that issue. If there are elements that are important to the investigation and anticipation of organised crime that are not being wholly looked at, or looked at in insufficient depth because they are falling between the cracks in not completely complementary pieces of legislation or they are falling between the cracks of different policies and procedures of different organisations, then that would be a very serious and significant issue to look at. Looking at the capability within this state for the different responses in terms of investigation and anticipation of organised crime would be useful. Whose responsibility it is to do what particular aspect of investigating and anticipating and dealing with the consequences of organised crime would be a useful thing to look at.

Senator MARK BISHOP—If the relevant agency that is in charge of doing something about the level or incidence or spread or growth of organised and serious crime in this state has a huge budget and large numbers of staff and allocates what appears to be a relatively minor sum to carrying out one of its two core tasks, wouldn't that necessarily have an effect on the spread of organised and serious crime?

Prof. Mitchell—It would depend on the specific role of that agency. Clarification of that question would be: if in fact they had not been able to carry out that role, what has been the effect of that role? That is what your question is. That requires a more specific look at what their specific role is in that regard and what the potential outcome has been. Whether it has necessarily contributed to the spread or increase of organised crime is a matter for empirical analysis really, more than speculation, I think, at this point.

Senator MARK BISHOP—Apart from the Corruption and Crime Commission and policing work, some of which was outlined by the police department and which you would know of fairly intimately, are there any other agencies charged in this state with overseeing the work of serious and organised crime?

Prof. Mitchell—I do not know the answer to that question.

Senator MARK BISHOP—You don't know? Why don't you know the answer to that?

Prof. Mitchell—I do not know the answer to that question.

Senator MARK BISHOP—It is surprising. You come as some expert in this area. You deliver teaching and service excellence and you have industry partnerships with a range of organisations and you cannot answer that question.

CHAIR—I am not sure that that is a question.

Senator MARK BISHOP—It is a comment on the veracity of the evidence.

Prof. Mitchell—It is a comment on what, sir?

Senator MARK BISHOP—On the veracity of the evidence.

Prof. Mitchell—When I set out, what I said that I was doing was looking at the existing research which I found, and I made some suggestions in terms of how we might be able to use that existing research and combine it with the information that may be available from agencies such as Western Australia Police to look at modus operandi, to look at ways of anticipating what might be coming out of the chute in terms of organised crime. I was concentrating primarily on some methodology, some suggestions, some new ways of looking at organised crime, anticipating organised crime in this state. But I was primarily basing what I was saying on the research, and I said at the beginning that a lot of that was from the United Kingdom. I also covered the lag, I guess, across Australia in being able to pull together the research resources, the capability, and how that might inform the development of policy. I think that there is a real need in that area to be more energetic in pulling together the resources that exist within Australia.

In terms of your specific question, my areas in particular through the Sellenger Centre look at the methods of investigation, the methods that intelligence officers use, and we are looking at the methods of conducting appropriate investigative interviewing. We look at private investigation organisations and we do some work with Western Australia Police in that regard.

CHAIR—Very well done, too. You have not particularly researched or mentioned this in your analysis, Professor, but one of the submissions that we got from either the police or the crime commission suggested that the proceeds of crime legislation in the UK is such that the agency gets a share of the proceeds. Have you done any research or thought about that? Is that a good idea—that the more successful you are the more money you get and, I guess, the more successful you will be in the future? Have you considered that? Is it appropriate for me to ask you that question?

Prof. Mitchell—I have considered trying to get some of the proceeds of crime. There are very limited ways in which the proceeds of crime budget can be used.

CHAIR—In the UK?

Prof. Mitchell—Here.

CHAIR—We do not give it to the agencies here, do we?

Prof. Mitchell—No.

CHAIR—It just goes into consolidated revenue.

Prof. Mitchell—Yes.

Mr WOOD—I think that, under the community partnership programs, money does go back to organisations.

Prof. Mitchell—But not to Western Australia Police. It does not go to the police.

Mr WOOD—No, but I am talking about the Commonwealth powers.

CHAIR—I am not sure if it mentioned an amount, but I understand that in the UK a certain percentage of what was recovered goes to the agency. Is that in your area of expertise?

Prof. Mitchell—I think that would probably be a good idea. In the States some years ago, in the very small jurisdictions, the same thing occurred. In that, some conflicts of interest may emerge as a consequence of there being sort of a direct benefit. Overall, philosophically I think the confiscation of proceeds of crime is a very good approach.

CHAIR—Professor, I am using your expertise to go through a couple of things that have been mentioned. I think you would have heard the previous witnesses give evidence of the dearth of analysts and the difficulty in keeping them once they get them—people that would work with the Western Australia Police or the Federal Police analysing information that comes in. There was evidence given that it was very difficult (a) to get them and then (b) to keep them. Again this may be outside your area of expertise—and if it is please tell me—but do you train enough people in that area? Would that be in your discipline?

Prof. Mitchell—Just this semester, beginning in February, we started a new graduate certificate in that area. It has four units. One unit is on investigations, which is called

investigations management; one is on intelligence practices; one is on communication issues—that is, written and oral communication, which is often an assumed skill and sometimes is not as good as it could be; and the fourth unit can be either law of evidence or looking at the legal context of financial investigation. That is something that I designed and we have just started this semester. We are halfway through.

We have had discussions with Western Australia Police about consolidating the skills that already exist within the practitioners within Western Australia Police and being able to provide some form of additional qualification for them. It is an area that I would like to expand more. This certificate can be done to diploma and then to a master's. I think once we get into the master's level, we are going to see some very interesting work taking place—very practice based work, very policy based work—on solutions to the vexatious problems in policing.

CHAIR—One of this committee's terms of reference, as you know, is looking at future trends and how the agencies should be regrouping to meet those future trends, but it seems from the evidence we have been given—and we heard this in the amphetamines inquiry as well—that, with full employment in Australia and everyone else offering something with money, there is a real scarcity of qualified people to do the intelligence work.

Prof. Mitchell—Yes. If you look in the newspaper, every weekend there are advertisements for investigators and for intelligence specialists. It has astoundingly increased. In terms of employment in Western Australia, we talk about the resources boom and that is where everybody has gone. That is not the group that we are talking about here. We are talking about highly specialised, highly experienced officers who are already working within the police. It is a real problem in terms of competing with salaries.

CHAIR—Can I take some comfort in the fact that, looking to the future, your university at least—and perhaps others—is focusing upon churning out greater numbers of people that might be available to agencies like the Western Australia Police?

Prof. Mitchell—Yes. For example, in the current Graduate Certificate in Investigation and Intelligence, which is what it is called, we have five graduates from the Bachelor of Criminology and Justice. These are young women who are very interested in getting into an intelligence or investigation support role within the police. If there were more opportunities for civilian staff within police to support investigative roles and support intelligence functions—there are some civilian people working in intelligence at the moment—then I wonder if that might help to alleviate some of the problems.

That is to do with the issues of the office of constable and to do with legislative requirements, but in response to what you have said, yes, we are fully committed to developing highly educated practitioners who will be able to carry out investigation and intelligence roles. The investigators that we produce will probably at this point go into all the different agencies that carry out investigations just now, and they will be going into private companies as well. We have not talked about the role of private investigation, but it is a very big area.

CHAIR—Do you know if other universities are doing what you are doing?

Prof. Mitchell—Our competitor is Charles Sturt University in New South Wales. They have a range of short-term and certificate qualifications in this area. I think Griffith University in Queensland is also looking in that area. We are able to offer distance education, and so we are hoping to be able to offer this across Australia and New Zealand. If people are located in outposts, they will be able to avail themselves of a university education. They will need to come into town to do exercises like the moot court and they will need to come into town to do some evaluation of their cognitive interviewing and conversation management methodologies. We have two police officers from one remote area in Western Australia who are going to be commencing that certificate next semester.

CHAIR—Is there interest in it?

Prof. Mitchell—I was talking to the police commissioner about this just a couple of days ago, and he was saying that we need to make more of the fact that it is flexibly offered and can be taken in flexible mode. I think once we manage to do our marketing and explain the product properly to agencies across Australia, there will be take-up. It is a very interesting area, because in relation to the considerable experience that the investigators and the intelligence analysts have within the organisation—specifically the investigators—how do you take that and allow the person to reflect on their practices, to improve them, given the fact that they have years and years of very good experience in this area? Sometimes the value or the need for an academic qualification and all that that brings is not immediately obvious to highly experienced practitioners.

I believe in it. I think that it is a very good thing for people to be able to do, not just because I work at a university but because, with the many students that I have had over the years, I have seen their ability to reflect, their ability to use other material and their ability to broaden their minds and their approach to their work that occurs as a consequence of the challenges that they are faced with at the level of university study.

Prior to coming to Western Australia a year and a half ago, I worked at Charles Sturt University at the Australian Graduate School of Police Management, which is next door to the Australian Institute of Police Management at Manly, so I have had many years of experience in working with police officers at every level, in educating them and in encouraging them to use the experience that they have had in different ways. I think we do have a role in assisting to create good investigators.

CHAIR—Thank you very much, Professor, for coming along, for your submission and for answering our questions. We very much appreciate it.

Committee adjourned at 12.40 pm