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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**

Thursday, 7 June 2007

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

Members in attendance: Senators Bartlett, Ian Macdonald and Parry 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 9.04 am

BARNETT, Detective Chief Superintendent Ross, Detective Chief Superintendent, Queensland Police Service

FLEMING, Detective Inspector Peter John, Detective Inspector, Queensland Police Service

GOLLSCHEWSKI, Detective Superintendent Stephan William, Detective Superintendent, State Intelligence Group, State Crime Operations Command, Queensland Police Service

HAY, Mr Brian James, Acting Detective Superintendent, Fraud and Corporate Crime Group, State Crime Operations Command, Queensland Police Service

CHAIR (Senator Ian Macdonald)—I officially declare open this hearing of the Parliamentary Joint Committee on the Australian Crime Commission inquiring into the future impact of serious and organised crime on Australian society. I particularly welcome the officers from the Queensland Police Service. We look forward to hearing your evidence. Thank you very much for coming along. I have some formalities to go through for the record. The terms of reference direct the committee to examine future trends in activities, practices and methods of organised crime; its impact on society; strategies to address it and the economic costs and adequacy of legislative and administrative arrangements, including cross-jurisdictional databases.

The committee prefers all evidence to be given in public. However, it will consider a request to give all or part of the evidence in camera. In camera evidence, however, may subsequently be made public by order of the Senate or this committee. Evidence given to the committee is protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of their evidence. Any such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to the committee.

Welcome. We would appreciate a short opening statement, if you have one, otherwise, we will launch into questions. That is much easier than the court although our committee includes a senior counsel, two former police officers and a former small-town country solicitor. Senator Bartlett is a genuine person not from the legal profession one way or the other.

Det. Chief Supt Barnett—Thank you. As indicated in our formal submission to this committee, the Queensland Police Service is cognisant of a range of emerging issues and trends which have the potential to aggravate the impacts of organised crime on the Queensland and broader Australian communities. These issues include, but are not limited to, the impact of inexorable population increase which underpins Queensland's increasing attractiveness as an expanding market opportunity for criminal activity, particularly drug trafficking.

Political instability in the South Pacific region presents opportunities for organised crime groups to base offshore operations focused on the large-scale production and/or transshipment of illegal drugs and precursor chemicals. Australia generally and Queensland specifically, due to its geographic proximity, loom as likely markets for both, based on the expanding demand for amphetamine type substances.

The use by organised crime groups of increasingly sophisticated communications and internet technology is making it significantly more difficult for law enforcement to identify, track and gather admissible evidence against offenders involved in national and international activity, including drugs, fraud, terrorism and diverse sexual predation. Storage of and access to data across a range of commercial enterprises presents another emerging threat to effective law enforcement. The impact of mergers and privatisation across telecommunications, the energy industry and banking institutions combined with interstate and/or offshore file storage make prompt access to essential records increasingly problematic.

As mentioned previously, the expanding demand for amphetamine type substances represents an opportunity for organised crime to gain high profit relative to cost of production. The combined impact of rescheduling of over the counter pseudoephedrine products and partnerships with pharmacy groups has reduced the ready availability of precursor chemicals. The QPS is concerned that organised crime groups will resort to other means of acquiring the necessary ingredients in bulk quantities through both local and overseas sources.

Identity theft and associated internet and credit card fraud continues to grow as an area of concern for the QPS. High take-up rates of home internet usage make the Queensland and Australian communities vulnerable to victimisation from groups who are often overseas based, making identification, enforcement, asset forfeiture and compensation action highly problematic. For the same reasons, computer facilitated crimes against children, in the forms of commercial websites selling child pornography, paedophile groups trading images and predators grooming children for future contact offences represent a grave and escalating risk to Queensland children.

The steady escalation in outlaw motorcycle gang chapters and membership, particularly in south-east Queensland, combined with OMCG participation in diverse criminal activities including drug trafficking, extortion, arson, serious assault and firearms offences, is a significant threat to the safety of the Queensland community.

In terms of strategies and partnerships to counter these threats, the Queensland Police Service has established and maintained a close collaborative working relationship, in both the intelligence and investigative areas, with other agencies including the Australian Crime Commission since its inception in January 2003. The ACC has shown leadership in developing the national threat assessment model which underpins the methodology utilised to develop the National Criminal Threat Assessment. The QPS has adopted this model in developing its own threat assessment model, improving this jurisdiction's ability to more effectively assess the level of threat posed by specific crime groups to the Queensland community.

The effort to collect and further develop intelligence with respect to significant crime issues and criminal networks from the national perspective is strongly supported by the QPS. Both the National Criminal Threat Assessment and the *Picture of criminality in Australia* undertaken by the ACC assist to develop a better national understanding of the significant crime issues as well as improving the ability to undertake coordinated law enforcement action against identified high-threat crime networks possessing transnational and cross-jurisdictional capabilities.

The ACC sponsors the National Criminal Intelligence and Operations Forum as an effective coordination tool for law enforcement at the national level. This is being undertaken in conjunction with the initiative to establish consistent coordination arrangements within each

state jurisdiction and is supported by the QPS as being fundamental to an effective law enforcement response to organised crime.

It should be acknowledged that the ACC maintains an ongoing commitment to the various desks that provide valuable intelligence and assistance to the jurisdictions on issues such as fraud and drugs and the continuing enhancement of the Australian Criminal Intelligence Database, or ACID as it is more commonly known. The QPS also strongly supports the national intelligence task forces presently being coordinated by the ACC: specifically, the national Indigenous intelligence task force and the OMCG national intelligence task force.

These along with the other determinations—including amphetamines and other synthetic drugs, high-risk crime groups and crime in the transport sector—administered by the ACC present unique opportunities for nationally coordinated law enforcement focus that significantly enhances the effectiveness of jurisdictional agencies such as the QPS in areas of crime that present significant threat to the community.

In terms of special powers, the QPS has benefited significantly from the ACC's operations in the areas of special investigations and special intelligence operations through the provision of operational assistance, intelligence product and access to special powers. In particular, the ability of the ACC to provide access to telephone intercepts for investigations undertaken in partnership with the QPS has been critical to the success of a number of these significant investigations.

The QPS, in not having telephone interception powers, is unique as a policing jurisdiction within Australia. Consequently, partnerships with policing agencies that can facilitate access to telecommunications intercept, TI, powers are often critical to QPS investigations targeting significant criminal entities and networks. Every major investigation conducted between the ACC and the QPS has utilised telephone interception as a key investigative strategy and this support will continue to be critical to the QPS investigations targeting serious and organised crime.

In conclusion, can I say that the QPS views the ACC's role as integral to the national law enforcement capability with respect to combating major and organised crime and is committed to an ongoing, effective partnership with the ACC. The QPS considers the ACC legislation is at this time appropriate to its role in the national law enforcement community.

CHAIR—Thanks very much, Superintendent. I know my colleagues have a lot of questions, but could I start by referring to a couple of matters you mentioned. The changing demographics of Australia—one might say in Queensland's favour—is going to put more pressure on the Queensland Police Service, is it? In what way would that be, looking five years down the track?

Det. Chief Supt Barnett—In the last five years the population increase in Queensland has been a touch under half a million. That inevitably puts significant pressure on a range of government services, including law enforcement. As a result of improved targeting strategies that the QPS has implemented, in that period we have seen a significant reduction in volume crime. For example, five years ago we had close on 80,000 break and enters a year in Queensland; last year it was about 50,000. Five years ago there were 22,000 motor vehicles stolen every year in Queensland; last year it was about 10,000.

In the areas of volume crime, despite that quite significant increase in population, through better targeting we have made real inroads into volume crime areas. With respect to serious and organised crime, if I can use the example of drug trafficking, five years ago our rate of detection and prosecution of drug traffickers was at the rate of about three per 100,000 population; last year it more than doubled to over seven. I think that demonstrates that the targeting strategies that we are using, which Superintendent Gollschewski can talk further about, are having an impact both at the volume crime level and also at the organised crime level.

The increase in population is certainly a concern for us, but it is about how we do our business. If we continue to develop our intelligence capabilities and continue to target the resources that we have more effectively, as we have been doing over the last five years, we think we can meet the challenges that are coming.

CHAIR—You divert my line of questioning by mentioning break and enters. Having been burgled twice in the last two months in my little house up in Ayr and having had very good service from the Queensland Police Service there—

Mr WOOD—They caught someone?

CHAIR—Yes; hence my question. I go by my personal involvement, but a lot of crime seems to be done by juveniles, and you have very strict rules when dealing with them. It appears as well that a lot of juvenile crime is controlled by organised crime groups in relation to getting rid of the stolen loot. Is that a new phenomenon and something you think might increase in the future, with young people, who are dealt with differently by the courts, doing the actual work but someone organising them behind the scenes and getting rid of the stuff?

Det. Chief Supt Barnett—I will answer that on two levels. Generally it is the case that, in relation to juveniles who become involved in crime, there are a range of processes in place to divert them away from the mainstream criminal justice system. By and large, that is successful. Cautioning or community conferencing or other non-arrest strategies are successful in the vast majority of cases, and children generally will not reoffend if given those opportunities.

But there is obviously a recidivist group—a core group. It is the old 80-20 rule generally, in that 20 per cent of the offenders will be responsible for 80 per cent of the offences. We are seeing some issues emerging interstate, and to a lesser extent here, where some organised crime groups are looking to youth gangs as a recruitment ground for them—future membership and activity—but it is not a significant issue for us at this stage.

CHAIR—You mentioned concerns with the Pacific region, Queensland being the closest. Does your intelligence show an increase or a decrease in material coming through the Torres Strait, which is of course part of Queensland but very close to PNG and, from PNG, very close to Asia and the Pacific? Is that something that in the future will attract more of your attention, or do you have strategies in place to try to stop illicit drugs and firearms, for example, coming through the Torres Strait into Australia?

Det. Chief Supt Barnett—Anecdotally, it has always been suggested that the Torres Strait region is a highway for the importation of narcotics and firearms from New Guinea and other close neighbours. That certainly is not borne out by the arrests and seizures that have been made,

but the area is obviously very well patrolled by federal government assets. We have increased the police presence on Thursday Island—we have a criminal investigation branch there—but the anecdotal information about it being used is not supported by the facts.

CHAIR—Thanks very much.

Mr KERR—One of the issues that is always on the table is the availability of interception within the Queensland Police Service. I understand the key to solving that would be an arrangement whereby the Commonwealth would permit the involvement of the public interest monitor. Is that correct?

Det. Chief Supt Barnett—I know from press reports that the Commonwealth and the state are engaged in ongoing negotiations to try to resolve the issue and that there is a commonly expressed view that they would like to see the matter resolved and for Queensland to join the rest of Australia in having these powers.

Mr KERR—Of course, you would, too?

Det. Chief Supt Barnett—Absolutely.

Mr KERR—Just so that we understand, at the moment there are discussions proceeding on that subject, as you understand it? From the point of view of any recommendations we make, what would you wish us to recommend in relation to that issue?

Det. Chief Supt Barnett—I am fortunate in that I have had two extended periods of secondment, one at the National Crime Authority and one at the Australian Crime Commission. I have been fortunate to see the benefits that telephone interception can bring to the investigation of major and organised crime, and there is no doubt that the work of the QPS in the area of serious and organised crime would be significantly enhanced with the addition of telephone interception powers.

Mr WOOD—Are you saying that the Queensland Police Service do not have any telephone interception powers at all unless they are doing a joint investigation?

Det. Chief Supt Barnett—That is correct. We are the only state without them, yes.

Mr WOOD—That is ridiculous! I am formerly from Victoria Police. Do you have a Queensland drug squad?

Det. Chief Supt Barnett—Yes.

Mr WOOD—If you had major figures, are you saying you could not use the Commonwealth legislation to intercept their telephones?

Det. Chief Supt Barnett—The only way that we get access to telephone interception is in joint investigations with other states which have the power or with Commonwealth agencies such as the AFP or the ACC. We have no telephone capability in our own right.

CHAIR—Perhaps this is a sensitive question that you would prefer not to answer, but why everywhere else but not in Queensland?

Det. Chief Supt Barnett—I cannot answer that.

Senator PARRY—Has this been followed up through the police association in Queensland? Has a representation been made to government?

Det. Chief Supt Barnett—Representation has been made to government by police associations on a number of occasions and by the Crime and Misconduct Commission, who will be appearing here today. They publicly lobbied the government and demonstrated the advantages. The QPS itself has also made a number of submissions.

Senator PARRY—I presume this is a longstanding issue. Has government of any persuasion on any day indicated a reason why not to proceed down the path of granting interception powers?

Det. Chief Supt Barnett—Historically, legislation was introduced in the Queensland parliament in the mid-nineties. My recollection is that it was lost on the casting vote of an independent member, and it has not been raised since.

Mr KERR—I understand that it could be feasible. The roadblock to this would go if there was a capacity in the Commonwealth to integrate the public interest monitor in the granting of interception warrants in Queensland. I think that is where it stands. Is that correct?

Det. Chief Supt Barnett—Yes, that is the point at issue between the two governments.

Mr WOOD—I know in Victoria the state government were putting up a proposition that their office of public integrity, which investigates police, have access to their own means of telephone interception. The Commonwealth government said, 'No, it's only through the normal process using the Commonwealth legislation and not having a separate body.' Maybe that is the situation up here. I am not sure whether they are going to have a separate body, maybe through a corruption commission, having their own powers or their own telephone intercepts. Is that what they are talking about? I can understand that because why should a police investigative body have their own exclusive unit?

Det. Chief Supt Barnett—No. My understanding is that the state government is committed to introducing enabling legislation for telephone interception for the Queensland Police Service as well as the CMC, but it is a procedural issue around the involvement of the public interest monitor in the process.

Mr KERR—In terms of our consideration, we will have to consider how to make recommendations. My own instincts are that we ought to be flexible enough at a national level to accommodate a state that wishes to have a public interest monitor arrangement for its own jurisdiction, because leaving you out of the system seems unwise. Long term it is not sustainable.

Det. Chief Supt Barnett—No.

Mr KERR—I would like to move onto another issue. One of the great successes that has been associated with amphetamines has been the program of removing easy access to precursor chemicals in pharmacies. I do not want to use a term that gives approval to it, but I suppose the troubling concern is that as you remove the ‘mum and dad’ operators—the little cook-up shops that used to operate—you privilege those who are more sophisticated, more competent and in the end more dangerous. You remove a cottage industry and substitute a much more dangerous group of people who are prepared to take larger risks, to be more dangerous, to be more competent at dealing with policing, because you cannot survive if you are not competent at dealing with police.

The profit opportunities are so great that it is an attractive market for the larger and more sophisticated criminal elements. Is that a concern of yours? You mentioned something of the kind that gave me some concern that that may be on the horizon as far as your expectations for the future.

Det. Chief Supt Barnett—I think it is fair to say that, of the sophisticated amphetamine production operations that we have dismantled, a lot of them have had their base pseudo running activity, as it is called, where they have employed people to go up and down the eastern seaboard of Australia, pseudo shopping at chemist shops to acquire thousands upon thousands of pills. That is the basis of their operation.

The only ones who can do anything different are those who have access to bulk product through chemical diversion, through corrupt associations with chemical companies or the ability to import from external countries. If you do not have either of those two, you have to rely on buying legitimately available product over the market. What Project STOP has done is to significantly reduce the ability of people in this state to do pseudo running activity as the underpinning element of drug production.

Mr KERR—But on the streets have you noticed a drop-off in availability, because the concern that somebody like myself would have coming at this is that you get these unintended consequences. You knock out the pseudo runners—the people who basically collect it up at chemist shops and cook it up themselves—and immediately a new market opportunity presents itself to more sophisticated, integrated groups, people who can access materials from international sources. They are inevitably at the higher end of organised crime because they need to have those connections.

They then become a much tougher target. Then as you move up from the mums and dads who do this sort of stuff to groups that are prepared to use violence, corruption and international trafficking, you are actually taking out not good guys—I am not suggesting they are good guys—but crooked amateurs and preparing a market opportunity for highly sophisticated professionals who are probably a greater threat to the community. It is like a ‘chasing your tail’ problem in this area.

Det. Chief Supt Barnett—I understand the point you are making. Prior to Project STOP, we had a steadily escalating trend in this state for the last five or so years of every year more and more amphetamine laboratories being discovered and dismantled. That is now trending down the other way. I think last year it would have been something like a 22 per cent reduction in the number of labs that we found. So that is a very significant benefit for this state.

The criminal groups that you are referring to, if they already have the ability to source bulk product, either domestically or internationally, they are going to do that regardless, because that is the most efficient and best way to do business. Rather than sending people pseudo running—which is a laborious and time-consuming enterprise—if you can access bulk product internationally or through a corrupt association, you are going to do that anyway. So I do not really think we have added anything to the market. We may have removed some people at the lower level. But the higher end people who have that capacity, and who always had it, will continue to operate it.

Mr KERR—You do not think at the moment that there is a market displacement phenomenon happening?

Det. Chief Supt Barnett—I would say that probably the only market displacement is that people might be pseudo running still in some of the other states until Project STOP is rolled out nationally. When it is rolled out nationally, we will have totally consistent practice.

Mr KERR—It will be very interesting to see what happens there.

Det. Chief Supt Barnett—Yes.

Det. Supt Gollschewski—I am the detective superintendent from the state intelligence group. The point I was going to make, as Ross just touched on, is that we should not look at the amphetamine market in Queensland in isolation. The market is in fact a national market. Both the precursors and drugs can be sourced from anywhere in Australia, then transshipping across the borders means nothing. So examining what strategy is being applied in Queensland will not give a true picture until we can see it applied consistently nationally.

Mr KERR—Yes. It is being rolled out later this year.

Det. Supt Gollschewski—From our point of view, we are undertaking strategic assessments at the moment to look at the impact of the crime—not just for displacement geographically but also displacement to other crime types so they can try to access the precursors, such as pseudo running, moving to break and enters of suppliers or chemists. So we are examining those issues now and looking at statistics to see what they tell us.

Mr KERR—One of the things that seemed very pleasing in your comments was your address about the reduction in car theft, because motor vehicle rebirthing has been one of the more publicised areas of sophisticated organised crime in Australia. Can you tell us a little bit more about that, because the number of car thefts seem to have reduced from 22,000 to 10,000, I think.

Det. Chief Supt Barnett—Yes.

Mr KERR—That is a remarkable shift and one you should be quite delighted about.

Det. Chief Supt Barnett—Yes, we are. Obviously there are a number of elements at play. One is the improved automobile security systems that are now in place in later model cars. They are simply harder to steal, which is obviously a good starting point for us. As I say, our targeting

approach of looking at the intelligence we have and identifying who are the key players in the vehicle rebirthing industry has also paid dividends for us. But there are some examples that Brian might be able to allude to, some practice interstate which might show us the way forward.

Mr Hay—There have been efforts by private industry to curb some of the activities of organised criminals in the area of motor vehicle rebirthing. AAMI rolled out iris-scanning technology at their Silverwater operation which is the largest store holding of write-off vehicles. They were finding that people would go in under any assumed identity, purchase a write-off—a wreck—then go out and specifically target the theft of a vehicle that would match the identity of that and clone the wreck onto the stolen vehicle. They have been very successful. They could not come in any longer and use false identities to purchase these wrecks; therefore, there was a trail of process.

Mr WOOD—Did they make them use identification? Is that how they have stopped it?

Mr Hay—Iris scanning. It was quite ironic. Some of the anecdotal stories are that some of these people turned up and said, ‘My name is John Smith.’ They scanned the iris and said, ‘You were in here last week as Fred Williams.’ ‘Well, here’s another ID’—just like a pack of cards, all these different identities. Of course they did not have any use. So they have tightened that up well and truly, but there has been a migration now interstate to buy wrecks in other locations. So that is an example of the private industry doing something and working with law enforcement.

Det. Chief Supt Barnett—The microdotting of parts around the vehicle obviously aids in the identification of parts when they are recovered, if they are put onto other vehicles. That is where the technology is aiding us in the job that we have to do.

Mr KERR—Regarding new crime opportunities, I am on another committee and on Monday I heard evidence from a witness who said they believed that there was a significant and growing effort to target people who get large amounts of money out of their super. When compulsory superannuation was brought in, there was a fear that there would be a risk of fraud in the management of these super funds. That has not happened to the degree people feared, but you are getting people who for all of their lives have had to make contributions. They are not particularly sophisticated investors. This is the biggest sum of money they will ever get in their life, and they get that sum of money in circumstances where they are exposed to a lot of people offering them really good deals.

The witness said that this was an area where fraud and organised crime was going to concentrate because there would be more and more of these people out there in a very vulnerable position as they come into this large sum of money without any real financial sophistication. I am wondering whether you have identified that as an issue for Queensland. Are you getting older people who are the subject of these kinds of frauds?

Mr Hay—Certainly it would appear that the aged members of the community are being targeted more by fraudsters because of sophistication vulnerabilities. We are also seeing that they are more vulnerable to the internet scams and internet based frauds by transnational offenders. The retired group represents one of the largest take-ups of broadband internet use and therefore are vulnerable to the internet banking fraud, the phishing, the muling processes, the Nigerian

scams and the Ghanaian scams. Yes, we have seen cases where superannuation has been cleaned out and sent to Nigeria; tragic but true.

Senator BARTLETT—Could you give us a general idea of how much of the total organised crime activity involves illicit drugs in some way? How big a part of the overall picture involves drugs?

Det. Chief Supt Barnett—There is no doubt that drugs are the central part of the organised crime market. It is the most lucrative. The supply and demand characteristics have determined that it is a highly profitable field of endeavour for them. Without a doubt illicit drugs in their various forms are the significant component of the organised crime problem in this state and nationally.

Senator BARTLETT—Would it be the majority—more than 50 per cent? Things intertwine and I know it is hard to isolate, but broadly speaking, does half your work or more involve drugs?

Det. Chief Supt Barnett—I would not presume to put a figure on it, other than to say that it is by far the most significant organised crime. Other issues that follow from it, such as extortion, are often drug related. Break and enters and volume crime are often drug related—people on a habit needing to do break and enter—so the impact of drugs is very widespread in the community.

Senator BARTLETT—I am not expecting you to answer policy questions, but how do you think we are going in countering that? It is sometimes portrayed as an unwinnable battle: as soon as you nail down one part of it, it springs up somewhere else. Are we actually making progress?

Det. Chief Supt Barnett—There is no doubt that there has been an emergence of different types of drug markets over the last five or so years. The increase in amphetamine type substances has been very significant over the last five years. It has become very much a drug of choice of young people, but you still have the traditional cannabis markets—and heroin to a lesser extent. The market dynamics change from time to time but the central issue of illicit drug use has remained with us for quite some time.

Essentially there are two elements to it: supply reduction and demand reduction. We are in the supply reduction business and we go at it as hard as we can, but the other element to it has to be demand reduction. Obviously it needs a whole-of-government approach at both the state and federal level to try to reduce the market. The central question is: why are young people going out and, to have a good time at night, they need to pop a pill? Why is there the significant demand for illicit drugs in the community? Our part of it is doing what we can to reduce the supply of that drug.

Senator BARTLETT—How is that progressing?

Det. Chief Supt Barnett—As indicated earlier, statistics can be a simplistic measure, but in terms of effectiveness, with the way we are now targeting our resources—as in the example I gave—we are into the upper echelon of drug trafficking far more significantly than we were perhaps five years ago. Steve, do you want to talk about the targeting of the intelligence process?

Det. Supt Gollschewski—We go through a threat risk assessment process looking at our organised crime networks and using intelligence to identify the attributes of these particular networks in our targeting process. Just to expand on the drug aspect to it, I would say that almost exclusively, with the exception of some of the specific fraud based crime groups that are out there—and many of them being transnational in any case—there is always an element of drug involvement by organised crime networks within Queensland that we have targeted in recent times. We spend a lot of time looking at outlaw motorcycle gangs. It frequently comes back to drugs. We spend time looking at different ethnic based groups that have emerged, and pretty well exclusively it comes back to drugs again.

As Ross alluded to, the associated crime such as extortion can come back to drug based transactions, so it underpins much of what is causing the organised crime to flourish in our society. Part of the problem, as Ross again alluded to, is the social acceptance. Younger people particularly just do not see that there is anything wrong with it. That is something that is beyond the capacity of a law enforcement agency to change in isolation. So while we are committed to assisting, that is certainly not something we can fix.

Senator BARTLETT—How adequate are the legislative and administrative arrangements both within Queensland and, where relevant, in terms of cross-jurisdictional things?

Det. Chief Supt Barnett—There has been some significant improvement in the last couple of years. We now have cross-border legislation enacted which allows our covert operatives and surveillance teams to operate in other jurisdictions and them to operate here. That has been a significant improvement. We get back to the TI issue, which would be a significant enhancement in our view in the fight against drug trafficking. But there is a constant review of the legislative arrangements that bind us and our partners. Wherever we think there is an opportunity to improve, we are not shy in putting that up to the government for consideration.

Senator BARTLETT—Are there any such ones that you would want to put to us here as well?

Mr WOOD—Do not be shy!

Det. Chief Supt Barnett—As I say, without labouring the point, telephone interception would certainly be a key one for us.

Senator BARTLETT—I think we got that message.

Mr KERR—You mentioned in your introductory statement—excuse me if my recall is not accurate—the difficulties in presenting and obtaining evidence in a different, changing environment. Can you expand on that?

Det. Chief Supt Barnett—I think the fraud environment is one that would best illustrate the point.

Mr Hay—There has been a lot of discussion on telephone intercepts, and that is fine for oral communications, but with the significant take-up of the internet and cybercrime, the FBI last year reported that cybercrime cost the US economy more than drugs did. When we talk of

organised crime, I think there are multiple platforms at which it needs to be viewed. How do you treat those platforms? They each require specific strategies.

Data interception—because there is more of a transference from oral communication to emails, SMSs, encryption and anonymisers—is becoming more difficult all the time. Many communications are now way beyond just oral communication over a telephone. So data interception is problematic for us as well because we then have to take that data then attempt, if it is encrypted, to attack that encryption process, decode it and make good with it. There are the transnational issues with cybercrime. It is evolving so rapidly. It is a whole new domain and, because of technology, it changes so quickly. It is rapid in its ability to mutate and improve, so it needs constant the upskilling of our people to be able to interpret it, deal with it and cope with it.

Mr KERR—There are two issues here. One is the practical issue of how you keep up with this stuff, and presumably that puts pressure on you, as with every other law enforcement and intelligence agency, to recruit and to retain highly skilled people. That must be a challenge and must also press you against salary barriers and a whole range of other issues. The other issue is: is there any deficiency in our evidence law? I do not take it from what you are saying that you have identified anything there, but I am trying to clarify whether there is or whether it is only the former. In Queensland you do not operate under the Commonwealth Evidence Act, do you? You have not yet adopted the national evidence code. You still have common law evidence. Is that right?

Mr Hay—We have the Queensland Criminal Code. We can apply the Crimes Act if it is warranted and if it is applicable at the time. In terms of legislation with respect to technology and transnational crime, it is in a constant state of change because, as the techniques and the offender methodologies change and they find the loopholes, it has to be adjusted. The AFP has been very good at pushing forward a lot of Crimes Act legislation. I know that we are looking at a model now in relation to identity data. Queensland has rolled out specific identity theft legislation. The AFP rolled out legislation to deal with the possession of financial data belonging to other people. So there is that constant progression, and it is required because of those influences.

In terms of retention of staff, yes, we find that we are under attack from other government agencies and the private sector. We have almost had to adopt a process of training people up with the expectation in some areas that we may lose them. In the area of fraud, we rely upon specialists in forensic accounting. We have the forensic computer examination unit, so we have technical experts in the recovery of digital data. We look to the computer crime investigation experts. We have the proceeds of crime, with the money laundering aspect. Then we have financial investigators that we lose to large private organisations and, again, to other government departments. Many other government departments are now setting up internal investigation units, and of course they have a ready-made market there of trained and skilled people. So training for us is an ongoing necessity.

Senator PARRY—Is it salary driven? Are people poached because they are offered bigger dollars? Is that the issue with skilled workers?

Mr Hay—I am sure there is a salary component in the process, yes.

Det. Supt Gollschewski—That is replicated in our intelligence area. We have a lot of intelligence specialists, and I think people make the decision, too, that they want to have a career in intelligence as opposed to a career as a police officer. That then means jumping to other agencies. The bottom line is that the other agencies offer more than we do.

Senator PARRY—And they do not come back? You are not losing them for a while to gain other experience?

Det. Supt Gollschewski—No. Once they go, we lose them.

Senator BARTLETT—There was one other area I wanted to ask about. You mentioned in your introductory remarks, in amongst a whole lot of other things, organised groups preying on children. How big an issue is that? Could you perhaps elaborate a bit more on how that manifests itself?

Det. Chief Supt Barnett—Before I took up this current position, I was the director of child safety in Queensland Police and the detective superintendent in charge of the child safety and sex crimes group. So I have had a bit of experience in this environment for the last three years. When I went to that unit, I was staggered by the amount of child pornography circulating on the internet and the incidence of international and local people using the internet to meet young children and groom them with the intention of physical seduction at some point in the future. It is quite frightening.

Senator BARTLETT—Could you give us a sense of the extent of that, particularly locally. It is something we hear about from time to time, and we see articles about it, but I do not feel that we ever get a real handle on just how widespread it is and whether there is more we need to be doing about it—whether that is law reform or other things.

Det. Chief Supt Barnett—We are fortunate in this jurisdiction that Task Force Argos is one of the best in Australia and world class in the work that it does in terms of covert internet investigations, having officers posing as young children or paedophiles to engage other paedophiles—trading child pornography images or posing as a 13-year-old child, allowing yourself to be groomed. We have had a number of successful sting operations. We have had people flying from the United States to Australia to meet us as a 13-year-old female. It is quite amazing.

Mr KERR—They would be surprised to see your ugly face at the end of it!

Det. Chief Supt Barnett—That's why there's no webcam! It is a methodology that we are able to exploit as much as they are—the anonymity of the internet. Without webcam, we can pretend to be somebody. They are pretending to be Tom Cruise at the other end. It is a medium that can suit us as well as them, but it is a target-rich environment and the amount of resources that any law enforcement agency can devote to this area of crime is going to be limited.

Mr WOOD—I am not sure if you saw one of the current affairs programs the other night where they had the agent provocateur, who was actually a 13-year-old girl, on the internet and they had the webcam on her. They were established at premises where they would invite all the serial offenders or paedophiles or whatever to come and meet her—it was all quite amazing and

I have never seen anything like it before—and as they left they arrested them. They have gone down the path—which I did have concerns about—of actually being able to see the young lady. Would you go down that path?

Det. Chief Supt Barnett—No. Obviously in open session we do not want to get into methodology too much.

Mr WOOD—No, I understand that.

Det. Chief Supt Barnett—We have strategies which we have refined over time. Probably the most important thing about this is that it is international in nature, so our response has to be very much an international focus. We are heavily networked with the other specialist child protection agencies around the world, and the amount of information that we share between countries on a daily basis is quite amazing—about people we pick up that are located in Dublin or New York or whatever, and vice versa. The other advantage of the modern telecommunications age is that we get that information immediately and then we go and try and locate and rescue those children immediately. That has been incredibly successful at both ends, and there are any number of case studies I could give you in closed session.

Mr WOOD—What else can we do, as government, with legislation? I know some of the major service providers are removing their team chat rooms et cetera. What is your advice on that? Should they be closed down? How can you stop the market, or is it just going to create itself anyway?

Det. Chief Supt Barnett—Unfortunately, every time we identify an area of public space that is being abused and good corporate citizenship of the telecommunications carrier or whatever leads to that being shut down, they just find another market. They can send pictures on mobile phones. Paedophiles are getting into MySpace and various other areas where young people congregate online to share information.

CHAIR—Are you conscious of the federal legislation that is going through the Senate at the moment about content restrictions?

Det. Chief Supt Barnett—No, I am not.

Mr KERR—I would like to ask you one other question about the ACC. There was a reference about sexual servitude, and presumably you were involved before that reference expired. There is just a watching brief now. As I understand it, the reference was not renewed. Is there any specific Queensland take on that issue? We did get evidence that there were instances of abuse, with women being trafficked into Australia.

Det. Chief Supt Barnett—We are very cognisant of that, and in this state we have a dedicated Prostitution Enforcement Task Force that sits within state crime. Every time we have any foreign sex worker—particularly Asian—detained here, we are very conscious of the sexual servitude angle. In collaboration with the ACC we did have a number of investigative hearings where these young women were specifically examined, about the circumstances under which they were recruited and the circumstances under which they operate here, to determine whether there is any element of coercion or sexual servitude going on. We found in those examinations that generally

they were happy to be here, making a lucrative living, and there were no elements of coercion. There is one case that is before the court.

Mr KERR—You are still keeping a watching brief on this, because obviously even if in the instances you have discussed that is the present practice, there is enough evidence that in other countries, if the market opportunity opens up and there is not surveillance, this can be really badly abused.

Det. Chief Supt Barnett—No doubt they are vulnerable to abuse and coercion in their home country—promises of working conditions here which will evaporate when they get here. But the Prostitution Enforcement Task Force is very cognisant of the sexual servitude element. With any South-East Asian operators in particular, we act aggressively to pursue that line.

Mr WOOD—Just to follow up: obviously it is a purpose of this committee to go back and make recommendations on a federal level or even right through the states. Is there any legislation lacking to target the paedophiles in chat rooms? Is there anything missing or anything we need to do to strengthen it?

Det. Chief Supt Barnett—If I can just say one thing about the issue of paedophilia: it attracts bipartisan political support at the state and national level. We have been fortunate in this state that all of the legislative change that Task Force Argos has proposed to the government has been accepted—and accepted with bipartisan support—in the Queensland parliament. We have been very well resourced, so we do not have any specific issues in that area.

CHAIR—I will just mention for the record that the Senate telecommunications committee has just done an inquiry into legislation that is going through. Summarising, I think it is about doing what the Commonwealth can do with Australian content but it is finding it a bit difficult to deal with content coming from overseas. There have been different views put on it, but it is a subject of legislation at the moment.

Mr WOOD—I have two series of questions. The first is this: what is your position as a police force—I am hearing different views—on having it outlawed to be connected to an outlaw motorcycle gang, similar to if you want to join up with a terrorist organisation? So if you do join up, you can be subject to some sort of strong legislation. There are two views. One is that it is not going to make any difference at all: they will find some other means. My background is that I looked at the bikies in Victoria. Secondly, you may stop the nominees, the people who are getting seduced into the world of bikies—straightaway they know it is bad, illegal and they are not allowed to go down that path. What are your thoughts? Do you think it would make any difference at all?

Det. Chief Supt Barnett—In this state there is legislation being considered by the parliament at the moment, or it will be shortly.

Mr WOOD—Yes, but it was a private member's bill? Normally private members' bills do not get up.

Det. Chief Supt Barnett—We take the view that outlaw motorcycle gangs are a significant threat to community safety and they are engaged in organised crime. Any steps that can be taken

to bring them to account for their activities are good from a community point of view, because the sorts of activities they are involved in are organised crime and also they are potentially very violently antisocial, as we have seen recently in South Australia and other places. There is capacity for innocent members of the community to be seriously hurt. They are the sorts of activities that we would like to see significantly reduced or eliminated.

Mr WOOD—Therefore, I take it that you support legislation which covers people who attempt to join or just has a straight-out ban on outlaw motorcycle gangs. Is that what you are saying?

Det. Chief Supt Barnett—You are never going to be able to ban.

Mr WOOD—Yes, but why can't you? The point I make is that if tomorrow we were to have a JI group trying to start up in Australia, everyone who tried to join—anyone involved in it—would be charged and go through the courts. At the same time, are you suggesting that that should happen here with outlaw motorcycle gangs, or it will be non-effective?

Det. Supt Gollschewski—I might talk to that more. We have Task Force Hydra in Queensland, which looks at outlaw motorcycle gangs, and there are antisocial aspects of them. A key focus for us is not just to look at the outlaw motorcycle gangs but to identify the criminal networks that are facilitated through that process. In many instances it cannot be said that the gang itself is a criminal enterprise. The people within that use that structure to facilitate criminal enterprises. The actual criminal network may involve people who are completely unrelated to that outlaw motorcycle gang.

Law enforcement has to be very careful to identify those criminal networks because they are the ones that pose the significant threat to the community. If we focus just on the outlaw motorcycle gangs, we are not getting the complete picture. So our targeting methodology and the way we are attacking them is to focus on the high-threat things to the community. We have had instances recently where they have torched their clubhouses and those types of things, and we deal with them very well and we have had very successful operations against them. I think it is problematic for our governments to be able to think about outlawing outlaw motorcycle gangs because they will simply change their structure.

Mr WOOD—We have to put recommendations in. Obviously I am trying to get 'Yes, it's a good idea,' or, 'No, it's not.' I am still confused.

Det. Supt Gollschewski—The point from that is that it is the organised crime groups that we need to outlaw. If we are going to have that type of legislation, as you see overseas in Canada and the United States, it is the organised crime groups, irrespective of whether they are outlaw motorcycle gangs or otherwise, that we need to outlaw and be able to identify them as an organised crime group or network.

CHAIR—Are you aware if the legislation in Canada and New South Wales is effective?

Det. Supt Gollschewski—I am not aware of New South Wales—

Mr WOOD—I think they are proposing the cheapest—

CHAIR—Okay. Canada?

Det. Supt Gollschewski—We have looked at a number of different things that the Canadians do. Speaking with Canadians themselves, they are very positive about the outcomes that they are getting. With outlaw motorcycle gangs they have shown a reduction in crime associated with those particular types of groups, but they have a very holistic approach, similar to what our Task Force Hydra does. They do not just look at the organised crime aspect; they look at the whole of the activities of the group and target even simple things like their traffic offending and that type of stuff, to put pressure on them. So our response would be much the same.

Mr WOOD—Therefore, you would just look at the legislation, if we did have legislation, more for such and such a club, whether it be Hell's Angels or Black Uhlans or whatever. If they are involved in organised crime they will be outlawed where other gangs which are not outlawed such as the Vietnam vets—

Det. Supt Gollschewski—I am certainly no expert on legislation, but I think we need to recognise that if we outlaw certain things it will just drive people in a different direction and they can re-form their criminal networks.

CHAIR—But instead of Hell's Angels they will call themselves the Gold Coast Marbles Club.

Mr WOOD—That is what I am saying.

Det. Supt Gollschewski—The key is the people—the individuals—that associate together to perpetrate these crimes and this threat to the community. We need to be able to attack them legislatively and through law enforcement.

Senator PARRY—Going back to things like consorting legislation, are you heading in that direction rather than outlawing or proscribing—so having a consorting provision?

Det. Supt Gollschewski—I think we should consider everything that might be at our disposal to look at this.

Mr WOOD—My next series of questions are looking more at the database and lack of interoperability across the nation. Firstly, what is the Queensland Police Service database called? I am not talking about intelligence, ACID and ALIEN.

Det. Supt Gollschewski—We are in the process of developing a new whole-of-service IT platform called QPRIME, which stands for the Queensland Police Records and Information Management Exchange. It is a significant undertaking by the service and the state government and funded fairly heavily. It consolidates all of our existing information and indices into one bucket that we can use.

Mr WOOD—What information would a police officer, whether they be in uniform or a squad, be able to subtract from that database? I assume it is criminal records and also drivers licences. What other information could you obtain from that from a check?

Det. Supt Gollschewski—It is being phased in. I think we are in phase two-point-something at the moment. In due time basically every policing action by the QPS will be through QPRIME, so it is an operational database. Everything they do—whether it be a traffic accident, an investigation, an arrest, a death, a theft or a break and enter—will be managed through that system. All the information that they need to be able to manage that will be accessible through that system.

Mr WOOD—What about people who possess licences for explosives? Have you got that on your system at the moment?

Det. Supt Gollschewski—I cannot comment on that off the top of my head.

Det. Chief Supt Barnett—It is going to integrate approximately 220 separate databases that we currently use into one collection platform—things like drivers licences, motor vehicle records and all of those major pools.

Mr WOOD—This is my point which I am pushing for very strongly at the moment. You will probably find that the members up here would not have access to who has explosives. You had that case recently with the schoolteacher. I am not sure whether that is through the courts, but at the same time I believe he used false identification to purchase explosives. Even if he used his legitimate identification and the police were looking at him and they put his name in, it would not automatically have come up. What I am looking at is aviation security identification cards for baggage handlers. If law enforcement agencies up here put that in a computer—your police computer in Queensland—again investigators would not have access directly to what the suspect is involved in and whether he actually works as a baggage handler or whether he works in the maritime industry or whether he is purchasing explosives.

My position is—and now I am interested in yours—that all this information should go in a national database such as CrimTrac where it can all be stored. Again, if you have a suspect from New South Wales who comes up to Queensland and gets a licence to purchase explosives or works in the industry, they are all linked up. What are your thoughts on that?

CHAIR—Can I interrupt. You are aware that these are public hearings and there could be members of the media in the audience. Be conscious of that before you give evidence.

Det. Supt Gollschewski—Obviously, from a law enforcement point of view, the more information we get that we can act on in a timely manner the better we are going to be able to do our job. I am certainly not an expert on it because, as I said, it is a current project and it is taking a lot of resources, but some external holdings will remain outside that process and we will still have to access it. If that can be achieved, it will be a wonderful thing for us.

With our QPRIME project, we are building an interface for ACID. That is in the process of being built at the moment, so it will be up and running and those two systems will be linked, which will be a major achievement for us as well.

Mr WOOD—I am getting the same response. Everyone will be happy to go down that path with firearm licences and the entire gamut.

Senator PARRY—Following on from Mr Wood's questions, is it correct that at the moment the Queensland Police Service utilise the ACC database?

Det. Supt Gollschewski—ACID?

Senator PARRY—Are you the only police jurisdiction that use it?

Det. Supt Gollschewski—ACID is our primary intelligence database. That is correct.

Senator PARRY—That is your primary one?

Det. Supt Gollschewski—Yes.

Senator PARRY—Will QPRIME replace that?

Det. Supt Gollschewski—QPRIME will not replace it. As I mentioned, there will be an interface between the two databases so that intelligence generated through the QPS in QPRIME can then be uploaded into the national database and will be as a matter of course.

Senator PARRY—So it will be fully sharing?

Det. Supt Gollschewski—At this stage the interface is being built. Our people are trained in ACID use and retrieval, so they can access ACID themselves. All our intelligence officers have training in that and use it exhaustively. Our input then will be managed through QPRIME and be an automated interface upload. So the totality of intelligence being generated from QPS can go into ACID.

Mr WOOD—I know New South Wales and Victoria are going through the same conversion process, looking at upgrading their databases. Are Queensland, Victoria and New South Wales all talking? The last thing you want to have is, again, everyone with their own silos where they cannot exchange information simply because the technology is at different levels. Is that taking place?

Det. Supt Gollschewski—Certainly we have gone down that path with our QPRIME product. I know that the other agencies have looked at the product, because we are ahead of them to some degree. New South Wales is looking at replacing COPS and a few other things. They look at what we do. There is no guarantee they will go down the same path as we do. The bottom line is that ACID will be our method of exchanging intelligence at a national level, and we are committed to that.

Mr WOOD—That is intelligence, but that is not identification.

Det. Supt Gollschewski—No. The CrimTrac type of thing needs to be looked at—whether you can achieve that nationally.

Mr WOOD—Because that is the same thing. You will have the Cornelia Rau thing happening all over again simply because the missing persons databases do not talk to each other.

Senator PARRY—That is what I was getting to. Do you have a comment about a central intelligence database for all jurisdictions to use across every level of identification and criminal behaviour? It is the old bureau of intelligence concept but at an advanced level.

Det. Supt Gollschewski—We are committed to a national intelligence database, not just for criminal matters but for counter-terrorism issues as well. Traditionally, they have been left out of ACID by many jurisdictions, but I understand that through the NCTC that has been progressed. They have included that capability in ACID. With the QPRIME project, we are going to be well positioned to be able to do that. We are committed to that and we think that it is the only way to go. There is still work to be done, though, because there are different commitments from different jurisdictions towards ACID and some of the other databases.

Senator PARRY—Do you have a comment about some jurisdictions withholding information and the need for that?

Det. Supt Gollschewski—This is a personal opinion, but I think a lot of it goes back to the systems they work with. They have their own intelligence databases. Queensland has been unique in that we adopted ACID as our intelligence database, so therefore we were committed to it. We always have been and will continue to be.

Senator PARRY—Moving to a different area, do you rely on international intelligence to come directly into the Queensland police or does it come through the Federal Police? For example, AFP now have a desk at Europol. Do you rely on that desk or do you rely on your own direct relationships with other agencies?

Det. Supt Gollschewski—I am the service's Interpol representative. We use the Interpol process to access information from international law enforcement agencies. We use the AFP LO structure to access information we need from other law enforcement agencies and to get action taken on our behalf. As Ross alluded to in his area, there are direct liaisons with other law enforcement agencies in both intelligence exchange and operations cooperation that we carry out directly with other agencies on particular issues.

Det. Chief Supt Barnett—In the child protection/paedophile environment, we obviously cannot wait for paper based and regulated information exchange mechanisms. So we have a network called GROOVE, which is an internet based secure system that law enforcement uses around the world to liaise directly, and the GROOVE network has been very effective in getting child protection investigations transmitted instantaneously between countries. We see that as most appropriate, given the need to rescue children as soon as possible.

Senator PARRY—Thank you for that.

CHAIR—Can I interpose for a minute. Apparently, according to the rules of the Senate, if there is any broadcasting of these proceedings, there has to be a deliberate decision of the committee. I take it the committee is happy to proceed.

Senator PARRY—Provided the witnesses are cognisant, yes.

CHAIR—That is the first thing the committee has to determine, which I assume we have. If you have any objection to your voices being recorded—if there is television, I am always very circumspect about that, particularly with police officers—please let us know and we can take action. Otherwise I will indicate that it is in order for any member of the public to record these proceedings. Please continue.

Senator PARRY—Last year, I understand, Europol indicated about a movement of drug presses into Australia. Is that something that would have been alerted to Queensland police or would it have come through the AFP and then filtered out to other agencies?

Det. Supt Gollschewski—We do not receive anything directly from Europol. That would come through the AFP, or the ACC if they have that connection.

Senator PARRY—Do you find that slows the information transmission significantly enough to hamper any operation or any alert?

Det. Supt Gollschewski—For that type of intelligence, obviously it does slow things down. But when it comes to operational intelligence that needs to be actioned, such as child protection, we act immediately. We do not go through what can be cumbersome information chains.

Senator PARRY—Likewise, in relation to sending information out of a specific nature from a Queensland perspective, do you send directly to Interpol, Europol or any direct law enforcement agency?

Det. Supt Gollschewski—We make an assessment on what we are trying to achieve and whether it can be done through the standing Interpol type arrangements and AFP type arrangements or whether it is something that is pressing and needs to be pursued another way. The AFP are very good with regard to us making approaches to them directly and informally to say, ‘We need this pushed through. Can we get it done through the LO network?’ If we have the liaison with other agencies, we will use them to go directly to it if we need to.

Senator PARRY—Bearing in mind that we tend to trust all law enforcement agencies but that no doubt from time to time there are elements of corruption, do you feel as though sharing information across the entire national network in Australia and then internationally—having that wider net of sharing—poses a threat or a risk to that intelligence of it being utilised incorrectly?

Det. Supt Gollschewski—There is always a threat, and it is a risk assessment process that we have to go through about how we manage these things and whether we do that very strictly, both in relation to access to our databases and the way we classify and handle material. It is something we are very conscious of. I am happy to say that, in my area—I have been there nearly five years—we have never had any leaks of any sensitive material at all. That is something we are very proud of. That is not to say it will never happen, because you have to be vigilant about these things, but I think our commitment to it as an organisation and our application to it has been very good.

Det. Chief Supt Barnett—We do of course use caveats at appropriate levels. We do share information to a certain level. Particularly sensitive issues, like human sources or other issues, are heavily caveated for the protection of the individuals and the organisation.

Det. Insp. Fleming—Dependent on the level of information, there are different security classifications that you would be aware of. If that is going to be transmitted, we would then confirm with the recipient or the sender, ‘Do you have secret classification, or top secret?’ and that sort of thing. That is certainly another way that we can guarantee secrecy and classification, and sharing information principles.

Senator PARRY—How do you verify that with someone you have never met? How do you verify that interagency?

Det. Insp. Fleming—If it were an operational matter, time critical, that could be done verbally but then that would be sent, especially within Australia, via the secure ASNET network. You must have a specific user ID and password to access that network, so if you do not have that secret clearance, you cannot access that network. That is our preferred method of information transmission. That is an email based system—quite accessible, very good, very secure.

Senator PARRY—That is an encrypted system?

Det. Insp. Fleming—Yes.

Senator PARRY—Mr Wood touched on racketeering legislation earlier. Do you feel as though the legislation has to be uniform Australia-wide? Would that be a view?

Det. Chief Supt Barnett—I personally do not have a view on it. There have been negotiations among the states for Model Criminal Code legislation across a variety of different crime types for the last five or 10 years. It is an ongoing issue. It is not easy to achieve uniformity in some of these areas. Some of the states have particular issues, so getting model legislation nationally can be problematic.

Mr WOOD—Touching back on the database issue, would the preferred national database to put this information in be CrimTrac? Would you concur with that?

Det. Supt Gollschewski—It depends on whether you are talking about intelligence or—

Mr WOOD—No, not intelligence. Intelligence is totally different from identification. But, as I raised before, for licences which are stored at the moment in some state or Commonwealth departments—such as the aviation identification cards, the maritime cards, explosives licences, shooters licences—should that information be stored in CrimTrac?

Det. Supt Gollschewski—Yes, we see that as the preferred place to put it, certainly.

Mr WOOD—Regarding outlaw motorcycle gangs and clubs, how much illegal drug activity would they be involved in in Queensland? What percentage was for a specific type of drug, whether it be ecstasy—

Det. Supt Gollschewski—From an intelligence point of view, there is no hard and fast rule about this at all.

Mr WOOD—Maybe even in busts?

Det. Supt Gollschewski—You have different gangs and different chapters, and from gang to gang and chapter to chapter there are going to be different types of activities that they are involved in. There is even the potential for some of them not to be involved in too much criminal activity at all. Some of them are an ageing population and they have probably gone past their use-by date, so they do not get involved in too much at all, but there is significant criminal activity across the board. They are a threat, and that is why we get down to the tints of looking at each individual chapter and identifying the criminal networks associated with it so that we understand exactly what is going on and we can target it.

Mr WOOD—Unless things have changed, I assume the outlaw motorcycle gangs are not getting involved in heroin and cocaine; it is more speed and ecstasy. Would that be correct? What types of busts are you getting on the outlaw motorcycle gangs? Are they the ones setting up all the amphet laboratories or is it just spread across the board anywhere?

Det. Chief Supt Barnett—Traditionally, outlaw motorcycle gangs have been heavily involved in cannabis production and distribution, and more recently amphetamine production. They are heavily involved in that across Australia, and this jurisdiction is certainly no different. If you were to ask me to characterise their involvement in the drug market, it would be largely the production and distribution of amphetamines. That would certainly be the key market they are involved in. We have recently shut down jobs here in which that has proved to be the case, but they are still before the court so that is yet to be tested. The advantage they have is that they are a national organisation. They effectively have a national infrastructure, standing membership, lines of communication, trust, whatever. So they are a solid entity that is not easy to dismantle.

CHAIR—Whereas you are constrained to seven different organisations?

Det. Chief Supt Barnett—Yes.

Det. Supt Gollschewski—They are very market driven, so where there is an opportunity to make inroads into a market—we are talking crime markets here, drug markets—we are seeing a move back into large-scale cannabis production. We have had some detections recently indicating that. Where there is money to be made, they have the distribution networks that they can utilise and exploit to be able to meet market demand.

Mr WOOD—We have been obviously talking about bikies. Are there other serious crime gangs operating in Queensland? For example, in Victoria we had the Carlton Crew and a lot of Italian organised crime associated with that.

Det. Supt Gollschewski—We have recently undertaken a youth gangs assessment in Queensland, which is yet to be formalised. It looks at issues with youth gangs but also examines their development into other gangs. We do have some Asian based gangs that operate in Queensland. We do not see the structure and identity as strongly as you might see replicated in other states. What we tend to see is a lot of crime networks that exploit the marketplace.

Geographically, demographically, south-east Queensland being so dynamic and the population being focused there, that is where a lot of that activity occurs. You will see them, between different types of traditional gangs—even OMCGs—forming associations with other people that are operating in the criminal environment to facilitate their criminal enterprise. It is no secret that

the two coasts—in the south-east, the Gold Coast and the north coast—are prime areas for drug trafficking, and we focus a lot of resources in those areas.

Mr WOOD—I do not know whether you want to answer this question about serious crime being used to fundraise for offsets of terrorist organisations or groups; I know we are saying they are all outlawed and banned; we are looking at serious crime here. The only concern I have is that maybe we are going under the radar. Is there potential for that or is it occurring?

Det. Insp. Fleming—I suppose there is always the potential. We do not specifically target organised crime groups looking at that particular enterprise. If you could broadly generalise that a terrorist group needs funding and resources, they will try to source that any way they can, so to target a specific network or individuals or groups of individuals is probably unwise.

Det. Supt Gollschewski—What we have done is structured a standing committee, for want of a better word, between our criminal and security intelligence areas to look at those issues of convergence and to make sure that, if that is starting to appear, we see it as soon as we can to connect the dots, as we like to say. A lot of good work goes on in the different areas. We make sure we talk to each other so we are not tripping over things that we should have seen.

Det. Chief Supt Barnett—Just going back to your previous question about the impact of the organised crime groups here, one feature of the drug market here which is fairly consistent is that there is a significant transshipment of bulk MDMA from New South Wales in the Sydney area up to here. That is a fairly common thing. So the organised crime groups that are established in Sydney are having an impact here. They are not geographically located here but they are shipping a lot of product in here, so they are having an impact remotely.

Mr WOOD—How are they actually shipping? Is it by container or ports or plane?

CHAIR—Motorcycle; several bags.

Det. Chief Supt Barnett—We do not want to get into methodology.

Det. Supt Gollschewski—Basically what the mind can conceive, they will do.

Mr KERR—We are having Bob Bottom speaking to us shortly. He raises in his published materials a concern about the number of high-risk organised crime groups that are identified by the ACC as operating in Queensland and contrasts it with Chicago. He says that there are only four organised crime groups now operating in Chicago and that there are more of these groups identified by the ACC operating in Queensland than in previous years. Of course, that is the same nationally. I am just wondering whether you have anything to say to put this into some kind of perspective for us, because obviously that, on its face, is concerning but you might say it is not necessarily ‘apples with apples’.

Det. Supt Gollschewski—I think we know better what is going on in our own patch, which is the threat risk assessment process that we are going down that the ACC brought in some years ago, which we have also taken forward. It is about knowing what is going on in your backyard and being able to identify these networks and the key attributes to them, and then measure the threat that they pose to the community.

There is a threshold. It is a matter for us as a law enforcement agency, having regard to the threat posed to the community and the resources we have, where we are going to put the bar on how we are going to attack these people. Because we are a jurisdictional policing organisation, we set the bar in different places, because it might be a state crime issue, meaning it needs high-level targeting, using covert strategies and specialist skills; or if it is below a certain level it might be a regional policing issue, so they will deal with it through the normal reactive, tactical type operations.

What we are trying to do is to understand the criminal environment a lot better in order to be able to identify these networks and place some meaning against what sort of threat they pose. At the moment we are probably pushing that down fairly low to say: 'Look, this is a significant group. They do pose a threat. It might only be a medium threat.' The way we measure threat is probably different to the ACC, because we have different things that we need to consider from a jurisdictional point of view, that we need to prevent. I think it is more a reflection that we are understanding the criminal environment better than we ever have, and we are starting to identify these networks more clearly.

CHAIR—Do you have figures—if not, can you give us an informed guess—on what percentage of the Queensland Police Service budget is spent on serious and organised crime as opposed to all the other activities that the Police Service is required to perform? Is there a figure or, as I say, an informed guess?

Det. Chief Supt Barnett—There would be.

CHAIR—Could you let us have that later?

Det. Chief Supt Barnett—Yes. Most of the serious and organised crime investigations undertaken are by State Crime Operations Command. I cannot quantify what part of the \$1.4 billion the QPS gets that we receive, other than to say in my view we are appropriately resourced, well resourced. We have sufficient staff and equipment to do the job that we are asked to do by the government.

CHAIR—Is that figure available publicly, do you know?

Det. Chief Supt Barnett—There would be a breakdown in the portfolio statement, I am sure, of what the State Crime Operations Command annual budget is.

CHAIR—Could I ask that someone send the secretariat an email, even if it is only approximate. We just want to get some rough idea of the cost of serious and organised crime in Australia.

Det. Chief Supt Barnett—The enforcement of it, yes.

CHAIR—Yes. The cost generally, and enforcement is part of the cost, of course.

Det. Chief Supt Barnett—I would be happy to undertake to do that.

CHAIR—Thank you very much. In the papers overnight, although it was said to be a Victorian approach, I guess it was a multitasked result with our Greek connection and amphetamines. So well done to you and your colleagues elsewhere. You should be celebrating that as well as the rain today, I would say. Thank you very much for your time and for your submission. It has been very helpful to the committee.

Proceedings suspended from 10.28 am to 10.38 am

BOTTOM, Mr Robert, Private capacity

CHAIR—I welcome Mr Bob Bottom. Thank you very much for coming along. We are indeed honoured to be in the presence of someone who has had such a distinguished career in exposing and fighting crime in Australia. We are very appreciative of your coming along. You have probably appeared at enough of these hearings to understand the rules, but, if there are things you would prefer to say in camera, and you ask the committee, we will consider that. You would be well aware that what is said here has parliamentary privilege. With that, I invite you to make an opening statement—I understand you have one—and then subject yourself to questioning from the committee.

Mr Bottom—Thank you very much, Mr Chairman. On this occasion, I have not prepared a formal submission, but I do welcome the chance to come along today, and I welcome the chance particularly to voice my support for a more coordinated approach to research on organised crime in Australia. I know that Mr Duncan, who has a long history with the committee, has been pushing that, because I follow all the hearings and submissions. I am disappointed, though, that a recommendation made twice previously during separate PJC inquiries that the Australian Crime Commission prepare for publication or release a declassified copy of its project *Picture of criminality in Australia* has not yet come about.

You made reference earlier, when talking to Queensland Police Service, to evidence that I had given previously on some figures released by the ACC on the number of organised crime groups in Australia. There were 97 identified. In brief, without going into detail, there are 18 in Queensland, and three or four of those are regarded as high risk—that is, equated to those around the world—which is the equivalent of the number now remaining in Chicago in America.

What we need is a version of that analysis and reporting by the ACC that a committee like yours can take note of and that the public can have access to. It was supposed to have been done by now. I understand it is in train, but I think it is very important. It must be available for this committee before it finishes its current deliberations. In the light of the evidence given so far before this current inquiry, it is imperative, as I say, that the ACC report be there.

From what I have read of submissions and heard of the evidence, I think there is an overreliance on overseas data. That is mainly by some of your academic witnesses and, as well intentioned as they may be, the tendency by them is to point you to Europe as if we should be doing what Europe is doing. In particular, I refer to the submission from the Australian Institute of Criminology. The committee may note that not one of its 16 references credited at the end of the submission is from Australia; indeed, not even from the AIC itself, which in recent years, to its credit, has produced two of the best academic or research based assessments of organised crime within Australia. The tendency, therefore, of academics to ignore such local research and point you to Europe is, to put it mildly, an unfortunate example of academic naivety.

The fact is this: Europe is seeking to emulate Australia in dealing with serious and organised crime, not the other way around. In fact, the European Union as such, and member governments themselves, acknowledge that what they have is fragmented and ineffective. Aside from Interpol, which we all know about and which is international and deals with all forms of crime, which

Australia has been part of for decades, there is now Europol. I think that was mentioned by Senator Parry a little earlier. Europol was established in 1996, but in the 10 years since it has really been floundering and, to quote one official report, is nothing more than an intelligence-gathering database. It is based in the Netherlands, as you know. There are new protocols being promoted at the moment to try and transform it into a more operational agency, particularly for cross-border type operations. At the moment they are hindered by that.

Interestingly, the AIC submission lists among its references what is called the UK equivalent of the report that I would like to see tabled here, which is *United Kingdom threat assessment of serious organised crime*, released publicly last year by the UK Serious Organised Crime Agency. More interesting still is that, in setting up its Serious Organised Crime Agency, the UK actually looked to Australia. In fact, it was established following the conversion of our National Crime Authority into the Australian Crime Commission.

As the federal government—and especially national law enforcement leaders in Australia—will know, UK authorities visited Australia for consultations, and there is now a working relationship between the Australian Federal Police and, in turn, the Australian Crime Commission with the UK Serious Organised Crime Agency. Just as we now have the AFP and the ACC, theirs is known as SOCA.

Just as significant is that SOCA was created by the merger of the UK's National Crime Squad and the National Criminal Intelligence Service, just as the ACC preceded it as a merger between the National Crime Authority and the Australian Bureau of Criminal Intelligence. To go back further, the National Crime Squad was originally established after Australia established the NCA and the NCIS was a replica of our ABCI.

In summary, the UK Home Office, which holds parliamentary responsibility for SOCA, has set up the Organised Crime Research Program 'to provide research evidence to support the development of policy and practice relating to the reductions of organised crime'. In closing, I would say that in this respect it is now time—we should follow them on that score.

CHAIR—Thanks very much, Mr Bottom. On that last point, how would you envisage that an Australian research unit might be manned?

Mr Bottom—That is a difficult one, and I have noted some of the questioning. I go back to Mr Kerr, who is a former attorney-general, and I put it in this context: I cannot believe that the Australian Institute of Criminology can put in a submission like they did here and then give evidence and ignore two very good reports that they did. Can I just mention these, because it will put it in perspective to enable me to answer that question. The last report is *The worldwide fight against transnational organised crime: Australia*. If you go through it, it covers every aspect of our structures and what should be done. It is very professional; a better report than you will find in any agency or research body around the world. That was done in 2004. The other report is *Approaching organised crime: where are we now and where are we going?*

They come before this committee, produce some academic nonsense about looking to Europe, and they cannot even acknowledge the research they have done. In the light of that, I would have to have second thoughts about recommending that they be responsible, but they ought to have been. Let me tell you: I have been involved in dealing with organised crime for two months off

40 years. I was the first volunteer witness for the first royal commission and all sorts of things. Throughout that time, I have been very disappointed that the Institute of Criminology has not devoted as much attention to organised crime as it should have.

One would have thought that a simple solution would be to get the Australian Crime Commission to do it. You check your records and you will find that the last two hearings by this committee recommended the production of *Picture of criminality in Australia*. If the Australian Crime Commission cannot produce it by now, in the light especially of this public inquiry, it disenfranchises itself.

In making mention of that, Mr Kerr, I wonder, like the Home Office in Britain, whether it could be done under the Attorney-General's Department. You might recall that when the transition was made to the ACC it also absorbed a strategic body that was operational. I am not sure if you introduced it, Mr Kerr, or someone within the Attorney-General's Department. It was the strategic policy body for Australia. It was very good, it had access to everything and it was very independent. I think it used to report to the intergovernment committees and the like. I know that Mr Wood is onto other aspects that ought to be looked at also. To make it effective I would rather see it probably under the aegis of the Commonwealth A-G's office, but available or in concert with the intergovernment committee. In producing what you need it can also be an official monitor of the performance of the ACC and its related entities, or bodies that liaise with it.

CHAIR—Deputy Chair, do you want to lead the questioning?

Mr KERR—I think Mr Bottom has really echoed much of what I would like to see happening. There was an integration into the ACC of the Commonwealth's group which was designed to produce these strategic assessments. This committee has repeatedly called for the publication of a declassified over-the-horizon report so that there can be an educated public debate about these issues, as we do with a Defence white paper and the like. I do not know whether it will need to go back to the Attorney-General's. I think the ACC's classified report, which we have received, is quite strong and quite useful.

Mr Bottom—I have had access to it, as you know. But I could only talk in general terms when I came before the committee because I had access having been a participant in the Organised Crime Strategy group in Victoria, following the gangland murders. But I was so impressed at the scale of it that that is why I raised it. Then the committee, out of that hearing, said that there should be a public version. The next committee, when you took over, Mr Chairman, reiterated that recommendation, but it has not come to be. It worries me. If you cannot rely on them to get a public version of that by this time, someone needs a kick up the pants.

Mr KERR—I do not want to put words in anyone's mouth but I think there are a series of interjurisdictional processes that ought to have been sorted out. Secondly, governments have to be prepared for a debate about these issues if that kind of strategic oversight document is not out there in the public domain. So governments have to in a sense, in the end, sign off too that this an appropriate thing. I can only agree with you and hope that that document is produced. We have an understanding that it is currently in production, or being worked towards. But I do not know when the tick-off for its release will occur.

Mr Bottom—Might I mention why I get a little annoyed with this. I was first privy to that after having been involved in the Victorian strategy group. What has been hailed as probably the best strategy document in world law enforcement at the moment is publicly available. It was released on 30 January 2006 and it is a glossy booklet entitled: *The Victoria Police Organised Crime Strategy 2005-09*.

The chairman has just mentioned some euphoria over the arrest in Greece of Tony Mokbel. Can I tell you that the arrest of Tony Mokbel in Greece has come from the strategy implemented as a result of that strategy group and that report. It is a far-seeing approach. They have not only arrested Tony Mokbel but they have dismantled his drug syndicate, known as ‘the syndicate’. But, more than that, they have had a dramatic impact in dealing with organised crime in Victoria.

Prior to this, let me tell you, Victoria was in an absolute state of disarray. They had lost their records for the Bureau of Criminal Intelligence. It was an absolute state scandal. They have retrieved the situation and they are setting an example for the world. What worries me is that whoever does the coordination and research needs to take notice of those sorts of reports and that sort of work, not on a jealousy basis but because Australia deserves it. Because we are so coordinated now with the ACC, with all the states and the other federal bodies, we want some research facility that has an all-embracing look.

There are some overseas that tend to do it, but that is probably the greatest requirement at the moment. Even the PJC, in the past, has produced some very good reports on the state of organised crime—Asian organised crime and other aspects. It is hard for a committee because you do not have all the resources. But if, under the current system, the committee had the ability to bring a team together to do the research, I would recommend that you do it yourselves, like you have in the past to an extent, because in America often some of the best research comes out of committees. They will set up semi-commissions or whatever and just get the best material and pull it all together; and it is good for making decisions. There are a number of ways you can do it, but what you do not want to do is give it to the ACC or the AIC and they play games with it. It is too important for that.

Mr KERR—I would be interested in getting your view on a couple of things. We heard about the absence of phone tap capacity in Queensland. Do you see any impediment to the Commonwealth incorporating the public interest monitor into an authorisation regime that would be specific to Queensland, to overcome the reservations that obviously successive governments have had about the introduction of phone taps? Phone taps are controversial. In every other jurisdiction they exist, under a regulated, supervised regime. Queensland wants to have the bolt on additional protection of the public interest monitor. My own instinct is: what is to be lost by doing that? Do you have any comments?

Mr Bottom—I certainly have. Let me tell you that in 1997—10 years ago—I travelled the state of Queensland in a police plane that was made available. I must have travelled to every major centre of Queensland. Sitting next to me was Terry O’Gorman, who is now the national President of the Council for Civil Liberties. We used to speak at public forums on increased police powers to deal with organised crime. Initially, in our private conversations and on public platforms, I was on one side and he was on the other. I was a bit more radical than he was. Our last meeting was at Parliament House in Queensland, and we had agreed on telephone tapping powers to be introduced in Queensland, as has been done for every other state.

Might I say that legislation was prepared. Unfortunately the government changed and the legislation, in effect, lapsed. There were then suggestions about the public interest monitor. Let me tell you that it was not in great demand at the time. I do not want to be political about it, but I believe that it has been convenient for both sides of politics in this state to not have phone taps. I should think they would probably be afraid of what has just happened in Western Australia.

To put it in perspective, there are certain people in the Labor Party who have conspired about it—and so have the National and Liberal Party people in this state. There are current senior figures in the Liberal Party—and that is in this state—who are on the parliamentary record opposing phone taps, in the past. So it is not a Labor thing in Queensland; it is a political syndrome of Queensland. They do not want phone taps.

But it gets worse than that. You have received a submission from the CMC. I find it extraordinary, post-Fitzgerald, that it made a claim that there ought to be telephone interception powers made available in Queensland, as in any other state. I will put this in context. You asked some questions of the Queensland Police Service. The Queensland police are doing a pretty good job in this state, especially against outlaw motorcycle gangs and in the drug field per se, but they are handicapped.

The CMC, who have the primary responsibility for monitoring, promoting and coordinating investigations into organised crime, had the following to say in their report, where they deplored the lack of TI powers for Queensland. This is a really interesting paragraph:

Organised crime in Queensland is characterised by a number of significant criminal identities who have been involved in organised crime activity for a number of years and have successfully evaded prosecution. As time progresses they become more experienced in terms of the way they operate and increasingly more difficult to investigate. Were TI powers available in Queensland it is highly likely that a number of these criminal identities would have been successfully prosecuted or at the least had their activities curtailed.

In simple terms, post-Fitzgerald, that is an absolute shock. That is not saying that there is protection but that there is an official attitude here that has allowed the Mr Bigs to re-arise in Queensland untouched, making a laughing stock of authorities, and they cannot be touched. To put it into perspective, we will all be reading now, particularly interstate, of the arrest of Tony Mokbel in Greece. They had a \$1 million offer of a reward for people passing on information, but do you know how they found him? Through telephone intercepts.

I think they have gathered 1,000 hours of telephone conversations involving his syndicate in Victoria and not only have they arrested 14 yesterday but they have picked him up overseas. In Queensland there could be Tony Mokbels walking down Queen Street Mall and you would not have a clue they were there. To put it in perspective: there was a character I wrote up years ago as a Mr Big of some sort, called Laurie McLean. He has just spent a fair deal of time in jail in Sydney.

It is categorised in the supreme courts—and it is available on the web—that he not only operated in Australia, especially in Queensland, although he is a New South Welshman, but had networks in, I think, nine European countries, all documented publicly. He operated in Queensland and turned over \$300 million a year, and I can tell you today that there would not be one record of his name on any police database in this state. He was extradited by the Federal

Police out of Queensland with not much publicity. He is linked with the remaining tops of organised crime of Australia who have just come undone with the baggage handlers and whatnot.

There are other Laurie McLeans operating in this state. It is the Florida of Australia, because they know they can operate here. They cannot be phone-tapped, and with the modern communications it is a haven for them. Even if there is not enough business for them in Queensland, they bring it in from New South Wales. It is a serious thing. Queensland ought to come to the party.

CHAIR—Mr Bottom, the Queensland police were understandably reluctant to accept my invitation to this for some reason, but can you indicate why you think that Queensland is the only state not to have phone tapping? Is it just because the three political parties did not like it?

Mr Bottom—I think it is. It does go back to politics. When I travelled the state on a police plane, it was the police department that were pushing for it, to join their colleagues in every other state. You have to put it in perspective. It is not just being political about it. I know you have had some debates about targeting, through association laws, outlaw motorcycle gangs and so on.

During the strategy in Victoria, I produced a report—and gave it to the police minister, who gave it to the Attorney-General—that showed that, in the past in Australia, the drug trade was wiped out by the use of consorting laws. Do you know Rob Hulls, very trendy Labor Attorney-General, has resurrected consorting laws in Victoria to target organised crime? We have not seen much about them yet, but they are part of the strategy. They are going to be used.

It is nothing to do with Labor or Liberal politics; it is some of the individuals. In this state, they are terrified that anyone would be phone-tapped. There was an occasion—I will not be too specific about it—in the early nineties where a politician was caught up in some phone taps. Since then, they have all had the frights. You will find that neither side will push too far to bring it about.

CHAIR—Is it a Queensland decision?

Mr Bottom—It is. They want the Commonwealth to agree to a public interest monitor so that they can allow it for Queensland. It is a nonsense. There is a public interest monitor in Queensland. The *Courier-Mail* revealed recently no-one even in parliament seemed to know who he was, let alone what his true function was. There is enough supervision of interception powers in Australia at federal and state level and elsewhere. Mr Kerr administered the department which administered the thing.

It is sensitive. But part of my history is that I revealed the *Age* tapes which, back in the 1980s, started a royal commission. That led to the power. I released the tapes illegally which was justified at the time, but it was wrong, in the sense that police did not have the power then and I released tapes that they had done illegally, but it brought to the fore in Australia the reality of organised crime. Since then—and I am saying it from my perspective, having released some in the past—I do not know of any case, federal or state, where there has been any misuse of police phone taps for organised crime purposes.

Mr KERR—All I would say by way of response is that if I were a federal attorney or minister for justice, I certainly would not find anything to object to having a public interest monitor and allowing this. The crazy thing is that, for whatever legitimate or other reason, Queensland is outside of the capacity to exercise phone taps. There will be a hot potato exercise between jurisdictions, and a common-sense solution, I think, should have been worked out by now.

Mr Bottom—I think you are right about a common-sense answer to it. The Commonwealth, even in your time, and since, has negotiated with state governments and crime commissions to allow the power. In Victoria now, rather than have a crime commission, they have given some extra powers to some bodies down there—the police commissioner and their police integrity commissioner. There are ways to achieve it but I have been sitting here watching this Queensland situation over a long period through successive governments, since this telephone interception matter arose. I do not see any great will on the part of anyone here to make it come about. I have a feeling the public interest monitor, to put it bluntly, is just an excuse for them not to do it.

CHAIR—Mr Bottom, we have a letter from Judy Spence, the police minister, saying:

Despite repeated requests from the Queensland government, the Commonwealth is yet to amend its legislation to allow the Queensland Public Interest Monitor to participate in applications for telephone interception warrants.

The Queensland government is suggesting it needs Commonwealth legislation to allow the phone taps. You are saying that the Queensland politicians across the board—

Mr Bottom—The state wants the Commonwealth to acknowledge that the procedure for Queensland would be different from the other states, in that it would enable Queensland to have an extra mechanism—that is, all applications to tap telephones whether they be of organised criminals or any policeman or politician they dealt with, would have to go through a public interest monitor, who would then report to the Attorney-General and the Premier. That does not happen in other states. It has not been deemed necessary.

CHAIR—Does it happen in any other state?

Mr Bottom—Not at all.

Mr WOOD—That was the point I was trying to get from the police before. So they are asking for something different?

Mr Bottom—Definitely. There is no risk about this. I have been involved in all those inquiries. This is where I do not want to be misinterpreted. The government in power, I think, are playing tricks to make sure it does not come about. Study the parliament. Put the words ‘telephone interception’ into the database of the Queensland parliament and you find out who has jumped up and decried any suggestion that Queensland should have phone taps. It goes right back to the era of Bjelke-Petersen and up to the current era of Peter Beattie. It is an absolute state nonsense against a background that every other government of Australia—federal, state and territory—has been able to use it and operate it. Why not Queensland? It is making Brisbane another Chicago.

CHAIR—Fascinating. I cannot wait to get to my computer to type in those two words.

Senator PARRY—What is your view, Mr Bottom, on corruption within police jurisdictions in Australia? Do you think the monitoring is adequate? Do you think it is stemmed? Do you think it has decreased? What are your views?

Mr Bottom—There is corruption and there has been an accent on it more particularly, lately, in Victoria and prior to that in Western Australia, and there has been some accent in South Australia. I gave a speech to the Retired Police Association of New South Wales several months ago and I was very proud to claim that the New South Wales police today have a better reputation than they have had probably since the Rum Corps days. When police used to retire from New South Wales and come to Queensland, they would almost avoid saying they had been in the police because of the stigma.

In the New South Wales police, sure, there is a bit of corruption about but it is not bad. There may be some other inefficiencies. Similarly, throughout Australia there is not the scale of corruption we have had in the past. Queensland seems quite good. I do not know of any evidence of any organised corruption. You will have bad apples. We now have a force—the commission federally—to monitor the ACC, Federal Police et cetera. I think we are in a pretty good position.

Can I enunciate that I am very annoyed at some of this misdirection by some of these academics. Australia has the best structure in the world for dealing with all these things. I do not have time, but there is an outline. If you see what we really have in place in Australia, there is no excuse. We have everything in place to achieve everything we need to, but we need very good research and good monitoring to make sure they do the job.

CHAIR—What is that piece of paper?

Mr Bottom—Have a copy. I think there is a copy on the end of that that Ivan has. Just look at it, because it is very important to keep your feet on the ground.

CHAIR—We have it.

Mr Bottom—We started off, after the Moffitt royal commission, with the crime intelligence unit in New South Wales. Then we had state bureaus of criminal intelligence and then joint task forces. Then, in 1979, the AFP took over organised crime and drug administration from the old narcotics bureau. We set up the ABCI in 1981, and in 1984 we set up the NCA, which is now the ACC. We have the New South Wales Crime Commission; the Queensland CMC, which used to be the CJC; the WA Corruption and Crime Commission; and state organised crime groups. Federally, we have the Australian Crime Commission doing all sorts of things. The board includes the AFP, the A-G's, Customs, ASIC, ASIO, state and territory police—and their liaisons are not on the board—ATO; AUSTRAC; CrimTrac; and AQIS, which plays a part in some of the smuggling investigations. We have task forces and intelligence networks.

There is one query I raise as a result of what the Queensland Police Service were saying. What happened to the concept of the ABCI when it was set up in 1981? We were supposed to have had a very good integrated national network, but it was misdirected in the nineties and now we are trying to retrieve what we actually had, which was a world first at the time.

I know Mr Wood has been on about this. Talk about intelligence! We have ALIEN, ACID, ALERT, AIPR, ViCLAS, SCIAAs and POCA, the Picture of Criminality in Australia. We have enough scope there. No overseas country has got anything like this.

Senator PARRY—You have left off the Australian Commission for Law Enforcement Integrity and the related parliamentary oversight committee.

Mr Bottom—I did not go into the corruption ones. I wrote the first report in Australia, for the New South Wales government in 1978, recommending crime commissions and I was on the committee that set up the ICAC and later on the Crime Commission. New South Wales has the Crime Commission, an independent commission against corruption, the Police Integrity Commission and an ombudsman, still on \$16 million a year. Queensland has the CMC. Unfortunately, the other states have not come to the party, but ideally each state should have a crime commission.

Mr KERR—You are being a little self-critical. There is no overarching body to look at public corruption in the Commonwealth either.

Mr Bottom—No. I actually did a report for the *Canberra Times* which was published at the time the government was looking at it. I recommended that it should have brought in Customs and all of those groups and been like an ICAC for Australia. That could still be looked at, you know.

Senator PARRY—The scope is there within the legislation for that to take place.

Mr Bottom—Yes.

Senator PARRY—Yes, under the ACLEI.

Mr Bottom—But it was restricted at the time. In a further submission—at the last inquiry—I referred to, in Canberra, what I called the white shirt brigade. That is, there is a network in Canberra of public servants, some police and others, who will oppose anything like this. They have not put a submission in for a while, but they come out of the woodwork and oppose all these things and they influence government. They help run some of the departments. But we do need a federal one. There would be no problem with it. Why shouldn't we have one?

Senator PARRY—That was a detailed answer to my question. Thank you very much.

Mr WOOD—What is your view on, as we discussed before, outlawing the outlaw motorcycle gangs through stopping people joining up? What are your thoughts on that?

Mr Bottom—I do not see any problem with that. I can see that the Queensland Police Service would say, 'Well, look; they're not just the problem.' They are a pretty cosy outfit. They can manufacture drugs, they have sometimes grown cannabis and whatnot, and they have access to distribution in a lot of nightclubs and the like because they have the security contracts and everything. You could wipe them out and they would re-emerge at another point.

I like the approach of Victoria. They have determined to reallow consorting laws for organised crime matters. If you have some sort of use of the consorting law to tackle organised crime groups, whether they are outlaw motorcycle groups, Lebanese gangs or whatever, I think you will achieve more. In New South Wales they also upgraded their old consorting laws. This is where we need a research department to bring all this to our notice. New South Wales did it. They tackled some of the early Lebanese gangs and there were 1,000 or more convictions.

Mr WOOD—Can I say, though, that the state Labor government you are talking about that introduced the laws in Victoria is the same state Labor government that took out the consorting laws. They removed them and then realised, ‘Hang on, we shouldn’t have removed them,’ and brought them back in. The biggest thing we had going for us back in the policing days was simply stopping people from consorting with known criminals. The other person going in to consort may have never been charged but he knew he was meeting someone he should not. So I can see what you are saying.

Mr Bottom—I am saying you tackle organised crime per se. In Sydney particularly, and now in Melbourne—and I am not being racist—some of the Lebanese gangs are connected with terrorist groups. They are in car rebirthing and drug distribution in various areas of Sydney, including the city. If you use the consorting style laws, you can ensnare the people they deal with. More particularly, if we are going to upgrade our consorting approach we ought to give some consideration—and it has been recommended in the past—to an Australian version of RICO legislation, using patterns of organised crime. That is what the Americans are using and it is a very effective tool. They have used it on gangsters in the past. Think of Conrad Black on trial in Chicago at the moment; they are using their organised crime legislation, RICO. That is something a coordinated body could look at.

CHAIR—I understand that, but I am a little troubled by the extension of RICO legislation into areas that no-one anticipated.

Mr Bottom—I did not anticipate it either.

CHAIR—I have no brief for Conrad Black. I do not know whether he is a crook or a good guy. He is on trial. But RICO creates a criminal offence for an association, and the extension across into a whole range of areas where it was never thought to apply really does require some thought.

Mr Bottom—I wish I had not said that, because I find it extraordinary that they used it. Before a committee here once before I said that I was a critic of using the NCA and ACC at times to take on so-called white-collar type matters which could easily have been done by ASIC, ATO or other bodies. One of the great tragedies for the NCA in the past was that its resources were misdirected at the beginning of the nineties against, for good or bad, John Elliott. They spent most of their money on that, and the number of NCA charges dropped from 900 a year down to 40. They could not even produce a graph to show what they had done for the year. It was an absolute joke. We do not want to go back to getting diverted into pet matters. RICO is a tough one, but it is worth doing a proper analysis of what Rob Hulls has done in Victoria. In New South Wales it was used mainly for Operation Gain, one of the great operations in New South Wales, and that is worth analysing. They have used an upgraded version. And, of course, Western Australia has some—

Mr WOOD—Have you looked at the Canadian legislation with the outlaw motorcycle gangs? Can you explain that to the committee.

Mr Bottom—I am not up with that. A lady who was involved in preparing that was actually part of our strategy group in Victoria, and they do very good research in Canada, but I am not up with that. I am aware of it, but I honestly do not know enough to advise you on it. I can see from your questions that you are surprised by some of the police answers that are forthcoming on some matters. Having your background—three members of the committee have a police background—you might be thinking: ‘Now, hang on. Where’s the research for all this?’ We were going to set up a private foundation, OCRA—Organised Crime Research Australia—and make it available on the internet so that all government reports and reports to the Crime Commission would be available, but then we thought, ‘Hang on, we’ve got to set up a system whereby people can make use of it.’ There is a crying need in this country for someone to coordinate the sorts of things your committee looks at and to give guidance to state and federal governments. The UK report is quite good. The Victorian one is worth looking at. There are things happening around us. If you put it all together, it is quite good.

Senator BARTLETT—In the article that the secretariat prepared for us of a speech that you gave, you mentioned the consorting laws in Victoria and the impact of those, and the positive aspects with regard to drug offences and heroin in particular. You also gave past examples of where you said that the war on drugs ‘can be fought and won’. Given what police have said today—that drugs are the key thing in organised crime, the major component—is it something that we can effectively tackle and defeat and, if so, what do we need to do to change that?

Mr Bottom—We certainly can. References were made to earlier hearings by the parliamentary joint committee of the need for various actions. Let me tell you what is overlooked in this country: I talked about the white-shirt brigade and the academics, but there is another lobby in Australia—that is, the one on harm minimisation. Duncan Kerr and I are at opposites at the moment. Where is the acknowledgment in Australia, which is unequalled in the world, that better resourcing of the Australian Federal Police for its overseas bureaus and the stopping of the ships of heroin that were coming to Australia has caused a heroin drought, which has dropped the number of people dying from heroin overdoses from around 1,000 back to about 300-plus in Australia? There is no precedent for that anywhere else in the world. We achieved that. I would challenge any harm minimisation group in Australia to give me valid proof that they got any of those people off heroin. They got off heroin because they could not get it; just as the Queensland minister showed when they cracked down on the taking of drugs into jails. Eighty per cent of the inmates were once on drugs and they had a recidivist rate. Since they stopped the drugs going into jails—some still got in—70 per cent recidivists are not drug addicts. Take the drugs off them and they will not be drug addicts.

Drugs are the mainstay and worth billions of dollars a year. The laundering of the drug money leads a lot of the organised crime-seekers into the cyber stuff and everything else. We need to really get stuck into the drug trade. Can I have a lament. I did not go to the last committee hearing here because I was annoyed with the previous committee. I came along and recommended—having had discussions with two governments; one federal and one state—trying to get some extra money to target drugs at the height of the success of the antiheroin blitz. Under a former chairman, that committee, unfortunately—even in its report—suggested that I was wrong; that the ACC was not set up to target the drug trade, which is an absolute fallacy. I

was one of several people who used to live under police guard in the past to get the NCA started in Australia, and to think that that was a finding of a previous committee. I say it publicly: there was an unofficial agreement at high Commonwealth levels to provide \$50 million if the committee came up with a recommendation, and that was why the committee had its review hearings months earlier than scheduled under the act. The committee opposed it for some silly reason. But I reiterate again today: if you tackle the drug trade, you will come to grips with a lot of other problems.

Australia had a drug trade and we—the only place in the world—wiped it out in the thirties. We had the biggest drug trade in the world, run by the razor gangs et cetera—the Black Hand in Queensland. It was wiped out in 1935 using consorting laws. Federal and state governments proclaimed a total victory publicly. There were no illegal drugs in Australia from the late thirties, throughout the forties—the war years—and the fifties, until the late sixties with amphetamines, purple hearts, and then heroin in the early seventies. We wiped it out using consorting laws—no other country in the world did—and we showed that it could be done.

Mr WOOD—You would have heard my passion regarding the lack of database exchange between the states et cetera, so you obviously know my position. What are your thoughts on the various police agencies across the country having access to information—for example, on maybe a baggage handler working in aviation and on the police having access on their databases to the aviation identification security codes? The second part of that would be to have that information nationally available through all law enforcement agencies through CrimTrac.

Mr Bottom—I find it extraordinary. Up until the 1970s, when there were three royal commissions on drugs—the Moffitt, the Woodward, and then the Williams royal commissions on drugs—police were in the embryo stage of bureaus of criminal intelligence. You have a police background, you will remember that they emerged in the seventies, settled down in the seventies, and then the ABCI followed. At that time, police had access to very good intelligence, and they could identify these sorts of characters. In fact, in those days they used to print an Australian criminal register. I do not know if you have ever seen these booklets. They were that thick, and they would identify the suspect people in Australia and profile them. You could not imagine it these days, on civil liberties grounds, but I have got one of them. They are unbelievable booklets. We did not have DNA, there were only fingerprints, and there was more sharing of information.

When the gangland murders occurred in Victoria, I received a call from police headquarters to go down. Why? I used to be involved a bit with the Bureau of Criminal Intelligence in Victoria. That was wiped out in the beginning of the nineties and they had no records to deal with the gangsters—the Tony Mokbels—or anyone else. Your problem is not just getting agencies to exchange information with each other and to broaden the concept but to sort out the set-up within the agencies. I cannot rattle off the figures at the moment, but you will get a shock to find out the number of different systems in the states; they cannot talk to each other.

I once went to Victoria to give some speeches and raised thousands of dollars to buy computers for the Victoria police to be part of the ABCI system. I cannot find out where the computers are now. They are resurrecting the intelligence system now and they are doing a very good job. You are on the right track: it is a very simple matter. How couldn't they have picked

the baggage handlers at Sydney airport? They were linked, and they have been linked for ages, with the really entrenched organised crime.

There is a behind the scenes operation going on at the moment, not by the ACC but by a number of people that I am connected with, to identify the Mr Bigs, particularly in New South Wales, who have emerged unscathed to become multibillionaires or millionaires and who are running around Sydney like King Dicks. No-one even knows that they exist because of the lack of the old-style intelligence that used to exist and the inability of the databases to confer with each other within the police forces: unbelievable.

Mr WOOD—In regard to CrimTrac being the national database?

Mr Bottom—I think that is obvious. When you look at the layout that I did of all the associated bodies, they have a very good structure and the skills are there; ideal if you want an organised crime research centre. It should be with the ACC. But, gee, if they cannot produce that report to you at this stage, I would say that they have disenfranchised themselves in my eyes for the moment. Let us do it under A-G's or whatever, but we do need something.

Mr KERR—I think they have their masters that they have to get approval from.

Mr Bottom—That is the ACC?

Mr KERR—Yes.

Mr Bottom—That is the board and whatever. But you have a board that is made up of ASIO, AFP, CustomNet, and you need to get your act together. I used to go through all the royal commissions, and I remember going to a forum once where someone asked the question about setting up the National Crime Authority: 'If we get this, what are you and your people going to do?' and we said, 'Well, we shouldn't have to do anything any more.' I think Sir Laurence Street said, 'Can I make a suggestion. You may find your work cut out more than in the past, just to make sure that these bodies do the job.' And might I tell you: if we ever have to have another royal commission in Australia—and I am credited with starting a few—it will be into the efficiencies or deficiencies of the whole structure of the bodies that we have set up in Australia; millions upon millions spent, and careerists. There is no excuse for us not to do a very efficient job at the moment. It is unique to have a parliamentary committee overseeing and monitoring these things, but we need a very good research body with a bit of independence to also keep an eye on the ACC.

Mr KERR—I have just remembered the name of the body that was set up.

Mr Bottom—The federal one?

Mr KERR—Yes, in a previous term of government. It was OSCA—Office of Strategic Crime Assessment.

Mr Bottom—That is it.

Mr KERR—It was set up and published one strategic oversight report.

Mr Bottom—It may have come when you were A-G.

Mr KERR—It did.

Mr Bottom—It was a very important body. But I want to warn you about the white-shirt brigade again. Do you know that got absorbed into the ACC along with the ABCI? You were around when the ABCI was here. I have had a lot to do with these bodies. I wonder what happened to it and what happened to OSCA? They have disappeared in this morass and we need to have a hard look at it all again sometime. It is not that they are doing a bad job. I have done some figures on the ACC. When I last gave very detailed evidence in Queensland, I produced all the graphs and I compared the NCA over all the years.

It is interesting because, if you compare the ACC now with the NCA of the 1990s. I will not worry about the figures but if you look at the number of people charged, comparing the last three years of the annual reports of the ACC with the NCA in the nineties, up to 1997—that was when I did the big thing up here—the ACC currently is charging 50.6 per cent more people per year. Charges laid per year have gone up 80.7 per cent. But before I came in this morning, I thought I should just have another look because I was not too happy with the way the NCA was going in its final years. I only have figures for 1997 to 2000 but if you do a comparison there, the ACC is running about four per cent below the NCA for its three years.

CHAIR—In arrests?

Mr Bottom—And on the number of people charged; it is 52.5 per cent below.

Mr WOOD—But that also depends on the calibre of the person they are arresting.

Mr Bottom—You are right. Fewer people were charged: from an average of 463 you are down to 238. Have you had evidence yet from the committee? We used to publish all their names once in the NCA annual report. Again I say, you really do need a research body to look at and equate all these matters.

CHAIR—We are running grossly out of time. We could go on for a long time. Just before we do close, Mr Bottom, the South Australia Police in their submission suggested that, because of the increasing complexity of business, technology and things that are very often beyond the comprehension of most Australians, the requirement to prove offences beyond reasonable doubt is becoming increasingly difficult to meet, as I say, particularly in those complex business transactions and technological issues. Do you have a view on that?

Mr Bottom—I have always wondered. For the Attorney-General's office in New South Wales once, I looked at a company called Nugan Hand before there was subsequently a royal commission. I was a bit naive on company matters but I had a good adviser in the Companies Office at the time. This was before we had all these directories where you can look up companies or names of directors and what not. At that time they were suggesting they could not do much, it was too complicated and they could not get it through juries. I have never quite believed it but I put this to you: it is a good excuse. I am not discounting that there are complexities, but lawyers exploit a lot of that. One time we were all advised, 'Follow the paper trail.' If you can get a paper trail and they have done something shonky in business, it should be

easier to convict them, not harder. There is something amiss. I do not believe it is as complex as they say.

CHAIR—With cyberspace and records being held in the air somewhere, however that works—

Mr Bottom—They say that with organised crime, but if an ordinary Australian has a complaint with a bank or some financial institution or is being ripped off by some shonky traders, even on the world scene, ordinary people from the country and cities of Australia, even acting on their own behalf, have been able to go to court and win against some of the biggest institutions around the place. It has not been too complex for them. It may be prolonged, but even miners at Mount Isa who have lost money have done better than some of the so-called trendy lawyers of Brisbane, Melbourne and Sydney.

CHAIR—They might have only had to prove on the balance of probabilities if they were taking a civil case.

Mr Bottom—That is right.

CHAIR—That was the point South Australia Police made.

Mr Bottom—I am not knocking it but it is often an excuse. I was annoyed, and I said so, about the NCA dropping all its other inquiries at once to pursue the John Elliott matter. I know the committee had to inquire into it. I was at the *Age* at the time. The ASIC predecessor at the time had a chairman who used to run around appearing on the box every night. Why couldn't they have done that?

We have now given special powers, royal commission powers, to the ACC, previously the NCA, and we have given it to the state bodies; but there is one thing in Australia that has never changed: company law has always had royal commission powers, right throughout our history. The equivalent of the ASIC of the day had royal commission powers. I notice Duncan Kerr is concurring, because he has been Attorney-General. They had every power under the sun, better powers than the NCA, and they failed to use them. Maybe we ought to start looking at some of these bodies because they have failed people lately on some of these investment scams. Sometimes it is because of laziness or for some other reason that they point to complexity to excuse their inaction.

CHAIR—I will have to restrain the committee because we could be here all day and we cannot be here all day. Thank you very much. We appreciate the wisdom of your comments and your advice. Thank you for making the time.

Mr Bottom—Thank you.

Proceedings suspended from 11.36 am to 11.43 am

FOULGER, Ms Elizabeth Ann, Manager, Intelligence, Queensland Crime and Misconduct Commission**KEEN, Mr Christopher James, Director, Intelligence, Queensland Crime and Misconduct Commission**

CHAIR—I now welcome Mr Keen and Ms Foulger from the Crime and Misconduct Commission. Thank you very much for coming along and sharing your expertise with us. I know that you are aware of the rules of the proceedings so I will not repeat those, except to remind you that if there are things that you would prefer to say in camera we are happy to receive a request to look at that, and you are aware of course that parliamentary privilege applies. Do either of you have an opening statement that you would like to make?

Mr Keen—We would like to make a couple of observations. We think that our written submission covers things pretty thoroughly from our point of view and we will be happy to take any questions that you may have. I suppose a fair bit of this is stating the bleeding obvious, but clearly illicit drugs remain the major cash cow from our point of view, and that is one of the major aspects of organised crime. Linked to that are things such as money laundering; we were looking at how that cash can then be used. I take the point from some of the other observations that following that trail is often one of the best ways to identify the networks and dismantle some of those organised criminal enterprises. To that extent, AUSTRAC plays an important role and probably, over time, law enforcement needs to look at a whole range of mechanisms to disrupt crime, not necessarily always just a straight law enforcement response through police agencies.

Looking at the criminal enterprises, the trouble with a number of these is that you cannot put them into a static description. They are dynamic; they are mobile; they move between groups. The criminal enterprises are willing to trade in different commodities; they work across regions; they are quite willing to work with a business partner who may have been a competitor last week, might be an associate the next week. Even the outlaw motorcycle gangs—and certainly there are some turf battles at the moment between some of those—will move across groupings if they see some advantage, be it for their various business enterprises. Outlaw motorcycle gangs remain a major issue for us in Queensland, as they are in a lot of other states. We would like to commend the Australian Crime Commission for their national task force and the Queensland Police Service for their initiative of putting up Task Force Hydra. We see that continuing to be a major priority for certainly Queensland law enforcement.

Another part of this, which is again pretty obvious, is that these criminal enterprises, when they are so mobile and fluid, clearly move across states and regions. There are international links with a lot of these people, and we would see that that is going to increase. We do not see that as regressing in any way. That makes the requirement for state, federal and international cooperation that much more critical, so we need to have the mechanisms in place where we can exchange information intelligence and ensure that continues to be enhanced over time.

I will get to telecommunications and reception a bit later, but one of the things I will lead into—perhaps those that were here last year can excuse themselves—with the telecommunications is to make the observation that the changes that are happening from a

technology point of view and from a business point of view with the carriers are starting to have quite a significant impact upon law enforcement. We have things such as VoIP, we have a number of new carriers coming in, internet service providers who may not be as amenable to assisting law enforcement. You will be well aware of course that we have forums such as the Law Enforcement Advisory Committee that has all the law enforcement and regulatory agencies, and we have the Interception Consultative Committee. At the moment, there are considerable challenges being faced by law enforcement in trying to be able to use some of the telecommunications information for establishing investigation cases and being able to track some of the criminal enterprises.

It will not surprise too many that one of the major shortcomings that we see at the moment, and which we have been stating for at least 10 years, is the lack of telecommunications interception. We would argue that this is impeding productive and effective law enforcement response. We encourage the current efforts by the Queensland government and the Commonwealth to try to resolve this. I would very much like to see this resolved before I retire, but I certainly do not want to wait another 10 years to get telecommunications interception.

I would make the observation also that certainly the CMC—and, I believe, all law enforcement agencies—are very sensitive and very careful about the role of telecommunications interception. I am not a lawyer, but if you want to read the Telecommunications Act on telecommunications interception you will see that there are a number of accountability and safeguard measures in there. When you look at the audits that are done—and we had a response back from Commonwealth Attorney-General's at the last Interception Consultative Committee meeting in Melbourne—the measures that are in place are really very stringent.

Also, you have to understand that the agencies are using telecommunications interception only for very serious, high-level organised crime. They are not using it for people who are, say, jaywalking. It has to reach a very significant threshold. We are looking at serious organised crime, whether it is a Tony Mokbel type crime or importation. We need to assure people that the agencies that are requesting this take it very seriously, but we are significantly impeded at the moment by this lack of telecommunications interception.

I remember in one of the references something about coercive powers. The coercive power hearings that we have are absolutely essential to the work we do. At the moment the Queensland Police Service is finding it particularly useful and, again, I think because the Crime Commission for Queensland is at arm's length and separate from the Queensland Police Service it works particularly well. We work very closely with Queensland police, but I think this gives a certain level of accountability that can make the public feel reassured that it is used in an appropriate manner. One minor point is that the CMC, about every four years—and we will be doing it next year, 2008—puts out a crime markets assessment, in both a classified and a public version.

CHAIR—So we can get a template from there?

Mr Keen—I am not going to refer to what the ACC has to go through, but perhaps our systems are a little more straightforward.

CHAIR—They are simpler. Okay.

Senator PARRY—I come back to one of your last points, Mr Keen, about the issue of jurisdictional crossover with QPS and your organisation. The first paragraph in your submission reads:

In effect the CMC distinguishes itself from the activities of the Queensland Police Service ('QPS') through the investigation of major crimes that cannot be appropriately or effectively carried out by the Queensland Police Service ...

What can't the Queensland Police Service carry out effectively in relation to the investigation of crime and organised crime?

Mr Keen—If we go to, particularly, the regions, they have a massive amount of volume crime coming through their front door. It can be things such as child sex offences in the paedophilia area, which might go to our Egret team. Certainly the Queensland Police Service has its Argos team that can also handle those, but, because of the sheer volume, even with Argos and Egret they are overwhelmed. When we are looking at serious—

Senator PARRY—Why not resource up the existing jurisdictional body, being the QPS? I can understand a need for a crime commission similar to ACC, but in having two for the direct operational work you basically have two police forces doing the same thing. I cannot follow the reasoning.

Mr Keen—In this case you are talking about just the paedophile, child sex offending areas?

Senator PARRY—Yes.

Mr Keen—The niche area they have is that they started a number of initiatives that came out of what was the Queensland Crime Commission, when the then chairperson saw that there was a gap, in particular, with internet child sex offending. That has been followed up over time with the Argos team, who have done some excellent work in that area as well. There have been areas where, due to resource limitations and the volume crime that Queensland Police Service has, we are able to look at new areas for investigation and new techniques by which we might be able to look at people who previously were not coming to attention.

Senator PARRY—Is having the two jurisdictions unwieldy?

Mr Keen—It can be, but you have to have measures in place. If I go back again to the child sex offending, paedophile, arrangements, there is a committee coordinating the representatives of both the Argos and the Egret teams from the respective agencies. In some cases they make sure they do joint investigations and in others they nominate one to take the lead. Without that, though, I think you are quite right. That applies not just between CMC and QPS but to our federal counterparts and in some cases, for example, the New South Wales Police. Obviously we have a lot of work on the Gold Coast that crosses over with New South Wales Police, so you do need close collaboration.

Senator PARRY—Does the CMC still investigate police? Does it have that justice commission capability?

Mr Keen—The CMC has probably three main areas. There is crime, which is both serious and organised crime, plus the paedophilia area, and we tend to put those together. We have our witness protection area, which is a very substantial part of our work, which we do for all of Queensland. We also have our misconduct and corruption area. Those three areas all come under the CMC. Clearly, in New South Wales they have separate agencies for those.

Senator PARRY—Can you give a breakdown—and if you cannot, please say—of what sort of activity would be in direct crime investigation and what would be in police corruption investigation? Do you have a percentage breakdown in manpower, dollars or effort?

Mr Keen—No, I have not. I can try and get back to you with some figures on that. In the intelligence area, for example, we would spend over 70 per cent on crime and paedophilia and probably 30 per cent on the other side, but that fluctuates. If you have a major inquiry, you move your resources into the areas that need them, and so at different points you have different measures. One of the reasons that the CMC did come together was that it gave a certain critical mass. If you are a very small agency, sometimes you cannot switch the resources because you just do not have the economies of scale to be able to do that.

Senator PARRY—‘Poaching’ is probably the wrong word, but are there police officers that leave QPS and come into the CMC and vice versa. Do you have cross-pollination of staff?

Mr Keen—We certainly have police officers who are seconded to the CMC. They usually come for a set time frame. Within the Crime and Misconduct Commission we have sworn police officers. We also have civilian investigators. Some of those civilian investigators are former QPS officers. As far as poaching, we certainly never do that.

Senator PARRY—That is now in *Hansard*, so that is good!

Mr Keen—For all the law enforcement agencies and for national security agencies there is a significant shortage of staff, given the demands across different agencies. Just last week, for instance, Defence Intelligence had a big ad in the paper. I do not think a month goes by without an ad for some agency such as Taxation, ASIO, the Australian Crime Commission. One of the major roles Elizabeth and I perform is trying to attract and retain good staff. My own view, which I have told my chairperson, is that if I can keep good staff for three to five years, that is probably not too bad.

Senator PARRY—At a Senate estimates hearing we had evidence from the AFP about this exact issue: shortage of skilled police officers in Australia. That certainly supports that.

Mr Keen—It is across the board. It is happening with some financial investigators, with lawyers and with police officers.

Senator PARRY—Do you feel as though this is a model that is going to take Queensland forward and, if we extend that to a national perspective, take Australia forward—a model like CMC handling serious and organised crime and the state police force still handling serious and organised crime as well?

Mr Keen—I want to get paid, so obviously I think it is going to be a very good model! I think it does work well. I heard you, Mr Wood, and I think you are from Victoria. I see that it will benefit a number of the other jurisdictions to have a crime commission in some area. I think it allows some very good judgement calls on the part of both the police and the commission. You are not going to operate in isolation, and it also gives a very clear guide to government what it is that they are committing to serious and organised crime. I am not trying to say that we have got that exclusively. We have still got, in our case, Queensland Police Service, AFP and the Australian Crime Commission. We are not trying to say that we are the be-all and end-all, but we do think we are a critical player. We think we bring some unique qualities to the table, including our special powers.

Senator PARRY—Is the competition healthy or does it create rivalry?

Mr Keen—I am not sure that it is competition. Hopefully, it is cooperation.

Senator PARRY—If you have two agencies in effect doing the same thing, there must be a degree of competition. Is that healthy, unhealthy or somewhere in between?

Mr Keen—Regrettably, we are in a target-rich environment, so as far as competition goes, if there were only two criminals walking around south-east Queensland we would be all over them.

Senator PARRY—If only!

Mr Keen—But there are more than that. I take your point. Some of it comes down to personalities as well, but the volume of work that we have—and it does not seem to be decreasing—is such that we need to work together, and I do not think people are that worried about competing.

We did a paper on the Finks outlaw motorcycle gang. I think you had Superintendent Steve Gollschewski here earlier. Steve's area did one on the Rebels. We came together. We wanted to do some studies and strategic work on outlaw motorcycle gangs. Rather than both of us go away and do our own thing, we pooled the resources. We shared the information across the different agencies. One did the principal report on one and the other did the principal report from their end. Again, the volume of work is there. Competition? Yes. I am not saying it is not there, but the volume of work means that there is more than enough to go around.

Ms Foulger—Operationally there is a lot of close liaison between the QPS and the CMC and there is briefing and sharing of target information. When the CMC selects a particular target, it usually selects that target because its level of sophistication is such that you may need coercive powers or specialties such as intelligence and finance investigators to progress it, but it will invariably involve a joint agency approach and result in a joint task force. So QPS are very much on board with everything we are doing and I think that lessens the effect of competition.

Senator PARRY—That extends to operational matters, so you are not going to get CMC and QPS turning up at the same dawn raid at either end of the building?

Ms Foulger—There are procedures for cross-operational checks in place, to make sure that, when we initially identify a target and QPS does, no other agency in Queensland is also looking at that person.

Senator PARRY—Thank you. I could go a lot further but, in the interests of time, I will cease there.

Mr WOOD—Do you have access to CrimTrac? I assume you would. How effective have you found CrimTrac?

Ms Foulger—We do not tend to use CrimTrac as much as we use ACID and ALIEN. We do have access to it, predominantly to see if people that we have identified in Queensland have come up in other states and have offended in those states. Then we would go to the actual state to ascertain the details of that. We tend to use ACID and ALIEN much more heavily because we use that as our own repository of organised crime information.

Mr WOOD—Earlier, you heard me raise CrimTrac having aviation security cards, maritime cards and explosives. Would it be of assistance to you if that were on the CrimTrac database?

Ms Foulger—Certainly broader sharing of that sort of information can only complement the efforts that we are going to at the moment. If we pick up a target, having the broadest range of information available on that person as quickly as possible is obviously only going to be beneficial to efforts.

Mr WOOD—How would you go about it at the moment, if you had a target and had concerns that he was involved in some way with the aviation industry? You would take out a warrant or make phone calls? What would happen?

Ms Foulger—There are a number of sources of information that might be available to us to get an idea of where someone is employed, through publicly available data. But it is also entirely likely that we might never know that that person was employed in that industry until we had recourse to things such as electronic or physical surveillance.

Mr WOOD—I thought that would be the answer. I was interested to see in your submission:

Prepaid SIM cards are regularly purchased and used by target identities (including in bulk) in false names or in the names of real persons without the knowledge of the person in question.

WA and Victoria law enforcement agencies—I am not sure which, although I think both—suggested that people should produce identification before they get one of these SIM cards, and even have them recorded. What are your thoughts on that?

Ms Foulger—That is true. We rely heavily on call charge record analysis because we do not have TI. In the course of that, you can clearly see phones that have been connected using false names, because you simply have to ring up and go through the process of connecting. We see ridiculous names like Will Smith and Bob Marley—clearly names that have been plucked out of the air. There is no process in place at the moment to prevent that from happening. There are also a number of significant organised crime people with links to the providers of mobile phones, so

they are able to get phones using legitimate details. Someone else has connected a phone through that provider, so the organised crime figure is able to come in and use exactly the same details to connect a phone and then continue to use that phone for their purposes. Then it is very hard to track down the actual user of a service.

Mr WOOD—When you say providers, are you talking about a mobile phone—

Ms Foulger—We are talking about resellers—just shopfronts. There are at least two that I am aware of that have significant organised crime connections. We have intelligence suggesting that that is the way they are being utilised.

Mr WOOD—Just so I understand: I would go in there and purchase a telephone legitimately in my name of Jason Wood. I have the phone connected in my name but then, as I have heard from other evidence, I could actually buy up to three SIM cards a day and just keep changing the SIM cards, and therefore the law enforcement agencies have no idea or find it impossible to intercept?

Ms Foulger—Correct.

Mr WOOD—When I say ‘impossible’, it is only because they cannot link that SIM card to that person?

Ms Foulger—We can generally work out who is using a phone by looking at call patterns and those sorts of things, but what is problematic is that you could go in legitimately, get your phone and leave, and then straight afterwards an organised crime figure will come in and say, ‘I’d like a SIM card with his details and the details of the person before him.’ In effect, your identity has been stolen and used for a telecommunications purpose.

Mr WOOD—Obviously that is where the provider realises that there is corruption going ahead. So, even if you produced 100 points of ID, the same thing would happen. How would you stop that from happening, apart from cracking down on the provider?

Mr Keen—That is one of the things that the Australian Communications Media Authority, through their Law Enforcement Advisory Committee and a couple of others, have been trying to look at with a lack of success. That is something that has been raised for about six years, so the question you are asking is an entirely valid one. The problem is that the Australian Communications Media Authority takes into account law enforcement requirements, regulatory agency requirements and carrier requirements. From a business point of view, if you are buying 55 SIM cards, I would think it might be one of my frequent flyer type customers. Those competing pressures are kicking in.

Earlier, I mentioned that the telecommunications industry is a concern for us. That is very much a concern. SIM cards is one part of it. Voice-over-internet protocol is one part. Internet service providers who may not be willing to assist law enforcement or may be actively assisting criminal enterprise is another part. We are looking five to 10 years down the track, but in the United Kingdom they are already starting to look at this because the role of telecommunications information as well as telecommunications interception is going to become severely curtailed unless there is action taken in the very near future—now, more or less. I believe we have an

interception national conference in Adelaide on 28 and 29 September, which the Commonwealth Attorney-General's is going to be sponsoring. A whole range of issues will come up there. We will be looking at things that, from the carrier's point of view, are probably business interests. There will be issues in relation to legal considerations and then there will be operational interests from agencies such as the police services and crime commissions.

Mr KERR—The first thing is that the old protocol, which insisted on availability to law enforcement of a means of accessing telecommunications, has been substantially corroded in practice over the last decade. I do not want to make too partisan a point, but in the previous administration I fought some pretty tough fights. It required holding off commercial interests for significant periods of time until that capacity was ensured. Plainly, it is not happening now.

Mr Keen—The industries have moved and the technology has moved so much that where, for example, there was a requirement for the carriers to provide information that they held as part of their business, they are still doing it, but now you do not have the information that Chris Keen rang Elizabeth Foulger, for instance, because now, through things like voice-over-internet protocol, we do not know where it went. You just pay your \$50 up front and, therefore, they no longer need billing records. As that is fading into the background, it is having an impact on us being able to salvage networks, links and then, from there, perhaps taking some other action.

Mr WOOD—For SIM cards, do you have recommendations that you would support, like the 100-point check? Is that something you would agree with? Obviously, we have to put in a report at the end with recommendations. That is where we want the experts to say, 'We concur or disagree.'

Ms Foulger—The 100-point check will certainly help with less organised people being able to get covert phones. It will not be possible to ring up and connect without later providing those points of identification. It will not assist, I guess, in the corrupt association where the provider of the card is doing so, knowing that they are granting a card with false details.

Mr WOOD—The next question is obviously about the funding required to put a system in place for 100 points of ID. How much is crime benefiting from the SIM cards? Is every major criminal, every major drug trafficker, swiping through the SIM cards?

Ms Foulger—I think they are very widely used. It is very unusual to find a crime figure at any level, even the most basic level, using a card connected to their own correct details. It does happen, but it is relatively uncommon these days.

Mr Keen—In every successful operation that we have had over the last five years, we have had people using SIM cards with false names. It is a theme that I think is across Australia.

Senator BARTLETT—I want to go to the part of your submission dealing with child sex offenders and paedophilia. I suspect that some of the difficulties that you have been talking about with voice over internet protocol and the like come into play in trying to track these sorts of networks as well. You have mentioned encryption technology. Are there ways around that with regard to new laws or greater cooperation from service providers, or is it simply a matter of continually having to find ways to cope with the new technological environment?

Mr Keen—We continually have to find ways to deal with the new technologies. This comes back, to a certain extent, to telecommunications interception, because in some instances there will be differing legal opinions as to what we can and cannot do with some of our work that we do on the internet. We are doing something called peer to peer, which is now being tested in the courts, so we will be better placed to answer that question after some of those challenges are resolved.

Senator BARTLETT—With the networked child sex offenders, they obviously know each other in one sense—they are networking and sharing information, as you have said—but do they know each other's details or are they anonymous?

Mr Keen—It varies. They use code words or false identities. Some of them do not want their true identity known. Some have been to prison and form networks within the prison and then go out and clearly do know each other. There is a range.

Senator BARTLETT—I do appreciate that there are international networks, but I am trying to get a sense of how widespread these networks are at a local level. To use the standard conspiracy theory that is put out occasionally: does there exist, to some extent, a network of people who know each other amongst law enforcement and the courts and politics who protect each other? I do not mean necessarily politicians et cetera but people networked within different agencies and working with each other in that more organised way, or is it much more of a loose network of people?

Ms Foulger—The QCC, which existed before the CMC, did a project looking at the nature and extent of networked offending in Queensland. I do not think that the situation has changed much since then. There were a small number of networks identified, but by 'networks' we mean fairly loose associations. There is no evidence of sophisticated organised offending or group offending against children. Most of the networks that have been detected have been loose associations, where they might share information or technique but not victims. So, no, there is no highly developed, sophisticated networked offending in Queensland that has ever been detected. In most cases, I do not think that a lot of the offenders know who they are talking to. I do not think they know where they live. That sort of information is only given after a considerable amount of trust is built up. Probably more problematic in terms of networks occurring is the prison environment.

Senator BARTLETT—It is almost identifying them one by one then, even though it is a network?

Ms Foulger—Yes.

Senator BARTLETT—I want to ask about your reference to currently looking at Middle Eastern organised crime, if there is any, and making an assessment about whether it is an issue in Queensland. You are reporting on that fairly soon. Is that a public report?

Mr Keen—That will be a classified document for law enforcement only. We are looking at Middle Eastern organised crime in part because of some of our responsibilities with the Australian Crime Commission and issues in relation to significant incidents in Sydney, in particular, and also in Victoria. Our assessment is going to come out that basically we do not

have the same level of problems that they have in New South Wales and Victoria. There certainly are some areas of concern. We have had people from Sydney who use the Gold Coast from time to time, so there are links back to Sydney. We have also spoken to some of the community leaders, and at this point we are not seeing that we have anywhere near the same issues that New South Wales and Victoria have. But we are going to be recommending that we keep monitoring for any signs that that may be increasing.

Ms Foulger—Just as important as understanding the nature and extent of the problem, this assessment is looking at what sorts of things might indicate that the problem is increasing and, should those indicators be hit, what we can put in place to ensure that we do not have the sorts of difficulties that might be experienced in other jurisdictions.

Senator BARTLETT—Without going into the details of what will be in your classified report, you are basically saying, ‘Keep a watching brief on it,’ but it is not a serious problem at the moment.

Mr Keen—I think that is fair. There are a couple of individuals of concern to us. Looking at Middle East organised crime, there is a tendency for some to think purely of Lebanese crime, but we have looked across the board—Lebanese, Syrian, Israeli, Iraqi and the others. We are trying to do an assessment that looks across the different groupings and, in the end, certainly there are some areas of concern, but I think that your assessment is pretty fair.

Senator BARTLETT—You have mentioned the activities as being drugs, property crime and vehicle rebirthing. You have not identified anything outside of that?

Mr Keen—Linked to that, obviously, is some identity theft and money laundering.

Mr KERR—Thank you for a very thoughtful and well put together submission. One of the obvious dilemmas that social policy has to undertake—and it is a debate that will probably not be resolved here—is the issue of how we address illicit drugs. Most of your assessment suggests that, despite the interventions that have been quite successful, the market situation in relation to those drugs is either increasing or stable; there is no decrease. In terms of your work, I assume your focus is on the danger to the community of high-end organised groups rather than general use in the community. What, if any, thought do you have in relation to the economics of the market? Do you think there is a case for some serious Productivity Commission economic analysis about the effectiveness and consequences of law enforcement in this market? At the moment, the data that we get is arrest figures. We get some data on availability and we get some surveys on use which say that about 34 per cent of Australians—I think that is the most recent figure—have used illicit drugs.

We had evidence from Detective Superintendent Gollschewski this morning that, essentially, most of the people who use illicit drugs do not conceptualise themselves as being criminals. They do not see it as anything wrong at all. Does anyone do any economic analysis of this market and how interventions shape the market: whether or not sometimes by intervening in this area to reduce supply you actually create tougher and more law-enforcement-resistant organisations elsewhere, whether it is a zero sum game, or whether you can actually shift outcomes? I am interested in how you get some sort of overview of the economics of it.

Mr Keen—The short answer is that I do not think anyone is really doing that effectively anywhere at the moment. It certainly is conceptually a very good idea. Whichever agency or person comes up with it, there is going to be the need for a fair amount of academic rigour, so you are probably almost looking at a special project to do that. I am aware of some attempts having been made but not having been successful in the past, on a smaller scale, and I have read one or two of those. I would certainly support it. The hard part would be the project proposal and the conceptual framework: how you are going to pull that together, what sort of modelling you are going to use in order to come forward with meaningful data that you can use to make some judgement calls.

Another thing is that it is quite misleading to keep calling them ‘recreational’ drugs. We constantly have this situation where, if someone is using cocaine or cannabis, it is a ‘recreational’ drug. I know people say they have got mixed responses to education programs, but our observation of, for instance, cannabis is that it is seen to be almost a benign drug, and it is not. I think there are some education programs that you can get out that will explain that. In my own case, I know, through a family contact, of significant problems with cannabis use. It impacts upon different people in different ways. The Queensland Police Service at the moment is doing a review of the cannabis market and I look forward to receiving it. We are about to put out a report on cocaine ourselves which will go to Law Enforcement this month and then should be a public document next month—a sanitised version. We need to try to get away from some of the terminology and to have better education. In my own case also, I talk to my daughter about drug use. She probably gets a bit more than she needs, but I do get to explain what the implications are.

One of the things we have looked at previously within the CMC—and we have not picked it up yet—is our crime prevention area. When we put out a brilliant report like the cocaine report will be, that is fine for probably Bob Bottom and a couple of others to read, but what we need to do is get things into a usable shape for parents and kids and teachers—a short, sharp, shiny description of what to look for and what the impacts are—and try to get some of those out. The reports we do, I believe, add a lot of value, but there is an enormous part of the market that we are not even touching as far as education goes.

Mr KERR—I do not think anyone disputes that probably all but certainly most drugs that are described as ‘illicit’ have adverse consequences, but, of course, when you deal with the user group—young people and the like—they point out the undeniable fact that the greatest harm is from drugs that are immediately available and which I go out and have—a recreational cigarette—at the break, and which I will drink—in my case, moderately and abstemiously. But they know that the greatest number of hospitalisations and deaths are caused by drugs that are freely advertised. It is a tricky dynamic.

I will ask you one other question about rising opportunities for crime, and I asked it of the Queensland Police Service. It was suggested to me that a big opportunity for growth in organised crime is the group of people who will get large payouts as they come to the end of their working life. They have never been investors and they have never had a large lump sum, and they will probably be attracted to taking a lump sum because it presents with such a tempting reality to get your hands on that sort of sum of money. It will be the first time in their lives that they have had to make complex investment decisions, they are sitting out there with none of the skills or understanding necessary, and it has been suggested that this is going to be a growth area for

scams and abuse—elder abuse. Some of these people are older, but even those retiring in their 50s and early 60s would be vulnerable to this. There are some sophisticated investors, but most of these people will be getting their hands on between \$500,000 and \$1½ million; they will have never seen the likes of it in their lives. If I were a serious and organised criminal I would be eyeing this as a market opportunity. I may have misread or not noticed, but I did not see anything addressing that, and I just wonder whether there is any research and planning in this area.

Mr Keen—It has not really come up for us, but I would agree with the Queensland Police Service that that is going to be a vulnerable area. As I said in my opening, these criminals are dynamic, mobile and flexible, whether there is money to be made out of counterfeit CDs or something else. At one stage we were even wondering whether we were going to start seeing theft of water. Criminal enterprises will go wherever there is a profit to be made, and I think you are quite right about the retirees being paid out. That is a once in a lifetime opportunity, they will be vulnerable, and it is something that various agencies, not just law enforcement, are going to need to keep a very wary eye on.

CHAIR—I come back to telephone intercepts. We have been told that every other state in Australia has the ability to intercept telephone communications but that Queensland does not because they want a public interest monitor.

Mr Keen—Yes.

CHAIR—Are you familiar with that?

Mr Keen—Yes, I am.

CHAIR—What is the public interest monitor?

Mr Keen—Basically, the public interest monitor comes and checks accountability and the legality of the listening devices, or in this case it is going to be telecommunications interception, and it is to see that there is a valid case to be made and it is not a fishing expedition or something like that.

Senator PARRY—This is prior to granting the intercept warrant?

Mr Keen—It is a little bit tricky. I do not see that there is necessarily a problem with the public interest monitor being involved, and certainly there is not a problem from either the CMC's or the Queensland Police Service's viewpoint—nor, I think, from the Commonwealth's viewpoint. It is just 'in what form?' and I think that is what needs to be resolved between the Queensland state government and the Commonwealth government. They need to use some negotiation and leadership skills to resolve this.

CHAIR—It should be able to be resolved. Others obviously know of this, but I do not: is the public interest monitor like an ombudsman?

Mr Keen—It is separate to the ombudsman. It is a similar role, but it is particularly for those electronic communications.

CHAIR—So if you apply for an intercept, as well as doing what they do in other states, the application goes to the public interest monitor. Is that how it works?

Mr Keen—At the moment the bill is in draft form, and at what point the public interest monitor gets involved I do not know, but the public interest monitor, to the best of my knowledge, is going to be involved in saying, ‘This is fair and proper,’ or, if they disagree, then that needs to be reflected. But I am going to have wait until we see the draft bill to be able to comment authoritatively on that.

Mr KERR—But with respect to listening devices, where it already operates in Queensland—and correct me if I am wrong; I do not have a detailed knowledge—as I understand it, they act as a sort of statutory doubting Thomas. If they believe that there may be some reason to question the basis upon which an application is being made, they can express those doubts to the judge. They do not get in the way; in the end the judge makes the decision, as I understand it. Is it correct that essentially they are like a monitor for the public interest, simply to draw attention to anything that might otherwise slip through?

CHAIR—Are you familiar with the public interest monitor with listening devices? Is that the exact description of how it works?

Mr Keen—I am not so sure about when they go to the judge—I would have to go back and get some legal advice on that—but the issue in relation to telecommunications interception is at what point and how integral they are. I do not think there is a problem with them being involved necessarily. It is a matter of in what form and at what stage. When you look at the loss of capability that Queensland law enforcement has, there is a need for this to be treated as a priority for some leadership and negotiation on the part of our political masters to be able to resolve this.

CHAIR—Perhaps we could help, if we could try to work out what the alternatives were. Would the public interest monitor on his own initiative be able to say, ‘No, you can’t have it,’ or does he have to go to a judge or another authority and say, ‘I argue against this, Judge, for these reasons’? What powers does the public interest monitor have?

Ms Foulger—If we are going to make an application for a listening device, we advise the public interest monitor and we provide them with a copy of our affidavit and materials. They will give some indication at that stage of whether they have problems with the order. We may or may not make adjustments to ensure that they are happy, but both the public interest monitor and our counsel will appear to make the application and the judge will hear from the public interest monitor, but it is still ultimately his or her decision.

CHAIR—The judge’s decision?

Ms Foulger—Yes.

CHAIR—In listening devices, the public interest monitor has only an arguing capacity?

Ms Foulger—They are an advocate for the public interest.

CHAIR—That does not apply with telephone interception elsewhere in Australia, apparently.

Ms Foulger—No.

CHAIR—Do you have an understanding or a view on—or if you do not, could you suggest to me who might have an understanding or a view on—whether that works well or poorly? Are individuals' rights interfered with; the fact that it is not available in New South Wales, Victoria and Tasmania?

Mr Keen—I would go back to my original statement. We are very much supportive of the accountability mechanisms and the protection of people's privacy and rights. I would suggest that there are a lot of measures in place in other jurisdictions that do cater for that and that the Commonwealth Attorney-General's also do a thorough job in auditing that. The fact that we would like to have a public interest monitor is fine and will do well and add some more reassurance. It is simply a matter of needing to work out how we do this. It is not that problematic, but it seems to have become extremely problematic.

Mr KERR—It has taken 10 years and it is not rocket science.

CHAIR—My real question is that it does not seem to be needed anywhere else in Australia. For some reason it seems to be needed in Queensland. As an extension, does that suggest that the police and the CMC in Queensland are a bit aggressive, so you need that extra break where other states do not?

Mr Keen—You really need to address that to the government.

Mr KERR—There has been a substantial argument about the need for additional protection in Queensland. Other jurisdictions have not, but Queensland has always, taken the view that this monitor should be there. Maybe it is not required as a safeguard, but I cannot see why it is not within the wit of the Commonwealth to say, 'We can build this in for the Queensland Police.' It is a crazy situation at the moment, where people stand on both sides of a ditch and the outcome is that Queensland do not have—

CHAIR—That is a good comment, but I was trying to ascertain why Queensland is different.

Mr KERR—I think the Commonwealth has been resistant to an argument that then would be built on by others to say that similar protection should be built in in other jurisdictions. Both are taking stupid positions—sorry, both are taking positions which have a stupid outcome.

CHAIR—That is a question for argument. I am not engaging in a debate with the witnesses. I am simply asking why Queensland is different. I have the answer to the extent that the answer can be given. These are not the witnesses to ask. What you are saying is something we can perhaps discuss.

Mr KERR—I did say something wrong. It is not that both sides are taking stupid arguments. The outcome is stupid. Both sides actually have a respectable argument but their failure to come together and find common ground has been very destructive.

Mr Keen—The other part of the situation is, I think, that both want a similar outcome: they want accountability, they want people's rights protected. That part we agree with. There is no

problem. There is a small gap between them. That is where we would believe that with some negotiation and leadership this should be able to be resolved, probably preferably outside of the glare of media.

Senator PARRY—Is there any reason why the Queensland parliament—and I use the word ‘parliament’ deliberately, not politicising either side—cannot implement its own ombudsman or oversight or whichever way it wishes to go? Why is it reliant upon the Commonwealth?

Mr KERR—Because the Commonwealth has passed legislation which covers the field and excludes the states and territories from legislating in this area.

Mr Keen—It has to be with the Commonwealth’s agreement and approval.

Senator PARRY—So the Commonwealth is not agreeing for one of two things to happen: (a) the Commonwealth providing that oversight and (b) the state parliament providing the oversight? So the Commonwealth is preventing both of those issues happening?

Mr Keen—I am sorry, I will have to ask you to restate that question.

Senator PARRY—The Commonwealth has the legislative ability to provide for an oversight—so in this case, the public interest monitor, which is a Commonwealth position. Correct?

Mr Keen—No, it is a state position. You have the Commonwealth Ombudsman who does the reviews and checks. You have the Commonwealth Attorney-General who does their audits as well. There are a number of measures in place, including internal ones.

Senator PARRY—So the Commonwealth is preventing giving permission for the state parliament oversight, which is Queensland’s public interest monitor, and that is the only issue? That is the single issue?

Mr Keen—That is the fundamental one. The positive I take from it at the moment is that the Queensland government is getting documentation together. When you sit down and start going through a document, you may be able to say, ‘It’s these three lines,’ or, ‘It’s this paragraph,’ and from there hopefully resolve it. Before, a lot of this has been in the way of verbal exchange. If we can get to the point where we are using documents, then we can say, ‘That is the specific point where there is some difference.’ It can be a bit of a movable feast, but it does come down to the public interest monitor role that is causing the disruption.

CHAIR—These are perhaps not questions we should be asking you. You do not have any jurisdiction in this area, do you?

Mr Keen—No. This is something that needs to be negotiated between the Queensland government and the Commonwealth government. The actual agencies, such as Queensland Police Service, Queensland Department of Justice and Attorney-General and ourselves, can provide advice and information but that is not for us to negotiate.

CHAIR—I would not put this as a question to you, whether you agree or disagree, but I note in passing that Mr Bottom, who is in a position to be able to be as frank as he wants to be, suggests that it is because, through all political parties, Queensland politicians have not wanted to have this and that is why it has never got anywhere in Queensland.

Mr Keen—It is always hard to identify people's true motivations.

CHAIR—All right. We have heard that Canada has legislation that bans membership of outlaw motorcycle gangs. Are you familiar with that at all?

Mr Keen—Not specifically myself, no. I am not aware of that.

CHAIR—You have given no thought to whether it would be appropriate to do that in Queensland?

Mr Keen—We have flagged the RICO type legislation that was introduced. We raise that without having done a really thorough study of it. We may make a conscious decision not to do it or we may make a conscious decision to implement that. One of the problems we had at our first meeting of the joint task force was that we were trying to bring all the ideas forward and saying, 'Well, what do you think will work well?' At the moment, we believe that civil forfeiture has been particularly effective, and we think that is going to be increasingly effective over the next two, three and five years.

CHAIR—If there are no further questions, we will conclude this segment by thanking you very much for coming along and, as you say, 'See you next summer.' We will not call on you more than we have to because we appreciate how very busy you are and what an important job you do in the administration of justice in Queensland and in Australia.

Mr Keen—You are welcome.

[12.44 pm]

BROADHURST, Professor Roderic Girth, Private capacity

CHAIR—We welcome your involvement in our committee, Professor and thank you for accepting the invitation to share some of your expertise with us. I understand that you have a well-deserved reputation in certain areas of criminal activity—not personal, of course. I am not sure how familiar you are with these committees but, very briefly, they are part of the parliamentary process and so parliamentary privilege applies. If there are things that you would prefer to say in private, then we can consider requests to take the evidence in camera. We would appreciate you giving us an opening statement and then subjecting yourself to some questioning from members of the committee.

Prof. Broadhurst—Certainly. Thank you, Senator Macdonald. I am here to talk about a few things. I appreciate that you have a tight schedule, so I want to focus on, if time permits, one area that may not have been touched on in any depth by previous witnesses—that is, I want to talk about the role of organised crime or serious criminal networks and their involvement on the internet or in cybercrime.

I also want to mention to the committee that my university, in conjunction with the National University of Singapore, will be hosting a closed meeting—but of course we extended invitations to law enforcement agencies throughout the region—on Asian organised crime in Singapore at the end of this month, at which there will be a gathering of experts on that subject at the National University of Singapore and in conjunction with the Singapore police force and other police forces in that region. I think that would be a very good opportunity incidentally to get a sense of what the trends are, how things are developing, and I am stressing in that commercial—if you would forgive me for making that commercial—how important developments in organised crime are centred around the Asian region and how pivotal that is to us. This is an emphasis that has been made probably time and time again by people in this forum.

The other thing that I quickly wanted to mention is that, as part of my work with the United Nations on cybercrime, a virtual forum on cybercrime will be set up early next year. This will be a web based tool to try and build capacity amongst law enforcement agencies in transitional developing countries to deal with some of the very important mutual legal assistance problems that arise with regard to cybercrime.

I do want to touch on two other subjects which are a trifle more controversial, I suspect, in the Australian context. I want to make some observations to encourage this committee and other parliaments to look again at the question of how we ought to legislate against organised criminals, or at least serious criminal networks. I note that in the Australian context—although having only recently returned to Australia, I am not as up to date as I would like to be on all the ins and outs of legislation in relation to organised crime, or how it affects organised crime—it is pretty clear that we do not have uniform legislation. We have not tackled the RICO type laws which have been quite successful, in conjunction with other efforts, to control organised crime,

for example, in the United States. We also do not have laws that specifically deal with membership of organised crime groups or serious criminal networks.

Some jurisdictions have these laws and that has been a very successful means of curtailing or containing particularly very visible organised crime groups—for example, in the Australian context, that would be so-called motorcycle gangs. You have probably already heard that they are pretty heavily involved in the drug trade, protection, extortion and so on, yet there are no easy mechanisms to outlaw these gangs. The mere membership of a gang, for example, in some jurisdictions would be sufficient for a summary offence, a repeated offence of that kind—in other words, wearing colours.

The purpose of putting this on the table really is to suggest that law enforcement agencies in Australia are, to a certain degree—the extent of which we could argue about—operating with legal restrictions which make it much more difficult to control these kinds of groups. The example that I want to draw on, because I know something about it, is the Societies Ordinance in the Hong Kong Special Administration Region, which outlaws membership of a triad organisation and also outlaws claiming to be a member of a triad organisation; office bearing, paraphernalia and all the rest of it.

The importance of this is that although it sounds to our ears, to our culture, quite an invasion of civil liberties, whatever, these groups trade on the reputational violence that their names give them. It is very easy for organisations of this kind, which trade on reputational violence, to slip from protection to extortion, to infiltration of legal businesses, and so on. These gangs, both in the Chinese context and also here, operate entirely on the intimidation of that reputational violence. That brand name—as we academics sometimes like to call it—the brand recognition of wearing a Hell's Angels jacket, a Coffin Cheaters jacket or whatever, has the same equivalent intimidatory effect as does the wearing of a triad tattoo and so on.

I am flagging that this is a really important issue. I think Australian legislation needs to address it, needs to come back and look at it again, because these groups are doing considerable damage to our social fabric. They challenge the authority of law enforcement and, if I can be a little bit clichéd, you can only really allow one big gang and that has to be the lawfully authorised officers with the necessary warrants and laws behind it, not several gangs competing for control in a city or town.

Having said that, I do not want to over dwell on it, but I do think that this joint parliamentary inquiry ought to put that back on the table, because I think that we are in a situation now, with the continuum between organised criminal activities and terrorist activities and so on, where we are getting to the point where we do need to have pretty effective tools to suppress these activities. In the academic circles that I have been involved in, we know that one of the ways to combat organised crime, serious criminal networks and so on, is to make sure that there is the political will out there to make it difficult for organised criminals to get the kind of control, the kind of merger with legitimate business, the kind of merger with law enforcement, the kind of corrupt practices that we often see in what is sometimes called the symbiosis between crime, police and politics. We need to be vigilant in that domain.

By raising that topic, I wanted to stress that, coming from the outside and looking inside again, we are not terribly well equipped at the legislative level to deal with serious organised

crime. We do not a bad job given the circumstances—and, of course, Australia is not overrun by organised criminals, but in some areas it is coming pretty close when organised groups can run amphetamine laboratories, import drugs, distribute drugs, control the sex industry, standover merchants and all this sort of stuff, and then blend in with semi-legitimate or legitimate businesses.

I can refer to examples in Western Australia and the Northern Territory, if you wish, but that is an important matter that needs to be kept on the agenda and, although it may be considered rather against our civil libertarian standards, RICO style legislation with the witness protection ordinances that go with it are very important tools in the fight against organised crime.

Mr KERR—The comparator, if you were putting it this way, is the United States and Hong Kong. I have travelled to the United States and I have looked at their crime statistics and the like. You would not put them up as a model of best practice, my friend. That legislative framework has not prevented the growth of violent, extremist gangs coming out of some of the South American countries; it has not stopped penetration of that community by drugs. In fact, the level of violence that is used far exceeds that which is in our society. Even in Hong Kong, which is relatively benign compared to the United States, notwithstanding these laws, if you were a restaurateur and somebody did ask you for protection, I am certain that that is still happening there. These groups do not go away. The triads do not go away, do they?

Prof. Broadhurst—With all due respect, my suggestion is that they are never going to go away.

Mr KERR—Yes.

Prof. Broadhurst—I refer to the antisocieties ordinance in Hong Kong and RICO in the United States, but I particularly would prefer to refer to some of the practices that occurred in New York—some of the controversy, both academic and law enforcement—about the so-called families. We can talk a little bit about what we mean by ‘organised crime’, but we know that the so-called families, the Italian Mafia, have certainly been replaced in many respects by Russian and, as you mentioned, Colombian types of organised criminals. Of course, the United States has a firearms situation.

Mr KERR—They just got softer; got killed by tougher mobsters.

Prof. Broadhurst—That may be the case.

Mr KERR—I am being devil’s advocate.

Prof. Broadhurst—No, that is all right. I would respond by simply saying that you need to have a toolbox, and our toolbox has limitations: if I am a carpenter, I need more than a hammer, or I need a saw or whatever.

Mr KERR—I understand that. But once you get RICO, don’t you get everything hit with a hammer? Conrad Black has just been hit with a RICO hammer. Nobody expected it to apply in those areas. Isn’t the toolbox analogy also apposite to say, ‘Well, once you’ve got something like RICO, then everything gets the RICO solution’?

Prof. Broadhurst—You are making a point. But I would like to make pretty clear this qualification: RICO by itself has not been particularly successful with antiracketeering in the United States. What I am talking about is legislation designed to deal with serious organised crime. I gave that as an example, and I also would give the Hong Kong example, and others. Things have worked out better in New York, for example—and there is a huge academic debate about exactly why—because of the twinning of political will and dedicated law enforcement with RICO type statutes, and particularly those focusing on the money; where it comes from and how you got it. It is a reversal of the onus of proof.

But there was also the tackling of the tendering, what we would call the contracting of tenders—government, state government, local government tenders for rubbish removal, stevedores, all that sort of stuff—making that open and transparent, using civil law twinned with criminal law to really hit crack dens, extortion around local government contracting and so on. I am not advocating a RICO solution per se. What I am really saying is that you need tools like that, particularly with some of the things that we have developed since RICO—witness protection, money seizure, these sorts of tools that we already have. RICO is, in a sense, less important than the very simple point that if you have outlaw gangs, you must outlaw them, and you do not outlaw them by allowing them to have an annual drive for the local hospital with fluffy toys or something—in other words, these are people that are quite good at the business of PR. Of course, there are definitional problems, and the Convention Against Transnational Organised Crime, to which we are a signatory, I would have thought obliges us to look at these sorts of things, as you no doubt know.

I am really saying that, if you are going to go to the heart of it, you must attack reputational violence, brand violence. I will not say that I have had the privilege, but I have had the opportunity to study how reputational violence works amongst the Hong Kong triads and know something about it and know some of the ripple effects that it has. You made the point about not being able to stamp out some triads, but I can tell you that, with a very vigorous hostile government and a very capable law enforcement agency, triads are not what they used to be.

CHAIR—Professor, did we interrupt you? You were going to make a third point, I think.

Prof. Broadhurst—Yes. I thought what would be useful to you as a group would be if I talked a little bit about how we see trends in organised crime in cyberspace. I do think organised crime does that.

CHAIR—Okay. Let us come back to that. But continuing with the organised motorcycle gangs, are you familiar with the Canadian legislation?

Prof. Broadhurst—I cannot say ‘familiar’ in the sense that I know it blow by blow, but I am aware that there is legislation designed in Canada to address those particular groups.

CHAIR—Perhaps you cannot answer this, having just said that. I am assuming that it would be similar to the Hong Kong legislation that you are talking about, but you do not really know?

Prof. Broadhurst—I am not sure how close the Hong Kong legislation is to the Canadian legislation but, as I understand it, certainly the Organised and Serious Crimes Ordinance defines what an organised crime group is and talks about changing some of the onus of proof, changing

the burdens and so on. In Hong Kong you have this additional legislation called the antisocieties ordinance, which specifically makes it an offence to claim to be or to be a member of a triad.

CHAIR—That, for the first time, has made sense to me about outlawing motorcycle gangs because, as I commented facetiously, you change the name of Hell's Angels Motorcycle Gang to the Fluffy Ducks Benevolent Society and you can still carry on but, as you are saying, it is the belief of people that you are from the triads and that they are frightened of you. As I understand what you are saying, in Hong Kong, even me going along and saying, 'I am a triad,' is enough to convict me of an offence.

Prof. Broadhurst—That is sufficient. What you are claiming, of course, is the reputational violence. You are claiming the legend as a means to intimidate, and this is indeed what they do, whether they are or not. I am not a triad expert. Triad experts are Hong Kong police officers who are aficionados of all the ins and outs of those organisations. But we do know from our work on organised crime in China, Hong Kong and around that region, that they are morphing. Their morphology is changing pretty much as modern organisations are changing. We used to talk about triads as if they were tongs—very hierarchical, almost Mafia, family-like in their structures with office bearers with the relevant numbers, the codes and all that sort of stuff, which is interesting. But they have become much more project driven. They have fragmented, and they have partly fragmented as a countermeasure to law enforcement and partly because it is much better to do business in a networked environment, project driven, where you assemble the expertise that you need in this way.

CHAIR—Wouldn't you be forever changing names? 'You're no longer a triad, you're a member of the Mafia.' 'Well, you're no longer a member of the Mafia, you are a member of the honoured society.' 'You're no longer a member of the honoured society, you're a family member,' or, 'You're now a member of the Fluffy Ducks Benevolent Society.' Wouldn't you have to keep changing as the name changed or the reputation changed?

Prof. Broadhurst—Yes, if the reputation changed, there would be an issue. Of course, we live in an imperfect world and this is an imperfect situation. Criminals are not stupid. But they do trade on reputational violence and you will find splinter faction groups.

CHAIR—I am just trying to work out how you can legislate against that threat of violence or that perception of violence.

Prof. Broadhurst—From a drafting point, it would not be particularly easy, but we draft lots of difficult things to do with all sorts of different matters, and one of the things that I am suggesting is to ask you to revisit that, with all due respect to you, sir. We should revisit that and we should take a good look at it, because what is the essence of the offences? For organised crime involving the internet, they do not make threats. They distribute pornography.

CHAIR—I am very happy to revisit it, but I am really trying to get from you that you are saying the models we should look at are the two ordinances of Hong Kong; and someone else has suggested the Canadian model.

Prof. Broadhurst—I am giving that as an example because it triples with the 1994 Organised and Serious Crimes Ordinance, which is kind of a RICO style. I do not want to be seen to be

thinking that RICO somehow or other is, as Mr Kerr, I think, has suggested, some kind of panacea. I do not think it is. It needs to be twinned with other things. What I am really saying is that what is interesting about Hong Kong is the outlawing of membership—tricky as it is—and in that scheme they had an amnesty scheme as well, and something like 60-odd thousand what we would call low-level triad members did give up that allegiance. There were programs that they ran with it. I think you need a combination of measures.

Why I am asking you to revisit the membership issue is because it goes to the heart of the reputational violence/brand violence matter. Because it outlaws that, it puts pressure back on those groups who are using brand violence. You are absolutely right, they will morph. They will be the Fluffy Ducks or whatever. You need an instrument that will accommodate that morphing, because ultimately it will be, 'Although I'm a Fluffy Duck, I'm actually 14K,' or, 'I'm Wo Hop To,' or, 'I'm a Big Circle Boy.' At some point the intimidation will emerge. The problem with protection, as you know, is that it slips to extortion readily. The only reason it does that is because of the brand violence that is being sold here. It needs to be studied.

CHAIR—Just on that issue, Senator Parry, do you have any questions; and Mr Kerr?

Senator PARRY—Not on that issue.

Mr KERR—No.

CHAIR—Okay, back to cybercrime or anything else you wanted to talk about.

Prof. Broadhurst—Is it worth while, in this short period of time, to talk a little bit about what I and my colleagues—Peter Grabosky at ANU and my colleague at QUT, Nick Chantler—think is going on in terms of that?

CHAIR—Please, but leave a little time for us to question issues you might raise.

Prof. Broadhurst—I will not overdrill you. It is a failing of academics to lecture people, so slap me down if I tend to drive that way. I can make a couple of summary points. One is that obviously digital technology has transformed organisational life in ways that are simply unbelievable. Developments in communications and in information storage and retrieval, just to name two areas, have greatly enhanced the efficiency with which legitimate organisations operate. These benefits of digital technology, of course, are not lost on criminal organisations, which set out to exploit digital technology to enhance the efficiency and effectiveness of their own operations. There are a whole host of ways that they do that.

We could spend a bit of time discussing how conventional crime is facilitated by organised crime's use of digital technology and we could talk about how terrorism comes into play there. This is something that has been raised. We know about webcasts, we know how images of hostages are exploited and all these propaganda tools are used by terrorists, but there are other things as well that are relevant. It is also important to think of cybercrime in terms of what the engineers talk about as social engineering. A lot of the hacking that goes on is what we would call social engineering; the so-called hacking intrusions, the breaking into computers, 'hacking' being the colloquial term. I can give some examples of that.

Social engineering simply is the acquisition of passwords and security information which then permits somebody to intrude without actually breaking into a computer by using any technological mechanisms or means. In other words, you can be computer-illiterate, as long as you have vital information such as a password, and we have lots of examples. It is always curious to me, why on Hennessy Road the latest Sony PlayStation game would be available before it was actually released worldwide, and the guys there selling that stuff would have little encryption keys to break the code on Sony because Sony, like a lot of these companies, values its intellectual property, sets out to protect it, and we have laws now that make it illegal to import digital stampers. There is a whole business out there in piracy land which we need to be alert to.

What happens is that somebody in Sony, close to that project, gets smooched up to. They get manipulated by organised criminals, or by individuals, so that they will release that information without anybody having to go near a computer terminal or to know anything about intrusion technologies and all the rest of it, and that data can become available in a pretty conventional sort of way. It might be through the use of a mistress, an overdose of drugs, a lonely or disgruntled executive. There are all kinds of non-technological means to invade high-tech crime. These things are still operating, the programs that can so-called break 124-bit encryptions and so on. Our question has been, 'How does this all affect the way criminal organisations operate? Has it changed the way they do business?' because indeed it is fundamentally a business.

People like Diego Gambetta and other scholars have looked at organised crime fundamentally as an enterprise. It is profit driven. It is therefore more or less rational in its operation, although the reputational violence issue is a very important one to play with, and so violence in those sorts of operations—sometimes it is a very calculated operation—does occur. Profits that are available in cybercrime do lead to terrestrial offences, including homicide, which I would like to talk about, but we do not have time.

If we think about the stereotypical organisations—the Yakuza, the triads, the Mafia and so on—they are sort of pyramidal organisations. They are like the family business. We know that businesses have changed. If we go back a century and look at the kinds of business organisations that flourished then, they still survive, but they definitely do not look anything like they did 100 years ago. Banking—you name it; it has radically changed. So these monolithical, hierarchical structures presumably have become much less obvious, and they really have disappeared in organised crime networks.

A very good example that I can give you is amongst triads, where the traditional role of the chair was to actually order things to happen. Now they act as negotiators. They become the umpire, and they charge fees to resolve problems between gangs, between project groups, whatever you want to call them. There are some models that I could show you about how all that works, but let me just assure you that, if we attack, the idea of chopping off their head, if you could, will not be particularly helpful. The idea of chopping off the legs has got a bit more appeal these days, and that is why I am emphasising the reputational violence/membership issue too, because these are networks now.

I do not want to overlabour the point. I do not know how useful it is for me to go through the various forms of crime that are now extant on the internet. I will mention them very quickly so that you know the scope: electronic piracy; counterfeiting and forgery; credit card fraud—a huge problem; child pornography; communications in the furtherance of criminal conspiracies;

electronic funds transfer fraud; money laundering; advance fee frauds, like the Nigerian 419 offences; online dealing in illicit products of all kinds, from Viagra to drugs and so on; intelligence and counterintelligence—there is a lot going on there in terms of industrial espionage, formal intelligence and counterintelligence; and, I think, denial of service, which is where you use computers to distribute a denial of service, as Mafiaboy did. He gathered all the computer power remotely, using botnets. I should probably define what I mean. He basically used thousands of computers as robots. He used their computer power to focus an attack on a particular enterprise in order to crash that enterprise, to bring that enterprise down so that they could not trade electronically, and he did that by stealing, without people knowing it, the computing power of thousands of individuals' PCs.

They are the sorts of things being done by both traditional organised criminal groups and new ones arising from the network connections they make in cyberspace through chat rooms, special groups, discussion forums and so on, many without prior criminal records, without prior criminal activity. They have morphed into networks that do not even actually see each other on a daily basis, but they still have pretty powerful distributive networks. The classic ones are the intellectual property and child pornography, where somebody has to copy it, print it out, distribute it, receive fees and so on. So it does require organisation, but it is not that different from a modern online e-commerce company.

What are the trends? One is that these activities are getting more sophisticated and more complex. Back in the old days, when Peter and I and others were looking at cybercrime and looking at hackers, a lot of it was not particularly commercially driven. It was about kids showing off or somebody wanting to prove that they could break into the Pentagon. It was show-off stuff. There was not a lot of commercialisation of these activities.

The other thing that is really interesting about it is that we are seeing greater integration now between these networks—these delinquent professionals, as they often are. If you are an organised criminal and you want to trade, you want to move money around, the best place is to use the internet, to use e-commerce mechanisms. You are going to have to get a delinquent professional, an IT professional, or a delinquent accountant or lawyer or whatever—a professional person with that expertise. Then you are going to lock that person into a project team which is going to deliver you the expertise to do what you want to do in terms of money laundering.

CHAIR—Do you lock them in by promises of monetary reward or threats of physical violence, or both?

Prof. Broadhurst—I think both. Certainly people have been coerced, but there have been a lot of unemployed professional IT people out there. The Soviet Union is awash with them. Some of the best, absolutely crackerjack credit card fraud schemes emanate from places like Estonia, Lithuania and so on, where I can email a guy and say, 'Look, I need credit cards. I want the numbers.' He will deliver me an excellent product for a pretty good price, and I can get those credit cards and use them as any credit card fraudster would do.

CHAIR—I do not want to break your chain of thought, but what do governments and law enforcement agencies do? Do we just have to find cleverer people, who try to be one step in front, or at least only a fraction of a step behind?

Prof. Broadhurst—Yes, I think that is about it. The other thing that I was going to mention which makes it really difficult—and I think you are touching on it—is that, of course, these are borderless crimes. They take place at the speed of light and they cross many borders. Our legal system is what I will call a 20th century system. We do use telephones and faxes, and we now are even using encrypted emails to communicate with law enforcement agencies and judicial officers in other countries to issue letters rogatory to pursue somebody, to seize evidence and so on.

The huge problem we have is that we want to improve our mutual legal assistance arrangements, our multilateral arrangements, the way in which we pursue fugitives, and we have got big gaps here. We do have a terrible shortage of expertise. The kind of expertise that you are talking about is hard to keep. We have had entire forensic computing sections of police forces get up and resign and go and work in private enterprise. We have people who are trained poached by the big IT security firms.

CHAIR—And some of them, one would expect, would be poached by the criminal gangs.

Prof. Broadhurst—Indeed, because the rewards are lucrative.

Senator PARRY—Professor, we asked the police this this morning: is it definitely only salary, financial reward, not dissatisfaction with working in the police jurisdiction?

Prof. Broadhurst—I think both are possible. I do not know enough about the Victorian example. People have long memories, though. I personally know of colleagues in the Hong Kong Police Force who have been picked up by Microsoft, not because they are dissatisfied with working for the Hong Kong Police Force, because they are quite well paid and looked after, but because they were offered more money. They were also offered the chance to be free of pretty cumbersome bureaucracies and the sorts of frustrations that go with that. Certainly there is a lot of frustration in law enforcement, particularly in high-tech areas.

The other problem that high-tech people face is being caught between the devil and the deep blue sea, in the sense that they cannot play it up too much or they will upset the bankers, for instance, because the bankers do not believe there is any problem with e-commerce: 'We're not at risk of organised criminals playing around with our electronic commerce systems.' This is about trust; it is vital. But we are seeing evidence of serious criminal networks or criminal networks at play on the internet. Some of them create fantastic digital webpages—for example, with Citibank in America, creating an absolutely perfect replica of their webpages. There is the phishing for people's passwords.

There can be a bit of frustration. Bear in mind also that public police forces, I think, have limited capacity and that a lot of what we are talking about really relates to the need for business to protect itself and, indeed, to help the public. If you look at Microsoft's trajectory, it is fascinating. Back in 1995 Bill Gates said: 'Internet, World Wide Web—rubbish! It's not going to go anywhere. We're not interested.' Nine months later he was building a Microsoft interface, for which we have been paying a high price in terms of security ever since. But, back in 2003, when it became pretty clear with phishing and all the stuff hitting email that there was a potential serious challenge to the viability of the internet, what happened? If I can use the analogy of the road safety business, Microsoft started to put safety belts, doors and locks on the vehicles that

we use—in other words, the industry started to respond to those threats. I think there is a balance. We do not want to overregulate the internet market. It is a hugely important market. It is growing so fast. It is going to provide huge energy for productivity et cetera. But, of course, it is a superhighway that does not have many patrol cars on it, and a lot of the vehicles—the PCs and so on—that we use to drive on it do not have the appropriate safety equipment, if I can use that analogy.

What can we really ask public police forces to do? We can ask them to engage with industry and we can ask them to at least try to improve basic safety, and that is why child pornography is up there at the top of the list. We do not like that, and what police forces have thankfully been trying to do in recent years is, while still worrying about the punter who has downloaded it, concentrate on going after the demons that are subjecting these children to the terrible things that go on and capturing and selling the images. That is a worth while law enforcement task.

They have to be engaged, and people like you that are in our legislatures have to provide guidance about what those priorities are, because we cannot do everything. If you look at the priorities we are facing—use of legal assistance and technical capacity building in safe havens, countries where they do not have these kinds of laws, the laws are coming on late or they do not have the capacity—the problems are immense. That is why there is a need for priorities.

Mr KERR—You have opened up some very interesting questions about the degree to which we might need to go back to some form of permitting greater private pursuit of remedies in some of these areas. Already in the copyright area, of course, there are financial remedies. It is alleged that one problem is that, when banks and financial institutions discover fraud, they often prefer not to prosecute but to deal with it privately, absorb the cost and try and strengthen their system rather than deal with it through the criminal justice system.

Prof. Broadhurst—Rather than advertise that they have failed in some way, yes. But they do pass those costs on to us as customers. The reason I raised the banks is only that that is a sensitive area, in the sense that trade reputation is pretty vital. It is vital in all businesses, actually, and so is trust. These are the two things that have been manipulated to some extent. I do think it is a difficult area, but what I am hinting at is that, if we let the mantra become, ‘We need to look like everything is fine; okay, there are a few minor wrinkles around the place,’ we are running the risk of actually being run over.

To my way of thinking, looking ahead over the next two to three years, I do not see it getting better in terms of the way organised crime is going to play with these sorts of new technologies. I see it getting more dangerous. I do agree with a lot of my colleagues who are looking at the terrorist-criminal nexus and seeing the continuum. I am thinking particularly of examples in some of what I would call the safe havens in our region, where there is a bit of exchange going on. In a lot of terrorist activities, there is a strong criminal element. They need the money. Where do they get the money from?

There is something happening there which has not happened before. The internet is such a magnificent tool for doing things cheaply. There are the Nigerian fee frauds. We get these emails from all over the world now. For a couple of dollars, you can buy a disk of one million email addresses. Even if only 50 per cent of those are accurate, that is 500,000 addresses you can hit. What is the probability that one of them will be stupid enough to say, ‘Gee, I’ll give you \$1,000

to get access to that Nigerian bank account'? It is the ease of it and the scope of the victimisation, which is large and significant, that I find a bit terrifying. On the internet you can post a picture of a poor hostage being beheaded or a military vehicle exploding into thousands of bits and run propaganda around it to raise funds, to get sympathy et cetera. These are real challenges.

CHAIR—Do you foresee a time when perhaps the cost in financial, economic, social and human terms is such that we might say, 'Let's close down the internet'?

Prof. Broadhurst—I do not think we can shut down the internet. The Chinese, for example, have tried to. I have not talked about the Chinese in this, and we do not have time. The Chinese have tried to control the internet. The Saudi Arabians have tried to control the internet. Lots of people have tried to control the internet. Indeed, we should try to control the internet in terms of things like hate crimes.

CHAIR—The Commonwealth is trying to do it now with legislation on content.

Prof. Broadhurst—Yes. You need to give it a go, but we do not want to shut down the internet.

Mr KERR—I suggest you hold your breath and turn blue waiting for its success.

Prof. Broadhurst—I guess that is partly why we have separation of powers and why we have courts to tell us what is reasonable within the culture at that moment, to tell us what is hate crime and the like. We do have to rely on our professionals and on our criminal justice people to provide that commonsense, don't we? I think it is important to regulate the internet and to understand that we do need to regulate it.

CHAIR—If we can regulate it. Professor, I think we have outlived our time. Aeroplanes await and you have commitments. Again, thank you very much. You have alerted us to some fascinating information. I am quite sure the committee will follow up the Hong Kong piece of legislation you are talking about, because it is something we have some interest in. Thanks very much for your firsthand knowledge in that area.

Prof. Broadhurst—You are welcome. Thank you for letting me speak to you.

Committee adjourned at 1.31 pm