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Official Committee Hansard

JOINT COMMITTEE ON THE AUSTRALIAN CRIME
COMMISSION

Reference: Legislative arrangements to outlaw serious and organised crime groups

TUESDAY, 28 OCTOBER 2008

MELBOURNE

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**JOINT STATUTORY
COMMITTEE ON AUSTRALIAN CRIME COMMISSION**

Tuesday, 28 October 2008

Members: Senator Hutchins (*Chair*), Mr Wood (*Deputy Chair*), Senators Barnett, Fielding, Parry and Polley and Mr Champion, Mr Gibbons, Mr Hayes and Ms Ley

Members in attendance: Senators Fielding, Hutchins, Parry and Polley and Mr Gibbons, Mr Hayes, Ms Ley and Mr Wood

Terms of reference for the inquiry:

To inquire into and report on:

The effectiveness of legislative efforts to disrupt and dismantle serious and organised crime groups and associations with these groups, with particular reference to:

- a. international legislative arrangements developed to outlaw serious and organised crime groups and association to those groups, and the effectiveness of these arrangements;
- b. the need in Australia to have legislation to outlaw specific groups known to undertake criminal activities, and membership of and association with those groups;
- c. Australian legislative arrangements developed to target consorting for criminal activity and to outlaw serious and organised crime groups, and membership of and association with those groups, and the effectiveness of these arrangements;
- d. the impact and consequences of legislative attempts to outlaw serious and organised crime groups, and membership of and association with these groups on:
 - i. society
 - ii. criminal groups and their networks
 - iii. law enforcement agencies; and
 - iv. the judicial/legal system
- e. an assessment of how legislation which outlaws criminal groups and membership of and association with these groups might affect the functions and performance of the ACC.

WITNESSES

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Committee met at 12.54 pm**HOLLOWOOD, Detective Superintendent Paul, Victoria Police Force**

CHAIR (Senator Hutchins)—I declare open this public hearing of the parliamentary Joint Committee on the Australian Crime Commission. This is the fifth hearing for the committee's inquiry into the legislative arrangements to outlaw serious and organised crime groups. The terms of reference are on the committee's website. The committee heard from witnesses in Hobart yesterday and will be holding hearings in Canberra and Brisbane in November. The committee's proceedings today will follow the program that has been circulated. I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee and such action may be treated as a contempt by the Senate. It is also a contempt to give false or misleading evidence to a committee.

The committee prefers all evidence to be given in public, but under the Senate's resolutions, witnesses have the right to request to be heard in private session. It is important that witnesses give the committee notice if they intend to ask to give evidence in camera. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer, having regard to the ground that is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Of course, such a request may also be made at any other time.

Before I welcome our first witness, I remind members of the committee that the Senate has resolved that government officials should not be asked to give opinions on matters of policy and should be given a reasonable opportunity to refer questions to a superior officer or to a minister if that is appropriate. This resolution does not include questions asking for explanations of policy or factual questions about when or how policies were adopted.

I now welcome the representative from Victoria Police, Superintendent Paul Hollowood. I invite you to make a short opening statement, at the conclusion of which members of the committee will be asking you questions.

Det. Supt Hollowood—Thank you very much, ladies and gentlemen. By way of introduction, I would like to mirror some of the words that have been provided previously by Chief Commissioner Christine Nixon about our approach to organised crime. Members are probably aware that a number of years ago we underwent some real problems here in Victoria with gangland murders. As a consequence of that, we started to take a very serious view of organised crime. At that time we formulated a strategy over a four-year period to find a better way to combat organised crime. To a certain degree we believe we have been quite successful. However, there is room for improvement and it is an ongoing matter. We will always be concerned in Victoria about organised crime. It is an issue about which we are very cognisant.

CHAIR—Thank you very much.

Mr GIBBONS—Congratulations on the success of the Purana taskforce. Everybody has been watching the progress and it has been a great success story, so you should be very proud of it. Obviously a lot of people have been charged who have not appeared before the courts yet. Can

you give us some idea of how many there are to go through the court system before you can say that that whole saga has been signed off?

Det. Supt Hollowood—Purana has gone through three phases. The first phase related to the shootings that were occurring at the time. Ostensibly it was a murder investigation. The second phase of Purana was more aimed at the Mokbel drug empire—and it was an empire. We set about dismantling that empire while making sure that we not only took out of the way the main players but also that the vacuum created was not filled by other groups.

We are now into a new phase, the third phase of Purana. That is still concentrating on some of our more established organised crime groups within Victoria. Again, we are applying a lot of the lessons that we have learnt so far in approaching these groups. At the same time, we are very cognisant of the fact that we sometimes have to go back over where we have been to ensure we do not get that re-establishment occurring where we have previously been successful.

Mr GIBBONS—How important were the Victorian legislative changes to the success so far; for example, seizing assets and freezing bank accounts? Was that one of the major breakthroughs in the investigation that led to the success?

Det. Supt Hollowood—I think so. We cannot overrate the fact that organised crime is all about enterprise. Quite simply, organised crime would not exist if there was not some advantage to be gained. Generally that is some type of monetary advantage. So, attacking the assets and the money side of things creates a severe disincentive to people who are interested in getting involved in organised crime. During the first few phases of Purana we found that being able to topple some of the larger key identities led to a lot of cooperation from those people. I know it is unpalatable, but sometimes we have to sit down and do deals with criminals. But the fact is that quite often it gives us some of the best results. During Purana we were able to create a domino effect. As people are started rolling, they kept on rolling and we kept on being able to leverage off what we were being told.

Mr GIBBONS—This committee is predominantly looking at the role of outlaw motorcycle gangs in organised crime. We have been to most capital cities. I think Brisbane and Darwin are the only places we have not visited. We are getting different views from different police jurisdictions about the level of organised crime involving outlaw motorcycle gangs. For example, in Hobart yesterday the police identified five major outlaw motorcycle groups or gangs, yet they say only two of them are actually involved in major crime, the other three are not. That is reflected in various degrees in some of the other States. Sydney is obviously pretty bad and Western Australia is about the same. Can you give us a rough idea of the culture or the number of motorcycle gangs in Victoria and also how many of them are involved in serious crime?

Det. Supt Hollowood—Certainly. We have 19 identified clubs within Victoria and that number has remained fairly static for a number of decades. The membership has stayed roughly the same, although there is some evidence that there has been some growth. We have not seen a large variation. Of those 19, we generally find that only three are in the high-risk category; that is, the category that really concerns us in terms of involvement in organised crime.

I suppose our view is a little bit different about OMCGs—outlaw motorcycle gangs. OMCGs represent a subculture that exists within Australian society. In the main, it probably brings itself to the attention of the community because of public order issues, traffic issues, minor crime and things of that nature. But it is actually very fertile ground for those who want to engage in organised crime. We generally find that it is not so much that the group is an organised crime group per se, but individual members who are very smart will leverage that membership to undertake organised crime activity. Many of the clubs that we have looked at over the past couple of decades have really struggled to put assets together. But we have found individuals within those groups who have substantial unexplained wealth. They are probably the greater concern.

I think we need to put OMCGs in context. The gang provides a protective barrier for people who want to engage in criminal activity just because of the nature of the gang and how it exists. However, at the end of the day, it is generally the key, principal people within it who are undertaking the activity and more generally with other groups. They are not only associated with OMCGs. We are now seeing people who will associate with any other group, whether it be of a different ethnic background or different geographical location, quite simply because there is money to be made.

Mr GIBBONS—Of the 19 you said that three were involved in serious crime. Is that the charter of those organisations, or is it another example of a considerable number of individuals who are members of that organisation being involved? Is it the charter or the constitution of those three motorcycle gangs to be involved in organised crime or is it just individuals within that group?

Det. Supt Hollowood—You generally find it is the individuals within the gang who are actually engaged in organised crime activity. However, the stated charter or the mandate of the OMCG is to be like a brotherhood, to be very protective of the members and not to inform on other members. Because of that it is very easy for criminal individuals to operate. We raided an OMCG premises belonging to one of the larger groups in Australia. We found that the majority of the group members were not criminals; they did not have criminal records. A lot of them actually held down quite respectable jobs. At the end of the day it was the lifestyle they were attracted to more than anything else. However, again, they are vulnerable to being used by those involved in criminal activity within those groups.

Mr GIBBONS—How many of the clubhouses are fortified?

Det. Supt Hollowood—All the clubhouses generally have high security. We probably do not have the extremely fortified premises that exist in other states. But there would be very few chapter houses in Victoria that do not have basic security. They are generally located in industrial estates because they find it is a lot easier to rent premises in those areas. They have CCTV facilities. Generally the fortifications are designed to deter other clubs more than anything else. To date we have not found a problem in being able to get inside one. Sometimes we have had to take down the front of a building by actually pulling it open. But in the main we are not seeing an increase in fortification at present.

Mr GIBBONS—As you would be aware, we had a bad situation in Geelong. I realise it is a bit sensitive and that you may not be able to answer a direct question. Is there evidence that

suggests that that was rival gang related or was it a result of other criminal activity? Is the person who might be a suspect not a member of another motorcycle gang but a member of a criminal organisation?

Det. Supt Hollowood—It is still early days for us with that investigation, although there are possibilities; that is, it is an internal conflict, a personal matter or a conflict with another group. The Bandido group had been having a conflict off and on with the Rebels for quite some time. But we generally find that these are long-running conflicts; that is, the relationships have soured over a number of years. Sometimes they improve and sometimes they do not. But we have not seen a reoccurrence of violence because of that conflict for quite some time. In fact, we would probably have to go back about another 18 months before we saw anything at all.

Mr WOOD—It appears that the Victoria Police are fairly opposed to the South Australian legislation. Would that be the case and, if so, why?

Det. Supt Hollowood—Probably for a number of reasons. First, from a community perspective it causes us a few concerns about how it impacts on our charter of human rights, which we actually have in Victoria: We have concerns about whether it may be a sledge hammer being used to crack open a walnut. From an investigator's perspective, we just do not think it will work. The reason it will not work is that we require the association to occur for us to be successful. If the whole focus is just trying to prevent association between people, we only have to look at the fact that we have had consorting laws in most Australian states, including Victoria, for many decades, and they have not worked. That is, people find a way to get around them.

Quite simply, we suspect that the activity in South Australia will be driven underground. We will start to see the inclusion of more middle people between people to enable enterprise to occur. Then, when it does occur, it will become more difficult to prove that organised criminal activity is occurring. In some ways it will improve the way that organised crime groups operate.

Mr WOOD—I take exception when you say 'underground', because whether it be an outlaw motorcycle gang or some other gang, their illegal activities are underground already. It is not as though they are riding around on their Harleys with a bag of drugs. Normally you would find that those committing the crimes—and correct me if I am wrong—would be the nominees or the wannabes. I assume that if they are committing organised crime it is not going to be overt. Can you argue that point?

Det. Supt Hollowood—Probably one of the reasons that OMCGs tend to feature so much in discussions around organised crime is because of this visible presence. They are basically club groups, they wear colours, they are very visible and they are engaged in activities. Quite simply, the most successful organised crime groups we have are the ones we do not know about. I think there are many of them. The reason for that is that most people that we actually catch in the organised crime environment are those engaged in high-risk activity for high gain. That is principally drug trafficking.

However, many of the groups, once they have actually made their initial acquisition of assets, are starting to divest down to lower-risk activity—generally fraud—so they are less likely to attract the attention of the authorities. Industries like the finance and banking industries are less concerned about losses of a lower margin. But, of course, because they are dealing in volume,

they are going to be very successful. The organised crime groups that concern me the most—the ones that keep me up of a night when I am thinking about how do we best tackle them—are the ones we are not aware of.

Mr WOOD—In South Australia we had strong evidence about blackmail being committed by members of gangs where they were using their colours as a means of intimidation. It was stated that it is now so prevalent that these laws had to be enacted. Has there been an increase in blackmail or standover that you are aware of, or has that pretty much stayed constant?

Det. Supt Hollowood—I think it has been a constant. We certainly have not seen an increase in extortion. But I think that is part of that leveraging of being a member of an OMCG. That is, there is an assumption immediately that because you are part of that group then that group will support that individual, come what may, in rivalry with other criminals and so forth. Sometimes that actually does occur.

Mr WOOD—Please correct me if I am wrong, but I believe at a previous inquiry the Victoria Police said that the consorting laws were hard to prove in court and many police officers had to attend. I think New South Wales has changed its law. Has Victoria strengthened its consorting laws or is it looking at that?

Det. Supt Hollowood—Consorting laws are very old. They were mainly focused on thieves and prostitutes. They were really designed to stop people associating on the streets and then committing crime. We went through an amendment stage to focus the law on organised crime. However, because organised crime is not an offence per se, nor is there any offence we can group together and say that that is an organised crime offence, it is extremely difficult to prove. We find that by the time we go to the effort of actually being able to prove that two people are associating, we are already a long way down the track of actually dealing with the predicate act; that is, the criminal offence. I suppose that is one of the other risks we have with in terms of anti-association laws: the activity is predominantly upon the association rather than the crimes actually being committed.

Mr WOOD—We have taken evidence in Western Australia and Tasmanian about bikies doing their runs. They do not like to call it a zero-tolerance approach, but they ensure that all roads laws are obeyed. The media in Victoria refers to it as the softly-softly approach. Can you explain why Victoria has taken a different approach rather than having the road laws obeyed in this State?

Det. Supt Hollowood—Part of it is practical. When you think about it, if you want to pull over and check 200 bikies riding down the road, you will need about 300 police officers to do that. We think that is an enormous waste of resources. We have found from interstate experience that in the majority of cases when people are pulled over we are dealing with very minor offences and there is not so much of a problem in terms of the road run itself. Ours is not so much a softly-softly approach. We would deal that way with any group of people who were planning to do something.

If a group of people were planning to protest on the steps of Parliament House, we would still talk to them about what we believe would be permissible behaviour and how we could facilitate things so that the rest of the community was not going to be interrupted or bothered. That is all

we have done with bike groups and their runs. We told them, 'You abide by the road laws, you wear your helmets, you stop at red lights, you do not speed. Within those bounds, if you do that, we will facilitate your movement, just like we would with anyone else. But, at the end of the day, if you are going to breach that, we will prosecute you.' In the main, that tactic or practice has worked for us.

Mr WOOD—Was that over a week and how many police were involved?

Det. Supt Hollowood—I could not tell you exactly in terms of the entire effort. But most of that effort would have involved traffic diversion. Again, if you are going to permit 200 bikies to ride around Melbourne without that type of approach all it will do is cause traffic congestion. We spoke to the officials in the Bandido club about what we expected of them and we did not have any incidents in Melbourne during the whole time they were here.

Mr WOOD—Terrorism laws have been raised during this inquiry. I am very interested in preventative detention laws. Under preventive detention laws you cannot actually ask a suspect any questions whilst they are in custody. How does the Victoria Police view those laws, are they complex or user friendly and workable?

Det. Supt Hollowood—It is still a bit of an unknown for us. As you are aware, we have just completed the Operation Pendennis trials, which resulted in successful prosecution of suspects who were planning terrorist acts here in Melbourne. However, that was very much a covert investigation. We were not advising people more broadly about what was occurring. It was more important to keep that entire inquiry secret as it progressed until we got to the right point where we needed to intervene.

We remain untested in that area. We tend to think that we are going to deal with either one or two terror scenarios. That is, we are going to have an incident and then we would do an investigation post that incident, or we are going to have people who conspire to commit terrorist acts. In both cases, the approach will have to be dynamic. We really do not know at this point in time whether those laws will be effective.

Mr WOOD—Under Victorian law you have reasonable time. What approach would you take if an event takes place? Would you be using the reasonable time provisions under the existing state law or would you go with the preventative detention? What would be the Victoria Police approach if an incident does take place?

Det. Supt Hollowood—It creates a bit of a quandary for us with the use of the commonwealth and the state provisions. As you are aware, there is no capital offence of murder at the commonwealth level. If we had a terrorist incident that resulted in mass murder, the community would expect us to prosecute people for murder. We would have to use state law provisions to do that. However, as I mentioned before, with Operation Pendennis we worked solely within the commonwealth environment.

Sometimes the laws can actually complement our approach, but it depends on the approach. If a terrorist act were to occur the commonwealth laws probably do not offer us a lot of assistance with the actual act itself. It may assist with groups that support it, particularly if those groups are

operating from overseas or interstate. However, with regard to the actual offence of murder itself or any of the other capital offences, it would not help.

Mr WOOD—If there were an incident and people were killed, you would be compelled to use the reasonable time provisions under the state law. Is that correct?

Det. Supt Hollowood—Definitely.

Senator FIELDING—Did any of the 200 bikies break any laws while they were here?

Det. Supt Hollowood—Not to our knowledge. If somebody were to show me video footage of someone going through a red light I could not deny it. The reports we got back from the people involved in the operation were that the bikies were very well behaved, cooperative and we did not encounter any major problems.

Senator FIELDING—Can we take on notice the number of people involved in that particular operation?

Det. Supt Hollowood—Yes.

Senator FIELDING—I am interested in the South Australian laws. I think the Victoria Police and you stated that the concerns were that it would drive some activities underground and—correct me if I am wrong—that it would therefore make it harder for you to detect it. Is that right?

Det. Supt Hollowood—Yes, certainly.

Senator FIELDING—Would the bkie gangs not know that anyway? Would they not know that by having a premise that they were making it easier for you guys to catch them? Would they not be underground already and therefore it is just a front?

Det. Supt Hollowood—There is still a lot of activity we deal with that is very overt and not disguised. People would probably think that telephone interception would not be effective in this day and age, that everybody is aware that you can intercept telephone calls. I do not think we have one organised crime investigation where we do not actually utilise telephone interception laws, even though criminals know we use them. What we do is we make it harder for them to operate by the way we target them.

The problem we have is that they start to adapt and evolve in response to our approaches. The approaches we have been using, even in recent times, will be circumvented in time. One of the side effects of our system is that we have to disclose our methodologies in criminal proceedings. Because of that these same people who are repeat offenders keep coming back and they learn. They learn how we do things and operate and they adapt and change.

Senator FIELDING—I refer to the Organised Crime Strategy 2005-2009. It is quite a few years in; I think there is about a year left of that to run. I refer you to pages 14 and 15 and the heading 'Anti-corruption environment' and the statement:

...currently, an anti-corruption environment exists among most staff, but it has been tarnished by charges, criminal trials and ongoing investigations by the Ceja Taskforce into the alleged corruption of former Drug Squad staff.

I refer to the section on internal strategies. One of the bullet points states:

Conduct of continual and independent reviews and evaluations of high-risk areas...

What are those independent reviews and can you table any of them?

Det. Supt Hollowood—It is a piece of ongoing work for us in high-risk areas. The area of most note was the drug environment and the way we managed operations. We have also had problems in with armed crime investigation, which led a couple of years ago to the disbandment of the armed offenders squad in Victoria. Generally we find that if something is well managed and well led then we generally do not have these corruption problems. When things deteriorate to the extent that they are not well led and it provides an opportunity for people to actually infiltrate those in it, that becomes a real risk to us. That is what we have had essentially. People have been working in a particular high-risk area for a long time. Sometimes they then become vulnerable and they are very much open to recruitment by organised crime figures.

Senator FIELDING—What are the independent reviews? Who has done them?

Det. Supt Hollowood—We work very closely with the Office of Police Integrity in the operation of our high-risk areas. They have conducted a number of hearings around those areas as well. We have found that it has been a very effective partnership in being able to expose cultures that exist within policing that make it easy for corruption to occur.

Senator FIELDING—The 10 October edition of the Australian carried an article stating that lives are being put at risk by corrupt police leaking information to criminals. Obviously, the Office of Police Integrity has been active to gain that intelligence. Could you explain how you are going about dealing with corruption and, more importantly, what you are doing to change the culture? As a Victorian it was a quite alarming article to read about the Victorian Police. That is a concern.

Det. Supt Hollowood—Part of being effective in dealing with organised crime is utilising a range of techniques that go beyond traditional policing. One of the major techniques that has been effective for us has been the use of human sources. That is, people who exist within the criminal environment who provide information to us. But it also creates a risk to their safety. We ensure that the information provided to us is kept to only those people who really need to know. That is probably where that article was aimed more than anything else.

We also have covert police operatives in that area as well. Is not one particular thing that you do to create a corruption-resilient environment. It is a whole ranging of approaches that you put together for better management, better recruitment, better vetting of the people you have employed and making sure that you mitigate the risk as you go along. As I said, we do a range of things that tend to mitigate the risk. Since the problems we had particularly with the drug environment and the armed crime environment we have not seen a repeat of that activity within those areas.

Senator FIELDING—The police force has a tough job, so this is not taking a free kick. Obviously when you read articles like that it raises some concerns. We are concerned when we read about a code of silence that some police reportedly adopt in a mistaken feeling of loyalty to colleagues. Your strategy referred to independent reports and the OPI. How can we feel reassured?

Det. Supt Hollowood—I should probably correct the situation. It is a concern to us, and it will always be a concern to us. As much as we can try to make ourselves corruption resistant, there will always be a small percentage of people who unfortunately will turn that way. All we can do is ensure we are vigilant in preventing that from occurring. By no means would we deny that that occurs. However, we must try to make it tougher so it does not occur.

Senator FIELDING—Does the Office of Police Integrity have enough power and/or resources to deal with corruption in the Victoria Police?

Det. Supt Hollowood—I think it would be better for the OPI to comment on whether they think they have sufficient resources.

Senator FIELDING—I ask that because given your strategy of conducting continual and independent reviews, would that not be part of the reviews, or is that separate?

Det. Supt Hollowood—So far in working with the OPI we have not found that they have suffered constraints in being able to assist us. So, to date we think it has been a pretty fruitful partnership.

Senator FIELDING—Who are the independent reviews conducted by?

Det. Supt Hollowood—Independent reviews can be conducted from outside the department. A range of things can be done by our ethical standards department or our corporate review management department.

Senator FIELDING—So they are internal independent reviews. Someone outside that department, but in another department would review that department. They are still internal but independent?

Det. Supt Hollowood—Yes.

Mr HAYES—I refer first to the comments about the South Australian legislation. I know that Chief Commissioner Nixon is well and truly on the record on this. Is the primary position of Victoria in relation to that legislation that it would be ultra vires the Victorian human rights charter? Is that really the primary aspect of it?

Det. Supt Hollowood—From a personal aspect, I would be quite uncomfortable living in a society which had such draconian controls around groups. Once we start going down that slippery slide, there is no stopping it. Essentially what we are doing is telling people that they cannot associate with other people. That is one of the basic freedoms that we have in a democracy. From a policing perspective, I would certainly never stand here and say that that is necessary in our environment in Australia, by no means.

Mr HAYES—A little earlier you said that possibly under the South Australian model there might be more focus on the association than the crime.

Det. Supt Hollowood—To enforce the legislation you have to use the scant resources available to be able to prove the association. So, the whole focus will be on proving associations between people to enact that part of the legislation rather than the activity it is designed to prevent. I do not think that anyone is saying that drug trafficking, armed robbery, extortion and so on will stop. Who will be investigating those if our resources are concentrating on the association aspect? That is our fear about it.

Mr HAYES—I think the South Australians are arguing it on the basis of preventing the ancillary crime as opposed to waiting for it to occur. Leaving that aside, I would like to ask you about the efficiency of the major crime investigative powers since they were introduced in 2004 in Victoria.

Det. Supt Hollowood—They have been very effective for us. We have been able to use the legislative tools available to us quite well. We are going through a process at the moment of continually enhancing those tools. The inquisitorial hearings through the crime examiner have been very useful in providing an insight into what happens in the organised crime environment, particularly when that occurs in industries and places within the community. Forfeiture and seizure of assets is going through an enhancement process. It has been extremely effective in how we target. The tools at hand have been very good for us.

Mr HAYES—Have the coercive powers under that legislation been successful not only for investigative but also for prosecutions?

Det. Supt Hollowood—Yes. We have utilised those coercive powers at both a commonwealth level through the ACC and also at a local level either through OPI or the Office of the Chief Examiner. We have found in all cases that they have been very useful.

Mr HAYES—With serious and organised crime, do you think the trend towards coercive power is accelerating or just necessary?

Det. Supt Hollowood—I think it is necessary. Probably the biggest challenge we face in tackling organised crime is understanding it. To understand it, to better prevent it or to combat it, we need to be able to get to how it actually operates. People might think it is very easy to understand how criminal networks operate. It is not, and they all operate differently. No two networks I have seen operate exactly the same way. They do not operate to a formalised authority or structure. They are very organic and dynamic and they are evolving all the time as well. For us to actually keep pace with it—if we want to keep pace with it—the coercive hearings help to sort of strip away and increase our understanding about how those groups operate.

Mr HAYES—I suppose the thing they all have in common is the desire to make a profit. So the money trail is pretty significant.

Det. Supt Hollowood—Yes.

Mr HAYES—A lot has been said to date about the forfeiture and seizure powers in Western Australia and more recently the unexplained wealth legislation in the Northern Territory. Of what assistance would uniform unexplained wealth legislation be to law enforcement agencies?

Det. Supt Hollowood—I think it would be very effective in this country because what we find is that the assets are not confined to a state jurisdiction. Probably the biggest challenge we face in tackling organised crime across the board is interoperability between the jurisdictions. That is on a whole range of things. Legislation is one of the key issues. It is very difficult when we start to identify assets, not here at home in Victoria but in other states, and increasingly overseas as well. It is not just a matter of getting our laws right with regard to operating across the nation; it is what is occurring now overseas that is starting to become a bigger challenge for us.

Mr HAYES—That is one of the things exercising the minds of this committee. South Australia appears to be going it alone. I think there is an overall desire for legislative consistency with regard to serious and organised crime to enable crime fighters to more efficiently target it. It seems from the evidence given so far that unexplained wealth provisions have had a serious impact on attacking the money trail.

Det. Supt Hollowood—Definitely. One of the key aspects of our success with Purana is having an embedded person from the Australian Taxation Office within the operation. The cooperation we have had with the ATO in tracking assets has worked extremely well for us. If we attack the wealth we attack the incentive for people to be engaged in organised crime.

Mr HAYES—Thank you.

Ms LEY—I am curious about the differing impression the committee has received about outlaw motorcycle gangs from you representing the Victoria Police and from the Australian Crime Commission. I am sure you are aware of their view. What would account for that difference in opinion?

Det. Supt Hollowood—I think sometimes it is easier to jump to the OMCGs. It is very easy to portray organised crime and the threat of it by looking at OMCGs. They exist in every state in Australia. I will not go as far as saying that they have become a scapegoat, because by no means are they sitting there as church choir groups.

CHAIR—Or book groups.

Mr GIBBONS—Or iced vo-vo eaters.

Det. Supt Hollowood—Some are genuine motorcycle enthusiasts I suppose. They are not at the serious end of our organised crime problem in Victoria. I appreciate that the South Australian and Western Australian situations are different. It appears that it is a larger threat to them in those states. However, from a Victorian perspective, we have bigger fish to fry with what we are doing and focusing on. The whole OMCG argument can be an unhealthy distraction. I do not think it is just law enforcement agencies that talk about it; there seems to be a real preoccupation in the media with the subject as well.

Ms LEY—The ACC is often described as a powerful and secretive crime-fighting organisation. I do not want to put words in their mouth, but I am sure they have described them as a serious threat and as representing the big time ranks of organised crime. I am curious as to how they have come to that view. I am not asking you to tell me why they have come to that view, but to give us an insight into this quite significant difference of opinion.

Det. Supt Hollowood—I suppose we only have to look at history. The ACC and its predecessor the NCA from time to time have had a focus on outlaw motorcycle gangs. That focus is now back on them. But I really believe it becomes an unnecessary distraction. When I am dealing with the ACC with regard to our most serious crimes threats, the difficulty for them is that they are having to listen to Canberra telling them that, no, it is outlaw motorcycle gangs it is not all these other groups that are causing us the problem.

The ACC in Melbourne knows what the organised crime problem is down here, as do we. Why that does not resonate nationally I am not sure. The problem does differ from jurisdiction to jurisdiction, but I can certainly talk with some authority from the Victorian perspective. It is not our number one and it is certainly not our number two or number three problem here in Victoria. Sometimes the picture of what is happening nationally may be swayed by what is happening in one or two jurisdictions.

Ms LEY—Would that view be shared by everyone in the Victoria Police? When the Bandidos travelled to Melbourne some comments were attributed in the media to the Police Association that seemed quite disapproving of the police escort and the associated activities of the gang on that weekend.

Det. Supt Hollowood—It is definitely not a consensus view. However, what I am communicating here today is an informed view. That is the difference. A lot of people, even within policing in Victoria, would believe that outlaw motorcycle gangs are our biggest threat. But that is not necessarily an informed view about what is actually occurring in Victoria.

Ms LEY—I have another question about the major crime acts and associated acts that were passed in 2004. How have they affected the way that the Victoria Police can carry out the job, particularly the undercover activities given that there seems to be additional reporting responsibilities and requests involved when clearly speed and timing is of the essence? Can you give us any broad examples of how they might have made life more difficult or easier?

Det. Supt Hollowood—I do not think they have necessarily made our life more difficult. We realise that we need to be accountable and transparent in the way we do these things. Our controlled operations legislation will be introduced at the beginning of November. To date we have not had that in Victoria. We are probably one of the last jurisdictions in Australia to take that up. We have not found it onerous to the point where it actually prevents us from doing what we need to do.

Ms LEY—Have there been occasions when there has been an application to the head of either the ACC or the Victoria Police to acquire an assumed identity, and approximately how many times and how long does that application take to be approved?

Det. Supt Hollowood—Again, we have not experienced great problems. I would have to say that working with the ACC on a regional basis here in Victoria has always been a pleasure. We have always gained their full cooperation and they have been very effective in helping us in what we are focusing on. We certainly have not experienced a great delay in being able to get what we need.

Senator POLLEY—I would like to follow up on a comment you made in relation to the outlaw motorcycle gangs in that they are not at the serious end of organised crime. In light of those comments, what do you consider to be organised crime? Do you have an explanation for me? We took evidence in Hobart yesterday about the transportation of drugs. I would go as far as to say that given the laboratories where the drugs are cooked there is certainly evidence to suggest very strongly that motorcycle gangs are operating in that area. What do you call the serious end of organised crime?

Det. Supt Hollowood—We think it is across a broad range of crime themes. Obviously drug trafficking is where it is most significant. Certainly it has extended from professional vehicle theft in this state to quite complex and serious frauds. We are starting to see things occurring in the electronic or cyber world. A lot of crimes are occurring there and so forth. Organised crime manifests itself in all crime categories. We do not find that it is distinctly different; we find that, because it is entrepreneurial, basically the groups will move where they have profit to gain. The difference I give you is recently that I think we have regained something like \$77 million in assets from Tony Mokbel. That is serious organised crime. I do not see those types of assets with guys riding bikes—nowhere near that. It is where the money is and where it is being derived that is the best indicator for us as to where organised crime is sitting.

Senator POLLEY—From a Victorian perspective what would be the percentage of organised crime committed by motorcycle gangs?

Det. Supt Hollowood—It is very difficult to say because, again, ‘crime’ is only reported crime. We do not really have a good insight as to what real ‘crime’ is. With reported crime, we get offending that occurs across a whole range of things, such as burglary offences, assaults, extortions, and so forth. As we have said, we find individuals who are members of gangs and who are involved in organised crime, but generally we are finding that individuals are involved in it.

Senator POLLEY—You said that 19 clubs are operating in Victoria. You did not put a figure on the membership. Are you prepared to do that?

Det. Supt Hollowood—It has been difficult because they do not pick it up in the census, unfortunately. When we try to figure these things out, we somehow suspect that it is somewhere between 200 and maybe 500. The difficulty is that the groups distinguish—

Senator POLLEY—Sorry, did you say that there are 200 to 500 members of motorcycle gangs in Victoria?

Det. Supt Hollowood—Yes. But the difficulty is there is a difference between membership and nominees associated with it. We tend to think there is a larger group of nominees that are associated with the clubs as well, and then extended networks. It is difficult to put an exact

figure on it. I know that the figures are bandied around nationally, but nobody has ever been able to accurately put a number on it.

Senator POLLEY—Do you have a special unit within the Victorian Police Force that monitors motorcycle gangs?

Det. Supt Hollowood—Yes, we do. We have a gangs desk that monitors the activity. We try to distinguish the difference between what the gangs are involved in and other crime. Likewise we undertake a number of operations, particularly in the specialist squads within the crime department, which may focus on OMCG members from time to time. We have a dedicated group.

Senator POLLEY—How many people are in that unit?

Det. Supt Hollowood—There are probably half a dozen people in that unit, but again it is a monitoring capability. We then escalate to a point. If it requires investigation, we will put a task force together that will work on that group. It depends on the crime type. Ten years ago I headed the organised crime squad and we had dedicated teams. We had three teams which would focus on outlaw motorcycle gangs at that time. Nowadays what we are doing is 10 times more effective than what we were doing 10 years ago when we had a dedicated squad. I know, because I set up the squad.

Senator POLLEY—Yesterday in Hobart we heard evidence from an academic relating to youth gangs and whether or not they are fertile ground for recruitment into either motorcycle gangs or organised crime. What is your experience in Victoria?

Det. Supt Hollowood—What we have experienced is that there seems to be more a debate about what is a youth gang. Unfortunately that has tended to dominate the discussion about youth crime. Are we seeing young people coming through or increasingly going into outlaw motorcycle gangs? No, not necessarily.

We have been finding that with some of the more established clubs, like Hells Angels for example, we are talking about an older demographic. Most of the members within Hells Angels are in their fifties and sixties. Somehow we suspect that the club may even die with its colours because they just do not take on new members. They do have an affiliate club though, the Nomads, and the affiliate club has younger members who then might be engaged in a range of other things.

Over the next few years it will be interesting to see whether the clubs keep the same type of profile that they have. I know that there have been changes in New South Wales with people of Middle Eastern heritage moving more into the clubs up there, but we are distinctly finding that the clubs are not evolving much differently.

Senator POLLEY—I have many more questions but I will ask only one further question relating to the Victorian Charter of Human Rights. Does that have any impact on your ability to investigate, or does it impede, or enhance your capacities?

Det. Supt Hollowood—To date we have not had a problem, but we note that a number of matters are before the courts. Strangely enough, I believe that a decision is coming down today in the case of Tony Mokbel and a breach of his human rights relating to his extradition back from Europe. We have no doubt that we will see challenges occur. I suppose in the long run it will really depend on the decisions that the judiciary makes on the charter.

Senator PARRY—Accepting your view that the Victorian Police does not regard OMCGs as the most serious threat, are OMCGs involved with the importation, manufacturing and distribution of drugs? If you can answer yes or no it would be great, but if you need to explain further please do so. I just want to get a handle on where they are at?

Det. Supt Hollowood—In our recent experience, not so much with importation, and to a lesser extent in manufacture. Most of the manufacture has been around methylamphetamine. We are aware that some OMCG members in other states have a larger involvement in that. We tend to have a wider base of people who are involved in clandestine laboratory manufacture. We certainly do not have OMCGs dominating in that area.

Senator PARRY—What about extortion?

Det. Supt Hollowood—Certainly extortion is part of the way that some of those members do business. If you were to highlight any activity at all, I would say that that is probably the one that would be most prevalent.

Senator PARRY—Are they involved in the security industry?

Det. Supt Hollowood—Again, we have seen no evidence of that.

Senator PARRY—Have you seen any nightclub activity?

Det. Supt Hollowood—No, we have not seen any infiltration, but again that is not to say that we do not have problems within the security industry. In a lot of ways we just think that they do not have a foothold.

Senator PARRY—What about ownership, indirect or direct ownership, of nightclubs and those sorts of venues or licensed premises?

Det. Supt Hollowood—No.

Senator PARRY—It is not prevalent?

Det. Supt Hollowood—No.

Senator PARRY—Prostitution?

Det. Supt Hollowood—No.

Senator PARRY—What about other legitimate professional shopfronts, if I can use that phrase.

Det. Supt Hollowood—No. The only thing we note is that they have a presence in all these things because their membership is broad. Obviously they will have people who are employed in these industries. We are certainly not seeing an infiltration to the extent that they are being used to our knowledge in a criminal activity.

Senator PARRY—What about links to other states? Do you monitor their affiliation with motorcycle clubs in other states or other groups?

Det. Supt Hollowood—Yes, certainly. Only a few clubs are of international status, and there are only a few clubs that are of national status as well. There tends to be an association between the groups. Most of it tends to be on their road runs or their social activities. That is where they tend to join up more than anything else. When we find individuals who are OMCG members engaged in organised crime, we do not necessarily see that linked up with an OMCG in another state.

Senator PARRY—Just to clarify that, the strongest links you see are the social links rather than the crime links?

Det. Supt Hollowood—Yes.

Senator PARRY—Do you see outlaw motorcycle gangs used by other organised crime groups—for example, in the extortion area? Are there any other standover activities or any other illegal activity?

Det. Supt Hollowood—We definitely see members of OMCGs with other crime groups. In fact, one of the things we have noticed with organised crime over a period is that there is no affiliation now with particular groups. We used to describe organised crime groups in relation to ethnic and Middle East organised crime, Romanian and Russian organised crime. Those are no longer appropriate descriptions of organised crime. I have heard anyone say that we have Australian organised crime but, essentially, that is what it is. Basically, we have people who network together in order to make profit. It does not matter whether you are a member of an outlaw motorcycle gang or whether you come from the Lebanese community.

Senator PARRY—Let me use the colloquial term ‘thugs for hire’, you do not see bikies as being thugs for hire?

Det. Supt Hollowood—Not to a large extent, no.

Senator PARRY—Thank you. Finally, do you find that your relationship with the ACC is very good in Victoria?

Det. Supt Hollowood—Yes, it is very good.

Mr GIBBONS—You said that there are between 200 and 500 members. I realise that you will not see them on the electoral roll either. If there are 19 clubs and you guesstimate the total membership as being between 200 and 500, and you had 200 Bandidos in Melbourne just recently, is it a fair assessment that the other 18 clubs have 300 members?

Det. Supt Hollowood—No. In actual fact some of those clubs, particularly some of the lower order clubs, we are looking at up to a dozen people who may even be in some of those smaller clubs. They do not even come to notice at all. Of the 19 clubs that we monitor, from time to time some of them are hard to find. We have to go out and really look hard to find them because they are just not there, or they are just not visible, and they are certainly not engaged in any criminal activity.

Mr WOOD—I will ask the Chairman's question first about something on which he feels strongly—uniform laws across the country. Would that make the job of law enforcement a lot easier, if we had national laws?

Det. Supt Hollowood—I think so, whether that is national laws, or whether that is just uniform laws. Sometimes we are able to do this very quickly. With the terrorism laws, we brought terrorism laws in at the Commonwealth level and the enacting provisions at a state level were brought in fairly quickly as well. I somehow suspect that a lot of that can be achieved.

People have highlighted in the past that it is difficult to extradite somebody from state to state. It is quite absurd that we live in one country but we basically have to go through an extradition process when we have a judicial system where a magistrate should be able to order a return of a person from Melbourne to Sydney or vice versa—things that are really practical.

Mr WOOD—After hearing a lot of your evidence today, compared to the other states we are hearing that the outlaw motorcycle gangs are a major problem. Correct me if I am wrong, but you do not seem to be putting them in that league, yet there have been numerous murders involving outlaw motorcycle gang members. In the case of the Thurgood-Dove murder, the lady who was murdered in Geelong. I believe that that was a bikie hit, or that the bikies were suspects in her murder. Therefore that would contradict what you are saying; obviously, they are involved in very serious crime, including murder.

Det. Supt Hollowood—The Thurgood-Dove murder happened quite a long time ago. We would be lucky sometimes if a year goes by when there is one murder that is related to outlaw motorcycle gangs. At the time when we had the central business district shooting I recall that it proved the catalyst for the South Australian government to bring in the legislation that it brought in. The point I made at the time to my South Australian colleagues was that the chap who was involved in that murder had nothing to do with him being a member of an outlaw motorcycle gang. Essentially it was just somebody behaving badly.

We were able to gain more cooperation out of the club which led to his surrender than anything else. Sometimes if we are going to look at it from the perspective of whether it is gang-related or whether it is just a fact that a person is a member of a gang, you could draw the same analogy as you could to somebody who is a member of a football club. I am sure I could find plenty of Adelaide Crow supporters who feature well in major crime. We have to make a distinction as to whether they are a member of the group, or they are doing it as part of the group's activities.

Mr WOOD—Regarding clandestine laboratories, that has always been the stronghold of outlaw motorcycle gangs, whether they use a gang member as a cook, or they use other cooks. Is that still the go at the moment with these gangs?

Det. Supt Hollowood—Not here in Victoria. Strangely enough they do not have that sort of foothold in clandestine laboratories. With clandestine laboratories we find that the people who do the manufacturing process are recidivist offenders. If you are what is termed in the jargon as ‘a good cook’, and you produce drugs well, then you are a very useful commodity. One of the difficulties we have is that because there are so few ‘good cooks’ around and at times they there is a bit of a slowness in our court processes, essentially we will lock up these people, they will get bail, then they are back out and they are producing again and again. More than anything else, that is a problem to us.

Mr WOOD—You said earlier that there were five members on the gang squad. Are they looking specifically at outlaw motorcycle gangs, or generally at other gangs?

Det. Supt Hollowood—They are mandated to look at all gang activity. I would have to say that predominantly 90 per cent of their work has been focusing on outlaw motorcycle gangs.

Mr WOOD—There has been criticism by members of the police and detectives relating to the disbandment of the Asian squad and the organised crime squad which had a particular focus looking at outlaw motorcycle gangs. Do you think it is possible that because all this major crime going on within the gangs and because they do not have investigators totally focusing on them, you would be unaware those activities?

Det. Supt Hollowood—No. Our insight into what is occurring in the gangs is pretty good. It is very good in predicting what is occurring. We are aware of what disputes exist. We are certainly aware of what events are coming up and so forth. I can talk predominantly about the way in which we approach major and organised crime. What we are doing now is 10 times better than what we were doing 10 years ago. We are doing more casework, we are achieving more success, and we are targeting the right type of crime. In our drug work particularly, our focus is more now on importation and manufacture, whereas 10 years ago we were really down on the streets. We were just worrying a bit too much about what was happening on the streets rather than getting to the root of the problem. Our approach is far better nowadays than it ever was.

Senator FIELDING—Assistant Commissioner Luke Cornelius, when talking about the few corrupt and criminal police, was quoted as saying that the present disciplinary system is ‘outdated and ineffective’. What is the current disciplinary system and why does it not work?

Det. Supt Hollowood—Essentially, the Police Regulation Act to which we operate is about a century old in its focus. It has not kept pace with operating a modern organisation. We have found that it has taken a very punitive approach over time in the way in which it deals with discipline issues. We have to distinguish and differentiate between what are performance issues as opposed to what are serious discipline issues. At the moment we are going through a process with a change to the Police Regulation Act here in Victoria. Hopefully it will enable a greater degree of flexibility and also an ability for the chief commissioner to be able to deal with corruption and to deal with people who essentially should not be in our organisation. At present we have a difficulty with the current act because of that.

Senator FIELDING—I have two more questions, but we seem to be running out of time.

CHAIR—We will have a break. Put them on notice to the superintendent. Bear in mind that we are conducting an inquiry into serious and organised crime. This inquiry is not about the Victorian Police force. You can put your questions on notice and we will send them through to the superintendent. The committee will adjourn until 2.15 pm.

Proceedings suspended from 2.04 pm to 2.19 pm

ATKINS, Ms Jane Elizabeth, Acting Executive General Manager, Australian Transaction Reports and Analysis Centre

COLASANTE, Mr Claude, Senior Manager, Operational Intelligence, Australian Transaction Reports and Analysis Centre

JENSEN, Mr Neil J, Chief Executive Officer, Australian Transaction Reports and Analysis Centre

CHAIR—I now welcome representatives from AUSTRAC. I invite you to make a short opening statement, at the conclusion of which I will invite members of the committee to ask questions.

Mr Jensen—Thank you, Chair. I welcome the opportunity to appear before the committee on this inquiry. As I noted in AUSTRAC's submission, financial intelligence is critical to the fight against organised and serious crime. It is valuable for both operational and strategic purposes. AUSTRAC information assists law enforcement to uncover previously undetected criminal activity and connections among crime groups as well as to identify emerging patterns and threats.

Our information contributed to a record 2,698 operational matters in 2007-08, making a total of more than 15,000 such operational matters over the past 10 years. In addition, taxation revenue directly resulting from AUSTRAC's financial transaction reports amount to \$76 million in the 2007-08 financial year and approximately \$685 million over the past 10 years. We play an integral part in the whole-of-government task force operations and continue to work closely with the Australian Crime Commission and other agencies. We have in place memorandums of understanding with 34 domestic partner agencies. Our network of outposted liaison officers means that we are able to provide direct on-site support to a number of partner agencies. In addition to operational intelligence support we also have a research and analysis program which produces strategic assessments, analyses feedback from our partner agencies, and disseminates information on money laundering risks and typologies.

AUSTRAC is not a law enforcement agency, and therefore does not investigate criminal matters, although we play a significant role in supporting the criminal investigations of other agencies. Consequently, we did not provide specific comment in our submission on the legislative arrangements to combat serious and organised crime. I limit our comment in this area to reiterating the point made in our submission: that is, it is important that, in altering legislative arrangements, that does not drive groups further underground and make their activities more difficult to detect. This risk and the associated repercussions for law enforcement and intelligence need to be weighed carefully when considering the overall impact of the legislative solutions currently being considered by the committee.

I would also like briefly to update the committee on the major anti-money laundering and counterterrorism financing reforms, the first tranche of which cover the financial sector and gambling services and bullion dealers. These reforms were staggered over a two-year period. We are now about to enter the final stage of implementation of the first tranche of reforms with the

last set of obligations, including suspicious matter reporting obligations, commencing on 12 December this year. We have made very significant progress on the reform implementation agenda since our last appearance before the committee.

We supervise the compliance of around 17,000 entities, ranging from major banks through to small remitters and pubs and clubs. We put in place the first compliance reporting under the new act. We have launched a suite of industry tools including an online enrolment program and a typologies and feedback report so that businesses can be aware of the most common indicators of the money laundering activity. We have also continued a national education and outreach program, delivering education sessions to approximate 6,500 attendees during the 2007-08 financial year. I am encouraged to see a generally high level of awareness of anti-money laundering strategies amongst industry. These regulatory reforms have had, and will continue to have, a direct impact on AUSTRAC's role as a financial intelligence unit, resulting in an ongoing flow of more robust information from industry to government. This is reflected in the figures in our annual report which show significant increases in 2007-08 reporting to AUSTRAC across all types of reporting, including suspect transactions.

Senator PARRY—Thank you very much, Mr Jensen. We all gained considerably this morning from our interaction with you at AUSTRAC headquarters here. I turn to remittance dealers, some of which we covered this morning and some of which I would like to get on record. How many remittance dealers are there in Australia that you are aware of? An approximation would be fine.

Mr Jensen—It is between about 5,000 and 6,000 individual remitters.

Senator PARRY—What percentage do you estimate will have knowledge of that may be involved in illegal activity relating to money laundering, or remittance of funds?

Mr Jensen—The answer to that question is that a very small percentage of those remitters who would be involved in any criminal activity. It is a matter of identifying them through our data and with law enforcement intelligence. Together we are working to try to identify the numbers. I cannot give you a specific number.

Senator PARRY—Without putting words into your mouth, could I ask whether it would be below 5 per cent?

Mr Jensen—Again I just could not give you a number at this point in time.

Senator PARRY—But it is certainly a lot less than 50 per cent?

Mr Jensen—Yes, I understand that, Senator, but I cannot give you the number.

Senator PARRY—With those remittance dealers that are involved in illegal activity, have any crime gangs, organised crime in particular, or OMCGs been identified in using remittance dealers?

Mr Jensen—Again that is a matter that should be discussed with the law enforcement agencies that are conducting the investigations. We are certainly aware of investigations that are

being conducted and we are working very closely, particularly with the Australian Crime Commission, to identify those entities that may be engaging in criminal conduct. Where necessary, we take action under our legislation for their failings in meeting their obligations.

Senator PARRY—Thank you. Finally, do you believe that the legislative framework relating to remittance dealers is robust enough, or do you have any comments relating to where improvements could be made?

Mr Jensen—Again, it is an interesting concept. As we are moving forward with the AML/CTF legislation we are finding areas that the legislation may not cover adequately, or the legislation may require further amendment. Remittance dealing is an area in which we continue to work. They have an obligation to register with AUSTRAC. We are aware that quite a number, potentially 500 or more, may not have registered with us, and we are looking at the range of activities available to move forward. We will propose to the Attorney-General's Department, which has responsibility for this legislation in the sense of amending it, issues that are arising as a result of that. We have a number of concerns at the moment about which we are talking to the Attorney-General's Department. We would be looking for some future possible amendment to assist our program in enforcing the legislation.

Senator PARRY—That was going to be my final question, but I have just one further question arising from your answer. Can you share with us—I presume that I know the answer—the concerns you have expressed with the Attorney-General's Department?

Mr Jensen—The major concern is how to enforce non-registration, or where entities have not registered, to be able to ensure that they register so that we can provide information. It would be some strengthening of the ability to take an action, whether it is through the courts or in some other form, to show them that they have a responsibility and they have to meet those responsibilities.

Senator PARRY—Thank you, Mr Jensen.

CHAIR—Mr Jensen, you state in your submission that there may be a risk, as you have outlined, in legislating to outlaw serious and organised crime groups, namely, that it may displace criminal activity and drive criminal syndicates underground. For the benefit of the committee could you elaborate on how you see this impacting on your effectiveness?

Mr Jensen—Certainly. It is an important concept because we do not want the criminal enterprises to be engaging in that and being able to continue. If we close one door, our problem is that it opens another door. We have legislation that can assist us in the interim, but what happens if new legislation comes in and they go somewhere else? We then have to look at our legislation and see whether we need to adjust that to address the new area of conduct in which they are engaging.

Our issue is only to alert the committee to that fact. In recommending legislation going forward, if it is to close down particular entities, that is not a problem so far as we are concerned but we just need to ensure that anything flowing from that is adequately covered as well so that we are just not pushing them straight in to another area on which we do not have coverage. Through our work over the past 20 years, we have found that there are peaks and troughs in

relation to the type of conduct that is occurring in the criminal arena when it comes to the financial transaction or the financial aspects of that criminality. We need to keep watching those peaks and troughs.

Generally speaking, that has been pretty well covered but, as you can see from the new AML/CTF legislation, a higher level is required on identifying customers, in monitoring their conduct, et cetera. We need to be prepared. If we put some legislation in place, we need to ensure that we have covered the abuse elsewhere, if you like.

CHAIR—Do you think the South Australian anti-motorcycle gang legislation may have this effect of driving them underground?

Mr Jensen—I would not like to comment on the South Australian legislation in that regard, other than to say we will take a close look at what is happening among the states. I guess the complexity is if it happens in one state does it move it to another state in relation to what I was saying a little earlier. We just need to keep a close eye on that situation. Referring to the financial aspects of it, from our organisation's point of view we are national so we can see what is happening around Australia. We can certainly focus our attention and see what is happening, and whether things change in South Australia or in other states.

CHAIR—So they just transfer their bank accounts from Adelaide to Melbourne or Sydney? Could that potentially occur?

Mr Jensen—That could quite easily occur but, because our legislation is national—

CHAIR—Yesterday someone said that it could be displaced from South Australia?

Mr Jensen—The significance of that is that the banking sector in Australia is national in a sense, so people would be moving from one organisation to another. They may be opening additional accounts. It may not be in the sense that they move to another state; they just change their business activity in a way that it is not within one bank but a range of banks, gambling institutions, credit unions and other financial sector vehicles to move their money. What we are looking at there is that it might not change in South Australia, but they might change their modus operandi in the way they operate their financials.

CHAIR—Earlier we had an opportunity to speak about areas of compliance. One of the things about which I would like to ask you—and I am not sure whether this is the exact figure of speech that I recall—is whether there is an ability to enforce people to comply with their obligations. The suggestion might be that trying to force compliance on compliance is a time-consuming effort. In light of what might seem to be my observation, could you outline to the committee whether there are any constraints on you or on your ability to collect financial data and investigate possible criminal behaviour? I would like that on the record. If there are any areas that we, as a joint committee need to pursue, that would be of assistance to us.

Mr Jensen—Certainly. Our greatest issue at present relates to identifying entities that have responsibility under the legislation. The legislation talks about designated services. So any entity that engages in a designated service has a responsibility, under the legislation. It may be for customer due diligence, knowing their customer, reporting transactions, monitoring, et cetera. A

real challenge this year was to identify who those entities are. We believe we have identified about 17,000 or so entities. The challenge in compliance and enforcement relates purely to the number of entities that we have to deal with and the fact that it is a new regulatory program for us.

We need to build systems and we need to have adequate people to undertake what we refer to as desk audits and on-site inspections. That is something that we are dealing with at the moment, but it is certainly a big challenge. Will that affect our output in relation to financial intelligence to law enforcement agencies? It may affect our output to the degree that we do not identify particular reporting entities that do not come forward to let us know that they are engaging in activities and consequently do not abide by their obligations.

Probably our biggest challenge in going forward is to ensure that we have identified everybody and that they are doing what they necessarily need to do, having regard to the significant numbers. If we find that they are non-compliant, we will work with them, as we have. We have had a fairly heavy education program as I mentioned in my opening remarks. We advertised publicly so that people know what their obligations are.

CHAIR—This is financial institutions?

Mr Jensen—Financial institutions.

CHAIR—Did you say real estate agents?

Mr Jensen—Real estate agents.

CHAIR—Not just non-financial areas, but other areas where money might be sunk. Would you like to comment on that as well?

Mr Jensen—Under tranche one, we have the wider financial services sector plus the gambling sector. With those sectors, they are the 17,000 entities we are talking about. When we move to tranche two, which is being looked at now, potentially we will have an additional two or three times the amount of entities that we need to deal with. We can deal with industry associations to a degree but getting to those that are not in industry associations again is a challenge. It is pure volume, or numbers.

We have employed a number of strategies and we will employ a number of strategies going forward. We need to make sure that the legislation contains adequate provisions for us in moving forward to ensure that the information comes in to us. Our strategies at the moment are to educate, then to enforce through desk audits, inspections, et cetera. However, we need to ensure that in doing that, when it comes to the enforcement provision—I guess it is any law enforcement agency, the Commonwealth Director of Public Prosecutions, any of the state directors of public prosecutions—it is a matter of being able to resource the proceedings that would necessarily need to go through a court. That is something at which we are looking in the future.

At the moment we are looking at a number of potential actions which will be resource intensive. We have to balance out the enforcement in that way as against our education programs in trying to get people to comply on the other hand through publicity.

CHAIR—Punish a few and educate thousands, or something?

Mr Jensen—Potentially that is what the future holds for us. But we have been given the tools by parliament in the form of statutory notices.

CHAIR—So the tools are adequate then?

Mr Jensen—Until tested, we would have to say yes, they are adequate at this point in time; but that is still a challenge ahead of us.

CHAIR—Mr Jensen, I do not know how you feel about going on the record on this, but in one of your publications AUSTRAC's annual report 2007-08 summary, you talk about a case study 'AUSTRAC information helps massive cocaine bust'. Could you help the committee as best you can, without naming names, how we might understand how you are able to assist in this major criminal bust?

Mr Jensen—If we take a step back to the information that we received from reporting entities, we receive a range of different types of transactions. We receive transactions, which are suspicious matter transactions or suspicious transactions reports, that may or may not have a specific value within them. The reporting entity has reasonable grounds to suspect that the information they have would or may assist the investigation of a criminal matter. That information is contained in our database. We also get reports of significant cash transactions, which are cash transactions of \$10,000 cash or more. So currency transactions over \$10,000 are reported to us. We also receive gambling transactions which are threshold \$10,000 as well, and international, all customer-based international wire transfers into or out of the country, that is, without any threshold value to it.

This data is collected in our database and comes in at the rate of around about 80,000 reports a day. The database or the volume reported to us this year was around about 18 or 19 million transactions. The database itself has data for a period of eight years, so it is constantly being depleted as time moves forward and it is refreshed with new information. There are about 90 million transaction reports in the database. We have built technology solutions to monitor the database, to monitor the transactions in the database. The information in the database from all those reports is interlinked within the database. If there are two reports about Neil Jensen or in which Neil Jensen's name is mentioned, those reports will be linked within the database, and also linked by addresses, bank account numbers or account numbers and a range of other information.

The technology that we have developed, which in this particular case our target monitoring technology, runs against the database and in a continual way. As a result of parameters that we put into the application, it produces items of interest on a daily basis. There may be 40, 50, 60 or 100 of those that are produced on a daily basis, so they become networks of interest to us. They are potentially networks of criminal activity. It may be a 'network'—I use that word advisedly—

because it may contain a person, associates, links overseas, links between accounts in banks and other entities, gambling entities, et cetera.

On that basis, the information that we were able to obtain relating to this particular matter to which you refer came up in one of our daily target monitoring processes, a network of interest. That was then provided to our analysts who had a look at this activity. They then drew on the resources available to them, public databases and some law enforcement databases, and value added to the information that came out purely from the financial transaction information. Then an assessment was drawn up on the information that we had. The analyst was still quite confident that the matter appeared to be criminal conduct, and the matter was then referred, as is our normal way, to a law enforcement partner agency.

As a result of that information going to the law enforcement agency, they were able to see linkages between this particular information that we provided to them and some persons of interest that they were looking at in other circumstances. So, as a result of that, the investigation progressed. We continued to provide information to the law enforcement agency, and this matter progressed to an investigation and ultimately to proceedings.

CHAIR—Thank you.

Senator FIELDING—I am particularly interested in the suspicious transaction reporting and what sort of compliance we have in that area. In other words, there are requirements on certain organisations. Can you just go through that and paint a picture of how valuable that information is, if you can for me?

Mr Jensen—Certainly. Compliance is quite a difficult area to identify entities as to whether they are compliant or non-compliant. We have a number of programs in place, and we need to ensure that they have the adequate programs in place to enable them to report suspicious transaction reports. In our inspection processes, and now under the AML/CTF act, they need to have a compliance program in place which takes into consideration all the processes surrounding suspicious matter reports. If they have that program in place the likelihood is that we will receive transactions. Almost since our inception, transaction reporting has increased each year, so there has been an increase. I think the increase was about 4,000 this year from about 26,000 to about 30,000, so it was quite a significant increase for the year.

It is an important piece of information to us. It is people dealing at the front line of these reporting entities who understand their job and who can see something that is out of the norm. We take this information and we look very closely at it. But we also do is co-mingle it with all the other data in the database. It has a special place there, if you like, because it can highlight that other data is important in the process. All the transactions that we get at this stage are manually processed. That is becoming quite a task as the numbers increase, and we are in the process of developing a software application to assist us through it, based on what we have seen in the past, what have become significant matters, so the application will start to prioritise some of the information that is coming through.

But I think importantly it becomes part of the overall information that we get. Quite often we find that, with the target monitoring application, there will be suspicious transactions in those

reports, those networks that I was talking about before coming forward, and that makes an even stronger highlight for that activity.

Senator FIELDING—Is that reporting of a higher incidence in banking rather than in credit unions? I am trying to get a bit of a feel for what else can be done. Obviously that is an important part about people reporting. Some of it is voluntary, but it is important that that is done because sometimes the inkling of people at the front line that something is not right can lead to a tip-off.

Mr Jensen—Yes. Referring to tipping off, the legislation is quite specific and the Financial Transaction Reports Act is quite specific in that information about such a suspicious transaction—whether it has been made, whether it has been reported to me or anything related to it—cannot be mentioned to the people involved. It is really a protection for the people who are reporting to us to ensure that they will continue to report these important matters to us.

I am not specifically certain, without going back to the figures, as to whether there have been increases in particular areas. I think you will find that there is an increase across a range of the reporting entities. I also think it is probably a consequence of all the publicity that has been going out over the past year. I make the point that the media has been a significant component of getting our message across. In the first six months of this year in the various media, whether it is the dailies, the national newspapers or industry publications, we were running at about 30 articles per month, and that assists us greatly in getting the message across.

So when industry publications put something about suspicious reporting in it, it goes to their industry, they then start thinking a little more about it. So this education program in which we have been involved has to continue into the future. It will continue, but part of the strategy is to ensure that the information gets to the people at the front counter who need to report these matters through their organisations.

Ms LEY—I have a quick questions and there is no need to take a long time to answer them. Do you think that you have the resources to carry out education campaigns that I think will be necessary, particularly after the second tranche of your legislation? I know it is easy when you are involved in the subject matter to think that the general public understands it, but I do not think that the general public has a clue about money laundering or the need to be vigilant. They probably see it as a rather tedious overreaction by sectors of the government and the public service. Can we be assured, and is it your job anyway, that you will carry out that public education campaign effectively?

Mr Jensen—The answer to that question is that we are adequately covering that at this point in time by using a range of strategies. In fact, just this afternoon between these meetings, I signed off on some material hopefully to go forward and to appear not just in the dailies and national newspapers, but also ethnic publications. I think we are looking at a list of about 20 different ethnic publications that we will put our advertisements into. We will continue to use that strategy. Once we know what is happening with the second tranche, we will need to come back to government because a lot of work still has to be done in that area. We will have to put forward a program and possibly seek funding for that.

The Attorney-General's Department also has received funding and its responsibility is to get the message across to the public. Our responsibility is to get it to the reporting entities. In conjunction with the Attorney-General's Department a major international anti-money laundering, counterterrorism finance conference will be held in Sydney in the first week of April next year, and I invite all of you to attend if you would like to do that. We are bringing in international speakers as well as local speakers. That is a way of getting the message across. We hope that the media will also come along to it. Again, the publicity surrounding it all helps to get that message across in one way or another.

On our website, we have all the material that we issue, for example, our guidance notes, our rules, and a whole range of other information. That goes onto our website and most of it goes onto our website in draft form. People have access to that information once it is final and they are also able to input information. Because the website is effectively global in nature, we could have comments coming from anywhere in the world. That is a significant tool in getting messages across to people. We are continuing to work on that and we are having another look at our website to ensure that it is appropriate for all people to look at.

When we were trying to identify the reporting entities, originally we sent out 19,000 letters to tell people that we thought they had obligations. In the second round we sent out 17,000 letters and we found that approximately 2,000 from the first lot might or might not have been reporting entities. I think we have sent out four separate lots of letters. We are not only seeking publicity in the public arena; we are also trying to use other cost-effective tools to try to get information to people. It might be long-winded, but those strategies will be applied along with the second tranche. Industry associations are a significant component in getting the message across.

Ms LEY—I found the brief that we had this morning thoroughly interesting. I wish to follow up your statement about how you are trying to educate the public and reporting identities. Do you have any brochures that you can table? Do you use brochures or do you just have letters?

Mr Jensen—We have a range of brochures.

Ms LEY—Could table some of them and take that question on notice?

Mr Jensen—We can certainly provide them to you, yes. We have a range of brochures but we also have a range of publications. One significant issue involves giving feedback to the reporting entities on the work that they are doing. This program is a partnership between AUSTRAC on the one hand and government agencies on the other hand. However, of particular importance are the reporting entities and the public. The provision of information is important if that partnership is to work effectively.

If an issue comes up we have guidance notes, guidelines, information circulars, pamphlets, brochures, and a helpline or a help desk that people can phone in, once they receive this information. If they come into the help desk we send information out to them. Importantly, the website is the most significant component and all the information is there. If someone phones up with an inquiry, 'Am I a reporting entity or not' we say, 'What are you doing? Here is some material, but have a look at the website as well because there is a lot more material to help you there.' We will certainly provide you with that information.

Senator POLLEY—I understand that you would have good working relationships with countries such as the United States, Britain, hopefully Canada and New Zealand and those places. We know that South America, which is one of the big drug producers, is involved in the proceeds of organised crime. The Chair and I recently visited Colombia, and it appears to us that the government has a real commitment to eradicating drugs, but that will not happen overnight. I know that you monitor money going in and out of this country. Once you tap into one source or route of this money, I am sure that criminals and organised crime syndicates have other links. What sort of relationship do you have with the Colombian government or with South American countries?

Mr Jensen—I wear another hat as chair of the Egmont Group of financial intelligence units, that is, all the financial intelligence units from 108 different countries, and Colombia is one of them. I have memorandums of understanding with 53 of those countries and we exchange information. Through the Egmont Group of financial intelligence units, I have a reasonably close relationship with Colombia. What you are saying is right: the Colombian FIU is quite strong, the government supports it, and it is trying to do things to eradicate drug trade and the finance from those trades. So it is doing a lot of work in that regard.

We will continue to work with it and to assist it where we can and it will work with us. It has a strong commitment in that regard. I refer, for example, to funds moving to or from Australia and to or from Colombia. The data that we have on international funds transfer instructions enable us to look at specific countries and the movement of funds between those countries. Probably the best and most public example of that at the moment is in operation Wickenby, where money is moving to and from tax havens. We can look at that in an overview situation: over a period we can look at transactional activity between Australia and another country.

We can look at changes in that activity, such as seasonal changes and relationships, and where it is going to particular banks or they are coming from particular banks. We can dice that information, if you like, in a lot of different ways to assist the deliberations of the law enforcement agencies and the tax office. Australia is very strong in being able to see what is happening with financial transactions coming into and going out of the country. It is important to note that, as a result of the current economic crisis in which people are trying to move illicit gains into or out of Australia, we have a significant role to play in that. It is important for us to keep a focus on where money is moving to and from Australia.

Senator POLLEY—I have two quick questions. What is your relationship with the ACC? How imperative is it for you to have good communications and protocols in place with the ACC and other law enforcement agencies for security of information?

Mr Jensen—Our relationship with the ACC is strong and it has been strong over a long period. We have worked closely with it in its financial intelligence assessment team, which has been operating in one way or another for quite a number of years. That team takes our data, looks at it, and value adds from other agencies that are connected to it. That is probably one of the most significant components of our work. However, we also work closely with and we have liaison officers in the ACC. We keep an eye on the sorts of activities in which they are involved and we train them in the use of our data. I think this coordination aspect, or communication, is important to us.

Joint task forces that are set up under the ACC are significant. Certainly the use of the powers that they have available to them can assist us, even though they may not be directly related to us. Those powers might enable them to find further information, associates, what is happening with transactional activity, and what is happening with drug activity. We can then go back to our database and provide them with further information. I think the importance of the ACC is linking together a number of agencies, including us, but also understanding what we are doing and where we are going.

For example, in some activities in recent times, they were investigating a particular type of reporting entity. We were communicating closely with them in our regulatory role—the inspection role—which was a positive thing on the other side of law enforcement. It shows how regulatory approaches and law enforcement processes are meshed together. It is important for each agency to have a specific expertise. That expertise must be acknowledged. Each agency brings to the table, if you like, the expertise that it has available.

We have financial transaction analysis expertise and we provide that to the ACC and also to other agencies. But it is important that that is identified and that any changes do not diminish the skills set that we have, or that each of the other agencies has available to them. We do want duplication; we just need it to be complementary.

Senator POLLEY—Thank you very much. Although I would like to keep going, my final question relates to your budget, which I understand has been growing over the past few years. I could be accused of asking you a leading question but I refer to the return you receive on taxpayer investments. Would increasing your resources result in a good return and would the outcomes be better? I believe you recovered \$600 million, but would you have the potential to get more? We do not know how much organised crime there is or how much more you will recover, but would an investment of more resources give you a greater return?

CHAIR—You do not want Lindsay Tanner to know that you can get by with less money or anything like that?

Mr Jensen—Definitely not. We have to be realistic. If you put more money into analytical tools you will get efficiencies out of those analytical tools. That is the sort of thing we are looking at currently. Primarily the increase in funding has been to put in place a totally new regulatory program for anti-money laundering and counterterrorism finance. We are working on the resourcing for that program and we will continue to go forward. Any agency would probably indicate that further money would assist them to move forward.

Having said that, we identify that we need to find efficiencies and we need to ensure that we go forward. Having a look at the types of results that come out of this, in particular the tax revenue because it is quantifiable, would indicate that we are value for money. Having said that, we need to continue to provide that value for money, and I guess we will into the future.

Senator POLLEY—Thank you.

Mr HAYES—Thank you for your evidence. In particular, I thank you and your officers for a wonderful and very informative presentation this morning. I dare say that it refocuses the minds of most committee members and other people on serious and organised crime being very much a

matter of looking at the money trail, judging by the work that you guys do, particularly in looking at suspicious transactions. As undoubtedly we are looking at financial arrangements, and I suppose the one thing in common in serious and organised crime is that it is there for a profit base, do you have any view about the impact, positive or otherwise, of uniform unexplained wealth legislation? Would that be of further assistance in the work that you do in cooperation with other agencies?

Mr Jensen—I would not like to comment specifically on that other than to say it is important for all governments to look at the most effective way of moving forward. In doing that, we should have a close look at the legislation that governments have implemented to establish the costs and the benefits. That is the way in which we operate to go forward. We look at the costs and the range of benefits of the programs we are implementing. I come back to the point that I made earlier. If such legislation is implemented, we must establish whether we are moving anything where criminality may move. If we are, we must identify that before we implement any legislation.

CHAIR—Thank you very much Mr Jensen, Ms Atkins and Mr Colasante for giving evidence today.

[3.07 pm]

VENO, Professor Arthur, Honorary Research Fellow, School of Social and Political Inquiry, Monash University

CHAIR—I now welcome Professor Arthur Veno. Professor, I thank you very much for coming earlier than scheduled. I now invite you to make a short opening statement, at the conclusion of which members of the committee will be invited to ask you questions.

Prof. Veno—My attendance here today is really to provide you with a rather different perspective of the clubs, these entities, and what they are on about. I have spent about 27 years studying them in various capacities. I started out with the police in Bathurst, or I started with a large grant from the Institute of Criminology, looking at the recurring violence at Bathurst and ways in which a public order plan might be developed to stop the violence between the police and the motorcycle clubs. Subsequently, the races were moved down to Victoria and at that time the major incident planning unit, led by the most fabulous police member possible in my opinion, Brendan Bannan, and I instituted and implemented the plans and lessons learned from Bathurst. To my knowledge there has not been any trouble at the motorcycle races since. Since that time I have worked independently for five years with specific clubs, like the Gypsy Jokers in Adelaide. I have trained over 400 police at university level in four states. It is on the basis of these experiences that I hope to be able to share with you a truly unique view of these entities known as outlaw motorcycle clubs, or one per cent clubs. Whilst it is true that they hold part of a criminal element, they also serve many other functions. Part of their function is pro-social and many parts of the culture itself are, in a sense, counter-cultural or antisocial.

The two biggest issues for the clubs are the criminal elements of the clubs and what can best be described as a military mindedness—an inward looking, almost religious cult form of operation. To truly understand the clubs, you have to know who is attracted to the clubs and why. Ladies and gentlemen, please keep in mind that the clubs are comprised of brotherhoods and sisterhoods, both of which are equally important. Indeed, they form one of the few counter-cultures in our society.

CHAIR—Thank you, Professor Veno. You referred earlier to brotherhoods and sisterhoods. Are there exclusive female motorcycle clubs?

Prof. Veno—Oh yes, sir, definitely. In recent years it has just started reaching our shores, but in America the major clubs now have a very clear section that has finally brought them into the twenty-first century with respect to women. I am delighted with the moves. Probably the most notorious of the groups are the Devil Dolls motorcycle club, who are affiliates of the Hells Angels. A woman named Goth Girl, who is a very dramatic woman, founded the Devil Dolls motorcycle club. She plays the piano at a San Francisco five-star hotel by day, and is the leader of the pack by night. She is a very interesting character. To my knowledge, there is no hint that such all female clubs have a criminal element in them, although knowing clubs and the way they operate, it is part of their tolerance of those who share a different view of the world, or who look different in some ways, to be very accepting of those individuals. That is how the criminal

elements get established within those clubs. As yet they are very formative to be quite honest, Senator.

CHAIR—Are they in Australia yet?

Prof. Veno—There are a couple of clubs, but there always has been. My answer is pretty weak.

CHAIR—You might want to take that question on notice and respond to it.

Prof. Veno—I will have a think about it. That would be good because I could check my archives to see whether some of the clubs have family members. I suspect not, for the purposes of our discussion. However, please feel free to ask any questions about it as I just finished a major book on it.

Mr GIBBONS—Thank you, Professor, for coming along and for giving us your time. We are holding these hearings in just about every capital city, with the exception of Brisbane and Darwin, and we are getting quite a different aspect, if you like, to the menace of outlaw motorcycle gangs in each jurisdiction. For example, yesterday we were in Hobart and the senior police in that city identified five outlaw motorcycle gangs, for want of a better name, but they believe that only two are involved in any form of major organised crime. The Victorian police representative who was here today said there were about 19 identifiable clubs in Victoria, of which three were involved in organised crime. They also pointed out that the clubs were not involved in organised crime, but rather some representatives or some members of those clubs were involved. Is that the norm in your understanding of motorcycle gangs?

Prof. Veno—Absolutely, Mr Gibbons. You have hit it right on the head. I appreciate that the different venues you would have hit would have had different takes on the situation, but you are exactly right. Generally, it is not a club activity for a number of pragmatic reasons. At the most obvious level they become subject to extraordinary laws if, as a club, they behave as criminal entities, per se. As you said, most of the members, with the exception of a few who, as I would see it, have gone over the mark, are comprised of individuals who are not criminal themselves or involved in criminal activity other than self-medication. For a lot of the fellows, and indeed some of the sisterhood—those of us with grey hair will remember—earlier on, amphetamines were legal and they were the most prescribed single drug for depression. They were particularly effective at alleviating post-war depression and war trauma. The treatment for that was amphetamines. It boosts the confidence and it is an artificial thing. Okay, it is illegal now—get with the new world—but generally what they are doing by the dosages they are using is, at the worst, selling to maintain their habit. They are what we call, on the streets and in the underworld, whizzers. That is the precise street jargon, if you like.

Mr GIBBONS—It is my understanding that the one per cent or outlaw motorcycle clubs in the United States originated from returned service persons from World War II who were suffering from a whole range of post-traumatic stress-type illnesses. They formed these sorts of clubs as a group of like-minded people, or fraternal comradeship if you like. That is where the name came from, that is how the original bikie gangs originated and they were then added to by the Korean and Vietnam veterans, and Australia followed suit.

Prof. Veno—After World War II, it did not occur as much here as it did in America. It was not until the Vietnam War that they became established, or that that sort of catalyst really hit. Unfortunately, it is carrying on through Iraq and Iran. In America there is the New Crew. It is bikie protocol, if you will, to obtain the permission of the dominant club in the region—the biggest and baddest—to wear your patch. To my knowledge there are only two types of clubs that have not done that. One is the New Crew, who are combat-hardened veterans and it is out of the question that you are going to mess with them. The second are police members who have their own outlaw motorcycle clubs. When I look at them, I have a heck of a time figuring out bikie from cop.

Mr GIBBONS—Did you face the Long Arms, or the Long Riders?

Prof. Veno—The Long Riders are a CMC—a Christian motorcycle club. With respect, there are MCs and there are CMCs. The Long Riders are based from Victoria on through to Perth, but in Perth they do not have much to do with the current situation.

Mr GIBBONS—This might be a personal question, but have you ever been a member of either a CMC or OMC?

Prof. Veno—No, I could not take the rules. I am too much of an anti-authoritarian for that, sir.

Mr GIBBONS—Thank you very much.

Ms LEY—Can you comment on the way that bikie gangs, to use the vernacular, treat women, both within and outside their organisations?

Prof. Veno—Sure. It is a big topic.

Ms LEY—You can be brief; that is fine.

Prof. Veno—Do you want me to be brief or do you want me to take it down to the nitty-gritty? Levity aside, the chauvinistic attitude of the members is based on a set of club protocols. To truly answer that I am going to have to go back to Mr Gibbons' question. It is not quite true what you said, Mr Gibbons. The first really reliable motorcycles were available in 1903. In 1905, the American Motorcycle Association wrote a letter to all the clubs. As soon as a few riders come together you join a club so you have someone to ride with in case you break down and there is someone to go for help. There is a number of very practical reasons.

These clubs were described in 1905 in a letter that was sent out by the precursor of the American Motorcycle Association about a mutual love of hard partying and hard riding. There is something about a motorcycle that is wild and rebellious and it brings these things out in people. I am a rider and I unabashedly enjoy my bike. On the other hand, I do not enjoy the other parts of club life. It has always been difficult to get the clubs to act as a collective.

Women came along by 1918, just following the suffragette movement in the United States of America. You may be aware of Alicia May Corbet's comment about the bicycle being the single biggest liberating machine ever made for women. That statement was made by one of the leading suffragettes at the time. It was transferred over to motorcycles because women started to

ride. These women identified themselves as different and independent. With that came along the suffragette movement. There is a long and rich history of very colourful women riders and club riders.

Now we get to the clubs. The clubs that would not join the American Motorcycle Association were called 'outlaw' motorcycle clubs at the time. It is dead set true what you said: It was not until shortly after the end of the war that these clubs emerged as some sort of menace. Among them was the Boozefighters Motorcycle Club, which was held responsible for the riots in Hollister. They still exist today. They are not a one per cent club. They wear the American Motorcycle Association patch upside down. I was looking for the hardest, hardcore biker chicks I could find for my book. That is what they call themselves: Biker chicks. I called all around the world—

Ms LEY—I am getting a little desperate here to get to the answer. With all due respect, I think that people take issue with the way that bikies—and they are predominantly men—treat women.

Prof. Veno—Okay.

Ms LEY—I am not saying it is 'their women'. It is their attitude to women generally. I just wanted your comment on that.

Prof. Veno—I am sorry to misunderstand you. In the more extreme clubs—the ones that tend to have the criminal elements associated with them—the women are expected to behave in a much more subservient manner in public in all circumstances. Back in the 1970s in certain clubs many members would offer their 'ladies' for sexual favours to visiting dignitaries and so on. It never happened here in Australia to my knowledge. That was really an American thing. In terms of the way they look at women, I think they are coming along slowly, but they would still be—and I know I will get blasted for this—considered troglodytes in terms of the concept of traditional roles and male dominance.

Ms LEY—Is there a culture of violence against women?

Prof. Veno—Towards women who violate club protocol, very much so. The women who are used for gain by the criminal elements, most definitely. It is the same in the underworld everywhere. It is just another manifestation of lower class values.

Ms LEY—I read with interest your theory of moral panic and the role that politicians play in propagating it. The Australian Crime Commission has been quite outspoken about the need to consider restraints on organised motorcycle gangs. Why to you think the ACC has taken the view that it does?

Prof. Veno—I suspect because of intelligence that has been gained by members of the police et cetera. Are you asking me about the motivation?

Ms LEY—I am interested in your view of their reasons for arriving at that opinion.

Prof. Veno—I would suspect it is to test out what sort of legislation to implement—whether you go after entire clubs or the criminal members of the clubs. There are two clear choices. On

the one hand, it has enormous ramifications for the public with respect to civil rights and all kinds of issues. As we all know, society is becoming more and more regulated. You are asking me what I think your motives are and I think they are to come to a position on this—put it up and see if it sinks or swims. Would that be a fair assessment?

Ms LEY—There is no right or wrong answer.

Prof. Veno—Come on.

Ms LEY—Thank you. That is all for now. I appreciate that other members may want to ask questions.

CHAIR—As you are aware, South Australian legislation banning motorcycle gangs came into force on 8 September

Prof. Veno—Yes.

CHAIR—What effect, if any, do you think this will have on bikie gangs?

Prof. Veno—It is having an enormous effect now, but it has virtually had all the effect it is going to have. The recent actions at so-called Soap Box Park and the formation of alternative political parties—I believe the name of that political party is Free Australia—is a response to that.

CHAIR—What was the incident at Soap Box Park?

Prof. Veno—Evidently there is some legislation in South Australia—someone might need to help me here because I received this information by email from various and sundry people, I think it was Mr Jennings in South Australia—

CHAIR—I just want to know what you think will be the effect. Will it outlaw motorcycle gangs?

Prof. Veno—It will outlaw them, but that further substantiates their draw to a certain criminal element. As they stand now, I think you are going to see a serious division. In Canada, when they jailed every single Hell's Angels that they could, the net effect 15 years later is that the Hell's Angels Motorcycle Club is still the number one organised crime problem. I cannot see that legislation does anything except make it seem like something is being done about a situation when in fact, as I see it, the best job is already being done by police and politicians in the eastern states. I have a position on it. Again, like your position, it is based largely on evidence from around the world. You find that this sort of legislation simply hardens them up and drives them underground. Now you have a flash of colour on a rider, a certain ring or a tat. It just drives them underground.

CHAIR—I think you are a sociologist. You suggested that one of the other impacts of this legislation is that it will become more attractive.

Prof. Veno—To a specific criminal element, yes. That concerns me. It concerns me in that it would be a shame to wipe out the pro-social aspects of clubs, as Mr Gibbons so correctly pointed out, that exist for people who want to ride. All of us riders feel the same way—that they give us a bad name. We do not want them in clubs and we are looking for ways to get them out of clubs. I have spoken to many outlaw motorcycle club riders who are police members; for example, the Wild Pigs and the Blood Brothers here in Australia. They are all totally law enforcement member clubs. Until last year we thought that was largely posturing, that they really were not truly part of the one per cent scene. But last year a member of the Iron Pigs killed a Hell's Angel at arguably the biggest outlaw rally in the world, which is called Sturgis. It is ugly what is happening right now. This information is pretty new.

Canadian academic Karen Marie Sims from Simon Fraser University has done a thesis on these kinds of clubs. The isolation of the clubs into criminal entities is not going to help you to address RICO, racketeer-influenced and corrupt organisations. Good police work does that. The legislation is there. It is just that it needs to be enforced properly and the crook clubs must be identified—as you have—and something should be done about them. More specifically, you must address the members of the clubs. If you get rid of them, one problem is solved.

CHAIR—We have received evidence about the ethnic infiltration of a number of clubs. Whereas once upon a time they were purely white Anglo-Saxon, now they have admitted various other ethnic groups. Is the admission of these other ethnic groups indicative of an expansion of criminal elements in the biker gangs or do they join because of their attraction to motorcycle gangs, particularly the Lebanese in New South Wales?

Prof. Veno—Yes, I am aware of the Lebanese influence there and in South Australia. I think the complexity they introduce is much farther reaching than one would imagine with regard to their impact on the clubs. So many of the people who join the clubs lack a sense of family. That is actually the main reason they are in the club—it is that sense of family or for whatever reason they identify with the club being the family. In the case of the ethnic members and the clubs that are more colour friendly—which is the biker term—you find that the family structure and family drive to join it clubs is not so strong. What is driving them is more of the hard side of the club. It is concerning if you look at it on a club-by-club basis that you can clearly see clubs that are more ethnic friendly than others but, without being racist, it is extremely difficult to write the appropriate legislation or to take the appropriate action. I believe New South Wales has the answer. That is to see the nexus as a street gang with a few club members tied. That is a very dangerous nexus and one that needs to be squashed in my opinion.

Mr HAYES—I want to ask you about the code of conduct that applies in these gangs. Can you tell us about the level of discipline enforced?

Prof. Veno—There are very clear rules. This is your third crowd. We talked about the guys who like it for the crime, the guys who like it for the family, the bikes and the sisterhood and the brotherhood. Here is your third crowd. People who have been raised in situations, particularly borstals and very structured environments, who understand immediate discipline and clear rules. They respect it, they understand it, and that is what they live by. 'You do this and you will cop a flogging.' It is as simple as that.

Mr HAYES—It is military-like discipline.

Prof. Veno—Absolutely, very much so. It is very structured. It drives almost all your average bikers or riders like me to say, ‘This is not for me. Do I really need a flogging at 63 for this shit? Come on fellas!’ Seriously speaking, it does attract that kind. Besides the structures being very clear there is also intra-club stuff that makes the whole situation very problematic. Please stop me if I stray from the point. What binds the clubs together is external pressure, external force or being under a threat. When you go to a clubhouse there is constantly this sense of outsiders and what they are doing. They are very insular. Probably the best way to understand it is as a very strange form of religious cult.

Mr HAYES—Could you then explain a little bit about the process in general for nominees or hangers-on when they are attempting to join a club?

Prof. Veno—Sure.

Mr HAYES—We have been told a little bit about that.

Prof. Veno—Do you mean the process?

Mr HAYES—And the discipline that flows from that.

Prof. Veno—It starts pre-nominees. Can I start there?

Mr HAYES—Yes.

Prof. Veno—First, there is a menu of clubs. Although they look the same to us, to them there are huge differences between being in this club versus that club and what not. Almost all of them started out as a local bunch of people, guys and gals, riding together and it evolved over time into being a club. This identity is carried over to what is called a club bar. For the individuals who want to join, the club bar is one of the few interfaces where they get to select from the menu—to actually see the menu. They can go to the Outlaws’ club bar or the Hell’s Angels’ bar or whatever and see whether they like these guys, whether they are going to fit in with the club and watch the way they carry on. The rule is that you must not approach them; they must approach you. If you have any sense at all as a biker and you are interested in joining, you know that. Once you have identified the club and they approach you, you become slowly accepted as a ‘hang around’. That is a defined term.

Mr HAYES—What are they selected for? I assume it is not their riding skills or prowess. How are they selected and approached?

Prof. Veno—The sort of person you are and whether you get along with the fellows. Are you a potential supporter of the club? What skills do you have? Mechanical skills were particularly important in the old days when everyone fixed their own bikes. It is those kinds of criteria as well as treatment of women. That is a very big issue.

Ms LEY—In what way?

Prof. Veno—Some of the clubs are misogynistic and others are not. Some are very egalitarian. I will use an American example because there is a terrific one in the American Patriot Guard or the Boozefighters I spoke about before. The women love wearing those patches. Why?

Ms LEY—We should go back to Mr Hayes' question or I will be in trouble.

Prof. Veno—Where do I go?

Mr HAYES—You were explaining about the nominees and the selection process.

Prof. Veno—Yes, and part of it is the women. And yes, there are choices. You then move to a situation where someone will ask you whether you thought about joining a club. That person normally is what is known as your sponsor and you say, 'Yeah, I'll give it a go.' With the top, major clubs you have the worst year and half coming. You have to be on call, available et cetera, to do anything from building a fish pond for somebody to the worst case example of wiping somebody's butt. That is the more extreme clubs that I would speak against today. It is those kinds of individuals—

Mr HAYES—It is really testing unqualified obedience.

Prof. Veno—It is establishing it. As I said, that year could be seen as an induction. At the end of that year—if you have passed and survived, and your relationship has passed it and survived it—then you are both eligible to join the brotherhood and sisterhood. Upon reaching nominee status, you get what is called a bottom rocker, which is the lower bit of colour, but no club logo and no top rocker. You ride like that for a year to two years, but most likely a year. If there is a war going on it could be six months, for obvious reasons. At the end of that time there is a vote. Some clubs require 100 per cent support. Most of the clubs will question someone if they say no about an individual and ask them to give reasons. They are required to state why if the vast majority are in favour of the individual. The individual then joins but is prohibited from holding any office normally for several years, until they cut their teeth being a road captain on motorcycle runs when they run together as a club or as a series of clubs. They do a few things like that. Then they are eligible to bear office.

Mr HAYES—Thank you.

Prof. Veno—I hope I answered your questions. It varies, but that is the guts of it.

CHAIR—You have already taken a question on notice for us. We may have a few more. Thank you very much for coming along this afternoon and giving evidence. I also thank all the other witnesses. The next public hearing will be on 6 November in Canberra. I now declare this meeting of the parliamentary Joint Committee on the Australian Crime Commission adjourned.

Committee adjourned at 3.44 pm