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COMMISSION

Reference: Australian Crime Commission annual report 2008-09

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**JOINT STATUTORY
COMMITTEE ON AUSTRALIAN CRIME COMMISSION**

Monday, 22 February 2010

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

Members in attendance: Senators Fielding, Hutchins, Parry and Polley and Mr Wood

Terms of reference for the inquiry:

To inquire into and report on:

Australian Crime Commission annual report 2008-09

WITNESSES

BAILEY, Ms Jane, Executive Director, People and Business Support, Australian Crime Commission..... 1

HARFIELD, Ms Karen, Executive Director, Performance and Stakeholder Relations, Australian Crime Commission..... 1

LAWLER, Mr John, Chief Executive Officer, Australian Crime Commission 1

OUTRAM, Mr Michael, Executive Director, Serious and Organised Crime, Australian Crime Commission..... 1

Committee met at 5.32 pm

BAILEY, Ms Jane, Executive Director, People and Business Support, Australian Crime Commission

HARFIELD, Ms Karen, Executive Director, Performance and Stakeholder Relations, Australian Crime Commission

LAWLER, Mr John, Chief Executive Officer, Australian Crime Commission

OUTRAM, Mr Michael, Executive Director, Serious and Organised Crime, Australian Crime Commission

CHAIR (Senator Hutchins)—I welcome members of the Australian Crime Commission to this meeting of the parliamentary joint committee. We are to conduct an examination of the Australian Crime Commission's annual report 2008-09. Would you like to make an opening statement, at the conclusion of which members of the committee will ask you some questions?

Mr Lawler—Thank you very much, Chair. I know that the committee is on a tight time schedule. We have prepared a written opening statement—quite a comprehensive document—that will take the committee through the annual report highlights, but I have about a dozen quick points that I would like to make to the committee in summarising the year 2008-09, which has effectively been a year of transition, stabilisation and consolidation for the ACC. We advanced the understanding of serious and organised crime in Australia, produced actionable intelligence and undertook investigative action with and for our stakeholders, and embraced the expansion of our role into the national security community.

When I appeared before this committee in March 2009, I stated that I wholeheartedly supported the ACC in ensuring that our work was always either with or for our partners and strengthening stakeholder confidence in the agency. Actions such as the governance and administrative audit that the committee will be briefed upon shortly, the Commonwealth Ombudsman's review of the ACC's collection, storage and dissemination of information, as well as compulsory ethics awareness training for all staff, have sought to increase partner confidence that the ACC acts ethically and with integrity. Partnerships are the strongest crime-fighting tool law enforcement agencies like the ACC have. In 2008-09 we assisted law and partners through intelligence, investigative and analytical support, seizures and arrests, and support in the achievements outlined in our annual report.

Our intelligence and investigative capacity continues to underpin investigation and intelligence operations. We provide unique collection, analysis and dissemination capabilities as part of our focus on the value-add we offer our partners. As a testament to this, the ACC significantly increased disseminations to partner agencies by 46 per cent in 2008-09—5,962 disseminations compared to just over 4,000 the year before, so very significant increases of disseminations—and, indeed, the disseminations reached a wider audience, as might be expected as we move into the national security space. There was an increase in disseminations to non-policing agencies of 59 per cent between 2007-08 and 2008-09—2,420 in the latter year compared to 1,521 in 2007-08.

Our partners' expectations that the ACC focuses on the highly sophisticated, entrenched and resilient serious and organised criminals allows us to complement and not compete with our partners. This is a niche where we can bring our specialist capabilities to bear by delivering breakthrough intelligence. But with our successes there have been challenges. Reductions in resourcing and a loss of 150 staff since June 2008 have changed the way we do business. The Sentinel Strategy and the new operating model are part of the ACC's long-term solution for ensuring that we deliver what law enforcement wants by maximising the resources that we have. As we enter the final stages of implementation—quite a difficult task—the agency is energised and focused on the task at hand.

There have also been challenges with how the ACC accurately demonstrates the value of its contribution. Two pivotal issues are that the work the ACC does often traverses multiple years, which means that achievements do not necessarily align to the financial year cycle. The annual report reflects disruptions, arrests and convictions by the ACC. However, it does not reflect the disruptions, arrests or convictions made as a result of ACC intelligence dissemination or through our partnerships. The ACC's performance reporting framework is being redesigned to more accurately reflect the value and achievements of the ACC.

2009-10 is an important capacity building year. The ACC sits on the verge of a significant opportunity and, by fully committing our resources to the Sentinel Strategy and the new operating model, we will continue to deliver outcomes and thus build our reputation. They are the opening comments I have to make, Chair. We would be happy to answer any questions.

CHAIR—Thank you. Would any of your other officers like to supplement that, considering the disruption that Senator Parry is about to cause to the government's program? I think we will let him go first.

Senator PARRY—For my sins. Thank you, Chair. Could I take you to the table on page 168 of the annual report.

Senator FIELDING—That document there—can we get copies of that statement?

Mr Lawler—Yes.

Senator FIELDING—Sorry, I did not see that. Thank you.

Mr Lawler—It is a more comprehensive document than the document that I have.

Senator PARRY—Could I take you through a couple of matters within the table. The secondees—in particular Victoria Police—in 2007-08 were 20; in 2008-09 there were only nine. That is, I think, the largest decrease, and then we have the AFP, a reduction, and New South Wales, a reduction. Could you explain the reasons behind the reductions in the number of secondees and how long the secondees are generally staying within the ACC on their secondment.

Ms Bailey—Perhaps I could start with the second part.

Senator PARRY—Thanks, Jane.

Ms Bailey—Generally the secondments, if they come through as ACC Act secondments, are for two years, although some are negotiated for three years. When we moved to the model of taking them on as leave without pay—

Senator PARRY—I have to go to the chamber. I do apologise. That is the trouble with meeting when the Senate is live. It is one of those things.

Ms Bailey—We will continue with the answer.

Senator PARRY—Yes. Thank you. I might even place those on notice at a later stage. I do not think I will be back.

Ms Bailey—So it is usually two years for standard secondments, and for ones taken on board through the Public Service Act as leave without pay 18 months is the general rule of the term of secondments. I expect that the differences in the numbers are because of the change of operational focus. It might have moved from Victoria when we were involved significantly with the ECN-Victoria matters in Victoria.

Mr Outram—I think we would have to go and look at precisely the reason why there was such a drop in Victoria, but we do have different fluctuations in meeting the work in different jurisdictions and our partnership arrangements with those jurisdictions, and I imagine that would play a large part in the numbers there that we are looking at. Of course, Victoria, New South Wales and the AFP are the biggest of the partner organisations that we work with in terms of size and the numbers of secondees and officers that we are able to acquire as secondees from those organisations.

Mr Lawler—Can I just raise, Chair, that it is important for the committee to note that in actual fact the staff that we have, including the secondees, fall within five separate employment frameworks and it is useful to take the committee through those, from APS employees through to contractors through to secondees that are actually seconded under the APS Act or, indeed, under the ACC Act, they being those funded by the ACC. We have also got another group that are seconded but funded by jurisdiction, then we have got another group that work with the ACC as members of joint operations that are funded by jurisdictions, and an additional group that are actually brought into our operations when we move to resolution. So it is quite a complicated resourcing and secondment arrangement and one that moves and shifts, depending on where the operational focus is in a particular jurisdiction or in relation to a particular crime type.

Mr WOOD—Obviously, the staff losses are something that greatly concerns me. I am trying to work out how many full-time investigators you have there now seconded. The figures I had at one stage had 150 seconded, then it got down to 20 or 30, but I think we have had discussions in the past where there are two types of seconded officers. What are the actual figures? I know it gets a bit confusing here.

Mr Lawler—It does. Let me see if I can help out. As of 31 December 2009, the following breakdown is by number of staff: 520 APS staff; two contractors; 28 seconded members, either APS or ACC, that are funded by the ACC, which gives us a total ACC funding of 550; 18 seconded officers funded by jurisdictions So there is a total ACC staff of 568. With members of joint operations funded by jurisdiction, there are a further 26, which gives us 594. Of those,

investigators—which includes financial investigators, ACC secondees and joint operations—are 69. But we need to be careful in the use of the term ‘investigators’, because we have then a breakdown of other staff which, in some contexts, would be classed as investigators—for example, surveillance and specialist staff.

Mr WOOD—I would not call surveillance an investigator. You are including people involved in surveillance crews as investigators?

Mr Lawler—No. They are a separate category here, as listed, but what I am saying is that if we talk about investigations—which is about investigating and gathering evidence and information—then, on one interpretation of that, that is what surveillance people do. I know in a policing context they are specified as surveillance, but if we are actually out investigating and surveilling people then it is all part of the total package.

Mr WOOD—But they are definitely not investigators. They do not go and interview people. Their job as surveillance is to provide the information reports to the investigators.

Mr Lawler—That is true, but the point I was trying to make is that they make up the investigation process.

Mr WOOD—Regarding investigators, what have been the losses, if any, from last year, when the annual report was put in, to this report? Has there been a reduction or increase in investigators, whether it be paid by the ACC or paid by the jurisdictions?

Mr Lawler—I do not have a specific figure around investigators from 31 December 2008, for example, to 31 December 2009, but I can tell the committee that the ACC, through program savings, particularly around accommodation and travel, has been enabled to be in a position to recruit more investigators as we move forward in the 2009-10 financial year. I think we previously briefed the committee that it looked like we would have to have a further reduction of staff somewhere in the order of 35 in 2009-10. The supplier savings we have been able to make have meant that that has now not needed to occur and, indeed, there may be some capacity—we think in the order of 20 to 30 staff—that can be brought onto the ACC’s payroll, and we are looking to focus that at the operational front end, particularly the investigation capacity.

Mr WOOD—Where would these savings be made?

Mr Lawler—The savings have been made, as I say, principally on the supplier side of the budget—so renegotiated leases for accommodation and savings in the context of travel, in the context of communications and in the context of vehicles. Right across the supplier budget there have been very significant savings made and efficiencies gained, which will enable us to transfer supplier budget to employee budget.

Mr WOOD—What are this year’s budget figures—grand total, millions—compared to last year’s?

Mr Lawler—In the context of appropriations, for 2008-09—2009-10, at least, there was an appropriation of 94 point—no, I correct myself. That was 2009-10. Can you help me with 2008-09, Jane?

Ms Bailey—I think it was in the order of about \$3.4 million less, but I could verify that for you.

Mr Lawler—I have got it here. The ACC's appropriation for 2009-10 was \$94.904 million, which was a reduction of \$2.207 million from the previous year.

Mr WOOD—Obviously we would have had a wages increase in the last financial year. Has that occurred?

Mr Lawler—Indeed. Under the collective agreement that was negotiated, there was a 2.75 per cent wage increase.

Mr WOOD—We have had a 2.75 per cent wage increase and we have still had a \$2.5 million budget decrease. So where are the savings coming from that?

Ms Bailey—There is also some lapsing funding in there. The private security industry new policy money lapsed in that year. The last of the old NIITF money ceased, as did the Northern Territory Emergency Response money, and then we had a Gershon saving, but we got new money for Wickenby, new money for NIITF and some minor changes in our tied funding, plus WCI. We had some offs and ons, so the total impact at the end of the day was \$2.207 million, but some of that was planned to be decreased because it was lapsing funding for the private security industry and other issues.

Mr WOOD—Sorry, Chair, for asking so many questions. We recently had Australian Crime Commission hearings into serious and organised crime and I and some other committee members were very critical of the ACC not being able to supply information on gangs—in particular, the OMCGs in Australia. That was one of the key recommendations: that the ACC look at establishing a national gangs database. What action has been taken to look at that recommendation?

Mr Lawler—Certainly, in my time as CEO of the Australian Crime Commission, I am not aware of the ACC failing to provide any information on outlaw motorcycle gangs. It might have been before my time.

Mr WOOD—In your defence, it was before your time.

Mr Lawler—Certainly any information that the committee has—I would be delighted to provide in-depth detail around outlaw motorcycle gangs. Of course, we have provided lots of information to our stakeholders and to the public.

CHAIR—You have a determination now, don't you, for South Australia?

Mr Lawler—We have got a range of determinations. We have a High-Risk Crime Groups determination which has its principal focus in outlaw motorcycle gangs—not exclusively, but a large part of that activity. That determination is focused in that area.

Mr WOOD—Just for South Australia?

Mr Lawler—No, this is more broadly. This is across the board. Our High Risk Crime Groups No. 2 is specifically focused on outlaw motorcycle gangs. As the chair said, the South Australia high risk crime groups determination is a specific focus in South Australia on outlaw motorcycle gangs operating at a state level, as distinct from the broader level.

Mr WOOD—How many members would be involved in that high-risk group?

Mr Outram—The High Risk Crime Groups No. 2 determination is a special investigation authorised by the board to deal with the highest threat individuals and groups nationally. Of course, outlaw motorcycle gangs feature significantly in the workload there. There are a number of state based determinations, one of them in South Australia that you have mentioned, and that is predominantly dealing with OMCGs in South Australia. The High Risk Crime Groups determination takes, with on-cost, just over half of our entire budget. That is including surveillance and all those other things that we have to do to put that determination on the ground to work with our partners in the operational space.

ACTING CHAIR (Mr Wood)—How much is the budget for this?

Mr Outram—It is about \$52 million, I think.

Ms Bailey—It is just a bit under \$50 million, I think, this year.

ACTING CHAIR—So \$52 million specifically for the high-risk crime—

Mr Outram—Just under \$50 million for high-risk crime, yes.

ACTING CHAIR—For the \$50 million, what have you established? What are you planning to do with those funds?

Mr Lawler—We have got a range of operational activity under way with board member agencies. Some of these are very extensive transnational crime groups that are being targeted. They are sensitive operations. They are operationally live at the moment, so for those reasons I would prefer not to go into the detail of those, particularly in open hearings.

ACTING CHAIR—I understand.

Mr Lawler—But suffice it to say that the board of the Crime Commission are regularly briefed on those operations and have seen fit, after those briefings, to extend the determinations in those areas.

Mr WOOD—Is this something new—to have \$50 million set aside specifically for this? Previously, has this money been in a separate pool of money?

Mr Lawler—No. It is a separate determination. The levels of funding are consistent with previous allocations within the commission and approved by the board.

ACTING CHAIR—In relation to that, over time have there been reductions in staff numbers on the task force, or have they remained the same?

Mr Lawler—We have said that over time there have been reductions and increases, indeed, in the employment framework. So there have been increases in contractors and decreases over time; so have there been increases and decreases with secondees funded by the jurisdictions and those funded by the ACC, particularly those funded by the ACC when there was a need to give effect to the efficiency dividends, as the committee has previously been briefed on. One of the outcomes of that was a reduction in staff to the tune of 150 across all categories since June 2008.

ACTING CHAIR—Obviously the recommendation for establishing a national gangs task force was a key recommendation. I think we only had six recommendations in that report. I am surprised that you have not read that as a key recommendation.

Mr Lawler—I am aware of the task force that you are talking about, which has in two iterations actually morphed from what was a special task force to a special intelligence operation through to the High Risk Crime Groups No. 2 determination. The reason for that is that the board, when briefed with the nature of those activities, believed it was appropriate to change the focus.

ACTING CHAIR—I think you are talking about the OMCG analytical task force, which I know was moved up. What I am talking about is the recommendation in the Australian Crime Commission's inquiry into serious and organised crime. There were six recommendations. One was unexplained wealth; another recommendation was made simply because of the failure of the ACC to supply information to committee members mainly regarding the outlaw motorcycle gangs. The issue arose because we could not establish the anti-association laws and the worth of the outlaw motorcycle gangs. We could not have anyone come to the committee to say, for example, how many people in Victoria who were outlaw motorcycle gang members had been charged with serious offences. And this was right across the country. I know it is unfair in some ways that I am firing this question at you, because it was under the previous CEO. If you go through the hearings you will see hearing after hearing where we actually asked for that information and, in the end, committee members in their frustration made it a recommendation.

Mr Outram—I may be able to assist to an extent with my recollection of this. The issue at the time was, I think, that when people are convicted of a criminal offence CrimTrac maintain that information in the police referencing system—the fact that somebody has been convicted of an offence and what they have been convicted for—and there are the criminal records. What was not happening was that that did not necessarily identify whether those individuals were associated with a particular type of criminal group, including OMCGs, nor was it necessarily easy to collect against drug types and that sort of thing. We did communicate with CrimTrac about that. I cannot say what the outcome of that conversation was. We would probably have to go away and take that—

ACTING CHAIR—To my knowledge, there is no state or territory—and correct me if I am wrong or if you need to take this on notice and come back with the answer—which is keeping gang information. I assume that South Australia would be, but even then we have found it hard to get information.

Mr Lawler—I do not know whether that is altogether true. There are certainly jurisdictions that have specific gang squads that keep gang related information, so I do not know that that is accurate. Indeed, within the ACC's holdings of course, they have lots of information about

criminal gangs and organised crime. That is the nature of our business. Can I just note a word of caution here: what we are seeing is traditional hierarchies, traditional groups, actually morphing so that it is more difficult and, I think, can be misleading to actually tag a particular entity in a particular way—and I think I have briefed the committee on this previously.

Let's take a hypothetical, where we have two patched, identified members of a well-identified outlaw motorcycle gang. They might link in with an ethnic based crime group. They might use an offshore facilitator for logistics and, as part of their operation, they might get a specialist facilitator in financing and structuring, and that effectively becomes the network for that particular operation. Once that particular importation or criminal enterprise is undertaken, we see them change again. So we have got a constantly moving network of like-minded people in relation to specific enterprise. So they are seeing it with the triads and they are seeing it with traditional outlaw motorcycle groups—that it is much more difficult to actually identify them by their group.

ACTING CHAIR—The question again, if it can be put on notice, is this. I assume South Australia are going to have a gangs task force—which I know they do have—on OMCGs, and they would have their own database, but I assume that database would be specifically for that task force, not for the average law enforcement officer. The reason I say this is that an ex-police officer could pull over a bikie, not knowing he is a Hell's Angel. To me, it is a very important tool for all police to have: to know who they are speaking to and whether they are connected to a gang. It was recommended that we have a national gangs database. You mentioned before about speaking to CrimTrac and, to me, CrimTrac would be the obvious solution for this, but is anyone collecting this information to be used by other law enforcement agencies or is it only within certain task forces within states?

Mr Outram—Can we just differentiate. There are obviously the members of OMCGs who have been convicted of criminal offences and the issue was that there are a number who probably have not—particularly new prospects and all of that. They have not actually been convicted of any offence. So what we are working on constantly with our partners in every state and the territories is the identification of targets and understanding which networks or groups those targets have a footprint in—whether it is OMCGs or other groups. That work is ongoing at the moment, and we present to our board annually a strategic document, which is a protected document, called the *National criminal threat assessment*. That identifies groups and targets at the highest level nationally, including OMCGs, but not exclusively OMCGs because, as the CEO said, OMCGs are part of a broader picture.

ACTING CHAIR—I understand that, but the evidence I may be getting is a bit different. Say it is a Victorian police officer. If he pulls over a Hell's Angel, is it all of a sudden going to come up with a warning flag—'You've intercepted a gang member,'—whether he is part of the triads or is involved in some street violence gang, whether it be in the Northern Territory or Western Australia? To my knowledge there is no such gangs database. Is that correct?

Mr Outram—We would have to refer that question to CrimTrac because I think the database the police officer would immediately go to would be the National Police Reference System. I do not know whether there are warnings on there about being violent and about weapons and that sort of thing. I am not an expert on CrimTrac. I am assuming they do put flags on them, but at this point in time I do not know whether or not one of those flags is 'OMCG'.

ACTING CHAIR—Okay, so that would have to go to CrimTrac.

Mr Lawler—My understanding is that they do have warnings on the National Police Reference System and that there is reference on occasion to linkages to people with firearms and the like, and gangs, but I will take that on notice and get a more comprehensive answer back to you.

ACTING CHAIR—I know, for example, that Victoria have got their LEAP database.

Mr Lawler—That is right.

ACTING CHAIR—My information is that they do not have the information that they are connected to a gang but, if the person has carried firearms before, that will come up as a warning, and each of the states has its own database.

Mr Lawler—Yes.

ACTING CHAIR—The only concern I still have is—and, if you want to, go back and look at the Australian Crime Commission hearings—that every time the ACC appeared, time after time committee members would keep asking these questions about gang members and it was always promised that the information would eventually come, but—

Mr Lawler—Can I just say, Mr Wood, that the issue of access to some of that sensitive intelligence needs to be carefully managed. Indeed, all of the information the ACC holds cannot be made and should not be made available to everybody.

ACTING CHAIR—No. If it is intelligence based, you obviously do not want that going out to the local police officer, but—

Mr Lawler—It needs to go out to people who are appropriately cleared and have a need to know.

ACTING CHAIR—And no-one is disputing that.

Mr Lawler—Yes.

ACTING CHAIR—But if you have got a police officer who has intercepted a gang member, or an investigator from another state who is looking at a person, and he does not realise they are connected to the Coffin Cheaters, for example, to me that is a vital piece of information missing.

Mr Lawler—Indeed, and there is work underway to ensure that all appropriate information that can possibly be disclosed is disclosed and how that might be done. One way that is being explored is through intelligence areas within the various state jurisdictions so that there becomes a central point and, if a police officer on the beat has a reason to access that data, they can do that through their intelligence section.

ACTING CHAIR—You are saying through their intelligence section. You are saying on, for example, the LEAP database, that information—

Mr Lawler—What I am saying is that there are people in Victoria Police that have got access to the ACID/ALEIN database, where intelligence is held.

ACTING CHAIR—Yes, but in regard to that, from my own background I can tell you now that there are very few police members with that access. You may find in every squad there will be some people having access. The rank and file police officer and the radio communications officer would not have that access. But, anyway, I know Senator Fielding has got some questions. Thank you for that.

Senator FIELDING—I have a couple, from recommendations last year, just to see whether they were picked up. I am particularly interested in another area of aviation, the Aviation Criminal Assessment Team, and the reporting there, and reflecting on that versus what is happening in the maritime area as well—there are determinations there. I am just interested in the Aviation Criminal Assessment Team and whether that flowed out of the Wheeler report. Is there a need for something like that in the maritime area? Even though you are doing a lot there—I am not saying you are not—it just seems to me to be a fairly good way of coordinating a lot of different issues in the one area.

Mr Lawler—Certainly. If I can talk about the ACAT team to start with—it was formed, as you correctly point out, in February 2006 in response to the Wheeler review—we have got six staff on that particular team within the east coast offices. It is true that we do not have a similar team within the maritime environment that is producing, effectively, high-quality intelligence reports as the ACAT is and distributing those to its partners in the aviation context. Where we have been active in the maritime context is through two board approved determinations. The first of those was Crime in the Transport Sector, which you have been briefed on—a very extensive determination; it ran from November 2005 through to June 2008—and the Illegal Maritime Importation and Movement Methodologies determination, referred to as the IMI determination, which ran from November 2006 to December 2008. We do not have a like team in the maritime environment.

Senator FIELDING—Do you think it would be useful to have such a team set up for the maritime? You can take that on notice and come back. You can say ‘yes’, ‘no’ or ‘not for me to decide’, but I am interested in your view. Does that make sense from there?

Mr Lawler—It does.

Senator FIELDING—It is always difficult. Yes, I do not want to go there. I am just saying I would like your view. You can decline to say yes or no, or sit on the fence. There was one thing I could not get a feel for from the annual report—and I have certainly spoken to people that run the ports, people that are involved in the logistics and also the Customs side of things, and agents for Customs. One thing I would have liked to see somewhere in the report was that you actually sit down with these other—I will not call them agencies—groups, maybe once every year or once every couple of years, and do a bit of black hat brainstorming across the board. You do not divulge to them what you are up to and doing, but you say, ‘How would you get around the system in an organised way? How would you cook the system?’ because these operators have been around for a long time and they see a lot. I think 99 per cent of people do the right thing, but they know a lot. I asked quite a few of them just last week and not one of them can tell me the last time the ACC called a group together like that. I am not saying you have not done it; I

just do not see it in the report. They are telling me it has not happened, and I know, working for large corporates, that they do a lot of black hat thinking about hacking, fraud and organised issues that happen within a company. I am interested in your response to that.

Mr Lawler—I will let Michael talk about that in a minute or two, but let me give you a very clear example where the ACC has been proactive in doing that. It was exactly in relation to the port environment or the maritime environment. Unfortunately, when we did that, it fell outside of the 2008-09 annual reporting period, which is why it is not in the annual report, but I can assure you it will be in next year's. That is where we gathered together, with the assistance of Ports Australia, all the executives from every port—both major port and regional port—in Australia and briefed them on the findings of crime in the transport sector and had a very in-depth discussion about some of the challenges we were seeing that they were facing within that environment. Indeed, following on from that, we have had requests from individual port operators to take those briefings further into—

Senator FIELDING—That is slightly different to my question. I am referring to briefings in a room and saying, 'How could you get around the system? How could you in an organised way get around it?' rather than you briefing them about areas to be worried about.

Mr Lawler—It was a briefing, but there was also dialogue and question and answer in that context.

Mr Outram—Can I also come in there. We found in some of those environments that there was a bit of reluctance sometimes to speak publicly about these things and, whilst I cannot go into detail, obviously the board authorised the use of special powers in those cases. As often as not, when people are brought in for examination, it is exactly to get that sort of understanding about vulnerability and how it might be exploited and so forth. Obviously that is a really crucial way for us to collect intelligence about those vulnerabilities and it was done that way in those particular cases.

Senator FIELDING—Last year, or in the last report, the committee made some recommendations. I am wondering how these have gone: the inclusion of the Commissioner of Taxation on the ACC Board; reaching agreement with ACLEI regarding the reporting of corruption matters; a review of the existing arrangements for suspension and dismissal of ACC employees believed to have engaged in serious misconduct or corruption; and whether the CEO of the ACC requires summary dismissal or stand-down powers. They are general recommendations from last year and I would like to give you a chance to come back to the committee on those recommendations.

Mr Lawler—The first one you mentioned has now been passed into law, with the serious and organised crime bill, and the Commissioner of Taxation, as of last Friday when the bill received royal assent, will become a member of the ACC Board in his own right. That is a very positive step forward. Regarding the second matter, as a regular activity, every time corruption matters are detected by the agency, they are reported to ACLEI. Even where there is some potential question as to whether it is corruption, we always err on the side of caution so that ACLEI can be fully apprised of any such matters of impropriety or corruption.

The third matter related to what was loosely termed the 'loss of confidence powers'. It is still my view, notwithstanding extensive dialogue with the Attorney-General's Department and correspondence with the Australian Public Service Commissioner, that, given the special powers the ACC has, the particular trusted position its employees operate in and the very sensitive nature of the intelligence that it holds on Australians, the expectation by the community of those staff is higher than in other areas or walks of life. It is my view, my strong view—and we see cases of it even of recent times—that the current regime does not provide sufficient power to remove people from the organisation who have engaged in misconduct but not to the level where one can mount a criminal case. This may be in a multiple context, where the culmination of the offending in isolation may not be sufficient, but the combination thereto would give one a very serious cause for concern as to whether that person should occupy a position within the Australian Crime Commission, and I still hold that view.

Senator FIELDING—Thank you.

CHAIR—In your statement, Mr Lawler, at the bottom of page 1 and then at the top of page 2, you say there was an increase in disseminations to agencies by 46 per cent and there was a wider audience than previously. Can you expand on those two points for the committee—what they might practically mean.

Mr Lawler—What they involve is tactical intelligence, so this is operational intelligence that is provided to partner agencies for them to act upon. It is the lead information; it is the breakthrough intelligence that enables other agencies to focus their attention. There is an issue around the number, which is pleasing to see, but I believe also the quality. That will be picked up in the context of the stakeholder survey that we are moving through in 2009-10, to not only have an increased number—because that in and of itself might not mean too much; one would hope it would—but particularly important is the sort of qualitative assessment by the agencies that are receiving the information as to whether they have been able to put that to good effect.

One of the challenges that I spoke about for the ACC is to actually try and track the benefit of that intelligence to the agency. Sometimes it is very easy if the intelligence is provided on one day and actioned on the next, but where it might take months or years or where it might form part of a broader picture—it might be the last piece in the jigsaw puzzle—or it might provide opportunity for police to take a statement from somebody that they did not previously know was involved in a particular matter, it can all go to very positive outcomes that are not necessarily tabulated by arrests or seizures or charges laid.

The increased audience that the second part of your question went to is really focused on the broader constituency. This is a more mature position, where it is not only law enforcement agencies—pure law enforcement agencies—that can actually help in the disruption of organised crime; it relates to agencies like the Australian Taxation Office, the Australian Securities and Investments Commission and agencies working in the national security space, such as the Department of the Prime Minister and Cabinet and others.

CHAIR—You have the Wickenby and the Northern Territory intervention task forces. Are you able to advise what other task forces or determinations you have got under way?

Mr Lawler—Yes, I can. We have got a range of determinations. We have three special intelligence operations. The first is the amphetamine type stimulants and new synthetic drugs intelligence operations, which is current until 31 December 2010; the illicit firearms market to New South Wales, which is current until 30 June 2010; and, as you have pointed out, Chair, the National Indigenous Violence and Child Abuse Task Force again, which is current until 30 June 2010.

In addition to those three special intelligence operations, we have five special investigations. The first is the High Risk Crime Groups No. 2, which is current until 30 June; the High Risk Crime Groups South Australian special state investigation, which is also current until 30 June—and there have been questions on both of those matters from Mr Wood; the Established Criminal Networks-Victoria, also current until 30 June 2010; the Wickenby matters that you referred to, Chair, current until 30 September 2010; and then a Financial Crimes determination, which is current until 30 June 2010, and particularly focusing on serious money laundering. They are the current authorised, or board authorised determinations and operations.

CHAIR—Any further questions from the committee?

Senator PARRY—I do not know how far we got with my questions when I was called to the chamber. Is it okay to follow-up there?

Ms Bailey—Yes. Just to recap, you were talking about the term of the secondees and I said it was between 18 months and two years. It depends, but that is usual.

Senator PARRY—What I was getting to—and I will not go through each individual line item—is that there seems to be a fall-off of the payments by ACC for secondees. That seems to be where the fall-off occurs. Is the program of lower value or is it simply a budgetary issue?

Ms Bailey—I note that the biggest component of the change in the staffing that we are paying for was contract. We had a significant cohort of contractors coming up to that time, but we did have to reduce some of our secondees as well, so I think that was a period of financial stabilisation which we are now embarked on a program of, as the CEO said—we are now stabilising and rebuilding—so that is very measured. Understanding what the right workforce model is and what the key components are and how many of each we need is certainly our focus now, so we have sort of come through a process of having to—

Senator PARRY—You have reached rock bottom, basically, without putting words in your mouth. No?

Ms Bailey—What we reached was what we could offer, and we have been able to manage that in an affordability sense, and now we are trying to rebuild both our capability and our head count in the way that gives us the best outcome. It is not simply a matter of, ‘How many people can we get?’ It is that we want people with the key capabilities.

Senator PARRY—But you do regard the value of the secondee—I mean, it is obvious: the cross-pollination and the other bits and pieces.

Mr Lawler—It is important I think, just in that context, to understand the history of why it was that contractors and secondees—

Senator PARRY—I am sorry—can you explain a contractor compared to a secondee. A secondee is from another law enforcement agency or a like-minded agency?

Mr Lawler—Correct. You were out of the room—

Senator PARRY—Sorry, yes.

Mr Lawler—but I mentioned to the committee that there is quite a complex employment environment. We have got five separate categories of employee, from APS staff through to contractors through to seconded APS and ACC Act staff funded by the ACC, seconded staff funded by the jurisdiction, members of joint operations funded by jurisdiction—

Senator PARRY—Maybe I could stop you there. I am familiar with all the different categories and I can read, probably, the *Hansard* to pick up your comments. But there is value in the secondee process?

Mr Lawler—Yes.

Senator PARRY—It will not be diminished any further. Is that your view?

Mr Lawler—The secondee process is a two-way process. It is a process where the ACC requests secondees.

Senator PARRY—Yes, and pays for them.

Mr Lawler—And a process where the state and territory jurisdictions and the Commonwealth agencies have to make the secondees available.

Senator PARRY—But by and large, looking at the table for the last two financial years, the ACC is responsible for the vast amount of payment for secondees.

Mr Lawler—Correct.

Senator PARRY—And I am just trying to get an indication—because I have seen the value over a long period of time, even before this agency.

Mr Lawler—There is no question about the value.

Senator PARRY—So I am just querying whether that is going to diminish, stay the same or increase, and you are saying the value is there and you do not see any further diminishment of the secondee process?

Mr Lawler—No. Indeed, I see some increases. I was briefing the committee that we have been able to save supplier costs by reducing administrative overheads for accommodation,

travel, vehicles and communications contracts, and ICT more broadly, which has freed up funds that we intend to utilise for employee expenses, which means that we will be able to recruit more staff. You will recall when we last appeared before the committee our financial situation was such that we believed we would have to lose another 35 staff this financial year. That is now not the case and we believe we will have enough supplier funds, which have been saved through efficiencies, to employ more staff.

Senator PARRY—My final question relates to the secondees as well as other staff, and if you have answered this, please indicate and I will read it in *Hansard*. An \$8 million surplus I believe there was this financial year gone.

Mr Lawler—Yes.

Senator PARRY—Yet you had significant cutbacks staffing-wise. Can you explain the \$8 million surplus—how you arrived at such a high surplus with such a dramatic staff cut. If you have explained that, that is fine.

Mr Lawler—No, I have not explained that, but it is a very good question. Indeed, when I arrived at the ACC, part of the Robinson review that you will hear about after this hearing indicated that the ACC did not have sufficient funding going forward, and it was required to make those savings to actually cover its liabilities. We were able to do that with some quite serious supplier cuts, but we have now transitioned that and we are in a much better financial position than we would have otherwise been.

Senator PARRY—So, by advice, you have saved more money probably than you ordinarily needed to, but your advice was to save or to go down that path for—

Mr Lawler—I think the \$8 million was what we needed to save—in that order—to build up our ratios to what might be considered within a government context to be fiscally responsible and to make sure that we had enough surplus funds to cover liabilities. As I say, when I arrived at the ACC, that was not the case. Subsequent to that, we are projecting for this financial year a balanced budget, but we still have a surplus and part of that is driven by what our projected affordable staffing levels will be as we move into 2010-11. It would be inappropriate and fiscally irresponsible to take on full-time staff that you know 12 months further on you could not afford, so there is a matter of balancing and risk-managing some of that.

Senator FIELDING—On the National Indigenous Intelligence Task Force, obviously that determination is until June 2010—is that right?

Mr Lawler—That is right.

Senator FIELDING—We had a little bit of interesting ‘going back and forward’, getting that extended at the last minute, which was not ideal at all in a procedural sense, between you, us and the government of the day.

Mr Lawler—Indeed.

Senator FIELDING—Is there anything in the annual report about how we can avoid that again, from your perspective?

Mr Lawler—These matters are for government in the budget context.

Senator FIELDING—I understand that.

Mr Lawler—And the government has been provided with all the information it needs in that context.

Senator FIELDING—So is there something that this committee can actually do before that determination is due—maybe three months before—to get an update from you specifically, so that we do not get to the last minute again, where everybody is playing a bit of—

Mr Lawler—I am very happy to update the committee in relation to the task force's work, but decisions around the future funding for the task force, or otherwise, are really matters for government and the budget process and I would not be in a position to comment on that.

CHAIR—I would like to thank you, Mr Lawler, Mr Outram, Ms Bailey and Ms Harfield for coming along this afternoon. This committee stands adjourned.

Committee adjourned at 6.27 pm