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

Tuesday, 28 March 2006

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

Members in attendance: Senators Ludwig, Ian Macdonald and Polley and Mr Hayes, Mr Kerr and Mr Richardson

Terms of reference for the inquiry:

To inquire into and report on:

Australian Crime Commission annual report 04-05

WITNESSES

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MILROY, Mr Alistair Macdonald, Chief Executive Officer, Australian Crime Commission 1

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OUTRAM, Mr Michael, Director, National Operations, Australian Crime Commission 1

PHELAN, Mr Andrew Michael, Director, Infrastructure and Corporate Services 1

Committee met at 3.42 pm**HASLEM, Mr Matthew, Solicitor, Australian Crime Commission****KITSON, Mr Kevin John, Executive Director, National Criminal Intelligence, Australian Crime Commission****MILROY, Mr Alistair Macdonald, Chief Executive Officer, Australian Crime Commission****NEWMAN, Mr Lionel Maurice, Director Strategy and Governance, Australian Crime Commission****OUTRAM, Mr Michael, Director, National Operations, Australian Crime Commission****PHELAN, Mr Andrew Michael, Director, Infrastructure and Corporate Services**

ACTING CHAIR (Mr Kerr)—On behalf of the committee and in the absence of the chair, Senator Ian Macdonald, who is obliged to attend the division in the Senate, I call the committee to order and declare open this public meeting of the parliamentary Joint Committee on the Australian Crime Commission. Today's public hearing is the committee's examination of the commission's 2004-05 annual report. As well as the annual report, the committee acknowledges the regular provision of activity and output reports by the commission, which contribute greatly to the committee's overall understanding of the operation and objectives of the commission.

I welcome the witnesses. The committee prefers all evidence to be given in public but, should you at any time wish to give your evidence, part of your evidence or an answer to a specific question in camera, you may ask to do so and the committee will give consideration of that application. However, evidence taken in camera may subsequently be made public by order of the parliament or this committee. I invite you to make some opening remarks about the committee's inquiry. At the conclusion of your remarks, I will invite members of the committee to ask questions.

Mr Milroy—Now in its fourth year, the Australian Crime Commission has continued to develop into a progressive, innovative national criminal intelligence and investigative body. The 2004-05 report marks the second full-year report on the outputs and activities of the commission since its inception on 1 January 2003. During the reporting period, the ACC has made further significant steps to enhance Australia's law enforcement capacity to counter serious and organised crime activity. The commission increased the dissemination of criminal intelligence products to partner law enforcement and other government agencies from 727 in 2003-04 to 2,802 in 2004-05, which is a 285 per cent increase.

The ACC intelligence products—for the committee's information—are tailored to meet the different decision-making needs of its clients and reflect changing criminal priorities, operational commitments and the ACC board directions. With board approval, the ACC has successfully conducted special investigations and intelligence operations in partnership with the Commonwealth, state and territory police services and other government agencies to significantly reduce the impact of serious and organised crime. All operational activities are underpinned by proactive intelligence and the strategic use of coercive powers.

The 2004-05 report summarises the commission's activities. The ACC has disrupted 20 criminal entities, which includes networks, syndicates and groups, and has disrupted the criminal activities of 28 significant individuals. The entities disrupted have included major established criminal networks involved in drug importation and distribution, money laundering and firearms trafficking. Through Operation Wickenby the ACC is investigating significant tax avoidance schemes of an international scale, with the estimated value of revenue at risk greater than \$300 million.

We have conducted 629 examinations and issued 516 production notices, restrained \$13.4 million in proceeds of crime, forfeited \$860,000, recouped \$430,000 in pecuniary penalty orders and issued \$12.2 million in tax assessments. A total of 175 drug seizures resulted in 2.3 tonnes of drugs being seized, with a total street value of \$66.6 million. Two hundred and eighty-four firearms and components were seized, and 294 persons were charged on 1,665 charges. This equates to a 44.8 per cent increase in persons charged and a 166 per cent increase in the number of charges compared to the previous years.

As a consequence of its intelligence and investigative activities, the ACC has been involved in a range of legal, regulatory and administrative reforms to assist government and private sector agencies to minimise the impact of serious and organised crime. This has included providing advice and comment on several draft bills. The commission has also delivered and continued to enhance a number of key intelligence initiatives, including ACID, the Australian Criminal Intelligence Database; a national card-skimming database; and the Australian identity protection registers. The ACC now employs over 500 staff members nationally, and its emphasis on developing a highly skilled and dynamic workforce has been a significant contributor to the many successes the agency has achieved.

The menu of work undertaken by the commission is closely dependent on the changing nature of the criminal environment and the priorities approved by the board. The commission's core focus will continue to be the provision of innovative and proactive criminal intelligence and investigative solutions to effect the disruption of criminal syndicates. Intelligence sharing is the principal way in which the ACC is able to enhance national law enforcement and contribute to the ongoing disruption of organised criminal activity. In addition to the information-sharing working group chaired by the ACC, the commission shares operational and strategic intelligence with a range of government and law enforcement agencies in accordance with its acts. It does this through a range of MOUs and task force agreements and through the ALEIN-ACID system.

While focusing on maintaining effective working relationships with its law enforcement partners, the ACC will seek to develop new working relationships with private and public sector groups, including the finance and security industries. The commission will undertake new initiatives to enhance its criminal intelligence and investigative capacity through accessing private sector intelligence, improving the nature of intelligence collection mechanisms and strengthening information-sharing arrangements with partner law enforcement agencies.

The committee raised a number of concerns with respect to the 2003-04 annual report. These included the refinement of ACC performance measures, law reform issues and criminal intelligence services. I believe that the commission, in producing the 2004-05 report, has addressed the majority of these concerns, and the report reflects the ACC's commitment to continuous improvement. The ACC will continue to maintain high-level governance,

management and accountability mechanisms to ensure continued success in 2005-06, and I look forward to receiving the committee's report on the 2004-05 annual report.

ACTING CHAIR—Thank you. I will commence with what I suppose is a very broad question. A former chairman of the ACC, John Broome, has suggested that there has been a significant diversion of law enforcement resources in the traditional work of agencies such as the ACC and the Australian Federal Police from serious and organised crime to antiterrorism activities. Whilst of course it would be entirely understandable if there has been a transition in the organisations and a refocusing as the threat to Australia in relation to terrorism has come much more onto our radar screens, I think that observation is one that has its parallels in the intelligence community, where the government has responded to concerns that the traditional espionage role was being given insufficient attention. What can you say of the relative priorities of the work of law enforcement broadly, and your role more specifically, given that critique?

Mr Milroy—I can only comment on behalf of the ACC in terms of what has occurred since 2003. It is quite clear, from results in various reports, that there is a greater level of cooperation in partnership in law enforcement in Australia, in particular in the more proactive approach taken to collecting intelligence and the analysis of that intelligence, and then through the intelligence determining what proactive action should be undertaken both through the board approved process, through the special investigations and special operations. But, also, that intelligence is now being used, and has been used over the last few years, by the various jurisdictions to proactively target organised crime groups that are operating within their jurisdictions.

One of the major tools has of course been the development of the picture of criminality, which has identified those groups causing the most harm, based on the intelligence gathered, who are operating at the high level and the medium level and also those groups that are emerging. I believe there has been significant progress, and I believe that the attack on organised crime is full on. It is receiving maximum effort, not only from the ACC and its partner agencies. I have not personally seen anything that seems to indicate that we are diverting resources away from traditional law enforcement activity. I think one can see by the increase in funding of the various state police forces in relation to the increasing number of police officers being recruited that there might have been a restructure that has taken place as a result of the requirement to address terrorism but, clearly, what I have seen is a far more focused approach to attacking organised crime and a far more focused approach to identifying those groups that are more deserving of attention than in the past.

ACTING CHAIR—So, essentially, you are saying that your task has not been diverted. I infer from what you are saying that, as far as your experience of interaction with the other agencies, you have noticed no diminution of their resources available to deal with serious and organised crime.

Mr Milroy—From my observation, that is correct.

ACTING CHAIR—In respect of your reports that you disseminate, you have indicated that there has been a very substantial increase in the overall numbers. Within that, the greatest increase seems to have been in what are called 'information reports'. Perhaps you could assist the committee by explaining precisely what an information report is and how it is that the

number has jumped from fewer than 100, I think, to something well over a thousand. I have the figures here, but it is a very substantial increase.

Mr Milroy—I go back to my original answer that we have spent a considerable amount of time in the last three years improving the intelligence collection and analysis process throughout Australia, and also, of course, the information-sharing working group, in focusing on the collection of intelligence and the value that that can provide to both the ACC and its partners. We have also undertaken a lot of consultation with the stakeholders to look at the value of the products that we need to provide and ensure that they are more beneficial to the work of the jurisdictions. We undertook an extensive survey process over the last few years and are continually finetuning what needs to be disseminated and the value of these products to the jurisdictions. Kevin might like to expand further.

Mr Kitson—I think it is important to look at the maturity of the national criminal intelligence priorities process, which is one of the key functions laid out in the act. As we have progressed over the last three years, we have established various iterations of the national criminal intelligence priorities. Underpinning those are national criminal intelligence collection requirements, which represent an aggregation of the national priorities and requirements. That has simply led us to a much more detailed and comprehensive understanding of what we can contribute to our partner agencies—hence the ability to share information much more widely.

I think it is also a reflection that we have approached a number of our determinations and a number of the intelligence probes that we have done with a view to expanding the knowledge and understanding of our jurisdictional and Commonwealth partners in what we think is relevant at the national level. Therefore, we have put out information that, on first reading, might not be of obvious value to them but, as we have seen over time, has increased their understanding that we need to look at these things with a much wider view rather than a parochial view. We have also been very much better at optimising what we can get out of our determinations work, recognising that the significant investment that we make in our various investigations actually delivers intelligence dividends as well as investigative dividends.

Mr KERR—I was just trying to get a more precise understanding. Certainly it is true that there have been increases across all the intelligence products that the agency is responsible for, except within the one that is actually called ‘intelligence products’, strangely and perhaps ironically. But the one that is labelled ‘information reports’ has increased from 67 to 1,631 such reports. Something significant has changed there and I am trying to explore precisely what is encompassed by the terminology ‘information reports’ as opposed to the various other intelligence products in the broad that you produce such that they went from 67, which is virtually negligible, in 2003-04 to 1,631 in 2004-05. In a very short period one particular product has been the subject of a very large increase that explains the overall increase in the intelligence reporting that you are providing to your other agencies.

Mr Kitson—The greatest distinguishing feature is that an information report does not really carry the value added analysis that a good deal of the rest of the information that we put out does. If we were to be purist about it, we probably would not call it intelligence, because intelligence, as you understand, is a process of analysis assessment. A lot of the information we are putting out is to increase awareness across the national criminal intelligence priorities. It may well be that we have no particular comment to make on a piece of information but we believe

that it needs to be shared with jurisdictional partners. We have a daily service of what we broadly term 'open source information', which not only gathers material that people can read through the media or listen to on television or radio but scours all of the relevant information sources that might add to that general contextual information, but we will not necessarily provide an in-depth or, in some cases, even a superficial analysis of what we think it means. That is probably what distinguishes an information report from an intelligence product.

Mr KERR—I still need a little more assistance. Can you give me an example, without disclosing the particular report, which might in some way show work you are doing that should not be disclosed? Is the sort of thing you are talking about a report that may indicate—I do not know. It still remains completely obscure to me, as opposed to the intelligence report, which is where you get a batch of information that is coming through on a range of activities in which you are involved—perhaps listening devices and a whole range of other measures. You refine that product, and you tell the agency something about the nature and structure of a particular part of the organised crime world that they did not understand or might not have understood before. So what is the sort of information? Because, if we are measuring this in raw numbers and saying, 'Congratulations! You're doing a whole bunch of good stuff—more than you've ever done before,' much of it is in this area. I am just trying to clarify precisely what we are talking about.

Mr Kitson—It is very much in the realm of information sharing, where we have gathered the information and we want to share it instead of simply holding it. So that at some point the ACC can produce a strategic intelligence report or some other form of intelligence report that does provide that value-added analysis, we are making sure that a lot of our partner agencies are aware in real time of the information that we know. We place a high expectation on our partners to contribute. You are aware of the work that has been done under the information sharing working group. Part of our commitment to that dialogue and that relationship is to share what we know in return.

Mr KERR—Can I ask a couple of leading questions: could the information be, for example, a statement made by somebody in one of your hearings? Is that the sort of information—

Mr Kitson—No, not generally. It might be that we have been alerted to an arrest, a seizure or a methodology discovered by a particular jurisdiction. It may be that we have seen a media report of a particular incident. If I can take an example following New Orleans, there were various instances of fraudulent activity taking place. We would put that information to the jurisdictions to make it clear that, following those kinds of catastrophic circumstances, there is a potential for organised criminal responses to it. At some point down the track, we will make an assessment of the potential vulnerabilities that exist in our own response mechanisms in terms of validity of identity—how you respond in a disaster situation to identity validation. It is really part of that process of saying to all of our partners—all of those we expect to be able to tell us something of what they see—'Here's the broad context for it.'

Mr Phelan—To add something there, it is part of the process of encouraging other agencies to also contribute a lot of this general information so that we can sit across ALIEN in particular, where a lot of desks contain information of the kind that Kevin has just described, and use that information to continue to feedback trend analysis and more general information about modus operandi et cetera.

Mr KERR—What happens with that information? Is it available online to other agencies, or is it a sort of email service, as opposed to your more secure one? Are you saying, because it is open sourced, it is a pop-up sort of system: ‘We’ve heard this, and you really ought to’—

Mr Phelan—A bit of both.

Mr Kitson—It operates on a push-pull system. We allow people to pull it down from ALIEN if they have got the appropriate access, or we push it out to them. It is part of our process of saying: ‘We think you need to know this.’ The numbers have increased so dramatically because we have taken the time to say, ‘What is it that we think the jurisdictions want to know?’ We have gone to them jurisdiction by jurisdiction, crime squad by crime squad and said: ‘What would you want to know if the ACC could tell you?’ That has led to an address list of something in the order of 35,000 people.

That is not what accounts for the figures but, in the broadest terms, we send out a vast amount of information and it is in that area that we have worked extraordinarily hard to say, ‘What benefit could we make of this information?’ It requires a little bit of lateral thinking sometimes. If we get something about a rare parrot being smuggled, for example, it is not one of those oddity items where you think, ‘So what?’ It is about saying, ‘What could this mean about the potential for this to reoccur?’ Just because it has happened outside of, say, Western Australia, do we just assume it is a Western Australian phenomenon or do we implicitly alert all of the other jurisdictions that have borders—and the majority of them do—to the potential for similar activity in their areas? We cannot possibly provide value added comment on every single piece but, again, the feedback from our ongoing dialogue with the jurisdictions is, ‘Yes, we’d like to know this because we don’t see it from any other source.’

ACTING CHAIR—I suppose the obvious question by way of follow-up is that I suffer myself from information overload. If I were answering your question honestly: ‘Would it be useful for you to have this information?’ quite frequently I would say yes, but then after finding that another 300 emails had arrived overnight I would review my enthusiasm to say yes to those things. You are in dialogue with the partner agencies to make certain that you are not quite reaching the point where there is a disinclination to take serious account of what you are providing, because it is just too—

Mr Kitson—We are very sensitive to that saturation point and, again, we invest a good deal of intelligence resources in ensuring that it remains constant. There is little value in us asking them in March 2006 and not asking them again until March 2007. We have our regular monthly, quarterly follow-up with most of the agencies out there—not with every agency because of the sheer volume we are dealing with, but certainly our jurisdictional partners. Indeed, in response to some jurisdictions arguing that perhaps they are quite happy with information reports, as opposed to intelligence reports, we have scaled back some of the production of our intelligence reports. Following this current year’s figures it might show a slight decrease in intelligence products in response to that.

One of the things that we were very careful to do and very keen to ensure that we got right was to understand precisely the product that our clients wanted. We made an assumption that they would want to know what everything meant—the nature of the marketplace, if you like, for our information quite often is a case of they simply want to know that it is there. We encourage

them to come back to us and tell us of that massive signal, that massive noise: 'What is it they do want comment on?'

ACTING CHAIR—Do they ever come back to you asking what something means?

Mr Kitson—Yes.

ACTING CHAIR—Because that obviously is the next stage in value adding. How does that operate strategically within the organisation? You send this out. What would be the process of some enterprising investigating officer who sees, 'Warning: parrot scare!' and thinks this may have some implications for their jurisdiction and wants to know whether there is any intelligence that parrot smuggling is on the rise and who is doing parrot smuggling and whether parrot smugglers have links to motorcycle gangs or something of that kind?

Mr Kitson—We have a system that we refer to as RFIs—requests for information—and they work inward and outward with regard to the organisation. We deal with that in a formal structured way so we make sure that the agency knows what it is responding to and knows what it is asking of its partners. To take that particular example, we will deal with that according to what our indices tell us. We do a meta-analysis of all those RFIs to look at what that tells us about trends and the level of jurisdictional interest so that we do not ignore what might be major trends. We are conscious that there are spikes in interest, particularly driven by media coverage. But if we saw that two or three jurisdictions had expressed an interest in that item then we would put it into the intelligence management weekly meeting to ask: 'Do we need to do an assessment of this?' If it is at the level where we might need to go to a strategic criminal intelligence assessment, that is a matter we might refer through the CEO to the board for consideration in the broader menu of work. The majority of work we can deal with as a strategic assessment or an operational assessment and deliver within a reasonably rapid turnaround time. It is a critical part of our emerging trends capability.

Mr Phelan—The law enforcement officer could also probably type into the ACID search string 'parrot', 'gang' and whatever else interests them, and do either single or multiple searches and find the links using the analytical tools that are made available to many thousands of law enforcement officers across Australia.

Mr KERR—Yes, and that is one of the advantages of having those linkages. What about the input to those linkages? I recall in our previous hearings, we have heard that jurisdictions are mixed in their enthusiasm and cooperation with providing you with the underlying data that enables you to do these meta-analyses.

Mr Milroy—It is improving though.

Mr Phelan—It is generally positive. I am wary of using the word 'but', but in this particular case the ALERT initiative, which we have discussed previously, is intended to deliver quite significant enhancements to the usability of the Australian criminal intelligence database, and also the Australian Law Enforcement Intelligence Net—ALIEN—about which we have been discussing the pushing of e-mails and also targeted products using that mechanism as well. These tools are maturing around now, so we are working our way around all of the jurisdictions, training key operatives within the crime areas, key intelligence people, the people responsible

for uploading the intelligence. We are seeing great enthusiasm for the quality and the type of product that we are building for free attached to the ACID system. We have every expectation of the organisations where the take-up has not been as significant so far—I mentioned the New South Wales Police in particular, which is a very large organisation with significant logistical links.

Mr KERR—I point out, just for your comfort, the Australian Labor Party still cannot persuade its New South Wales branch to have a single newsletter.

Mr Phelan—I do not know that we are going to solve that problem, but I could also—

Mr KERR—They do have a world of their own in New South Wales sometimes.

Mr HAYES—And it is quite a good world.

Mr Milroy—There is a commitment by all the board member agencies, headed by their CEOs, to improve the intelligence collection and sharing processes that Andrew referred to as the pickup around the country. We have a roadshow that goes around. There is a greater level of acknowledged need for this to improve intelligence collection and intelligence sharing. We are seeing many more improvements every month, and I think it is very good for—

Mr KERR—We put on record and make public our intention to have a name and shame process. We will make these inquiries of you specifically at our next examination of the annual report with a view to identify where there are deficiencies at least. Because, truthfully, this is said to be by the board, which is made up of the chief commissioners of the various states, and certainly asserted by you to be a key instrument in greater integration of capability of law enforcement. If there were significant gaps still there, it would really be pretty remiss of us not to highlight them. I do not think we need—you say there has been improvement.

Mr Phelan—Obviously, it is a very complex issue, but the Commonwealth government, in its response to the Wheeler aviation safety review, has funded the ACC to take a lead role in developing protocols and technical fixes, language issues et cetera to automate a lot of the problem areas. It is not necessarily an issue of, as you just said, naming and shaming; it is an issue of working through a whole raft of technical and other cultural issues.

I will give you one example in Victoria where, with the implementation of improved case management and intelligence systems and working in partnership with the ACC on these protocol and sharing issues, the upload of intelligence has been quite outstanding over the last two to three years. Those are the sorts of expectations we have when we deal with some of the others that might have some legacy links or are very large or have some processes that need to be worked through or funded in a particular way. We have been invited by the New South Wales Police to give three days of intensive training in May to all their crime command people, their intelligence analysts, civilians and all those involved in intelligence sharing in New South Wales to help lift them in terms of the capabilities to use the new tools that we are rolling out with the ALERT initiative. I personally, with my friend Michael here, have addressed the most senior levels of the New South Wales Police and it is evident that there is a very can-do attitude. So it is a multiphase, multilayered approach with pushing in terms of offering improved functionality.

Mr HAYES—This is transitional at the moment?

Mr Phelan—That is correct.

Mr HAYES—With what Duncan is looking at and where there are gaps, could part of the deficiencies also be where there is duplication? What you are doing at the moment is possibly now starting to address that.

Mr Phelan—It is less an issue of duplication and more an issue of the capability to share intelligence. The way I look at it and the way we look at it is that the inability to share intelligence nationally is often a subset of some information sharing or intelligence sharing blockers that might be internal to—

Mr HAYES—Whose turf?

Mr Phelan—Possibly. I think you will find too that there is a lot of history in here. A lot of the very large organisations have massive information management issues. Often massive information management issues need to be addressed by massive cultural change—certainly what you are alluding to—but also significant investment, which may or may not have occurred historically. These things take time to fix and often involve coming in at the cultural level, coming in at the leadership level within the organisation, working with them on their processes that might be internal or that might cross over with us and also looking at the systems protocols and the technology ultimately that allows this to be shared.

As I said before up front, the earlier ALERT initiative which is delivering most of these tools was a four-year initiative. Its first four-year funding ceases on 30 June 2006. We will meet all of those expectations but we do not expect, on 1 July, for there to be a 100 per cent take up of these new tools. We are ramping up to that. But we do have this expectation that the amount of intelligence shared will improve significantly into the future. It may not necessarily be in numeric terms. I flag that here.

What we are also operating on is the quality of the intelligence reports that are being shared with the ACC. An intelligence report could be, ‘Charlie Bloggs owns Bloggs Pty Ltd.’ But the more quality intelligence reports that we are seeing coming through through our training and other initiatives from the intelligence directorate and elsewhere are far more comprehensive and are actually making a lot more connections between entities, human things, drugs et cetera, which are giving that kick-start. It might be quite long and detailed and take a lot of effort on the part of the contributing agencies.

Mr KERR—I should pass to others, but I want to open up one area that always intrigues me and presents me with some questions in my mind. You have mentioned that you have been responsible for very large seizures of drugs, in the many millions, and also for \$12.2 million of tax assessments. It has always surprised me that, given the assertions of very large values of seizures, tax assessments consequential on, one would imagine, the discovery of criminal profits are so small by comparison. One would assume that, when it is discovered that an enterprise has been engaged in criminal activity and has been profiting from the distribution and sale of narcotics or something else, that would create with it, once discovered, a tax liability of the same sort of dimensions by way of profit. Obviously, there would be some expenses—the cost of

bullets to rub out the opposition may not be deductible but there would be some expenses that are deductible.

Joking aside, you would expect there would be assessable income of a commensurate nature with the information we receive routinely of very large dollar amounts of seizures, disruptions and the like. I am puzzled why the tax office assessments in this area always seem, whilst significant—\$12.2 million is not to be sneezed at—to be quite modest by comparison. I wonder how that relationship with the tax office is evolving and, secondly, why is this so? What is it in terms of the transmission device that seems to me that we are not getting larger assessments and collections from those engaged in illicit activity?

Mr Milroy—Our figure to date for the three years is \$33 million in tax assessments.

Mr KERR—You mentioned \$12.2 million.

Mr Milroy—That was just for the one year. For the three years it is \$33 million, and \$15 million has been recovered. You have to look at it on a case-by-case basis. For example, there was a recent case of a high profile family charged with a major fraud matter. The case took three years to investigate. It subsequently went to trial and during that whole process, even at the moment while they are in prison, there is still money being handed over, based on the tax assessments. We are seeing figures that relate to a matter in which some one was charged in 2001 and sentenced in 2005 and there is still money coming to the tax department on their tax assessments.

We are only seizing drugs on matters that are part of a special investigation where we are targeting a specific organised crime group to put them out of business because they happen to be involved in drugs. Simultaneously, we take the view that if we are going to break down a syndicate we look at where they are vulnerable, and if they are vulnerable by taking away their money we use ASIC and the tax department to target where we will get the best and desired outcome by putting them out of business.

Mr KERR—That is what I am trying to explore.

Mr Milroy—The right way to do it is probably to look at the cases that have been successful and align the tax results to those particular cases. If case x ended up a fraud matter and there was a \$7 million tax assessment you would get a better idea on a case basis. For example, we have recovered drugs so far up to the value of \$238 million in 3½ years. If you take that figure and say but you have only got tax assessments of \$33 million you come up with the same question as you have just raised. It does not seem to balance. It is very difficult to try to align those sorts of figures.

Mr KERR—I am not trying to align them. What puzzles me is that we have heard in this committee, routinely and persuasively, that organised crime is a business essentially and that to target organised crime we ought to go after the profits as much as attack. If you can take the profitability out of a sector then essentially criminal activity will be much reduced in that sector—target hardening and what have you. You open a newspaper virtually any day and you will see sums of money attributed to the seizures of organised crime—the notional street value

that is being placed on seizures—that dwarfs the \$33 million. You see that just in a week, or in a day sometimes.

One would assume from that that organised and serious crime is a multi billion dollar industry in Australia. You do not have the same burden of proof for the imposition of tax liabilities that is required for the prosecution of crime, and there are various devices that the tax office can use, like unexplained enrichment, and various mechanisms that can be utilised to assess a profit. I am puzzled about where the transmission belt is between the argument that the way you attack organised crime is through its profits and the focus that we have on convictions and the like, the street value assessments and the fact that attributable tax assessments are so trivial in comparison.

If chasing the money is a serious objective then they system—not you necessarily—is breaking down somewhere along the line. Your intelligence and all the other sorts of products are developing so how is it not actually creating assessments of a far greater dimension? I remain quite puzzled by this and I am troubled by these discrepancies both in terms of the logic that underlies them and then the outcome. It seems as if there is a gap here that needs exploration.

CHAIR (Senator Ian Macdonald)—Perhaps because they have been caught they have not had time to materialise the profits to a taxable estate.

Mr KERR—There are a lot of people living fairly high on the hog.

Mr Milroy—We can only comment on the cases we currently have under investigation. I can assure you that we do have tax investigators as part of our staff.

Mr HAYES—Taxation is not necessarily consequential to Tax. From your perspective a lot of this is targeted as another tool to shutting down. This is targeted tax assessments on this as opposed to the proceeds of crime—we are going to tax you because you have a couple of kilos of heroin.

Mr Milroy—We are taking a broad view of things in terms of targeting a particular group. There are some cases that we have at the moment where the only opportunity to disrupt their criminal activities is to go down the tax assessment route. Based on the information we have been able to gather it may be that a particular group or an individual has millions of dollars but we realise the difficulty in proving that that has come from organised crime or in prosecuting them with a criminal offence. We have a number of cases at the moment that have been targeted specifically for tax assessments and there are other cases where the tax assessment is in parallel with the action under the proceeds of crime as well as the criminal offence.

Within the ACC we apply all of the above if necessary and we look at the best logical option that we can take to put a syndicate or individual out of business. We apply this ruler across all of the investigations. Michael may have some other examples from the operations department. You have to look at this not in terms of the global amounts of drugs seized and tax assessment and try to align it. I think there would be a number of cases that we could show where this is working.

Mr KERR—The ATO is now on your board isn't it?

Mr Milroy—That was one of the recommendations from the P JC. That has not occurred.

Mr KERR—It has not occurred?

Mr Milroy—No. The government as yet have not tabled their response to the recommendations of the PJC review of the act.

Mr KERR—I assumed that the government in its wisdom would have immediately seized the opportunity to follow our recommendations.

CHAIR—I am sure they will.

Mr RICHARDSON—From the outset I must say that I think credit should be given where credit is due. It is an excellent led machine by some excellent line managers, particularly with the resources you are finally getting. An example of that is Operation Wickenby, let alone the other information and dissemination reports that you have already identified. The interesting fact is also that we are here to assist you. Mr Phelan, you said that there may be some ‘buts’ there, or some administrative or legislative obstacles in that sharing of partner information with ACID and alien, et cetera. Do not hesitate to share with us in this format or in another format if we can assist those arrangements to make a better service than what it is.

I am looking at output 1, Criminal intelligence services, at page 38, under the heading ‘Quality and value of strategic criminal intelligence assessments’. Let me just work through this—I have done some homework on it. It says:

In the May 2005 NCTA on Serious and Organised Crime Groups, an increased number of nationally significant groups were identified, with 111 groups of national significance reported by contributing agencies. However, fewer groups were assessed as high threat (27) and a significant number had experienced some or substantial disruption by law enforcement. Thirty-one of the groups identified—

by Mr Milroy—

were being targeted by ACC operations, of which 6 were assessed as high threat, 8 were assessed as medium threat, 5 had been disrupted, and 10 had been somewhat disrupted.

Can you just provide some information, please: of the 31 crime groups targeted by the ACC, why were only six in the high-threat category and another eight in the medium-threat category? By definition, the other 17 were presumably in the low-threat category. Should the ACC not be spending the bulk of its time and resources targeting the high-threat groups?

Mr Milroy—The high-threat groups that you are referring to are the ones in relation to the Schumachers and out of the threat assessment matrix. But you have to understand that, when we take on a determination to work on a special investigation, where we put up to the board to work on a high-threat group that has been identified out of the NCTA—for example, the Schumacher Task Force was a task force to target a specific high-threat group with associated syndicates as part of the network—when we go in to do special investigations, we get involved with the partner agencies. So we are working in a special investigation, for example, in firearms; or under

the ECN, which has now changed to high-risk crime groups; or under people-trafficking et cetera; or Midas.

When you are involved as part of the investigation with the partner agencies, you find that you then identify some of these groups at what you might call a medial level. But a group can be a medium level today and a high-threat group tomorrow. In fact, a high-threat group can be a problem one week and then, as a result of certain activities or a downturn in their operations, they suddenly are not as much a problem as they were. In relation to why we are not targeting 31 high-crime groups: a number of these groups in fact are the subject of targeting operations by other jurisdictions. As a result of that, they contribute that information into the NCTA on serious organised crime.

Mr RICHARDSON—As we know, within your arena—let alone in any substantial investigation—the investigations quite often springboard into many other areas. Are there areas that are being left behind because of the fact that they become a low operational tasking for the ACC? Are they slipping under the bedsheets, if you like, through the state police and/or another organisation not picking them up at all?

Mr Milroy—No, we have an arrangement. We have established what they call a joint management group, a joint management committee, which Michael attends. That basically has representatives from the assistant commissioners of various jurisdictions, and Customs and the AFP attend. In that sort of management group, which is established in each state and territory, they look at targeting the responsibilities for that jurisdiction.

In addition to that, where we identify—during a special intelligence operation, a special investigation or, for that matter, any of the projects we are undertaking—that there is a group deserving of attention, that forms part of the disseminations. Agencies pick up on this information virtually weekly or fortnightly, and they proactively target these groups. We follow up to find out: ‘What did you do with this information? Did you deal with it? Did it lead to a prosecution or did it lead to a seizure of assets or money laundering or whatever?’

So we follow these issues up, as you say, so they do not drop off the radar. But our objectives are very clearly set out in each of the special intelligence operations and special investigations aligned to the statement of support put to the board. We focus specifically on the objectives and we make sure we bring our partners along in the area of commonality that we are working in.

Mr RICHARDSON—Thank you. That covers it very nicely. Kevin, I am interested in the sharing of overseas intelligence. How do you think that is going—the trafficking and, mainly, the partnership sharing, intelligence information from overseas?

Mr Kitson—Where we look at specific subjects I think we have improving information sharing. I think there is an acknowledgement by those who are involved in this that there is some distance to go but we are working extremely closely with the agencies that have responsibilities for overseas liaison, and there are several of those. We also have our own relationships with like agencies overseas. I think we can be comfortable that we are making progress in the right direction.

Mr Milroy—We are taking some steps this year, actually, to undertake some research overseas. We are looking at the new and emerging trends. We are also looking at the shape of organised crime for the next three to five years. In addition to that, we are looking at any new technology that might be available. I will probably be sending some people overseas over the next 12 months. I will be going to the Asian countries in the next five or six weeks with one of the managers from the intelligence area to look at the new and emerging trends in the region as well as what the shape of organised crime is that could impact on Australia. A lot of that work will pick up on Kevin's point of trying to establish and broaden our international collection framework and opportunities.

CHAIR—What are your partner agencies overseas?

Mr Kitson—We operate through the AFP and Customs. They are the primary agencies. But we have reasonably direct dialogue with some of the UK agencies—they are morphing into a new agency as of next week—and with the Canadians in particular. We have had dialogue with Hong Kong police.

CHAIR—I was speaking to the English people last week. I offered them your assistance if they needed some in setting their organisation up. That was very generous of me.

Mr Kitson—I think it is worth noting that we have had a fair bit of dialogue with the Serious and Organised Crime Agency in its formative time. Our CEO and I were in London in August 2004 and talked to the Home Office team responsible for the implementation of SOCA. I believe we made a reasonable contribution to some of their thoughts.

CHAIR—So that is a directly analogous agency you yours—or will be when it is established. Are there others like that around the world that you have that more direct dealing with rather than through the AFP or Customs?

Mr Kitson—There are a few directly parallel agencies in terms of the criminal intelligence responsibility. The Canadians probably have the closest model. But we have dialogue with Europol as well. That captures a whole grab bag of European agencies, obviously. I think it is worth putting on the record, coming to a similar point that was made earlier about saturation, that we could demand and seek all sorts of overseas intelligence but we have to be reasonably precise about what it is that we want so that we can manage it and trust to the strength of the relationship with the AFP and Customs. We are much more targeted about what we demand.

Mr HAYES—I was not intending to bring this up but since it has been raised I will. This is an issue that did get canvassed when last we were together. I think the AFP was making urgent submissions to us insofar as the overseas intelligence gathering should be left to them. Even in those days I think I expressed it to Mick as a possible turf war that was a emerging. But, realistically, where does it sit now? I know what you are saying, Kevin—you do rely on using them in terms of the overseas intelligence gathering. They were quite assertive last time we were here that that really should be their part of the operations, gathering that information. Has that settled down? Do you do that now on their behalf, or do they simply do exactly what you guys do and duplicate the information?

Mr Milroy—One has to remember that the Australian Crime Commission is a national body and the AFP and Customs have an international role, and there are certain protocols that one has to go through in any country if you are going to engage with another international body. It is quite common—although occasionally we do see some of our overseas partners bypass all protocols, suddenly arrive in Australia and ring up the next day and say, ‘Can we come for an official visit?’ and nobody knows that they have even arrived in the country. So we ensure that there are certain formalities that one has to go through, and it is appropriate that we do it with the AFP, Customs and other agencies in Australia that have overseas links.

In developing this intelligence collection framework, which is a process map that we have developed, we have identified all of the regions in the world where, through our Commonwealth partners, we can engage and obtain information. That framework has of course identified where there are no agencies from Australia and how we facilitate the collection of, or whether there a need to collect, intelligence from those areas. It has been an ongoing dialogue with the AFP, Customs and others for the last two years to develop this working relationship. These are overseas inquiries that we make normally or when we are going to send people overseas, and we would rely on the AFP or Customs to facilitate the visit to ensure that you are meeting with the right people. That is an appropriate thing that we should do, and this is the professional way to go about it. However, I think that there are always going to be, as you said, turf issues. There are turf issues in state, territory and Commonwealth jurisdictions—it makes no difference.

Mr HAYES—There are, but the complication in this is that last time we had the chair of the ACC, who just happens to also be the head of the AFP, saying, ‘This is what should happen.’ All we are concerned about is making sure that this works out. I do not think it is good for people have competing views about, particularly, something about intelligence gathering. Duncan started this part of exercise. Where there are holes, we would like to see them filled, but where there is unnecessary duplication perhaps we could better utilise our resources to strengthen that.

Mr Milroy—I think it is something that you have work at on a continual basis. It has a lot to do with when people change. You have a new person and different commands. You then have to re-engage, and you are in face-to-face interaction with the various heads of agencies, whether they are Commonwealth, state or overseas agencies. We have a number of very excellent projects running at the moment internationally in partnership with Commonwealth partners and other countries regarding very high level investigations. They are working very well—but it is something that you have work at, and of course we also have to acknowledge at times how we go about collecting intelligence.

Mr KERR—Do you ever feed into ONA?

Mr Milroy—We have regular meetings at Kevin’s level with his counterpart. I also meet the head of ONA, as I do the other—

Mr KERR—That is not in the report to the best of my knowledge.

Mr Milroy—They have access to ACID.

Mr Kitson—We did a product for them, and we make ACID available through the ALIEN interface to all of the intelligence agencies.

Mr KERR—But there is potentially quite a significant value which I do not think is reflected in your report. I may be wrong, but I did not see it.

Mr Kitson—It is driven as much by the needs basis. We have had a significant dialogue with them on, say, Southern Ocean fishing. It is a common interest, but again we have to recognise that the degree of overlap is not as extensive as it might appear. However, we do have a regular dialogue with them. We talk to them about priorities in other domains where we can make a contribution. But we are very keen, as I said earlier, to share our product, so we tend to push it to people even if they are a little—

Mr HAYES—But you would not source ONA material to jurisdictions. Anything that you would put out on that would be ACC intelligence.

Mr Kitson—Yes.

CHAIR—We are going to run out of time and we have a long way to go, I think, so I will move on now to Output 2. I see that the use of coercive powers has increased by almost 80 per cent in the year of this report from the previous year. Is there some particular reason for that? And could those same results have been got by some other means? I am referring to Output 2 there.

Mr Milroy—In 2004 we increased the number of examiners to three. But the use of the coercive powers is aligned to the decisions made by the board on the submissions that we make for the use of the powers. I think you will notice that we have got nearly eight determinations where the powers are applied. But also the agency is probably getting a lot better at using the coercive powers, not only for collecting intelligence but also for evidence.

We will now gradually start to see the powers applied as a tool very early in the project instead of at the end of the project—in other words, used as part of the skill of the organisation, where they are going to get the desired outcome a lot earlier. We have used the coercive powers in a couple of the projects. In Task Force Schumacher, for example, we used the coercive powers and that task force was able to achieve its objectives within about 10 operation-months where, normally, the law enforcement agencies would have expected it to run for two years.

We are seeing a lot greater use of the powers as a strategic tool. As a result of that greater awareness in the organisation, we are also seeing partners starting to understand the benefits of the powers. The powers would not be used by them, but where we are working in a joint operation on a particular area of criminality they might come to us and say, ‘We have this witness that might provide some information to you.’ They are going to benefit but we also get the intelligence dividend. But Michael might want to comment a bit further on that.

Mr Outram—I think the Schumacher example is a good one because I was looking at a fairly sophisticated and national crime group and of course they had hanging off them lots of peripheral players—whether people who were assisting them in terms of money-laundering or other parts of the operation, for instance logistics or what have you. Through the examination program, for example, we managed to find out a tremendous amount about the money-laundering activities: how they occurred, when they occurred and who had been involved. And,

frankly, without the examination and the coercive powers we would never have got that intelligence.

Similarly, in relation to the methodology of, say, an importation operation and how they plan importations and how sophisticated they are—again they require a lot of people who are not necessarily at the heart of the criminality but on the periphery, who might not ordinarily talk to law enforcement but in the sanctity, if you like, of the examination room, where there are secrecy provisions there to protect everybody, then our ability to leverage the intelligence is much greater.

So, yes, I think it helps us in terms of achieving the evidentiary outcomes—because we can react to the intelligence, we can make smarter operational decisions and we can go after the main crooks—but also in terms of leveraging those more intelligence based outcomes, feeding into Kevin’s area, making sure that the product that is coming out the door in terms of intelligence is much more informed and is better informed as well.

As to why they have gone up: we have obviously, as Alistair said, we have built this in really as a sort of core competency, now, with our investigators. They are thinking more about intelligence outcomes; they are thinking about how to build the bigger picture. Similarly, I think the examiners themselves are far more skilled in that aspect with their experience. So I think it is an inevitable curve but it will plateau at some point and I think we would expect to see that. But I think it is just that we have got a lot smarter doing our business.

CHAIR—I think a report recommended the provision of a practice and procedure manual for the benefit of practitioners and those summonsed for examinations. Has that been actioned?

Mr Milroy—Yes, and Lionel can comment on that, but it is nearly due for release.

Mr Newman—It is. We are currently working with the examiners and with the supporting lawyers to publish a best-practice guide, essentially, which will be made public and put on our website.

Mr HAYES—Is that along the lines that John Howard had suggested in terms of scrutiny?

Mr Newman—Yes, people will know essentially what will be required of them in an examination, what the protocols are—

Mr KERR—Bring your pyjamas and a toothbrush.

Mr Milroy—You would be aware that the Wickenby funding that Andrew mentioned was for us to purchase the services of an additional examiner who would be dedicated to the Wickenby case for the next five years. We have taken the action to recruit such a person, and hopefully that will be resolved by July or August, depending on the process.

Mr KERR—I do not want names, but what sort of person do you recruit for that sort of role?

Mr Milroy—Mainly someone with an extensive legal background. We are looking for someone who thinks broadly, but an investigative—

Mr KERR—Where do you find those people?

Mr Milroy—The one that we had was with the former agency and had been doing examinations. One of the other people who applied for the position—the current examiner—was with the former integrity commission, which does such hearings. The other person had a legal background—a former Attorney-General. You are really looking for a person who is—

Mr KERR—A former Attorney-General or someone who worked for the Attorney-General?

Mr Milroy—Former Attorney-General.

CHAIR—John Hannaford.

Mr KERR—Yes, of course.

Mr Milroy—Someone who can work long hours, which is a little different from what you might call the normal magistrate or judicial position, because sometimes they do hearings up to 10 or 11 o'clock at night if they are on a roll with a witness. There is a lot more flexibility and there is a lot of travel. Although they are fully independent—they do not get involved in any operational decision making—in relation to the hearings there is a pre-hearing discussion where they are fully aware as to why they are going to apply the powers. They are across the issues and what the desired outcomes are for the examinations. They actually take a fairly active role at times in the examination of individuals. They do not just sit on the bench and call witnesses, ask people to stand down et cetera.

Mr KERR—A lot of people from the Latin system—from Italy and elsewhere—keep trying to explain to me how their magistrates and judges are actually prosecutors and investigators. Is this akin to that sort of thing?

Mr Milroy—In the judicial system in France and Italy they have this investigative magistrate, but they have more of an operational position. They tend to run investigations. They have a different judicial system, of course, from the Australian and UK system.

Mr KERR—They can be prosecuting one day and sitting on the bench the next day, but they are not allowed to do it with the same issue, fortunately.

Mr HAYES—You would hope not.

Mr RICHARDSON—While you are on human resources, last time we spoke in relation to secondees and where that is at in relation to the review of the ACC Act. I also noticed that you utilised a private agency for advertising positions and paid \$97,000 to HMA Blaze for recruitment advertising. How did that go and what did you think of that concept? Why didn't you use another method or an internal method?

Mr Phelan—Blaze is just an advertising agency that we use for putting advertisements in newspapers for all of our positions. It is basically a standing arrangement. We go to them to design and format our advertisements in the newspapers. They are an intermediary. They do all the dealings with people. It is to us a fairly mechanistic process where they just stand between us

and the newspapers and facilitate it. The per transaction cost is not terribly high. One of the issues that we need to explore is probably increasing the marketing of our organisation as a good place to work. We will be reviewing issues such as ongoing relationships with Blaze or anyone else as part of that process into the future. We are obviously competing for analysts and the rest in a very competitive market, so we do need to draw on expertise as required to provide appropriate support for our endeavours to attract the right people.

Mr RICHARDSON—And the secondees?

Mr Phelan—We have written to all of the board agencies about looking at moving towards a different way of engaging or employing people. We will maintain the partnership link through inviting people to take leave without pay, but actually to become employed via the ACC. Currently, one of the major issues for us is the diversity of terms and conditions that apply to people who are seconded to us. You could have a person from Tasmania who is earning half the amount of money as someone from New South Wales while they are working side-by-side in an investigation.

Mr RICHARDSON—It is obviously a slow process, because we were talking about this last year, weren't we?

Mr HAYES—Isn't there a problem with the Queensland act? I do not think they can release operational police officers for anything other than being—they are not actually secondees; they are on temporary transfers, aren't they, the ones that come from Queensland?

Mr Phelan—I am not sure of the mechanism for each state, but each of the states has specific legislation. Some of them, when we say they are seconded to the ACC, are in fact seconded to a nominal position that someone might have created within their police force, but it just happens to be placed within our organisation. For all intents and purposes, they remain within our control. Others have a—

Mr HAYES—But at this stage of the game—

Mr Phelan—What we are looking at here is a situation where the agency concerned, either through the positive exercise of discretion by a commissioner or whatever, says, 'Look, you can take two or three years leave without pay.' The ACC advertises and targets a particular police force to maintain that particular connection, that partnership, and they come and work for the ACC on our terms and conditions. We are looking at the EL1 level to be competitive across the board for an experienced senior detective or senior constable with five years experience.

Mr HAYES—Are they re-sworn?

Mr Phelan—They maintain their membership. I do not recall if we have received a formal response from Queensland, but, across the board, this seems to be a positive reception. We were out there to consult and to understand what—

Mr HAYES—But this has now become a problem. We are getting people on similar terms and conditions, as opposed to having it all over the place.

Mr Phelan—All of the legislation that we have seen would enable people to retain their constable powers whilst working for us on leave without pay. The only difference between some of the jurisdictions is that in one or two situations it requires a positive exercise of discretion—that is, the commissioner must positively say that period of time will occur—and in others there is a negative—that is, unless he says so, they take their powers with them. We are also looking at the possibility of the ACC receiving its own police powers. Many of these secondees would also need to be sworn in as special members under the AFP laws.

Mr HAYES—At the moment you have non-police being sworn in as special members of the AFP.

Mr Phelan—That is correct, and that often occurs with state police to enable them to operate nationally and across borders more simply. You will find that some of our seconded officers who are fully sworn members of a particular police force might also be special members of another police force.

Mr HAYES—I understand that, but I think our concern last time was non-police being sworn in as police officers with police powers of arrest and powers to carry firearms.

Mr Phelan—That is correct.

Mr HAYES—The fact is, they may originally have been police officers who have taken civilian positions in the ACC.

Mr Phelan—They have to do the force of arms and other formal requirements of the force for which they are a special member before they can take up that carrying of firearms licence.

Mr HAYES—Is that practice likely to be reviewed?

Mr Phelan—The PJC has made certain recommendations with regard to that, and the government is still considering that position.

Mr Milroy—You mentioned the issue of the secondees and the review of the act. You would be aware, of course, that the IGC has the last function to perform in relation to the review, and that to do with the in-house investigative capability. Part of that relates to the secondee issue. The papers are currently going out this week to all the jurisdictions for comment, and then the board will have to respond to the IGC. But things have moved on. We have a fairly healthy arrangement now, and I think there is general agreement by the board about the balance and mix of resources that are required to service the menu of work. The ACC has to have a flexible structure and a flexible capability, because we sometimes take projects on that last for only 12 months and we need that flexibility to say: ‘This is our menu of work. We need more of these and less of these.’ That is one of the reasons we have some people on contracts: we may not require that skill anymore or we may have to obtain the services of a skill that we do not have because we have a particular project. As a result of that, the board and the IGC will realise that we have that extra funding, we are going to have more people in our workforce and we now have a skilled workforce that is required for the menu of work. Within that you have a stream of investigators, some who are secondees—and that will continue under this leave without pay arrangement—and there will be another band of investigators who are not sworn at the moment

but who will provide the skill, for example, in financial investigations. They may have a fraud background or be a financial investigator from the private sector. So there is an agreement that there are these two streams of investigators' positions within the workforce.

CHAIR—Can you give us an update on how the whistleblower policy is working?

Mr Phelan—Yes. We have one in place. We have a very comprehensive professional standards and integrity management plan that covers a range of mechanisms, one of which is the whistleblower policy. We certainly remind people of it periodically and it is very much embedded as part of our processes, but it would appear that there have been no instances where people have felt the need to blow the whistle. We have other processes in place and what we assess as reasonably good communications throughout the organisation. We are strengthening the management and leadership responsibilities of all levels of management. We have considerable visibility through this professional standards and integrity management plan. As I said, we have not received any complaints. We take that as a positive sign.

Mr Milroy—When the directors and the general managers, some of whom are here tonight, go about the offices we encourage them to sit down with the staff and have discussions with them to elicit any issues. A lot of these issues are dealt with then, and I think that is a healthy environment. When people leave the organisation to pursue other careers or for a promotion, we have a very detailed exit process. We have noticed that a lot of people who leave pass on their views. We do not sweep anything under the carpet. We are running some more workshops in the next few months similar to those we ran 18 months ago to bring people from around the country together in groups of 20 in a brainstorming session to take them through the values of the organisation and also, through scenarios, to try to get them to open up and discuss not only improvements for the organisation but also the good and bad things about working at the ACC. It is very interesting when you ask them that, because they know that we deal with it, that we do not just give it lip service. People in the organisation are fully aware that we will deal with the problems. Probably the reason we have not had any whistleblowing is that there are other mechanisms in place for people to raise issues.

CHAIR—Thank you.

Mr RICHARDSON—I have a final question so that you can help the government fix its budget. We gave you \$69.7 million in 2004-05 and your operating expenses were \$78 million, so there is an \$8.9 million deficit in resource. From what source is that \$8.9 million resource?

Mr Phelan—I will not go to the book. The largest proportion of our revenue is the appropriations from this parliament. But, in addition to that, we receive services free of charge which count, in accounting terms, as a revenue. If you look at note 4B on page 117, you will see the services provided by state and territory police. Above that, in 4A, you see 'Revenues from government: appropriations for outputs' is \$67 million. Some of the 'Resources received free of charge' are reappropriated by section 31 arrangements. It roughly adds up to \$69 million. There was \$7.4 million in services provided by state and territory police. That is the value assessed of services volunteered by the police forces.

Mr RICHARDSON—So you are not going to have payment in kind?

Mr Phelan—No. We have, say, 60 humans working as part of task forces that we do not pay for, so a value has to be assigned under audit rules and we show that as an expense. It is basically that that inflates the revenue side and the cost side, but we actually ran at a slight profit last year.

Mr RICHARDSON—Perhaps we should do that in government.

Mr KERR—Can you think of anyone who is going to give us voluntary services?

Mr Milroy—We did that because we wanted to show quite clearly to the board where they have committed resources to a joint operation, where they physically come into our premises and work for four, six or eight weeks. Some of them are there for 12 months. The jurisdictions get some acknowledgment that they have contributed to the work of the ACC.

Mr RICHARDSON—I guess you are right, Mr Milroy, because they would be paying them in any case.

Mr Milroy—That is right. And that varies. I think the highest we got was last year. It was something like 92 people. That increases our resource capability by a significant number: nearly 10 or 12 per cent of extra resources that are available to work under the management of the ACC. It is a very good partnership arrangement. South Australia has been one of the major contributors as a result of an acknowledgment of jointly tackling organised crime. They made a major commitment. The other jurisdictions have done likewise. You will see that fluctuate because, as the investigations are ramped up, they will put people in for a specified period. We do not count the short operations, which Michael would encounter all the time, where they may assist for one or two weeks or five days. So there will be this other work force that is out there helping us on an operation but it is too difficult to work out what two officers cost for four days or 3½ days, then they might come back two weeks later and do another two days. An important point about that is that they are working on ACC approved projects, so it is bringing them along under a partnership. We are also trying to capture the results so that they get some credit, as well as us.

Mr Phelan—That is one of the things that were raised earlier by Mr Kerr in relation to how we are counting some of these outcomes and outputs. It is a work in progress at the ACC because a lot of the credit for seizures, recoveries and all the rest might actually be quite rightly claimed by a range of organisations across Australia or not claimed at all because it is just not measured by them. So one of the issues for us is coming up with improved performance measures that can actually identify the value to law enforcement globally of what we do, which might be disseminating a strategic piece of intelligence that enables someone else to go out there and do damage to a syndicate, for example. That is very complicated and we are working in partnership with the university, Victoria Police and others to look at some of those aspects and at the economic impact of what we do.

Mr KERR—We do have measurement devices in some ways. Let us assume that you were effective in reducing the overall crime rate to the point that crime ceased to be a significant problem for the community. You would have no arrests and very few convictions to show. To the degree that intelligence actually hardens targets and is effective in terms of reducing the

profitability of the criminal sector, the measurable outcomes that we customarily rely on—the performance of these agencies—would decline.

Mr Phelan—That is why the emphasis there is also on the deterrent effect—

Mr KERR—Of course.

Mr Phelan—in terms of what might stop occurring in the future. Right up front, as part of developing the Operation Wickenby initiative for a number of agencies, we looked at the potential outcome of this investment of extra funds in terms of that deterrent value. So hopefully we will come up with ways of assessing that sort of economic impact on organised crime.

Mr Milroy—You might be pleased to know that the UK authorities and, basically, other English-speaking countries do not have a performance and effectiveness framework similar to what we are trying to develop. So the Home Office and the new Serious Organised Crime Agency are very interested in us passing on how we are doing it, because they have tried it and it is an extremely difficult process to finalise. So we may be able to develop a system here that is best practice, although some of the jurisdictions will get fairly annoyed if their commissioners decide that they had better start applying this within their operating environment. It might be a good system for the government as well!

CHAIR—I am conscious of the time, but could you just explain something to me as very much a newcomer. The security risk to the ACC is classified as ‘major’. Could you explain to me what that is about and why it is at that level?

Mr Phelan—I think that will be, if it has not already been, reviewed downwards. It is a form of classification in a particular risk matrix. We rely on information from ASIO and from the Australian Federal Police—

CHAIR—A risk of what exactly?

Mr Phelan—In that context, the risk is to the physical infrastructure of the ACC, the personnel within the ACC and the information we hold.

CHAIR—So you are at risk of being shot by some of the bad guys?

Mr Phelan—That is correct, or hacking or whatever.

Mr RICHARDSON—Like the South Australian bombing.

Mr Phelan—It is about coming under attack in some form. It is quite comprehensive. We review it formally at least annually, and informally through our national security adviser, who works to me. He maintains a very strong connection with agencies so, if any threats emerge from outside or through our operational or other activities, we can always review our operational plans as well.

CHAIR—So what category of risk is ‘major’?

Mr Phelan—I cannot recall. It is not the top, but it is—

CHAIR—It is pretty high. But you said you have a feeling it might be downgraded.

Mr Phelan—No-one should lose any sleep over it, but they should maintain situational awareness. We should adhere to our operational and physical mandatory requirements, maintain awareness in staff of the environment in which they are operating, which we do, and follow through and evaluate what is occurring. It is not the sort of situation where we would be putting people with guns around the perimeter or anything; there are risk levels that are a lot higher than that.

CHAIR—So the committee is under no threat!

Mr Phelan—No, no. But it is part of our strategic risk framework; we are reviewing our operational risk all the time.

CHAIR—Are these assessments made just from time to time, as circumstances change, or are they reviewed annually?

Mr Phelan—At least annually in a formal sense. But the security section maintains situational awareness and, in the event of any threat that emerges—that we hope is never realised—from whatever source, we may revise either a specific location or a specific type of thing, for example, intelligence systems, or revise globally. This rating is a global assessment.

Mr Milroy—There are day-to-day operations. For example, in Michael's area it is quite regular for us to contact the security officer who Andrew is referring to. We might initiate a risk assessment because we are going to deploy people into a region that we think is a bit delicate. We have done that even in relation to some examinations because after going in unannounced on the first occasion we made a big impact, but going back on the second occasion there were rumours that they were trying to find out where our people were living, our accommodation, and things of that nature. Basically, as Andrew said, we have the agency assessment, but on a regular basis we would apply written risk assessments to operations, which is important to do so in a fairly highly sensitive environment.

CHAIR—I have one more question to ask. I am getting a message saying that a real division—in the Senate we have mickey mouse divisions where the Democrats versus the rest—is coming up. Before I ask my last question, in case I do have to go—and I suspect that we would probably call it quits then—I add my thanks to you, Mr Milroy, and your team for coming along today and for the work you do. I share Kym's, and I know the rest of the committee's and, indeed, the parliament's high regard for the work you do. That is not to say that we will never be critical of you. I am sure there will be an occasion when we will be, but your organisation does have the very best of goodwill and respect of the parliament, and congratulations on that. I was not here when Duncan welcomed you, but I am sure he would have done that well and I add to his welcome.

Having said that, I refer you to your performance reporting databases. You have been talking about further enhancements being applied to that. Is it possible to elaborate so that a layman would understand just what those further enhancements were and how they were made?

Mr Milroy—Yes. I will ask Lionel to give you a bit of a briefing, but the history is that the IGC raised with the board the issue of developing a more relevant performance measure that effected this framework or process, although we were going through the process at the time. As a result of that, we have now moved into a project, as Andrew alluded to, with the Macquarie University, which is partly funded by the Victorian police because they are interested in doing something similar. Of course, we are looking at it for this agency, and that will also include looking at the intelligence, because that has never done before. Lionel may elaborate a bit more fully in relation to your question.

Mr Newman—We thought there was a gap in the agency in relation to collating the information that we required to be able to report back to the PJC, IGC and the board. We have extensive reporting obligations in the monthly reports that we provide. We essentially built a performance reporting database that is starting to collate the information across the board so that we have a central point where we can analyse together all that information and effectively report. As the organisation is progressing, as we are developing our intelligence capabilities, we are adding to the dimensions of what we are picking up, including, for example, work very recently that Michael's team has done on a review of the proceeds of crime, looking at the back capture of some of the information.

In relation to the efficacy of the information that has been provided, we are now looking to be able to store that information so that it will be on call. It will be in a system that will complement the program that Alistair referred to, which is the effectiveness and efficiency framework where we are looking to provide some more qualitative information on what we are doing and the value of what we are doing. We may not influence the level of crime in a particular jurisdiction, but we certainly would like to be able to capture what impact we are having on that, and that includes the indirect efforts of our intelligence disseminations. These have all been built into the performance reporting database, which we will continue to enhance. It supports essentially the organisational reporting requirements.

CHAIR—Your report discusses the information and communications technology standing committee. Can you just explain that and describe the major strategic challenges and developments facing the ACCR in that information and communications technology.

Mr Phelan—It is a steering committee which we set up. It was really a transitional committee before a new structure which we have now got in place. The organisation has a quite well developed information management plan which sets out a series of principles for information management within the organisation and between the organisation and other partners et cetera. Sitting under that is an ICT blueprint. The ICT blueprint sets out the various projects and initiatives that we have under way to improve the management of information. The key initiatives within that are to do with what we discussed earlier—the ALERT initiative and the enhancements to the Australian criminal intelligence database and the Australian law enforcement intelligence information net. So that is to do with helping our partners. Other priorities include supporting the management of massive volumes of documents that we are seizing and obtaining through Wickenby and other sources. So we have a series of strategies, partly funded through the Wickenby initiative, to improve document management and case management—again, beating the path to ACID so that we can find pathways for those documents to get into the Australian criminal intelligence database. So the third broad set of initiatives is to do with the integration of databases and systems within the ACC. We have

inherited quite a number of non-integrated corporate intelligence case management systems from precursor agencies. It is a broad set of strategies around that sort of integration process.

Finally, there are a number of corporate initiatives like improving our HR system and our financial system. There are other initiatives to do with hardware replacement. One of the important initiatives through the integration that is really quite cutting edge is integrating our covert, phone tapping and other intelligence gathering sources and introducing an encrypted remote access capability to allow mobility. We have just achieved that. We think we are the first in the Commonwealth to actually do it—to have encrypted mobile computing so that we can access the intelligence databases remotely and fully secure. Those are the sorts of broad strategies we have in place.

CHAIR—I have to go. Are there any more questions?

Mr KERR—I will close it.

CHAIR—Okay. Again, thank you.

Mr Milroy—I would just like to record our thanks to the members of the committee. The committee has been a very good supporter of the ACC and we have a very good working relationship which I hope will continue.

CHAIR—I am sure it will.

ACTING CHAIR (Mr Kerr)—I was asked to ask a question on Chris's behalf about the complaint process. There is a slight increase in the number of complaints. I think Chris's question had two parts. Firstly, what are the internal processes you use to evaluate and manage the complaint process? Secondly, how are we going with an overarching complaint management structure to deal with these issues?

Mr Milroy—When we first started, we took on notice the previous committee's views on this and the previous agency's lack of attention to it. We have set up a very comprehensive complaint management system. My policy has always been that any of these complaints has to be looked into with a fair bit of transparency in the process. I usually engage externally qualified personnel to carry out the investigations. I have a policy of advising the Commonwealth Ombudsman even though I do not have to under the act. I make them fully aware of any of these sorts of complaints that need to be investigated. Lionel might wish to expand further in relation to your question and what we have put in place in detail.

Mr Newman—This relates back to the professional standards and integrity of the CEO, which are a key component. We are in the process of doing our own internal audit of our complaints handling at this point. I think, by way of explanation, you might see an increase because we have made sure that we capture everything that essentially could be a complaint and then follow it through. We do not take anything lightly. We record it and we have a process of investigating. As Alistair has indicated, where it is appropriate, we engage external investigators to support the review of those complaints. We make sure that we try to develop a process of timely communication back to those who are providing complaints. Depending, naturally, on the seriousness of the complaint, as Alistair has indicated, we inform both the Ombudsman and the

board, as required. Certainly there are what we regard as high levels of transparency in the ways that we deal with them—naturally there are security issues and privacy issues associated with that.

Mr Milroy—We looked at the history of the previous agencies and also our own work. We looked at what has come out of some of the PIC inquiries. I have a fairly good dialogue with the CCC on a regular basis. As a result of the complaints, we have looked at analysing what the issues are that are being complained about, whether we are seeing any trends. We looked at the result of the risk assessment that was carried out throughout the organisation as to where the risks are, right down in the operating levels of those particular issues that could cause us problems in the future. Based on all of that, we are going to run some corruption resistance audits and to do that we are bringing in people from the relevant agencies outside the ACC to randomly target based on this process that we are developing, specific to the ACC, which will look at past history, past complaints, problems like Foster and McCabe, what we have learnt from other agencies. They will randomly visit officers and carry out these corruption resistance audits. We will probably advise the PJC of the results of that because it is a very interesting process.

ACTING CHAIR—We would be very interested. It is not the time to pursue it now but I would be quite interested. We have had some evidence in other aspects of our work about the security vetting between agencies where you get staff on secondment. There are questions about how you admit people. Obviously, one of the key issues for an organisation of your nature is to have a robust system so that you are able to have confidence that you not only have a regime of integrity that is measured at point A but one that is consistent and verifiable across time. So it would be very interesting. We might have a small examination of those vetting processes and their robustness. It might be useful to you. Certainly, we would like to hear the results.

Mr Milroy—You are looking at the results of the audits but, as well as that, of course, is the vetting process that we carry out in terms of recruitment. So there are two issues there.

ACTING CHAIR—Before I wind up I will ask the question that is necessary to do for completeness. Are there any adverse events or significant events which, because of security considerations, could not be reported publicly in your public report which you wish to advise us of in private session?

Mr Milroy—No.

Committee adjourned at 5.29 pm