

Bottom severely critical of ACC under Lawler direction

These are excerpts of evidence given by noted crime investigator, journalist, author and police consultant, Bob Bottom, to Parliament. He has been a constant critic of the Australian Crime Commission for its adopting the wrong role, and for not arresting and charging very many 'Mr Bigs' committing serious and organised crime. (Some words added in parentheses for clarity – ed.)

NOTE: AT the end of this document, using the Budget Portfolio statements from 2012, we demonstrate how dangerous it is if the ACC acts irresponsibly. As the statements point out, the ACC is the repository of the nation's criminal intelligence. It has become the "central intelligence agency" (actually more an FBI-style agency) of Australia. When approved by the States and Territories, it was not meant to become this. It was supposed to investigate and charge serious and organised criminals. It has virtually stopped doing that entirely.

BOTTOM, Mr Robert Godier, Private capacity:

The new* chief executive officer (of the Australian Crime Commission, John Lawler) has today said that it is not their aim to make arrests. That was in relation to some questions on outlaw motorcycle gangs. He reiterated later that it was not the intention of the ACC as it is evolving to make arrests or lay charges or institute prosecutions. Moreover, he said that in the simplest terms, the intention was to approach things with broader and more coordinated intelligence. That is a betrayal of the past. It is not what the Australian public want.

I was a broker between some states and the Commonwealth on the legislation that brought in the ACC. I was consulted on this in the case of the New South Wales legislation and on part of the Queensland legislation. I suggest that the committee check this, but if you read their *Hansard*, those governments, in coming to the party on the ACC, talked very specifically—and I meant to bring the New South Wales *Hansard* with me—about coordinating intelligence but also about seeking out, charging and prosecuting and dismantling organised crime, not about running a glorified ABCI.

The fact is this: in the latter period of the NCA, there was a little bit of disillusionment and a thought that perhaps it had not done as good as it had done earlier, but for the last five years of the NCA the average number of people charged was 463. If you look at the figures in the (ACC) annual report that you are reviewing, the number is 210, but the average for their first full operational years is 220. That is less than half the number of people charged at the NCA, even in its declining years. Compare that with the New South Wales Crime Commission. Their five-year average is 422. It is almost double.

There is concern about funding for the ACC at the moment, but the reality is that, on official staff figures, the ACC operated on 573—and I do not think that included some secondees—and the overall budget was \$115 million. The ACC's budget is more than twice what the NCA had. The New South Wales Crime Commission has a staff of only 109. The ACC has more than five times as many staff and eight times the budget, yet fewer than half the number of people are charged by the ACC. There is a need to look at the priorities and get back to a time when Australia had faith in the NCA.

CHAIR, Senator Steven Hutchins—Thank you very much for that and for your submission. I agree with your submission. I have not backed off from my view about the ACC’s priorities.

BOTTOM: ...the ACC’s organisational structure. It sounds like a branch of the National University or something. It is just not compatible with policing. There is no mention, as you will notice in some of the strategy documents, of the word ‘investigation’ or even ‘intelligence’. It is policy and all that sort of nonsense.

The deal done – and I will make it public because I know Costa (former NSW Minister for Police) would not deny it because he acknowledged it publicly later on—was that Costa and they wanted this to be an active ACC, not an intelligence body. He wanted to tackle organised crime. The feds beefed it up, and the New South Wales parliament *Hansard* reflects what the New South Wales government wanted—that they would target, arrest and prosecute organised crime, not just run intelligence. But more particularly, on the basis of that, Michael Costa agreed to restore state funding of secondees.

These are very goodwilled people, but something has gone amiss. You can trace it through annual reports. It has almost been hijacked.

– ENDS 24 March 2009 before Parliamentary Joint Committee on ACC

Further Special Submission July 1, 2009

Review of the role and priorities of the Australian Crime Commission

BOB BOTTOM:

Unilaterally, the Australian Crime Commission has downgraded itself to a mere crime intelligence agency. To use the ACC’s own words, pronounced on its internet website, on 1 May, 2009, it is now “Australia’s national criminal intelligence agency”. Just two months previously, on 1 February, the website boasted: “Simply, the ACC is a criminal intelligence and investigative body.”

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The Attorney-General, Mr Robert McClelland, replied: “The capacity of the Australian Crime Commission to undertake its primary role of investigating and intelligence would be impeded by expecting it to undertake policing work.”

What has been unfolding is an abrogation of what was agreed upon between the commonwealth and the states and territories in 2002 when the ACC was established to replace the National Crime Authority (NCA) to operate as a standing royal commission, with its investigative scope upgraded with the absorption of the Australian Bureau of Criminal Intelligence (ABCI) and the Office of Strategic Crime Assessments (OSCA).

The following Hansard record of the Western Australia Parliament really tells the story of what the states and territories signed up for:

“In the course of discussions between state and commonwealth officials to implement the Council of Australian Governments agreement, Western Australia expressed some concerns that the initial proposals did not give the ACC the capacity to investigate in its own right. Happily, subsequent revision of the proposals now permits this to occur. This is gratifying because it is our view, and that of the other states, that an intelligence-gathering function conducted in isolation is not as effective as that done in conjunction with investigative powers and focus. The Commonwealth Act replicates the powers that were available to the former NCA and enables them to be used for both the ACC’s investigative role and its new criminal intelligence role.”

There has been no sign that any change in the role of the ACC has been approved by the Inter-Governmental Committee of the Australian Crime Commission (IGC-ACC), made up of commonwealth and state and territory police ministers under complementary legislation and which “oversees the strategic direction, and monitors generally the work of the ACC and ACC Board, receives reports from the ACC Board for transmission to the Governments represented on the IGC-ACC, and transmits those reports accordingly”.

– ENDS 1 July 2009 evidence

*** John Lawler became CEO of the Australian Crime Commission on 1 March 2009.**

Excerpts from the May 2012 Budget Portfolio Statements:

In order to unite the fight against organised crime, the Australian Government established the Australian Crime Commission (ACC) on 1 January 2003 as an independent statutory authority under the *Australian Crime Commission Act 2002*.

The ACC also coordinates and facilitates the National Criminal Intelligence Fusion Capability, a national, multi-agency initiative that provides in-depth criminal intelligence and analysis and boosts law enforcement’s ability to identify high-risk cash flows, patterns of crime, and the individuals, businesses and corporate structures that may be involved in criminal enterprises in Australia and overseas.

The ACC’s ability to share information and intelligence with the private sector and the public has recently been enhanced through legislative amendments that will come into effect in 2012–13. This will be one of the ACC’s key areas of focus in 2012–13, allowing it to work more closely with the private sector and the public to prevent crime and to increase resilience to organised crime threats and develop preventative responses.

– 2012-2013 Portfolio Budget Statements:

<http://www.crimecommission.gov.au/publications/acc-portfolio-budget-statements>