

REPORT OF PROCEEDINGS BEFORE
COMMITTEE ON THE OFFICE OF THE OMBUDSMAN
AND THE POLICE INTEGRITY COMMISSION

INQUIRY INTO POLICE INTEGRITY COMMISSION ACT

At Sydney on 27 May 2004

The Committee met at 2.04 p.m.

PRESENT

Mr P. G. Lynch (Chair)

The Hon. P. J. Breen
The Hon. J. C. Burnswoods
The Hon. D. Clarke
Ms N. Hay
Mr M. J. Kerr

TERRENCE PETER GRIFFIN, Commissioner, Police Integrity Commission, 111 Elizabeth Street, Sydney,

ANDREW NATTRESS, Director, Operations, Police Integrity Commission, 111 Elizabeth Street, Sydney,

ROBSON, STEPHEN, Commission Solicitor, Police Integrity Commission, 101 Elizabeth Street, Sydney, and

PETER JAMES BARNETT, Manager of Assessments and Reports, Police Integrity Commission, 111 Elizabeth Street, Sydney, sworn and examined:

ALLAN GEOFFREY KEARNEY, Director, Intelligence and Executive Services, Police Integrity Commission, 111 Elizabeth Street, Sydney, affirmed and examined.

CHAIR: By way of introduction, I will briefly outline the background to the Committee's two inquiries. The first inquiry relates to section 10(5) of the Police Integrity Commission Act 1996, which specifies that the Police Integrity Commission [PIC] cannot appoint, employ, engage or second serving or former NSW Police officers. The inquiry stems from the review of the PIC Act conducted in 2002. During the review, the PIC proposed the removal of the embargo contained in section 10(5) of the Act. The report on the review recommended that the embargo should remain in place and that any further proposals to amend the section should be considered by the Minister and the Committee. In accordance with its statutory functions, the Committee subsequently resolved to conduct an inquiry into section 10(5). The Committee expanded the terms of reference for the inquiry early in May 2004 to include an examination of the PIC's independence from NSW Police, with respect to its role as an investigative commission focused on the detection, investigation and prevention of police corruption and serious misconduct.

The second inquiry relates to section 14 of the PIC Act, which provides that the PIC must monitor and report on the annual NSW Police audits of the Protective Security Group [PSG], which replaced Special Branch and which was recently subsumed into the Counter Terrorism Coordination Command. Following evidence taken during the seventh General Meeting with the PIC, the Committee concluded that it should inquire into the PIC's jurisdiction with regard to oversight of the PSG. That decision was taken in light of the ongoing uncertainty about accountability arrangements for the PSG and the general consensus between the Committee and the PIC that the intended level of oversight remains valid. The Committee will inquire into:

- (a) the functions of the PIC under sections 14 (e) to (f) of the Police Integrity Commission Act 1996;
- (b) the provision of reports to the PIC under Part 3 of the Police Act 1990;
- (c) oversight of the conduct of NSW police officers involved in the Counter Terrorism Coordination Command [CTCC]; and
- (d) any other matter that the Committee considers relevant to the inquiry.

The Committee will report separately to both Houses of Parliament on each inquiry. Do you wish the PIC's letter and the attached answers to the Committee to be incorporated as part of your evidence?

Mr GRIFFIN: Yes.

CHAIR: Do you wish to make an opening statement?

Mr GRIFFIN: No.

CHAIR: The PIC's letter states that there are some distinct advantages in employing trusted former NSW Police officers in operational and advisory roles. Who are those trusted former NSW Police officers and how do you choose them?

Mr GRIFFIN: We choose our people, wherever they come from, carefully and we go through the same vetting process as best we are able regardless of the circumstances. The capacity to check is driven, firstly, by the available databases. We have considerable information at the Commission and also in public records. In addition, if we are concerned or are seeking NSW Police officers we have the capacity to do positive vetting, which takes the vetting process a step further. There is never a guarantee, and the Committee is fully aware of that. However, that lack of guarantee extends to officers wherever they come from.

CHAIR: The letter also indicates that your position on the question of engaging former police officers has changed since the review of the PIC Act and that following detailed discussions with staff and others you are now of the opinion that former NSW Police officers should not be engaged by the PIC in an operational or investigative role. Who were the other parties you consulted?

Mr GRIFFIN: To the extent that my turnaround on this issue has caused inconvenience or created difficulty, I apologise. The view of the Commission, excluding myself, was strong and almost unanimous, at the senior levels particularly, that the engagement of former NSW Police officers in operational areas was not advisable. We talked among ourselves at the senior executive level—most of those people are here—for a considerable time, and with some feeling about the pros and cons or the merits of either side. In the end, I was convinced that I was wrong in some of the views I held, primarily my view about public perception. I did not know how to deal with that given that the common view, the view of the Inspector of the Police Integrity Commission and the view of this Committee were all contrary to my view—that is, that common sense should prevail and that we could deal with the situation. It was finally put to me that complainants ring the PIC from time to time and ask whether any former NSW Police officers are employed and are comforted when they know that there are not. I do not know how to deal that. I think it is a perception and it is a pity. However, if it is true, we cannot do our business if that is what the public think. On that basis primarily, the admission that we can never vet perfectly and that if we had someone who was corrupt in our employ it would be bad for business I agreed that the risk was not worth taking. That is how I came to the personal view that I was wrong. Therefore, I thought we should contact the Committee and everyone else who had heard my previously held view.

CHAIR: Your position is that it is perception and there is a remote chance that the vetting will not work.

Mr GRIFFIN: Yes. It is primarily perception. The remote chance is a danger we face regardless of the source of our officers. It would be more dangerous to our work if we had a corrupted NSW Police officer than it would be if we had a corrupt Western Australian police officer because the network would be bigger. They are the issues that changed my view. Leaving aside my view, the Commission's view was almost unanimous and coincided with the Committee's view and the strongly held view of the Inspector.

CHAIR: The table provided in the answer to question No. 1 indicates that the PIC has one ex-Victorian police officer.

Mr GRIFFIN: Yes.

CHAIR: Was that investigator the Chief of the now disbanded Victorian Drug Squad?

Mr GRIFFIN: I understand that he was at some stage—I do not know the timing but we can establish that if it becomes an issue—he was the officer in charge of the Drug Squad.

I also understand that subsequently he was the Commander in charge of the Victorian Ethical Standards Branch, which is the equivalent of Internal Affairs.

CHAIR: In light of the number of people from the Victorian Drug Squad who had been charged with criminal offences, is the PIC aware of any allegations against that officer, who is now a PIC investigator?

Mr GRIFFIN: No, it is not. The checks that were conducted in relation to that Victorian officer were thorough, and the same as the checks that were conducted against the rest of our staff. To my knowledge, there is nothing known in relation to—

CHAIR: What sort of vetting process do officers undergo?

Mr GRIFFIN: The normal process is the database searches I spoke about. We have considerable holdings; obviously, they do not relate only to New South Wales. When they are done, if there are no matters that would preclude an officer, inquiries are made of their ethical standards equivalent, through internal affairs branches or higher, in the State in question. In the case of the Victorian officer, my understanding is that the inquiries were made by the Assistant Commissioner of the Police Integrity Commission of a commissioner-level person—I think perhaps a Deputy Commissioner in the Victorian Police. I am sorry. Mr Kearney points out that it was, in fact, the Chief Commissioner at the time.

CHAIR: In approximate terms, when did that officer commence work as an investigator with the PIC?

Mr GRIFFIN: About five years ago.

Mr MALCOLM KERR: What is his role?

Mr GRIFFIN: He is the second in charge of the investigation area.

Mr MALCOLM KERR: Previously you mentioned that he was in charge of the Victorian Police Drug Squad and also in charge of the Victorian Police Ethical Standards Command. I think he was also responsible for approving the release of any large quantities of precursor chemicals in uncontrolled drug operations and drug operations, would that be correct?

Mr GRIFFIN: I have no knowledge of that.

Mr MALCOLM KERR: Perhaps you could take that question on notice.

Mr GRIFFIN: Certainly.

Mr MALCOLM KERR: In view of recent events in southern areas, I wonder whether the PIC has sought any assurance from the Victorian Ombudsman regarding the position of that person.

Mr GRIFFIN: The Police Integrity Commission has not. In relation to the matter being put on notice, will that subsequently be a formal request or do I take that from the Committee?

Mr MALCOLM KERR: I make it a Committee request now, in the sense that I have asked a question, you are not in a position to answer it, but when you are in a position to answer it you might do so.

Mr GRIFFIN: I should say that the issues and the identification by title and position of this officer seems to me to be a matter that perhaps ought to be restricted by this Committee in terms of publication. There are people here who would be able to identify the

officer purely by the matters that are being put. I have no difficulty about answering the questions, but it seems to me that perhaps in the public arena these are matters that could be easily misconstrued or written in a way that would be grossly unfair to the individuals concerned.

CHAIR: Granted that it is a third party and that, as I understand it, no allegations have been made against him, I think there is probably some merit in the matter being dealt with in camera. Certainly there has been a ventilation of it here in public session, and that is perfectly appropriate and reasonable. But if we are to deal with the matter further, I think there is some merit in dealing with it in camera.

Mr MALCOLM KERR: I do not wish to verbal you, Commissioner, but you did say you had an opinion that this Committee did not wish New South Wales Police officers to be PIC investigators. Am I stating that correctly?

Mr GRIFFIN: I do not know, but it was my view—

Mr MALCOLM KERR: I am only asking you to repeat what you said.

Mr GRIFFIN: I am happy to restate my view, regardless of what I said. I was under the impression, from comments that came before, that the Committee found it difficult to support any change to section 10. That is only what I took away from previous hearings here; I have seen nothing in writing that confirms or denies that.

Mr MALCOLM KERR: I think you used the expression "common sense should prevail". There has been nothing in any reports suggesting that this Committee was opposed to common sense prevailing, I take it?

Mr GRIFFIN: I am sure there would not be.

Mr KEARNEY: May I clarify the question we are taking on notice? Is this the nature of your question: Was this person responsible for the approval of the release of precursor drugs for "uncontrolled" operations, or was it "controlled" operations?

Mr MALCOLM KERR: I think I did say "uncontrolled" operations, but perhaps it should have been simply "drug operations", unqualified.

The Hon. DAVID CLARKE: Commissioner, the Chair said that there were no allegations regarding the particular officer who is with the PIC from another State. Do you recall him saying that?

Mr GRIFFIN: Yes, I did hear him say that.

The Hon. DAVID CLARKE: The truth of the matter is that there are no allegations because there is not the slightest suggestion that there are any allegations. There is no suggestion of any nature hanging over the head of that officer, is there?

Mr GRIFFIN: Not that I know of.

The Hon. JAN BURNSWOODS: Mr Chair, I seek your guidance. Are we going to deal with this matter in camera, or are we going to raise matters and then say they have to be dealt with in camera later?

CHAIR: I had thought we would deal with these matters in camera at the end of the public hearings, when we will deal with all in-camera matters. I would have thought it was appropriate to have one in camera session, rather than half a dozen, and we will do that at the end of the public hearings.

The Hon. JAN BURNSWOODS: It seems to me that if that is what we are going to do, we should direct our attention to other matters now; otherwise we will continually have to pull ourselves up.

CHAIR: I think that is probably very good advice.

Mr MALCOLM KERR: Commissioner, you said that you and your executives discussed the pros and cons of having New South Wales Police. Could you outline the pros to the Committee?

Mr GRIFFIN: It would be unrealistic of me to suggest that I can recount the discussions, but I can tell you what I recall of the pros. The principal pro is that the police from New South Wales would be seen to have knowledge of the police practices and reputations that would be useful information in relation to the sort of work we do. Another pro, at least that I see personally, relates to the prohibition. If I were a New South Wales Police officer and I was going about my business honourably and efficiently, I would be offended by the prohibition because it seems to say that I could not do work at the PIC as well as I do my other work. It is that part of the prohibition that I struggle with personally. I think that is something that would offend me if I were a New South Wales Police officer. No New South Wales Police officer has put that to me, but it just seems to me that it could have that effect on decent, honourable police. My own view is that that is uncomfortable for police. But there are competing factors, and the alternative views—

Mr MALCOLM KERR: I am simply asking for the pros at the moment; we will come to the cons.

Mr GRIFFIN: Certainly. Nothing else comes to mind at the moment. I am sure I could think of others in some other forum. Perhaps we could respond to that question subsequently, if that would be helpful.

Mr MALCOLM KERR: What about the cons?

Mr GRIFFIN: The principal con—again, the one that has the most effect in the debate—is that the difficulty of having a corrupt New South Wales Police officer on our staff is so great, and the damage that they could do would be so great, that you cannot take the risk. That is the principal con. It is the other side of the pro—that they have knowledge of the systems and the individuals and where to go to get things done. If they are corrupt and they have that knowledge, it seems it works much more effectively against us than for us.

Mr MALCOLM KERR: Are there any other contrary arguments that you can recall?

Mr GRIFFIN: I just thought of another pro. One of the matters that we struggle with is paying for the people. New South Wales Police are likely to live in New South Wales, and the ones we recruit, or would be applying, are likely to live in Sydney. There is a considerable saving if we are not having to look at paying for the things that are involved with bringing people from interstate. That is just a straight commercial proposition, but it is an issue.

The Hon. DAVID CLARKE: Commissioner, it has been suggested that there is a public perception that New South Wales Police should not be involved in the PIC. What information do you have to suggest that there is such a public perception in the first place?

Mr GRIFFIN: My friend Mr Nattress just reminded me that I had not dealt with that. That is coming anecdotally from the people who ring up to complain. It is the practice that they are often engaged in discussion when they ring up to complain, and I am told that that is an issue that crops up from time to time during those discussions—that the people who are complaining from time to time find satisfaction in the fact that there are no New South Wales Police looking at their matters. I have never spoken to anybody personally about that, but that is how it was reported to me.

Mr Nattress reminds me that when we talk to prisoners, which we do from time to time, they are sometimes also minded to say, "Are you from the Police?" They will not talk to people who come from New South Wales Police. Whether they are public in a real sense, I do not know. But it is another indication that there is a handicap in dealing with some people if you are from the New South Wales Police. I do not find that remarkable; I think it is probably quite likely.

The Hon. DAVID CLARKE: Apart from those indications there is no other information, anecdotal or otherwise, to suggest that there is such a public perception?

Mr GRIFFIN: I have no other information, no.

The Hon. JAN BURNSWOODS: I wonder whether you would make any distinction between employing serving or current police and former police, which also relates to the sort of recruitment procedures you might undertake?

Mr GRIFFIN: I do not think that the argument that is put on either side can be very well divided by former or serving police. I think that if there is a taint it stays and if there is not a taint it does not matter, but probably if there is an old corrupt police officer he can do as much damage as a current corrupt police officer and vice versa. It raises issues about who is available to us. Alistair Milroy is the current Chief Executive Officer of the Australian Crime Commission. He is a clever person who has experience and is looking at managing that organisation. If he were available in five years time he might be somebody the PIC would think could be useful. It is just a name I have picked out of the blue for an example. He used to be a New South Wales Police officer a long time ago. He would not be available to us. There are disadvantages in the process, and if he were a corrupt person he could do just as much damage if he were available later. I do not think there is a simple solution to that.

Mr MALCOLM KERR: You mentioned Mr Milroy. He was a former New South Wales Police officer and a Federal Police officer.

Mr GRIFFIN: New South Wales Police, I believe. I do not think he was a Federal Police officer, but I do not know.

The Hon. JAN BURNSWOODS: Mr Griffin said that in his answer.

CHAIR: If I could just turn to the money and the cost of getting interstate officers working for the PIC, as I read your answers you have effectively kept up a full complement of investigators being people who are not and who never have been members of the New South Wales Police Service. The financial argument does not mean you have not been able to recruit, it would just mean that if you are able to recruit from New South Wales you would save yourself some money. That is the gist of it, is it not?

Mr GRIFFIN: It is certainly a key point. I just wonder whether, if it were different, we would get a different field. We recruit on the basis that we are not going to pay for accommodation primarily. There have been some exceptions. We leave open the possibility that we may have to sometimes pay for housing. But to date it has been done without taking that into account, or excluding it. It seems to me possible that other people would apply if it were different, if housing were available. Sydney is a very expensive place to come to from anywhere else.

CHAIR: At the moment, what do you pay interstate officers? Do you pay a relocation allowance?

Mr GRIFFIN: I would have to go to the document, if you do not mind. We pay a couple of weeks of rent when they first come and relocation expenses, reasonable removal costs including insurance, temporary accommodation for up to two weeks, and one-way air

fares for the officer and immediate dependent family upon commencement and/or a mileage allowance to get there if they are driving. In temporary relocations we pay rental allowance or a living-away-from-home allowance on occasion. I think our salaries are probably superior to equivalent salaries in the police, and that has a benefit. But they also have a component of overtime and so forth built into them. We pay a contract salary. We do not pay overtime. Those things are probably much closer if you factor in overtime to equivalent ranks. But they are things that we pay.

CHAIR: Granted that you have been employing people on the current regime, by definition you would say that you have been able to fill the positions with capable and adequate people?

Mr GRIFFIN: Yes, it would be difficult to say much else. It is true. But it is also true to say that is very tortuous and we do go through a lot of lists to get the people we want and if the field were bigger we might get them more quickly. When we are down, as we become from time to time, it takes a while to fill out the positions. But, yes, there are people out there and we have been able to get good people who will wear the cost if there is one to them of being in Sydney. If that is a small field then it will gradually close and we might have to look at changing it. If there are enough people around or the turnover slows we will manage.

CHAIR: There is a discussion in the written answers about not going to the Government to ask for more money to allow you to provide those extra things. I still do not understand why the PIC has not done that. Clearly, it is an important and essential part of the PIC. You are labouring under the constraint that the legislation imposes on you. I could not imagine a better case for extra supplementation from Government.

Mr KEARNEY: As I understand it, before Treasury and, subsequently, the Government will consider enhancement bids of this nature they need to reach a certain threshold, a certain percentage of your overall budget. The sort of money we are talking about, a total of nearly \$280,000, is not sufficiently high. If it were aggregated within some larger bid for resourcing, then perhaps it would be considered. But it has not reached that threshold.

Mr GRIFFIN: But perhaps we might flag that. We depend enormously on electronics. The other evening I saw a program on television where a gentleman said, "Corruption work is a cat catching a cat, it is not a cat catching a mouse and it is much more difficult than normal police work." That is true. The people we are looking at know what we do. They know how we do it. They are as good as we are. It is a difficult job. We rely on our technical information—telephones, listening devices and so on. Very soon we will need to bring up to speed our electronic capacity. If we have not already given an indication, we will make a bid for some money to bring that up to date, and it may well be that we can lump the recruitment process into it. We will ask for some money to bring that stuff into a realm where we can keep on doing the work we do.

CHAIR: Have there been any instances of someone being offered a position at the PIC saying they wanted extra financial inducements, they were not able to be provided and then they did not take up the position?

Mr GRIFFIN: I do not know whether we have faced that.

Mr NATTRESS: In the process of recruiting at stages we have entered into negotiations with people that we were interested in, things like, "Are you going to pay us a rent allowance? Are you going to provide a company car for a personal use? I really want to have an office and not sit in a workstation" have certainly been put to me. On occasions I have said, "No, we are not. There is a work space available, not a private office." This is pretty common in recruiting processes.

CHAIR: I guess the other thing that troubles me with some of the items about money being available is that looking at the figures for the last seven years of operation of the PIC it has had an operating surplus for those years totalling \$7 million. It seems to me that if they are the sorts of figures we are talking about there must be some scope in there, even out of current finances, for money to be able to be spent on rental subsidies or whatever.

Mr GRIFFIN: There is an art in this that I do not understand, I must say. I threatened to bring the accountant along today because it seemed like an area we might go into. I am told that we had a \$1.6 million deficit last year on net worth, whatever that means. The fact is we are given a lump of money to spend, \$14 million or something. Last year—pick a year, any year—we spent \$13.5 million out of the cash we were given and then Treasury says, "You have to give us \$500,000 back because you did not spend what we gave you." That does happen, but if you are running it as a private business what is not taken into account are things like depreciation and the fact that if, in one year, we do not use the hearing room as much as another our costs go down. The difference was a deficit last year of \$1.6 million.

They are in the figures, they are actually in the annual report for last year in any event. But it does not actually answer the question because if we have \$500,000 spare at the end of the year, which we might in Treasury terms, we have to give them back the cash they gave us and we do not necessarily have enough money to put on another two investigators because it depends whether we have all our staff in all the places up to date or not. When we have cash over it is usually because we have had people for months or a considerable part of the time and their salaries do not get spent. But if we fill those positions it would be, and it does not allow us to go much further. I do not understand the artistry, but the figures are illusory to the point that if it were me running my private business I went broke last year but we are still giving Treasury \$600,000 back. I cannot really figure it out because I do not know. But I did ask the accountant if he were able to put down on a sheet of paper some figures to deliver to you, and he said that could be done if you seek it. Alternatively, the substance of those figures is in the annual report and the \$1.6 million deficit is there shown. We still give cash back.

The Hon. PETER BREEN: If I could ask a question about the deficit—

Mr GRIFFIN: I am happy to try. The difficulty is the accounting, as I understand at the moment, has some Treasury spin on it that I am not able to understand. It is not normal business accounting, I know that. I am happy to try to answer the question.

The Hon. PETER BREEN: It is a simple question. Previously you indicated that updating electronic equipment would be a priority for you if you were given the funds that you need. The footnote to the budget deficit of \$1.65 million indicates that the ongoing staged implementation of the TI¹ system is the main reason for the deficit.

Mr GRIFFIN: I think we overspent \$200,000 or something.

The Hon. PETER BREEN: On the surface it would seem that the TI system, which caused the shortfall in the budget, might well be part of the electronic system that you might want to replace.

Mr GRIFFIN: I wish you had not said it was a simple question before you asked it, but let me have a go. The trouble is the TI system we are running is at the point where it is unstable and we are, as I understand it, pinch hitting to keep it running. The costs are—

[Interruption]

My Director of Operations says, and I must say I agree with him, this probably should not be in the public arena. Can I make that submission to the Chair and perhaps see if we can remove it? Could we have some prohibition on what has been said as well on the basis

¹ Telecommunications interception

that it is not the sort of information that people who play with ought to have, I do not think, that we are struggling or that we need new systems or that we use them a lot?

CHAIR: I am happy for the discussion to continue in camera. I think the problem about trying to revoke what has been said is (a) it has been said and (b) a lot of it is out of the annual report as well.

Mr GRIFFIN: We are happy to continue the whole TI stuff in camera. I am happy to continue with that, but it does make sense.

CHAIR: I think Mr Kearney has got a point in the meantime.

Mr KEARNEY: The point I just wanted to raise was that it is not a TI system we are talking about, which is telecommunications interception, the explanatory note refers to an IT system—information technology.

The Hon. PETER BREEN: So it is a typo because it actually says here "TI system". I apologise for that.

Mr GRIFFIN: I hope it is not our typo. I think that there is some overspending. But we are happy to develop that further later on.

CHAIR: One of the other things I have been a little troubled about is the argument that there are still some roles New South Wales Police officers can perform in your modified position. I am just a little unclear about what role it is that you are talking about. If the skills of police officers are in investigation then I am a little bit bemused that you would think there might be a research role for them doing non-operational things in an investigative body like the PIC.

Mr GRIFFIN: I think the simple answer is that their skills are much wider than in investigation. The Police Service has people from chaplains to helicopter pilots; they have a very strong policy development area. If we were to look at an area which involved policy and we had to find out by service or process, by hearings or interviews how the policy was arrived at, what its history was and so on, it would take us a long time. If we had a policy person or an author of the concept from when it started for three months it might save us three months. It is that sort of idea. In terms of investigations I agree that it is inappropriate—I agree now—and that it is not appropriate for them to be getting involved in the stuff that we do to investigate.

But it is so much wider and some of the things that we look at, and we hope to help them with, are not to do with investigation. I mean we use investigations to catch people at doing things we think they should not, but we also are involved with making efforts to improve processes where we see that they are failing. It is in that area, although we have not identified anyone yet we would like or an area where we need somebody, but it is the capacity to work in that area that we see a possible use of a New South Wales officer. The other advantage, of course, is that the policy people are unlikely to be the people who have the network of investigators that might do us harm. So there is also an advantage, if you like, in the vetting process there; it is less likely.

Mr MALCOLM KERR: I take it, Mr Chairman, in this session I cannot ask questions about Florida and so forth?

CHAIR: Florida is raised in the answers we have received so I guess, providing it is relevant to the inquiry rather than a whole range of other things.

Mr GRIFFIN: We will learn how to answer the questions in these written answers in any event.

CHAIR: Could I just point out that there was no typo in the documents we were talking about.

Mr MALCOLM KERR: Is Florida now a closed investigation?

Mr GRIFFIN: It is a closed investigation.

CHAIR: When is it likely to be reported to Parliament?

Mr GRIFFIN: I will say soon because it is soon.

Mr MALCOLM KERR: You said "soon" last November.

Mr GRIFFIN: I knew that I was helping you. The thing has gone to the printer for a first print; it has come back to us for final editing; it will go back to the printer either this week or early next week. It will take printing time, however long that is—and that is out of our hands—and that will be, dare I say, June, because May is nearly over. We expect to have it furnished to Parliament in June. It is done and finished except for the editing.

Mr MALCOLM KERR: Did anything happen between last November and now that required any further investigation?

Mr GRIFFIN: The last hearing, I think, was in August, and there was a considerable process of submission, counter-submission, consideration and review of what the affected parties had to say, and then of course the actual writing, which, you would appreciate, is a lengthy process.

Mr MALCOLM KERR: What benefits do you see for the public of New South Wales in producing the report three years after the first public hearing?

Mr GRIFFIN: The same benefits that would be produced whenever it came out. I think it will be a beneficial report. It could never have been produced, I do not believe, much more quickly than the time after its last hearing, and I think it will be a useful document for the public of New South Wales to look at.

Mr MALCOLM KERR: In relation to your independence from police could I just ask what contribution did the New South Wales Police have in initiating the investigations leading to the hearings over the past few months regarding police involved in drug dealings?

Mr GRIFFIN: Do you mean the Abelia hearings?

Mr MALCOLM KERR: Yes, that is right.

Mr GRIFFIN: In instigating the investigations?

Mr MALCOLM KERR: Yes.

Mr GRIFFIN: Let me consult. My immediate reaction is none. The difficulty with the question is the width. There have been a number of investigations that have been heard in Abelia: one well reported public hearing and a considerable number of private hearings—and hopefully you do not know about those; if you do I would appreciate hearing about them.

Mr MALCOLM KERR: I do not know of any.

Mr GRIFFIN: If you mean the public hearing that involved the Australian Crime Commission [ACC] officer—are you referring specifically to anything?

Mr MALCOLM KERR: It is a fairly wide question.

Mr GRIFFIN: I do not feel competent to answer it without going back to the records, because the investigations involved in Abelia, which is covered by your question, the police have done investigations, which we were using in that matter.

Mr MALCOLM KERR: Yes, but I asked about initiation.

Mr GRIFFIN: Some of those are matters that were instigated by police and we have said we want to know all about things and we have picked them up. Can I take that on notice in some refined form because I am not clear? Would it be possible for you to record the question and give it to us in a written form?

Mr MALCOLM KERR: Yes, I will.

The Hon. PETER BREEN: In a roundabout sort of way you mentioned the program that was on the ABC earlier this week when you talked about the phrase "a cat chasing a cat".

Mr GRIFFIN: It was the ABC, *Australian Story*.

The Hon. PETER BREEN: Yes, about a guy called Detective Simon Illingworth. One of the feelings I had at the end of the program was that you do sort of know who the people are that can be trusted and those who are perhaps under a cloud. I notice that you have suggested drawing a distinction between police officers being engaged in an investigative role as opposed to an advisory role. Do you still hold that view, that you can employ people in an advisory role without impinging upon the investigation process?

Mr GRIFFIN: Yes, I do. In that broad term I think there would be an occasion. One of the things that seemed to get me into hot water with my debate about the investigators was the assumption that I wanted to replace all the investigators in the PIC with investigating police from New South Wales. What I was only ever saying was that on occasion there might be one person who could investigate. Now I have abandoned that ground. The same thing applies here: there may be occasions where people involved in policy or administrative work in the police could be extremely useful to the PIC if we were looking at a particular aspect. I do not put it any higher than that. That was what I was hoping to get across.

Mr KEARNEY: There are also some measures we can put in place to, in effect, completely isolate people who are providing us advice from the rest of the work that the PIC is engaged in: they do not have access to our systems, they do not have access to our investigations staff, they do not see them, so they could be completely isolated. There are measures that we can put in place to completely segregate them and protect our investigations.

The Hon. PETER BREEN: Could you still say to a member of the public who might call up with a complaint, "Yes, we do not have any New South Wales police working on this", or, "we do not have any New South Wales Police working here"?

Mr GRIFFIN: We would have to change the semantics but you would think you could satisfy them that it was not an operational matter. But I agree, we would need to be careful. Perhaps that is a nice point about why you would not do it unless it was really important. But I would have thought if you were able to say nobody involved in this matter has anything to do with New South Wales Police people would be comfortable with that, and less comfortable if you cannot—at least that is the position I have accepted as being the proper one.

The Hon. PETER BREEN: My own personal view, for what that is worth, is that you must see on a daily basis good police in New South Wales whose talents you would like to access in one way or another?

Mr GRIFFIN: Frequently, I do not understand we could say that, but certainly there must be people whose talents and ethics and morality would be perfectly suited to doing our work, as there would be in any police force, because if there were not we could not get them from Western Australia or Tasmania or anywhere else either. So it has to be the case. That is getting back to my logical, commonsense sort of stuff.

Mr MALCOLM KERR: I take it the PIC would probably have considerable research about overseas practices in dealing with police corruption?

Mr GRIFFIN: "Considerable" is a very open word. We are conscious of it in relation to, for instance, Abelia; we have current and extensive holdings in relation to that particular aspect of it. It would depend; there would be some aspects probably where we had not a lot.

Mr MALCOLM KERR: Police corruption is a universal problem and other countries and States have their ways of dealing with it and I take it the PIC would have looked at those ways of dealing with it to see if there were any lessons to be learned?

Mr GRIFFIN: That is true, and we do, but to say police corruption is to say a lot because it really is a whole lot of separate, different criminal offences mostly: there is drug-related corruption, there is all sorts of corruption; some of them are jurisdictionally based, some of them are probably universal. I suspect drug corruption from drug-related offences would be. I do not think there is a simple police corruption except when you are talking about it in newspapers; it is much more segmented than that.

Mr MALCOLM KERR: To your knowledge, are there any overseas organisations roughly equivalent to the PIC in New South Wales?

Mr GRIFFIN: I am told that there are not but, Allan, would you know of anything that is considered to be close?

Mr KEARNEY: I do not think there is anything identical to the way we are set up here in New South Wales. There are some completely independent oversight agencies and they have the ability to call in officers from police, and I am thinking in particular of the case in England. But, no, nothing specifically like the PIC.

CHAIR: May I just interpose and say the closest you would get would be the Police Ombudsman in Northern Ireland, I would have thought, although they have got a much more restricted field of complaints they can deal with. You guys have got open slather from any complaint that comes in. They have to have complaints from particular areas. But that would be the closest you would get to anything like the PIC.

Mr NATTRESS: My understanding is that the system in the United Kingdom is currently under review and changing and becoming probably more like a PIC than it previously was in that it is an independent police complaints tribunal or board staffed by non-serving police officers in an investigative capacity. That is all up in the air and occurring right now, I understand.

CHAIR: I met with the IPCC a few months ago and they have a similar gateway problem in that they cannot accept complaints from everywhere; the complaint must be made to a police station before they can investigate, which is pretty bizarre, and they certainly do employ ex-police officers. I met with their Director of Operations, who was a long-serving officer in one of the forces in England.

Mr NATTRESS: The Hong Kong ICAC, whilst it is an all-encompassing corruption investigating body, the police corruption component of that is very similar to the PIC, and it is a very large component too.

Mr MALCOLM KERR: And they use serving Hong Kong police officers?

Mr NATTRESS: No, they do not.

Mr MALCOLM KERR: Is there a prohibition against them using those officers?

Mr NATTRESS: There is not, but they do not.

Mr MALCOLM KERR: Do you know why they do not or what their rationale is?

Mr NATTRESS: My background is Hong Kong. I was a former Hong Kong police officer at one stage. I subsequently became a chief investigator at the ICAC and I spent 15 years there. There is no legal impediment to it, but a policy decision was taken very early in the piece that after establishment, no serving Hong Kong police officers were brought on board in the investigative field. It is split into a Community Relations Department and a Prevention Department. In those areas there certainly were—and I am a little out of touch now—some Hong Kong police officers performing specialist roles.

Mr MALCOLM KERR: From memory, I think a large number of Hong Kong police officers were given immunity some years ago.

Mr NATTRESS: That is right. There was a general immunity offered.

Mr MALCOLM KERR: After some police demonstrations?

Mr NATTRESS: That is correct.

Mr MALCOLM KERR: Did Mr Sage go to Hong Kong on his study tour?

Mr GRIFFIN: I know he went to Ireland relatively recently; I have some knowledge of that but I do not know whether he went to Hong Kong. He did not in the time that I was there.

Mr NATTRESS: Yes, he did, but before you.

Mr GRIFFIN: Perhaps before I was there. I do not know what his role was or why he went.

Mr MALCOLM KERR: You do not?

Mr NATTRESS: He attended a conference.

Mr GRIFFIN: In relation to Hong Kong, I do not know.

Mr MALCOLM KERR: What about going to Ireland?

Mr GRIFFIN: He went to present a paper and get involved in a conference on police corruption in Ireland.

Mr MALCOLM KERR: Did he make a report in relation to his overseas travel?

Mr GRIFFIN: He did, and he also had a formal paper, which he presented, which is available to you and to the public, if you want it.

Mr MALCOLM KERR: I want it.

Mr GRIFFIN: We will get back to you.

CHAIR: The conference that Mr Sage attended was organised by the Police Ombudsman of Northern Ireland's Office and having had a look at some of the material that came out of it, it was actually one of those conferences that was worthwhile.

Mr GRIFFIN: That was certainly Mr Sage's view.

CHAIR: The other thing that is the closest to the PIC outside Australia, apart from the Police Ombudsman of Northern Ireland, is a model that they have just introduced a bill for in the Republic of Ireland, which is largely based upon the Police Ombudsman of Northern Ireland model, a stand-alone, separate body.

Mr GRIFFIN: Do they have the same gateway problem?

CHAIR: I am not sure about that. I suspect not. The current Republic of Ireland model is just a disaster. The only people allowed to investigate complaints are police or ex-police. In relation to the research things that we touched on, bearing in mind reviews of police promotions such as the Schuberg review, education and the Anderson review, is there really any scope for further research done by the PIC? Do you have any plans for that or research in those fields or similar fields?

Mr GRIFFIN: I think there is scope and we do not have concrete plans but I would hate to abandon the field of research because I think it is pretty fertile.

CHAIR: Can you explain in general terms the nature of a typical joint investigation and the sorts of things that the PIC might do with the Crime Commission or the NSW Police?

Mr GRIFFIN: Mr Nattress has been brought here solely for this purpose. Do you mind if he answers this question because he has great expertise in this field?

Mr NATTRESS: In terms of task forces—I think that was the question that you wanted answered—the Commission actually has not engaged in a large number of task forces, given the period of time that we have been in existence. There have only been nine task forces that we have sought to establish since early 1997 to date. Of those nine, five were initiated by the Police approaching the PIC and the other four were established on our request. Typically, the reasons for the establishment of a task force from the Police perspective is that they have conducted an investigation into a particular matter, they have got to a point where they are either frustrated with the avenues left available to them to pursue their investigation or some resources that the PIC can bring to bear can be brought to bear more quickly by utilising them than perhaps fighting for access to those resources back in the Police Service—typically I am talking about perhaps technical resources.

We usually seek to establish a task force for the purpose of furthering our investigation so we have a clear idea of what it is that we want the police to do for us. Typically, we would have conducted an inquiry. We may wish a particular strategy to be conducted on our behalf. For example, a search warrant perhaps to be executed somewhere that for some strategic reason we do not want our fingerprints on, in terms of anybody knowing that it is the PIC that is pursuing this. We would, and have, established task forces in those circumstances. Approaches by the Police Service to us are usually for the use of resources that we might have. The coercive powers that we have are mostly those resources that have been sought in the four instances where they have asked us for assistance. Is that sufficient detail?

CHAIR: It serves my purposes.

Mr MALCOLM KERR: The Chairman mentioned the Schuberg report. That is a report into police promotions, I understand. Have you seen that report?

Mr GRIFFIN: I have not seen it personally, no.

Mr MALCOLM KERR: Would you be interested in seeing it?

Mr GRIFFIN: I am interested in seeing it. I have access to it.

Mr MALCOLM KERR: But you have not exercised that access?

Mr GRIFFIN: When I say I have access, I have made an assumption that I have access to it. I know of it. I have not exercised it—I have not made any effort to look for it. If I do not have access to it for some reason, yes, I would be interested in looking at it at some stage. Was the task force answer all that you required on task forces?

CHAIR: For my purposes I think it was, yes.

Mr MALCOLM KERR: In dealing with whether you have serving officers used in the PIC or available for employment—

Mr GRIFFIN: From New South Wales?

Mr MALCOLM KERR: From New South Wales, yes? Before you would even consider that, you would have to be confident that the reforms proposed under the Wood Royal Commission were being implemented, I take it?

Mr GRIFFIN: I do not accept that as a sequitur, no.

Mr MALCOLM KERR: You do not?

Mr GRIFFIN: No. It seems to me that they are separate issues entirely, but I know I have failed to join the dots here.

Mr MALCOLM KERR: Let me help.

Mr GRIFFIN: Thank you.

Mr MALCOLM KERR: New South Wales Police's reputation suffered as a result of the Wood Royal Commission and in the immediate aftermath of that, people like John Hatton went on public record to say that serving police officers should not be employed at the PIC because of what was revealed by the Wood Royal Commission in relation to police corruption. I take it that if the Police Force now were pursuing a reform agenda, which tackled the potential for police corruption, you would have more confidence in employing serving police officers. Does that assist with the dots?

Mr GRIFFIN: It is very helpful, thank you, but again I would not join them in that way, no. It seems to me that before Mr Hatton made his statement, there were people perfectly capable of working for the PIC without any fear and risk to it, and since all or any of the reforms that he would have wished to have happened, the risk is still the same. The risk to us is an individual being in the wrong place, not the reputation with the public or, in fact, of the 17,000 people in uniform. I think there is a difference.

Mr MALCOLM KERR: Has the PIC taken an interest in the reform of the Police Force subsequent to the Wood Royal Commission?

Mr GRIFFIN: I know that you know that we had involvement with it.

Mr MALCOLM KERR: Yes, that is right. That is an important process, in your view?

Mr GRIFFIN: Reform of the service as it was?

Mr MALCOLM KERR: Yes?

Mr GRIFFIN: I think that was very important.

Mr MALCOLM KERR: Are there ways in which the PIC can test the processes that are being put in place by the Police Force?

Mr GRIFFIN: Probably there would be. Whether they would be an efficient use of our resources, testing the reforms or not, I do not know but perhaps we could do that. Whether it would be reflected in the number of complaints or the public perception or things like that, I am not so sure, no.

Mr MALCOLM KERR: But you can appreciate that it is important that reform be seen to take place and to have taken place?

Mr GRIFFIN: I think that is fair comment, and I think probably the public perception—and again there are 20 questions you can ask me about how I form perceptions and I will not be able to answer them, but I think that the public are more comfortable now with the NSW Police than they were immediately after the Wood Commission, rightly or wrongly.

Mr MALCOLM KERR: As you say, rightly or wrongly, but you are not in a position to say how the outcome could be tested to see what foundation it had?

Mr GRIFFIN: I am sure that it can be tested. I think the position that the PIC ought adopt is that reform and its management are management issues. They are matters that ought be managed by the Commissioner of Police and where we see areas of concern—and this is where we might benefit from a police policy person or expert—we would be interested, but as a management exercise, it is primarily a matter for the police, in my view.

Mr MALCOLM KERR: I understand that, but you would be interested in the outcomes and in ensuring that the managed outcomes, the results of the management, are there and are seen to be there?

Mr GRIFFIN: If there were matters of reform that went to corruption or serious police misconduct, if you want to bring it squarely to within our charter, we would be interested, yes. The wider matters of reform of the Police Service are no more of interest to us than to you or to any other body, I think.

Mr MALCOLM KERR: No, but at the moment there is no work going towards testing whether those reforms have been effective or not?

Mr GRIFFIN: I do not accept that because even in something like Abelia, where we are looking at a particular narrow issue—drugs and police—part of that process involves all of the things that you are talking about. Management of police involves things like proper supervision and proper structures and so on. In Abelia, in its narrow sense, we are looking at those things to see whether they function. Mr Robson points out that Operation Jetz—which you would be familiar with—dealt with issues that impinge on management issues even though they also had clear substance in corruption, or serious police misconduct, to use the Act you gave us.

Mr MALCOLM KERR: Parliament gave it to you. In terms of research on corruption and police, I take it that most police do not start their careers being corrupt but become corrupted. Is that a fair statement?

Mr GRIFFIN: My personal view is exactly the same as yours but I do not know. I assume that that must be the case. But if I put to you things that you do not want to hear

based on anecdotal evidence or my personal view, you will get stuck into me so there is not much point in my saying that it is my personal view.

Mr MALCOLM KERR: I test you.

Mr GRIFFIN: That is right. I think most people go to the police academy wanting to be coppers and to do the right thing. That is a personal view; I have nothing to support it. It would be interesting to see.

Mr MALCOLM KERR: It would be interesting to see. Would it be worthwhile educating police about the temptations and the potential for manipulation so that they could resist it? Do you see my point?

Mr GRIFFIN: Black cat. Yes, of course.

The Hon. PETER BREEN: I have a question about joint task forces. I am sure that you will tell me if you cannot answer the question. How many of the nine task forces since 1997 have involved the Crime Commission?

Mr NATTRESS: None.

The Hon. PETER BREEN: So there have been no joint task forces?

Mr NATTRESS: Not joint task forces. Of course, Operation Florida was a joint arrangement but it was not a task force. It was operated under a memorandum of understanding [MOU] between the Commission, the Commissioner of Police and the Commissioner of the Crime Commission.

The Hon. PETER BREEN: Is it fair to say that, with the exception of Operation Florida, there have been no task forces or other arrangements with the Crime Commission?

Mr NATTRESS: There have been no task forces, but as to "other arrangements" we receive information from the Crime Commission on occasion and, similarly, we pass information to them.

Mr GRIFFIN: And sometimes they pass us complaints in the normal course of business. We have considerable information about task forces if you wish to pursue the issue but we would want to do that in closed session.

CHAIR: I have a couple of questions about task forces that I will ask in closed session. Florida is not a task force but it is another arrangement. How many of those sorts of arrangements have there been apart from the nine task forces?

Mr NATTRESS: We have 10 memorandums of understanding with other agencies for obtaining services. For example, the Australian Federal Police provides forensic services or handwriting examination services to us. Austrac provides information. We have that type of memorandum of understanding.

Mr GRIFFIN: I am sorry, but if we are going to go into more detail we should discuss these issues in private session.

CHAIR: I am relaxed about doing that in closed session.

Mr GRIFFIN: We would assert that those Memorandums, while they involve investigations because we need the information, do not go to investigations in the sense that I think you are asking. If we list all the people we deal with we are going unnecessarily into the detail of how we do our work. If the Committee would allow us to do that in private session it would be good.

CHAIR: I am relaxed about that. It sounds sensible.

Mr MALCOLM KERR: How would you define a "task force"?

Mr NATTRESS: That is a good question. It is a group of people who usually get together for a common cause or a common investigation. It is probably something that is established at the behest of one organisation or another to further an investigation.

Mr MALCOLM KERR: Is an essential ingredient of that definition that you do not have a task force from one organisation? You said it was a group of people. Is it essential that a number of organisations be involved with a common purpose?

Mr NATTRESS: At least one—

Mr GRIFFIN: There must be one other.

Mr ROBSON: If I could throw in and offer my interpretation, in the context of the Police Integrity Commission Act at least it would be a joint command between at least two agencies, including the Commission, of course. To distinguish it from a situation where information and intelligence is shared, I suggest that it involves officers of both agencies, in essence, working in the field together on an investigation, by which officers of one or the other agency may be directly involved in the investigation that touches upon the jurisdiction of the other. There has to be some logical distinction between the sharing of information, co-operation and those sorts of things that are built into the Police Integrity Act—section 18 in particular—and the definition of a task force and the circumstances in which, under the Act, the Minister must approve officers of NSW Police performing functions under the Police Integrity Commission Act in a task-force setting. I would draw those sorts of parameters to distinguish between the mere sharing of information and actual working together, largely in the field, towards a joint endeavour.

Mr MALCOLM KERR: Can these nine task forces be identified publicly?

Mr GRIFFIN: I would prefer that they were not.

Mr MALCOLM KERR: That is why I asked.

Mr GRIFFIN: We can identify them clearly for you subsequently. Perhaps I should put on the record, because the interpretation is open, that Florida was done under a MOU. One other matter was dealt with under an MOU and then the nine task forces added to those two are the totality. There is not a series of definitions that are semantically different from task forces and MOUs. That is, at least as I am currently advised, the total. There are not hidden different "joint arrangements"—except for the information-sharing MOUs, which we can deal with.

Mr MALCOLM KERR: Since the last hearing, on how many occasions has the PIC been approached to use its powers to assist Police investigations into police corruption?

Mr GRIFFIN: May we take that question on notice to make sure that we give you the right answer?

Mr MALCOLM KERR: Certainly.

Mr GRIFFIN: The only gloss on the task force-type explanation on the record is that when we become involved in a task force in a police investigation where we instigate it we usually take over the investigation under our Act. So there is a formal transfer of power. But we can deal with that in detail later if we need to.

CHAIR: That concludes the inquiry in public session on section 10(5) of the Police Integrity Commission Act. We will turn now to oversight of the Protective Security Group [PSG]. In the opinion of the PIC legislative amendments are required for the same level of auditing that occurred for the PSG to be applied to the Counter Terrorist Co-ordination Command [CTCC]. I understand that round tables are occurring now in relation to the review of the Police Act. Has there been any consultation about that issue in those round tables?

Mr GRIFFIN: Not to my knowledge. I am advised that there was one round table that we were aware of, which was in March. It was about Part 8A of the Police Act, which is a complaints section. There are no others that we are aware of—or at least party to.

CHAIR: The Commission's response to question 2 in the questions on notice suggested that there would be some merit in evaluating the current level of risk associated with the CTCC's functions. Depending upon the outcome of the assessment a potential regime of auditing or monitoring might occur. Is there an implication that the PIC might undertake such an assessment? If not, is there a suggestion that someone else might do the assessment? If the PIC is doing it when would it be likely to occur? What sorts of things is it likely to consider?

Mr GRIFFIN: I will hand that question to Mr Kearney to deal with in detail. The answer is yes, yes, yes. We think there is room for a risk assessment and certainly would be happy to be party to, or part of, it.

Mr KEARNEY: We were anticipating a two-stage process. We were anticipating making a submission to the Parliamentary Joint Committee for the purposes of its present inquiry. We were envisaging that the submission would be a fairly high-level document that would reconsider the previous assessments by the PIC of the NSW Police audits of the PSG. We would look at the rationale for conducting a risk assessment, look at the approach and methodology that might be used and describe some anticipated outcomes and time frames. We could probably do that by mid to late June. We would then have in mind what might follow, who might do it and what time frame might be involved.

CHAIR: One of the other answers that you provided to the questions on notice talked about proposals for auditing the CTCC and noted that the police supported the inclusion of the CTCC in the existing system of audits of other commands. Can you tell us briefly about those audits, what they are about and how they might be different from the sorts of things that would have been envisaged for the PSG?

Mr GRIFFIN: We have our resident expert present. If the Committee is interested in pursuing this issue Mr Barnett will assist you.

(Short adjournment)

CHAIR: One of the suggestions that arose in the answers the Committee received was that an audit of the CTCC might be included with the audits that are currently being carried out by the Police. I think the interest was: what do those sorts of audits involve? How would they be different to the audits that were previously carried out on the Protective Security Group, or PSG?

Mr BARNETT: The Police proposed as much in one of its audits, namely that the Counter Terrorism Co-ordination Command be subject to, I suppose, a standard audit that a command might be subject to. What we understand from that is that, if you like, the special provisions under which the PSG was audited are found in section 16 of the Police Act would cease to apply. Under that part of the Act the audit is to examine things like the charter of the command to make sure there is compliance and also to look at such things as informant management. So there is, if you like, a special part or a special component or aspect to that audit. We understand that that specialness would cease to exist if the Police proposals were

to get up. That is what we understand by its proposal, which we have not commented on, by the way. We are yet to do so.

CHAIR: The answer from the Commission to question seven refers to Operation Alpine from the PIC. Is the Commission going to be reporting publicly on that?

Mr GRIFFIN: Operation Alpine has been subsumed, to some extent, in Abelia in as much as the public hearings that were recently held in Abelia involved matters that arose from the investigation we called Alpine as an operational name. It is unlikely, I think, at this stage although it is only my current view that we would report separately on Alpine, but it may well happen. I am sorry I cannot be clearer but it is a work in progress.

CHAIR: The response to question seven also refers to potential difficulties should the PIC be investigating an officer involved with a joint task force. Complications that are mentioned there include accessing documents that may have national security implications. How would the PIC deal with that?

Mr GRIFFIN: With great difficulty, I suspect, and this is a matter that needs to be clarified, and cannot be by us. But an example of the difficulty, I think, exemplified by the role of the New South Wales Crime Commission in some of this counter terrorism stuff, they have an involvement, they have references. It could be that they are investigating a matter which involves counter terrorism and is based on ASIO information or some other information from a Federal agency. We theoretically have a right to kick down the doors of the Crime Commission if there is a copper in there we want to look at. I cannot imagine that happening in practical terms. And if we were able to arrange with the Commissioner of the Crime Commission—as I am sure we could—to get to the police officer that we were investigating, a much greater problem would be what access we would have to information that was held to be secret by ASIO.

Those issues are unresolved, and may be unresolved unless you had a waiver from ASIO about its information. It is very difficult to imagine the PIC getting access to federally classified documents. Whether those documents are no longer federally classified because they are in the hands of the New South Wales Police and we can get them and things that develop along those arguments, I think it would be very difficult to resolve. Certainly I do not have any concluded view on how we would proceed.

CHAIR: Does anyone at the PIC have the level of security clearance required to access information that may have national security implications?

Mr GRIFFIN: Yes, there are officers cleared to the level that we would expect to find at the high level in those agencies but I am not sure that that will answer the question entirely. I have been told by Mr Nattress that they are not general clearances. I assume that means they are specific to particular information. I think there are five officers in the PIC cleared to secret.

Mr NATTRESS: Whilst you may be cleared to secret or top-secret level it does not relate to all top secret or secret information. The Commonwealth actually will determine what it relates to.

Mr GRIFFIN: And there is a gloss on that even. My understanding is that if the information is operationally classified by an agency like ASIO it does not matter how high your clearance is, if it is operationally not available to you, it is not available to you. It is not a matter of clearance, it is also a matter of being acceptable within the loop for the operation. So it is a very difficult thing to deal with. We say in relation to what used to be called the PSG and now the CTCC, our Act allows us to look if we have got serious police misconduct at anything they are doing. That is a big claim to make and if it came to test it, it would be very difficult.

There is a balance of public interest in this that would be also hard to arrange. I am not sure that the public interest would be heavily on our side if there were a terrorist incident and Police were doing counter terrorist activities if we were seen to be interfering too much, you might find the public had no interest in us looking. It may well be we would have interest in it but there is a change, so it is a very difficult thing.

CHAIR: In terms of the people who have got that security clearance, what level of the PIC organisation are those people?

Mr GRIFFIN: We might take that in camera.

CHAIR: It seems to me there are practical problems about it?

Mr GRIFFIN: Yes, that is true.

(Evidence continued in camera)