

REPORT OF PROCEEDINGS BEFORE

**COMMITTEE ON THE OFFICE OF THE OMBUDSMAN,
THE POLICE INTEGRITY COMMISSION AND THE CRIME
COMMISSION**

FIRST GENERAL MEETING WITH THE NSW CRIME COMMISSION

At Sydney on Friday 22 February 2013

The Committee met at 4.00 p.m.

PRESENT

The Hon. C. Cusack (Chair)

Legislative Council
The Hon. S. Mitchell
The Hon. A. Searle

Legislative Assembly
Mr L. J. Evans

PETER SELBY HASTINGS, Commissioner, New South Wales Crime Commission, sworn and examined:

PETER FRANCIS SINGLETON, Assistant Commissioner, New South Wales Crime Commission, affirmed and examined:

CHAIR: Before proceedings commence I will ask everybody to switch off their mobile phones as they can interfere with the *Hansard* recording equipment. If your phone is on silent please switch it off completely. I now declare open the Committee's first general meeting with the Crime Commission. In accordance with section 71 (1) of the Crime Commission Act 2012 the Committee monitors and reviews the Crime Commission's exercise of its functions, examines the annual reports and other reports made by the Crime Commission and reports to both Houses of Parliament. On behalf of the Committee let me thank you, Commissioner and Assistant Commissioner, for appearing here today. You have returned answers to the questions on notice from the Committee, are you happy for those answers to be published?

Mr HASTINGS: Yes.

CHAIR: Can you confirm that you have both received a copy of the Legislative Assembly Standing Orders?

Mr HASTINGS: On my part, yes?

Mr SINGLETON: Yes, I have.

CHAIR: Do you wish to make an opening statement?

Mr HASTINGS: I thought I would if that is convenient. As the Committee would know, because I have appeared before it previously—prior to my appointment—I took up my position on 5 November 2012 against a controversial background of issues affecting the commission such as the prosecution of Mr Standen and inquiries in the Police Integrity Commission. Of course the Patten inquiry preceded my appointment. From my point of view those unfortunate events are now in the past. I think the commission has moved on. There is a new executive involving myself, obviously, and we are fortunate that Peter Singleton, who had previously been the commissioner for a year or more, has continued on as assistant commissioner. We have a new assistant commissioner, Bob Inkster, who is a former senior policeman. As a result of that the commission and its executive now has a breadth and depth of experience which is the equal, might I say, of any other commission in Australia. There is now an impressive blend of experience and wisdom.

There is a new structure within the commission. This occurred prior to my arrival so there is more of a hierarchy in the management of the commission. Previously there was a flat line management approach very much influenced by the commissioner for a long time. That situation has changed significantly because we have more structure and there is a new structure within the commission which has divided the staff into separate teams and units. In particular we have a governance unit, which has the responsibility for internal audits and risk management and we are about to appoint a governance manager in response to a large number of expressions of interest we have received. We have a new chairman of the management committee, David Patten. That was a very good appointment because obviously he has an extensive knowledge of the commission because of the inquiry. He has presided over two management committee meetings and has been very active in formulating and adjusting the agenda to suit what he sees to be the appropriate needs of the committee to better monitor what is going on. In conjunction with Mr Singleton he has settled guidelines for task force arrangements and in the controversial area of settlement of confiscation proceedings.

The Committee would know that we have new legislation which has led to the involvement of this Committee into the affairs of this commission and made a number of changes designed to improve the system and various aspects of the conduct of the commission. As required pursuant to a Treasury direction, we put in place an internal audit and risk management policy which has been built into it an enterprise risk management policy and a risk register. Each of the senior members of the commission now own risks which are to be audited. We outsource some of the auditing through a committee with an independent chairman and we conduct internal audits as well. As the Committee would know we are about to have a new appointment as inspector and we welcome that. The Police Integrity Commission continues its role in receiving complaints and conducting investigations. The New South Wales Ombudsman has been actively showing an interest in our affairs and we

answer to the Commonwealth Ombudsman in relation to telephone intercepts and other things. We are almost suffocating under governance.

It does absorb a huge amount of resources but all for the better, I think, in the longer term because there is now a whole series of checks and measures which were not previously in existence which, I think, can only enhance the integrity of the commission. From my point of view I am largely leaving the administration and management of the commission to Mr Singleton because he has an extensive knowledge of all aspects of its activities. I am devoting my attention more to discharging the statutory objective vested in the commissioner of reducing the incidence of organised crime.

I am embarking upon a more disciplined and strategic approach to attack organised crime as adopted in the United Kingdom through the Serious and Organised Crime Agency and in Canada through the Royal Mounted Police and through the Australian Crime Commission with a view to devising a formal structure which will allow us to pursue our statutory goal in a slightly more disciplined fashion than has been the case in the past. From my perspective I am very encouraged. The staff to my observation are very enthusiastic and loyal and I am sure that we will continue to secure some major arrests and confiscations in the future.

CHAIR: That sounds very positive.

Mr LEE EVANS: What are the key operational differences between the previous New South Wales Crime Commission Act 1985 and the Crime Commission Act 2012?

Mr HASTINGS: From an operational point of view I do not think there is a major difference. There is a new formula now for references. There has been the introduction of the provision for a reference in relation to a serious crime concern and we have got two references which are being allocated by the management committee using that formulation. That gives us a more free-ranging capacity to attack organised crime groups. As I said, my task at the moment is to harness some of these resources into a slightly more strategic fashion by identifying the organised crime groups and then evaluating our targets and then deciding what action should be taken in relation to them. I think in the short term it would be very difficult to say we have made any major changes in the way that we conduct our operations but it may be in the longer term, in partnership with the Police Force we will be making some differences.

The Hon. SARAH MITCHELL: In question seven, the committee asked whether the Crime Commission officers met regularly with any of the Police Integrity Commission officers. In your reply you said that they did not. Is there a need for that to happen?

Mr HASTINGS: I have had a meeting with Commissioner James—we have spoken a couple of times. It was a very profitable meeting, I think. We have agreed that we will speak to each other on a regular basis and where problems arise we will discuss them. What we are hopeful of avoiding is what has happened in the past where it achieved an undesirable position of litigation and expense and so forth. I think we have both given each other an undertaking that we will do our very best to ensure that does not happen again. Beyond that, we do, from time to time in the course of operations, talk to operatives from the Police Integrity Commission. Certainly at an upper level that is my intention and as far as I understand also the intention of Commissioner James and meet on a regular basis and just have a number of friendly discussions.

The Hon. SARAH MITCHELL: Will that be sufficient for the relationship? Obviously it is working well thus far.

Mr HASTINGS: I think so. The problem is there will always be an underlying tension because the people in the Crime Commission are concerned that they are being targeted by people in the Police Integrity Commission. It is unfortunate because we ought to be able to work together as agencies operating in the same area rather than one of our people feeling that they are under surveillance by the other. Given those legislative provisions I think at least at an executive level we will work together better than has been the case in the past.

The Hon. SARAH MITCHELL: Your annual report refers to areas where you would like to see change but in the answer you have provided on notice you said that you were working on a detailed briefing for the Minister for some other amendments and things that you would like to see for the various Acts that cover the work of the commission. What is timing? Is it appropriate for the Committee to also be informed, if you were comfortable with that, of the suggestions made to the Minister?

Mr SINGLETON: The document that we have prepared has now gone to the Ministry and in accordance with usual principles we would invite you to recognise that Ministers often want to have confidential advice on such matters.

The Hon. ADAM SEARLE: You mentioned some change in the structure of the organisation internally. Can you provide the Committee with a personnel structure so that it can see how you have reworked the organisation?

Mr HASTINGS: I am reminded by Mr Singleton of appendices A and B to the annual report which provides two versions of the organisational chart in colour, and printed without great expense. My observation is that having come in from outside and perhaps with the benefit of a fresh mind and having looked at what happened overseas there does seem now to be a recognised theory in relation to disrupting organised crime. As I mentioned, the English Serious Organised Crime Agency [SOCA], which is about to morph into a national crime agency at the end of this year, is an interesting model because, as I understand it, they actually came out here in about 2004 and clearly borrowed some of the ideas of our Crime Commission but it seems to me in the years since, and with far greater resources, have progressed to a more sophisticated level than we currently adopt.

What I am planning to do, as much as possible with the resources that we have got, is to follow what now seems to be the current strategy in relation to disrupting organised crime—and I use the term "disrupting organised crime" because that is very much the technique that the SOCA people use of combining investigation with targeting plus asset confiscation and any other ancillary provisions which are available to cause organised criminals some grief.

The Hon. ADAM SEARLE: Earlier today we had the Police Integrity Commission here and the commissioner touched on the possibility of some kind of protocol or understanding with your organisation to avoid those problems that you adverted to earlier of the PIC always looking over your shoulder or your organisation feeling like you are under scrutiny yourselves. Is that something you see might be a fruitful area for discussion between the two bodies?

Mr HASTINGS: Well I am certainly happy to discuss it. I understand that there had been a suggestion of such a protocol in the past and it did not go anywhere through no lack of effort on our part, but if Commissioner James is willing to go in that direction, I certainly would be happy to talk to him about it.

The Hon. ADAM SEARLE: There seem to be very strong public policy considerations that would encourage such a move and I think the members of the Committee would think would be useful?

Mr HASTINGS: Yes, and the legislation did ameliorate some of our concerns in that the provisions now are that the PIC is not to effectively target our people without a complaint unless with the consent of the inspector so that to some extent our staff's worries that every call they make is being intercepted and every time they walk out the door there will be some surveillance of them has abated, but I am sure there is scope for us to sit down and come up with some more better defined lines of agreement.

The Hon. ADAM SEARLE: We look forward to hearing more about that in the future.

CHAIR: Is that a formal agreement between PIC and the Crime Commission?

Mr HASTINGS: I think we previously floated before my time the prospect of a memorandum of understanding and that was not accepted. If there is a willingness now on the part of the Police Integrity Commission to address that topic again, we still remain willing to do so.

CHAIR: Earlier you referred to the PIC not targeting any of your staff unless there is a complaint.

The Hon. ADAM SEARLE: That is the legislation.

CHAIR: Okay, so that is the legislation?

Mr HASTINGS: Yes, that was an amendment which came into effect last October.

CHAIR: Is there a draft protocol?

Mr HASTINGS: No.

CHAIR: A draft memorandum?

Mr HASTINGS: No. I do not think it got to that point. We had floated it in correspondence—

CHAIR: Or the idea of having one?

Mr HASTINGS: —but it did not receive a favourable response from the PIC.

The Hon. ADAM SEARLE: That was some time ago, though?

Mr SINGLETON: Oh no, it was last year.

Mr HASTINGS: Last year.

CHAIR: But you would except that it is PIC's role to be looking over your shoulder?

The Hon. ADAM SEARLE: I think that is a matter of controversy.

Mr HASTINGS: It is its role to assist.

CHAIR: I should ask that question differently. How do you see PIC's role?

Mr HASTINGS: I think the primary responsibility for monitoring our activities is to be with our inspector but of course that will be an individual without resources and I think the intention of the provision is to enable the inspector to call in aid the resources of the Police Integrity Commission if they are required to carry out any investigation into the complaint.

CHAIR: Would you see all complaints initially going to the inspector?

Mr HASTINGS: Yes.

CHAIR: And then the inspector making a determination?

Mr HASTINGS: Well I think under the Act we are obliged to send them to the Police Integrity Commission as well.

CHAIR: So what role do you envisage the Police Integrity Commission will be playing under the new legislation?

Mr HASTINGS: Well, the role of providing investigative resources to the inspector.

The Hon. ADAM SEARLE: But only as and when the inspector requests?

Mr HASTINGS: Yes.

The Hon. ADAM SEARLE: Not of their own volition?

Mr HASTINGS: Not targeting; going through our phone lists and picking out people to target.

The Hon. ADAM SEARLE: And not, for example if a complaint was made directly to the PIC, then acting on that?

Mr HASTINGS: The legislation would empower them to pursue a complaint. We would think the better arrangement, given the appointment of the inspector and the standing of the inspector, is for the inspector to have primary responsibility to oversight our activities and to instigate any investigations and if the inspector required resources, the PIC would be the body that could provide them.

The Hon. ADAM SEARLE: With respect, that is not so clear on the face of the legislation—

Mr HASTINGS: No.

The Hon. ADAM SEARLE: —which again would speak to a need to have perhaps a more formalised arrangement between the organisations—

Mr HASTINGS: I agree.

The Hon. ADAM SEARLE: —about how this might all work to avoid conflicts as we have seen in the past?

Mr HASTINGS: I am certainly very much prepared to pursue that. I understand it would fit in with Commissioner James and my discussions to date, which have been very amicable and positive in terms of coming to some sort of working arrangement.

CHAIR: The proposal that the complaints go via the Crime Commission inspector in the first place, is that something you have been discussing with the PIC?

Mr HASTINGS: No.

CHAIR: How do you propose to further that proposed model?

Mr HASTINGS: One of the problems has been that there has not been an inspector and there is still is not in a formal sense. My expectation is that now there is about to be an inspector there can be some tripartite discussions between the Crime Commission, the inspector and the Police Integrity Commission as to how these processes should be put into place. Until the inspector comes on board there is little or no utility in pursuing it directly with the Crime Commission because when the inspector comes in he might have a different view.

CHAIR: I hear what you are saying; it is just the sense that I am getting from the evidence is that you envisage a very significant shift in the way complaints are managed when the inspector is appointed and it is a part-time position so in terms of being the complaints manager—

Mr HASTINGS: Well, the good thing is that there will be very little work. There have been problems in the past of a major type but I am quite confident those problems have gone now. The whole organisation is alert to another Standen. My impression is that the staff of the commission are of a very high quality. There are two or three officers who are at risk because they deal with human sources primarily. We have lots of systems in place which will monitor their dealings with human sources; they know that. They are well aware of the risks and we are all tuned to governing them in a way that minimises any recurrence of the sort of Standen events.

The other problem that arose which was the subject of much consideration was the way in which confiscation proceedings were conducted and in particular settled. All of those issues have been ventilated. As I said, Mr Patten has now approved guidelines which will be formally ratified probably at our next formal management committee meeting for settlements of confiscations and again the risks in that are going to be reduced to almost zero. I am genuinely optimistic that the number of complaints to be made in the future will be very few indeed. I am not so naive that I am going to pretend that they will not happen but they will be of such a small number, I expect that it would be well within the capacity of the inspector, even within the limited time that he spends on the job, to deal with them comfortably.

CHAIR: I truly hope it is correct that all those issues now have been resolved and there will not be any more problems in the future but because of the nature of the commission's work, people are going to complain, you will have, I imagine, and have had vexatious complaints, made up complaints, misconstrued complaints. Those complaints will continue.

Mr HASTINGS: Oh yes.

CHAIR: Let us assume that there are no more complaints in the future that have any valid basis to them, which is optimistic. Notwithstanding that, the PIC still has a legislative responsibility that it has to fulfil to investigate complaints that have been made against the Crime Commission?

Mr HASTINGS: Yes.

CHAIR: At the very least to assess the complaints?

Mr HASTINGS: Yes. As you correctly point out, there are vexatious and mischievous people there who do make complaints for the sake of it and they will have to be dealt with, but I am still not expecting them to be so voluminous that they will overwhelm either the Inspector or the Police Integrity Commission.

CHAIR: I was going to ask you how you saw that relationship working but you have pretty much answered that question. It is a matter of great interest to the Committee as to how that relationship will work, particularly given that the role of the Crime Commission Inspector is not really defined. It is not clear to the Committee as to how complaints potentially made to the Crime Commission Inspector and to the Police Integrity Commission are to be progressed. Obviously that will be the subject of discussion between the Inspector and the Police Integrity Commission.

Mr HASTINGS: Yes.

CHAIR: At the moment it is all very hypothetical so I think we have exhausted it in that sense. In your opening remarks you referred to outsourcing audits. Are they financial audits or operational audits?

Mr HASTINGS: No, they are risk and fraud audits. We use the services of a company known as IAB, the chairman of which is a former public trustee or by whatever name that position is known. He is very active. He supervises the whole risk-management framework and our timetable for compliance. It is a very complex topic that I am slowly learning. The risks are divided into statutory compliance where we are obliged under the Telecommunications (Interception and Access) Act to carry out certain procedures, and in addition other aspects of risks like the human source area or the use of assumed identities, all of those are the subject of internal audit which are managed by the external or outsourced auditor.

CHAIR: That is really interesting. There is data relating to your human source people that is being audited to make sure that it is all being managed in a proper way in terms of probity, is that correct? Are we talking probity audits?

Mr HASTINGS: Yes. We have operating procedures in relation to a rule that two officers should deal with a human source, for example.

CHAIR: Is the system failsafe so that officers are complying with it and there is a paperwork trail to show that they are complying?

Mr HASTINGS: I do not think we pretend it is failsafe but to the extent that it is possible to put in place a system and ensure that it is met, we (a) have a system and (b) we have internal audits which constantly—not constantly—regularly carry out checks to ensure that the system is being followed.

CHAIR: What is the role of the external auditor?

Mr HASTINGS: He supervises the whole process of risk management and ensures that we have carried out, for example, the routine of auditing human source management every quarter, or whatever the time is. He has a timetable by which all sorts of audits are to be conducted and he ensures that those audits are being conducted and that the managers of those areas have responded to the audits if there have been any complaints raised.

CHAIR: Mr Singleton, is it not your role to make sure that the managers are complying with their responsibilities?

Mr SINGLETON: Mine and others. The commissioner and I both have the responsibility for making sure that everybody complies with their responsibilities.

CHAIR: The commissioner has indicated that he has delegated a lot of that to you.

Mr SINGLETON: I have a broad delegation of all the commission's functions and I am—I think it is fair to say—more active in the day-to-day operations of the commission, and I take that very seriously.

Mr HASTINGS: If I could just add, the proposal is that the governance manager, which is currently under recruitment, will answer directly to me. My intention is that Mr Singleton will continue with the day-to-day operations and administration of the commission but the issue of governance will come directly under my supervision.

CHAIR: What is the cost of the external auditor?

Mr SINGLETON: If I may clarify here?

CHAIR: Please.

Mr SINGLETON: We have two small "e" external auditors. The Auditor General is the official external auditor. Treasury policy paper No. 5 of 2009 requires all agencies to have an internal audit function, an internal audit and risk committee and an internal audit program. Our internal audit program is undertaken in part by a staff member in the governance unit, who is our designated internal auditor, and in significant part also by the Internal Audit Bureau—that is the IAB that the commissioner mentioned—they are external to us but they conduct what is officially known as the internal audit function. IAB costs about \$80,000 per year; the staff member costs us a bit more than that.

CHAIR: Does that relate to financial issues or management?

Mr SINGLETON: The predominance of the work is operational audits such as the one that has been discussed: human source management practices. We have a number of policies and the staff and their paperwork are audited to ensure compliance with policy and process. There is a more limited look at financial things. There is a fraud risk assessment that they are undertaking. The primary financial auditor is the Auditor General.

CHAIR: Would it be fair to say that the IAB is really auditioning your processes?

Mr SINGLETON: It is primarily what is known as operational audits.

CHAIR: Would they come in and go over all of the human sources or do a sampling to work out if the standards have been met?

Mr SINGLETON: They recently did the human source audit and provided a draft report to which I am presently responding before finalisation. In the course of that audit they went through all of the files of all of the active human sources.

CHAIR: That is a lot of confidential information, is it not?

Mr SINGLETON: Firstly, they had to be security cleared and, secondly, measures were put in place so that they could not see who the sources were which—in their opinion and ours—was not necessary for them to work out whether the policies were being adhered to.

CHAIR: What were the findings?

Mr SINGLETON: There is a report of 20 or 30 pages. Broadly speaking, there was a satisfactory level of compliance. They found a few matters that needed to be attended to and they made a number of policy recommendations, including ones that pointed out that some of the policies were unnecessarily convoluted and gave rise to breaches which were breaches of the written letter of the policy but the policy was poorly drafted. Certainly no misconduct or impropriety was found in the audit.

CHAIR: That is reassuring, and the policy processes are being strengthened.

Mr SINGLETON: We were already reviewing, and we have virtually finalised a new edition of the policy. We tend to update the policies regularly. A very significant policy review has been underway for some months and is imminently to be adopted.

CHAIR: What is the definition of "serious crime" that would warrant the attention of the Crime Commission?

Mr SINGLETON: I did not have my glasses on to seem to whom that question was addressed.

CHAIR: I am curious as to the definition of "serious crime" that would warrant the attention of the Crime Commission. To give some background to the question, I understand there has been some role in relation to some of the shootings that have been occurring in Sydney, and that it has been a positive role, but I am wondering how those crimes have fallen into your definition of matters that should be pursued by the Crime Commission.

Mr SINGLETON: There is a statutory definition but the essence of the matter is for our purposes a serious crime is one that carries a maximum penalty of five year's imprisonment or more. That plays into the role of public shootings in that we have had referred to us matters related to public place shootings in the Sydney metropolitan area where the police request us to assist. Obviously there are a lot of crimes involved in going around with some very serious firearms. Shooting in public involves offences that carry more than five years.

CHAIR: An awful lot of crimes have penalties of over five year's imprisonment. I imagine that gives you considerable latitude as to which serious offences warrant the attention of the Crime Commission.

Mr HASTINGS: That is right, and in a sense it is part of the matters that I am reviewing and trying to formalise. Organised crime, again, is a loose term. The Act, in section 3, provides that it is the object of the Act to reduce the incidence of organised and other serious crime. It is a matter of definition and priorities probably more than anything as to how you rank crime being conducted in organised groups. What I will be seeking to achieve from this process that we have embarked upon is to produce a matrix of organised crime and in due course have a process for evaluating the seriousness of the threats that they constitute so that we can use our resources in areas where we would serve the public interest best.

CHAIR: Can I perhaps ask my question again, and I believe it is a fairly simple question and a fair question: What is the definition that the Crime Commission is using as to a matter that is a serious crime that warrants its attention? I appreciate, Mr Singleton, as to what the legislation says but that does not give our Committee guidance as to what matters the Crime Commission considers or does not consider to be serious. We are all aware that the legislation is so wide ranging it gives you significant discretion and that is why I am curious to know what is the definition that you are using when you are assessing these matters.

Mr SINGLETON: I think that is addressed to me. Overwhelmingly the work that we do is pursuant to references granted by the management committee. That determines in very large measure what we will and will not investigate, and the matters that it refers to us, again overwhelmingly, are unsolved murders and large commercial drug trafficking. Those are all matters that carry a potential penalty of imprisonment of life in many cases but certainly 20 or more years. I think your question, with respect, is directed to the practicalities of what are we doing. We are dealing with matters that potentially carry life imprisonment. One exception to that is some of the shootings where it may only be 20 years or 15 years, depending on whether someone gets hit or there is merely property damage.

CHAIR: Is there any evidence that the shootings that Sydney has been experiencing are connected or related to organised crime?

Mr SINGLETON: Yes, there is.

CHAIR: All of them?

Mr SINGLETON: No, some of them.

CHAIR: Most of them are not though, are they?

Mr SINGLETON: As the commissioner said, the concept of organised crime is not defined and is a very nebulous concept. For example, whether or not a street gang peddling drugs at a street level and fighting over a turf which is the size of three suburban blocks is organised crime or not is perhaps a matter for debate.

CHAIR: Is it at the discretion of the Crime Commission as to whether it is or it is not, or the management committee?

Mr SINGLETON: The management committee determines what it is that will be referred to us. In a sense, analogously, we are like a royal commission in that we receive terms of reference from the management committee. That prescribes what we are going to do, to a large extent.

The Hon. ADAM SEARLE: So it is not so much which crimes you would investigate or which activities but any activity that is referred to you may form part of a greater whole, and so, as you say, you may get a reference to do with an unsolved murder or, to use another example, a street gang. Whether those matters are significant or not would depend on the intelligence had by the management board and their assessment of whether or not it is something that should be referred to you?

Mr SINGLETON: The board makes its assessment and we provide, usually having received information from the police and other sources, briefings to the board whenever it is proposed that there should be a matter referred to the commission. Those matters tend to be matters that are considered to relate to organised crime or some other serious crime such as murder or a problem of public place shootings.

Mr LEE EVANS: Commissioner, what is the main focus for the commission in the coming year?

Mr HASTINGS: My main focus is to formalise our processes and in some respects achieve the same level of sophistication as is evident in other agencies overseas. That will not be an easy transition because there are competing interests, as the previous questions have reflected. From time to time we get requests from the Police Force for assistance in relation to individual incidents of shooting or murders, and we can provide a valuable service to the police in assisting in solving those crimes. We need to accommodate those services as well as deal with the big picture items that I have been talking about of developing a matrix of organised crime in New South Wales and finding a process for giving priorities to those groups that we think are most vulnerable and can cause the greatest amount of harm and disruption. It is not an easy task.

The task of formulating a list of known criminals and, in some respects, ranking them has been done in the past and we will be working on the efforts which have been made previously. My goal is to make it a slightly more sophisticated matrix than existed previously by linking groups and their activities and also incorporating information about assets which will be vulnerable to confiscation, and then having another process for prioritising the targets within that group. These activities have been done in the past very effectively but my goal is simply to put some structure into it and I have embarked upon a process of consultation with the NSW Police Force at various levels and have struck very receptive responses from the senior officers to whom I have spoken who are all anxious to enter into a partnership that will formalise those sorts of strategies.

CHAIR: The commissioner has special powers. Am I correct to understand that you have delegated all of those to Mr Singleton?

Mr HASTINGS: That was done previously by Mr Singleton when he was the commissioner. I have just forgotten now because the issue was raised previously and I am not sure where we are at. It may well be I will reissue the delegation similarly. There are a couple of powers which I think cannot be delegated.

CHAIR: Which powers are they?

Mr HASTINGS: I cannot tell you offhand.

CHAIR: Which powers have been delegated?

Mr HASTINGS: Most of the powers under the Act, the statutory powers. That is not a particularly helpful answer, I am sorry about that, but it is quite an extensive delegation that Mr Singleton might be able to describe in more detail.

Mr SINGLETON: The commissioner has the disadvantage of not being there at the time. Under the 1985 Act the commission was a commission of members and it could only make decisions by way of resolution of the members meeting, in effect, in committee. In the period from July 2010 to November 2011 the commission was constituted by Phillip Bradley and me, and the commission met in formal session and delegated all of its functions to Mr Bradley and to me, subject to any contrary decision of the commissioner. I am still operating under that delegation so all of the functions of the commission are delegated to me and, of course, Mr Hastings has full authority as well.

There are also powers that are vested in the commissioner as distinct from the commission. All of those which can be lawfully delegated have been delegated to me by Mr Bradley. There is currently a process of going through all of the delegations. You will appreciate that throughout the building staff only have authority to the extent that it is delegated to them by the commission, and all of that is being reviewed. There is a delegation structure that has been in place for some time. In terms of what cannot be delegated at all, the statute prescribes a rather limited list. My recollection off hand is that the only possibility might be arrest warrants. It may be that everything can be delegated to an assistant commissioner but I would have to check.

CHAIR: Is there a difference between a "function" and a "power"?

Mr SINGLETON: A function is wider. A function includes a duty as well as a power.

CHAIR: So the correct terminology for the question I am asking would be functions. Are there any additional powers?

Mr SINGLETON: Every power is a function and not every function is a power. For example, the commission has a function of investigating things. That is distinct from its power to hold a hearing but the hearing itself—that power is by statutory definition a "function" as well.

CHAIR: Thank you. I will refer to them as functions because that captures it.

Mr SINGLETON: By all means. All the functions have been delegated.

CHAIR: During the interim period with you and Mr Bradley you were, effectively, the commissioners meeting in committee, is that correct? I am just trying to understand it.

Mr SINGLETON: There was no interim period.

CHAIR: Sorry, the period when you and Mr Bradley were delegated all of the powers of the Crime Commission.

Mr SINGLETON: Yes.

CHAIR: Who did that delegation?

Mr SINGLETON: Mr Bradley and I—

CHAIR: So you delegated to yourselves.

Mr SINGLETON: —as a meeting of the commission so the commission did the delegation but the commission by law was constituted by the two of us.

CHAIR: Yes, correct. So you had to meet and then formally delegate the functions.

Mr SINGLETON: We did, and there is a minuted meeting where we made a resolution of the commission to delegate to the two of us and we then executed a document or an instrument in writing by which that delegation was twice delegated, once to him and once to me.

CHAIR: That would be an important document because it would give clarity to how functions are being exercised. It documents the legal capacity and how it is to be exercised within the commission.

Mr SINGLETON: That is correct. It is even more important because, the commission being an abstract entity has no arms, legs or brain. It does not delegate, then it can do nothing.

CHAIR: I understand. Is the Crime Commission involved in all of the shootings in Sydney? Are you investigating ones that do not necessarily have an organised crime component?

Mr SINGLETON: There are two questions. No, we are not involved in all of them. The ones in which we are involved are those in which the police have specifically requested our assistance. It is fair to say that all have some, depending on your definition, organised crime component to them.

CHAIR: I guess the issue I am ultimately driving towards is the wall of silence, knowing that the commission has special powers that are available to the police. I am sure that your participation in these investigations can be beneficial in the sense that you bring additional capacities to inquire into matters that the police do not have. Would that be fair to say?

Mr SINGLETON: It is true. They are perhaps not as magical as some people think but we do have some additional powers and they can help.

Mr HASTINGS: It is not just a question of capacity either. I think we have very high-quality analysts who can do perhaps more than police can do because they are dedicated analysts who do not have the burden of discharging other functions, plus we have a high level of technical resources which I think gives us advantages that the police do not have. It is reflected in the functions in section 10 of the Act that one of our functions is to provide specialised services to other agencies.

CHAIR: I certainly would not question that. Some of those crimes are just people going and discharging a weapon. They do not necessarily seem that complicated to me, although I realise that the police are having challenges in getting the evidence they need to secure convictions.

Mr HASTINGS: Yes.

CHAIR: As to the issue of the wall of silence, do you have any comments on whether the police have sufficient powers or could be given new powers in order to deal with that problem, or is resorting to the Crime Commission a better fall-back position for them?

Mr HASTINGS: I think from a policy point of view the current arrangement is good. If you were to give the powers to the Police Force generally, I think that would be a matter of concern to the community. The fact that we are a separate agency and now seem to be highly regulated gives a sense of comfort to the community that what might be regarded by some as special powers are being properly reserved for those occasions when they are needed.

CHAIR: The power I am referring to is the power to compel witnesses to answer questions.

Mr HASTINGS: Yes. That is what I was referring to. If you were to make that power available to police generally there would be some discomfort generally, but I think there is a lot to be said for the arrangement which currently exists where in a separate agency with the executive structure that it has now—it has probably always existed—there is an element of discretion available in the way it is used.

CHAIR: Where the police have been calling you in, I understand that there has been a very good clearance rate of those matters. Is it fair to say that many of these shootings have been solved?

Mr HASTINGS: I think we have made a useful contribution. I do not know how one would quantify it but we certainly have been able to assist in a number of incidents.

CHAIR: I am thinking on the basis that there has been an arrest made and an outcome to the investigation. Is it fair to say that many of them are being solved? I should not make assertions. How are these investigations going? Are satisfactory outcomes being accomplished in these joint operations with the police?

Mr HASTINGS: I think the progress is better because we are involved. I am not saying that as an sense of superiority but simply because we have the powers available about which we have been talking and we have been using them. We have also been using our technical resources and we also have extensive human sources which have been providing us with information which has been of considerable value as well.

CHAIR: Is the outcome that these crimes are getting solved?

Mr HASTINGS: In a general sense, yes. I can only say as I have just said: From my observation—and I am standing back a bit—there is no doubt that the Crime Commission is adding a lot of value to the investigations because of the powers and skills we have.

CHAIR: I accept that.

Mr HASTINGS: But it is hard to quantify in terms of actual results yet.

CHAIR: I am not trying to speed up the results or the credit or anything for the results. I am just wondering how concerned should the community be. Are these crimes being solved? It is great that resources are being brought to bear on them. Are we making progress in resolving them or are we losing the battle?

Mr SINGLETON: There have been a number of matters in which we have worked jointly with the police. All matters are jointly with the police so one does not want to get into—and it is impossible to define—who gets any credit—

CHAIR: Yes, and I am not seeking that.

Mr SINGLETON: —but many, many arrests have taken place. I cannot remember whether the questions on notice touched on those but statistics are prepared from time to time on the number of arrests that have been made. In addition to that, there are a number of matters where it is solved in the sense that we have, through the hearings, been able to ascertain who shot whom and what happened, but we have not got to the point where the Director of Public Prosecutions would be able to prosecute. There is a third category where the investigation is continuing and there are reasonably good prospects of some resolution. There is a relatively small category where we do not know who did it and we have not solved it in any sense. That fourth category is quite small—probably less than 10 per cent.

CHAIR: So the major issue is getting evidence that would satisfy the standard of proof required in court.

Mr SINGLETON: We have two things that we want to do. One is to disrupt the crime and stop it happening again, and the other is to get a prosecutable brief. The latter is a subset of the former and obviously there are more in the former category than in the latter category. It should be perhaps borne in mind that we are used to conducting long-term, complex investigations and it is just over a year since the Minister made a public announcement that our assistance was sought in this problem and, as I said, a number of arrests have already been made.

CHAIR: Are there any issues that you would like to raise with the Committee or anything that you think you should draw to our attention?

Mr HASTINGS: No. I outlined the matters generally and in the course of answering I said that which I think is of direct interest to me and what I thought would be of interest to the Committee. I do not think there is anything else that I particularly want to bring forward.

(Evidence continued in camera)

(The witnesses withdrew)

The Committee adjourned at 5.17 p.m.