

Sub. 100-78
100-1406



NATIONAL
CRIME
AUTHORITY

5 December 2000



Cost Recovery Inquiry
Productivity Commission
Locked Bag 2
Collins Street East Post Office
MELBOURNE VIC 8003

Dear Commissioner

COST RECOVERY INQUIRY

Background

The National Crime Authority (NCA) investigates complex, national, organised crime. This is achieved through working independently or in partnership with other agencies such as the Australian Federal Police (AFP), State and Territory Police and other law enforcement agencies. The NCA also develops recommendations in relation to law reform, and provides advice to Commonwealth and State governments and other agencies in relation to emerging criminal activities and trends. As a result there are considerable security and legal issues that impact on NCA's ability to provide services online.

The primary functions of the NCA are to:

- Collect, analyse and disseminate criminal intelligence information;
- Investigate complex, national organised crime;
- Set up and co-ordinate task forces to investigate organised crime across jurisdictional boundaries; and
- Recommend law reform.

Employees of NCA specialise in areas such as law, intelligence analysis, operational support and administration. In addition, police investigators are seconded to the NCA from Commonwealth, State and Territory police services and other agencies. Under its Statute the NCA has, inter alia, a duty to co-operate with other law enforcement agencies.

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The NCA was established in 1984 to investigate organised crime. Legislation was passed in each Australian State and Territory to underpin the work of the NCA and as a result, the NCA is the only law enforcement agency in Australia whose investigations are not limited by jurisdictional or territorial boundaries.

Cost recovery within the NCA

Due to the nature of the National Crime Authority and the functions that it provides, any cost recovery activity that may be undertaken by the National Crime Authority is significantly limited. The National Crime Authority deals mostly with those involved in organised crime and has limited interaction with other members of the public. This alone has a significant impact on the National Crime Authority's ability to recover costs. Additionally it relies heavily upon the co-operation and support of other law enforcement agencies, including significant support from state agencies where there has been no suggestion of a charge for many of the services provided.

In June 1999, NCA entered into an agreement with the Department of Finance and Administration under section 31 of the Financial Management and Accountability Act (1997) in relation to the retention of certain receipts. Among other things it states that departmental receipts that may be available to the NCA include net receipts from 'user charging activities', for example:

- From the sale, leasing, hiring out of, or other dealing with, goods or personal property;
- From the provision of goods and services;
- From a person ("employee") appointed or employed by, or performing services for, the Commonwealth as payment for any benefit provided (whether to the employee or another person) in respect of the appointment or employment of, or the services performed by, the employee; and
- From the sub-leasing of real estate property, or the resale of goods used in fitting out premises, under a property resource agreement between the Department of Finance and Administration (DoFA) and the National Crime Authority.

NCA Cost Recovery

Apart from the provision of services, the National Crime Authority does not undertake any significant cost recovery activity, as most members of the public and many government agencies do not receive any direct service from the National Crime Authority. Broadly speaking any cost recovery activity undertaken by the NCA can be divided into the following areas:

- Freedom of Information; and
- Recovery of costs associated with legal processes.

In alignment with legislation the National Crime Authority charges a \$30 application fee for Freedom of Information requests. However on an annual basis, the number of FOI requests are small, for example in 1999-2000 the total number of FOI requests was 14. This means that the costs recovered from FOI requests are relatively minor.

In relation to recovery of costs from legal processes, the ability of NCA to recover costs depends on the outcome of legal action. Succeeding in recouping legal expenses is not predictable in relation to most other cost recovery activities. Whilst NCA has been awarded some costs in relation to legal processes in the past this has been limited to specific cases and across the board NCA does not recover all costs associated with this function. In any event the party against whom costs are awarded is often without assets.

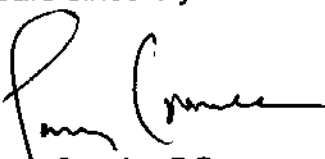
While NCA has the ability to recover costs through the establishment of the section 31 agreement, current activities do not lend themselves to cost recovery activity. However, if required, NCA may identify in the future activities that could result in cost recovery.

Interagency co-operation

NCA works collaboratively with other agencies such as Australian Federal Police and States/Territory police. This interagency co-operation allows the fluid movement of resources between agencies when additional resources are required for specific investigations and activities. NCA does not recover costs in the form of money for these activities, instead it enables NCA to request additional resources from other agencies in return when required. This has significantly improved the relationships between NCA and other law enforcement agencies and it is considered the most effective way of allocating resources.

Should you have any questions in relation to this, please do not hesitate to contact me on (07) 3213 0887 or Mrs Deborah Clark, General Manager Corporate Services and Planning on (03) 9412 1304.

Yours sincerely



Gary Crooke QC
Chairman