

The Hon Virginia Chadwick MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

The Hon John Murray MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

Dear Madam President and Mr Speaker

In accordance with section 99 of the *Police Integrity Commission Act 1996*, the Commission hereby furnishes to you the Police Integrity Commission Annual Report for the year ended 30 June 1998.

The report has been prepared in accordance with the requirements of the *Police Integrity Commission Act 1996* and the *Annual Reports (Departments) Act 1985*.

Under the *Annual Reports (Departments) Act 1985* the Police Integrity Commission would normally be required to submit an annual report for the year ended 30 June by 31 October. The *Appropriation (1997-98 Budget Variations) Act (No 2) 1998* retrospectively made valid certain expenditures of budget dependent agencies including the Police Integrity Commission. While awaiting the Act's assent (which occurred on 30 November 1998) the Police Integrity Commission was granted an eight week extension to the requirement to submit financial statements by 31 October 1998. The *Appropriation (1997-98 Budget Variations) Act (No 2) 1998* further provides that an authority may within 28 days after the date of assent of that Act, submit its annual report for the financial year ended 30 June 1998.

I draw your attention to section 103(2) of the *Police Integrity Commission Act 1996* pursuant to which I recommend that this report be made public forthwith.

Yours faithfully

Judge P D Urquhart QC
Commissioner
December 1998

TABLE OF CONTENTS

1. COMMISSIONER'S REPORT 1

2. MANAGEMENT AND STRUCTURE OF THE COMMISSION 3
The Executive 3
Organisational Structure 5
Significant Committees 6

1. THE PARLIAMENTARY JOINT COMMITTEE 9
Functions of the Committee 9
Members of the Committee 9
Meetings of the Committee 10

2. THE INVESTIGATION OF SERIOUS POLICE MISCONDUCT 11
Investigations 11
Major Investigations 14
Reviews of Police Service Investigations of Complaints 17
The Intelligence Function 22
Telecommunications Interception 23

3. COMPLAINTS HANDLING PROCEDURES / OTHER FUNCTIONS 25
Complaints Handling Procedures 25
Statistical Survey 26
Integrity Reports 30
Police Corruption Education and Prevention Programmes 31
Co-operation with Other Agencies 32
The Response Unit 34
Discharges of Police Firearms and Deaths in Police Custody 37
Implementation of Royal Commission Recommendations 38
The Royal Commission Wind-Up Team 39

4. MEASURING THE COMMISSION'S PERFORMANCE 43
Statutory Reporting Requirements 45

5. LEGISLATIVE MATTERS AND LAW REFORM 47
Introduction 47
Amendments to the Police Integrity Commission Act 1996 47
Telecommuncations Interception 50
Other Commonwealth Laws 50
Listening Devices 51
Controlled Operations 52
Proposals for Law Reform 52

6. CORPORATE AND INFORMATION SERVICES 55

Introduction 55
Human Resources 55
Financial Services 57
Information Technology 59
Records Management 61
Support Services 62
Security Services 63
Qualitative and Strategic Audit of the Reform Process (QSARP) 64

7. APPENDICES 65
Appendix 1 - Statistical Data 66
Appendix 2 - Persons Charged as a Result of Investigations as at 30 June 1998 .. 67
Appendix 3 - New Category 1 Agreement 71
Appendix 4 - Code of Conduct 73
Appendix 5 - Financial Statements 1997-98 79

8. DIRECTORY 100
Key Personnel 100
Contact Details 100
Telephone Inquiries 100

1. COMMISSIONER'S REPORT

This is the Police Integrity Commission's second Annual Report, but the first to cover a full 12 months of operation of the *Police Integrity Commission Act 1996* ('the Act'). As I noted in the first Annual Report, the Act came fully into operation on 1 January 1997, and that Report dealt only with the first six months of the Act's operation.

In my Report for 1996-97, I mentioned some matters which I now discuss further as an illustration of what I believe to have been the progress made by the Commission during 1997-98.

I reported last year that while the Commission had not at that time furnished to the relevant authorities any evidence that might have been admissible in the prosecution of a person for a criminal or disciplinary offence, "I am confident, on the basis of the investigative work begun in the reporting period, that it will do so in the year 1997-98"[1]. My confidence was not misplaced, as four persons were charged in 1997-98 as the result of one of the Commission's investigations, Operation Jade. More significantly, this investigation resulted in the detection of an inappropriate relationship between a major drug supplier and a senior detective. This relationship had impaired and compromised police investigations. The Commission believes that its work on this operation will serve to deter other officers who may contemplate committing acts of corruption. Operation Jade also illustrated the benefits of co-operation with other agencies, and demonstrated the usefulness of the power to hold public hearings.

I also mentioned in last year's report that, notwithstanding some difficulties, the transition from the Royal Commission into the NSW Police Service ('the Royal Commission') to the Police Integrity Commission had gone very smoothly and effectively. The transition process came to an end in August 1997, when the Royal Commission presented Volumes IV and V of its Final Report on The Paedophile Inquiry. As set out in more detail in Chapter 5, a Royal Commission Wind-Up Team was established during 1997-98. The primary purpose of the Wind-Up Team was to continue the dissemination of the Royal Commission holdings relating to its paedophile inquiry.

The year has seen growth in the Commission's functions and powers, and consequently in its size.

The most important **new function** arose from the last recommendation in the Royal Commission's May 1997 Final Report. It proposed that an external auditor be engaged by the Police Integrity Commission to carry out a qualitative and strategic audit of the reform process of the New South Wales Police Service. The *Police Integrity Commission Amendment Act 1998*, which is the statutory basis for undertaking the audit, received assent on 30 June 1998.

The most important **new power** is the Commission's ability to obtain telecommunications interception product from other agencies. Important though that power is, it did not include - at the end of June 1998 - the more important power to conduct telecommunications interceptions. The power to conduct telecommunications interceptions was obtained by the Commission on 14 July 1998.

During 1997-98, not only did the Commission achieve results but it also demonstrated its potential to achieve more. That the Commission continues to enjoy the

[1] Police Integrity Commission, *Annual Report 1996-1997*, October 1997, p. 2.

confidence of the Parliament of New South Wales was demonstrated by the new functions given to it by the Parliament. The granting of these new functions is also a reflection of public confidence and goodwill.

The achievements of the Commission in 1997-98 are due in large measure to its staff, and to them I pay tribute. I also thank those agencies that provided support and assistance to the Commission during the year.

Judge P D Urquhart QC
Commissioner

2. MANAGEMENT AND STRUCTURE OF THE COMMISSION

There were several major changes to the management and structure of the Commission in 1997-98. The Director, Operations Special Services, Mr Andy Nattress, was appointed Director of Operations, reporting to the Assistant Commissioner, Mr Tim Sage. At the same time, the Commission's investigative staff were formed into two teams, one under the Senior Operational Lawyer, Mr Matthew Byrne, and the other under the Chief Investigator, Mr Bob Michell. Both report to Mr Nattress whose responsiblities now also include telecommunications interception.

A Response Unit was established during the year, essentially to deal with prosecutions arising from the work of the Royal Commission and the Police Integrity Commission. Further details of the Unit are given in Chapter 5.

Biographies of the members of the Executive follow.

THE EXECUTIVE

The Commissioner

The Commissioner, His Honour Judge P D Urquhart QC, was born on 26 April 1944 and graduated from the University of Sydney, where he obtained the degrees of Bachelor of Arts and Bachelor of Laws. After serving articles of clerkship with a firm of solicitors in Sydney, he chose the career of barrister and was admitted to the Bar of NSW on 4 June 1971. As a barrister his practice took him into a variety of jurisdictions from commercial law to criminal law and to most courts from Local Courts to the High Court of Australia. On 12 November 1986, His Honour was appointed Queen's Counsel, and on 10 May 1988 he was appointed a Judge of the District Court of NSW. He sat principally in the criminal jurisdiction of the Court.

On 21 February 1996 His Honour was appointed a Royal Commissioner in connection with the Royal Commission into the NSW Police Service which was being conducted by Mr Justice Wood who had been appointed Royal Commissioner in May 1994. On 18 August 1996 he was appointed for a period of two years, as the first Commissioner of the Police Integrity Commission but continued as Royal Commissioner until his duties in that capacity were discharged.

The Assistant Commissioner

The Assistant Commissioner, Mr G E (Tim) Sage, was born on 22 September 1949. From 1968 to 1979 and again from 1981 to 1983, he was employed by the Magistrates Courts Administration in Sydney and in country areas of NSW. From 1979 to 1981 Mr Sage was seconded as a legal officer to the NSW Corrective Services Commission. After being admitted as a solicitor in 1983, he became a legal officer with the NSW Director of Public Prosecutions. In 1986, he joined the National Crime Authority, becoming in time the Regional Director, Sydney. Mr Sage was seconded, in April 1996, to the Royal Commission into the NSW Police Service, where he was in charge of the Legal Advising Unit. He was appointed Assistant Commissioner of the Police Integrity Commission in October 1996 for a period of five years.

The Director of Operations

The Director of Operations, Mr Andy Nattress, was born in England on 2 July 1951. From 1970 to 1973 he was a police officer in the Durham Constabulary. From 1974 to 1987 Mr Nattress was employed by the Hong Kong Government, firstly as an officer in the Royal Hong Kong Police Force and subsequently as an investigator with the Hong Kong Independent Commission Against Corruption. Mr Nattress was a Chief Investigator with the ICAC when he left in 1987 to take up an appointment with the Australian National Crime Authority. When he left the National Crime Authority Mr Nattress was the Director of Intelligence. He was appointed Director of Operations Special Services of the Police Integrity Commission in January 1997, and subsequently Director of Operations.

The Director, Corporate and Information Services

The Director, Corporate and Information Services, Mr Dave Rawson, was born on 31 March 1950. From 1969 to 1994, he was employed within a number of NSW Public Service organisations, including the Land Titles Office, Lands Department, Premier's Department, and the Olympics Co-ordination Unit. During that time Mr Rawson acquired extensive public service strategic management, administration and policy related experience.

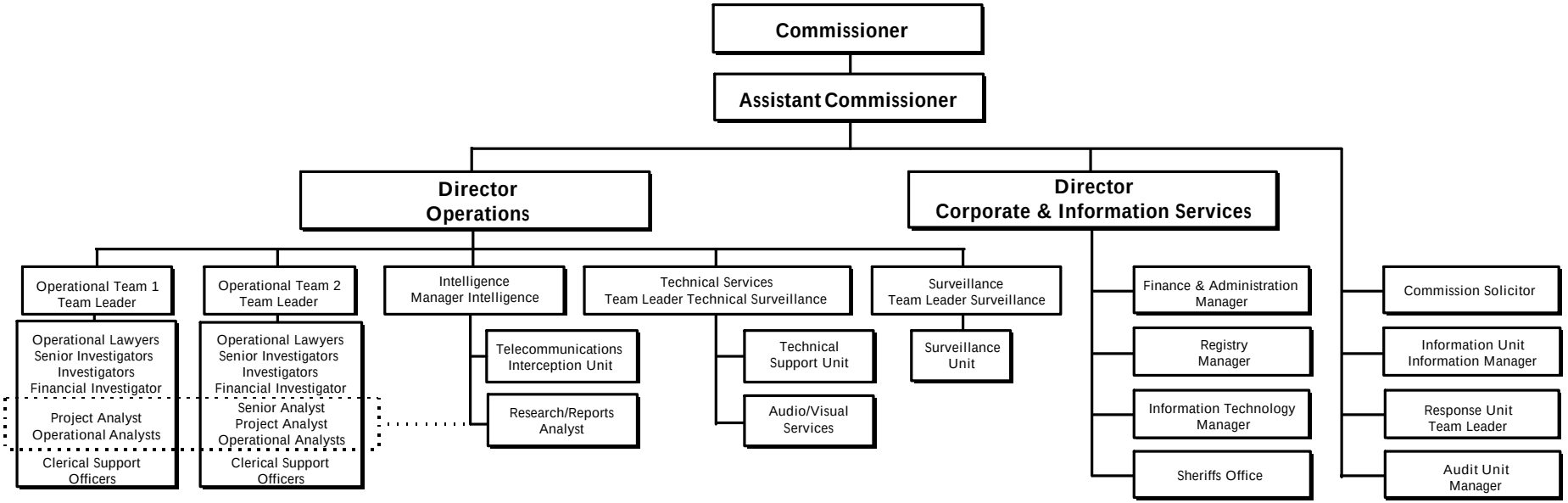
Mr Rawson was seconded to the Royal Commission into the NSW Police Service, when it was established, as the Director of Corporate Services. In this position, he was responsible for the management of the financial, personnel and administrative services of the Commission. This including the management and oversight of the extensive security-related requirements of the Commission's premises. Mr Rawson was promoted to the position of Executive Director of the Royal Commission in October 1996.

Mr Rawson was appointed to the position of Director, Corporate and Information Services of the Police Integrity Commission in April 1997. His responsibilities include management of the financial, personnel, administrative, registry and information technology services together with the oversight of security services provided by the Sheriff's Office. Mr Rawson also continued to provide executive services to the Royal Commission Wind-Up Team until it concluded.

ORGANISATIONAL STRUCTURE

The Commission's organisational structure as at 30 June 1998 is shown in the following diagram.

Police Integrity Commission
Organisational Structure



: Denotes functional responsibility

SIGNIFICANT COMMITTEES

The following three internal committees assist the Commissioner in the execution of his statutory responsibilities:

Management Advisory Group

This is comprised of the Commissioner, the Assistant Commissioner, the Director of Operations, the Director, Corporate and Information Services and the Information Manager. It meets weekly and provides advice to the Commissioner on management issues.

Operations Advisory Group

This group now comprises the Assistant Commissioner, the Director of Operations and the two Team Leaders, and deals with matters affecting the Commission's investigations. The Commissioner has delegated to the Assistant Commissioner the power to make decisions necessary for the proper supervision of the Commission's investigations. The group meets fortnightly.

Screening Committee

This committee has replaced the former Category 1 Group. It comprises the Assistant Commissioner, the Director of Operations, the two Team Leaders, and the Information Manager, and deals with all complaints received by the Commission. It also considers reports sought by the Commission on investigations into Category 1 complaints conducted by the Police Service. The Commissioner has delegated to the Assistant Commissioner the power to make decisions that are necessary to consider and deal with such complaints and reports. Further details on the work of this Committee are in Chapter 5.

The Commission is represented on the following committees:

QSARP Consultative Committee

The Qualitative and Strategic Audit of the Reform Process of the NSW Police Service Consultative Committee comprises representatives of the Cabinet Office, the Ministry for Police, the Police Service, the Treasury, the Office of the New South Wales Ombudsman, and the Audit Office of New South Wales. This Committee, chaired by Judge Urquhart, provides expert advice to the Commission in relation to the audit of the reform process within the Police Service.

The Steering Committee for the Police Complaints / Case Management System

The Assistant Commissioner represents the Commission on this committee, which is chaired by the Premier's Department.

Police Integrity Commission / Internal Affairs Weekly Liaison Meeting

The Assistant Commissioner and the Commander, Police Service Internal Affairs meet weekly to discuss matters relevant to the functions of both the Commission and Internal Affairs.

Police Integrity Commission / Ombudsman quarterly liaison meeting

The Assistant Commissioner and the Assistant Ombudsman, together with other representatives from both agencies, meet quarterly to discuss matters of mutual interest.

Ombudsman's Network

This Network includes the Chief Executive Officers of the major investigative agencies of New South Wales, and meets four times each year to discuss matters of mutual interest. The Police Integrity Commission is represented by the Assistant Commissioner.

3. THE PARLIAMENTARY JOINT COMMITTEE

FUNCTIONS OF THE COMMITTEE

The Parliamentary Joint Committee's functions with regard to the Commission are set out in section 95 of the *Police Integrity Commission Act 1996* as follows:

a) to monitor and review the exercise by the Commission and the Inspector of their functions,

b) to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission or the Inspector or connected with the exercise of their functions to which, in the opinion of the Joint Committee, the attention of Parliament should be directed,

c) to examine each annual and other report of the Commission and of the Inspector and report to both Houses of Parliament on any matter appearing, or arising out of, any such report,

d) to examine trends and changes in police corruption, and practices and methods relating to police corruption, and report to both Houses of Parliament any changes which the Joint Committee thinks desirable to the functions, structures and procedures of the Commission and the Inspector,

e) to inquire into any question in connection with its functions which is referred to it by both Houses of Parliament, and report to both Houses on that question.

The section also provides that the Committee is not authorised:

a) to investigate a matter relating to particular conduct, or

b) to reconsider a decision to investigate, not to investigate or to discontinue investigation of a particular complaint, a particular matter or particular conduct, or

c) to reconsider the findings, recommendations, determinations or other decisions of the Commission in relation to a particular investigation or a particular complaint.

MEMBERS OF THE COMMITTEE

As at 30 June 1998 the members of the Committee were as follows:

Mr B J Gaudry, MP, Member for Newcastle (Chairman);

Mr J Anderson, MP, Member for St Marys;

The Hon M J Gallacher, MLC;

The Hon Deirdre Grusovin MP, Member for Heffron;

The Hon A B Kelly MLC;

Mr J S P Kinross, MP, Member for Gordon;

Mr P G Lynch, MP, Member for Liverpool;

The Hon Elaine Nile, MLC;

Mr J R Small, MP, Member for Murray;

Mr A P Stewart, MP, Member for Lakemba.

MEETINGS WITH THE COMMITTEE

In July 1997, the Committee conducted a review of Schedule 1 of the *Ombudsman Act 1974*, and invited the Commission to make a submission on the matter. The Commission did so, and on 24 July 1997 the Assistant Commissioner and the Commission Solicitor appeared before the Committee and gave evidence.

On 23 July 1997, the Commissioner and senior staff attended a private meeting with the Committee. This was part of a series of talks held by the Committee to discuss the implications of the Royal Commission's Final Report for those agencies overseen by the Committee, and to monitor the effects on those agencies of imple- menting the Royal Commission's recommendations.

On 17 November 1997, members and staff of the Committee attended and inspected the Commission's premises and facilities and met senior Commission staff.

The Commissioner and senior officers of the Commission met the Committee on 10 December 1997. The Committee had provided written questions to the Commission prior to the meeting and the answers to these were furnished to the Committee before the meeting. Part of the meeting was held in private. The matters discussed in the public session included the management of the Commission, investigative workloads, legislative issues, the Police Complaints / Case Management System, and the issues of key importance in the Commission's Annual Report for 1996-97.

The Commission continued to have cordial relations with the Committee during the reporting period.

4. THE INVESTIGATION OF SERIOUS POLICE MISCONDUCT

INVESTIGATIONS

Introduction

Section 23 of the *Police Integrity Commission Act 1996* provides that the Police Integrity Commission may conduct an investigation on its own initiative, on a police complaint made or referred to it, on a police complaint of which it has become aware, or on a report made to it. Section 24 provides that an investigation may be in the nature of a preliminary investigation and can be conducted, for example, for the purpose of assisting the Commission to discover, or identify, conduct that might be made the subject of a more complete investigation under the Act, or to decide whether to make particular conduct the subject of a more complete investigation under the Act.

The Commission's powers to obtain information and to do other things are expressed as being 'for the purposes of an investigation'. The Commissioner decides whether a matter should become the subject of an investigation and the Commission's powers are then exercised, where necessary or appropriate, in carrying out the investigation.

Overview of Investigations in 1997-98

As noted in last year's Annual Report, the Commission began 36 investigations (14 of which were preliminary) in 1996-97. Only one (a preliminary investigation) was completed during that period.

The position as at 30 June 1998 with the other 35 investigations was as follows:

- 12 had been closed, a further 10 have since been closed - one of the matters closed was Operation Brass (see discussion under Major Investigations);
- one had been merged with a broader investigation (Operation Warsaw - see below);
- the remaining 12 were still open:
  - one matter was delayed pending court proceedings;
  - one matter looked likely to lead to admissible evidence of offences being furnished to the appropriate authority on one aspect, and to an assessment being prepared on another aspect[1];
  - one investigation (Operation Jade - see below) was the subject of the Commission's first public hearings and led to three police officers being charged;
  - two matters were of an intelligence gathering nature rather than operational; and
  - the remaining matters were being pursued, or kept open awaiting developments.

The reasons for closing investigations varied. In the case of preliminary investigations, generally the reason was (to quote section 24 of the Act) that the Commission did not "discover or identify conduct that might be made the subject of a more complete investigation". In matters other than preliminary investigations the reasons for closing investigations included that the Commission's inquiries revealed no substance to the complaints, or insufficient substance to warrant the

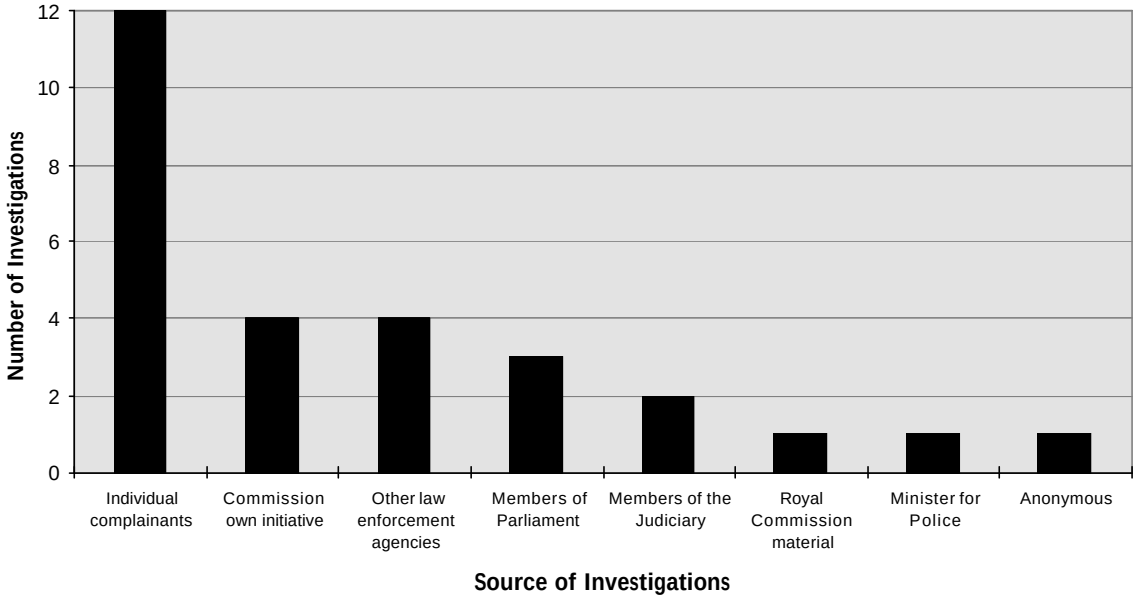
[1] The admissible evidence has since been furnished and the assessment forwarded to the Commissioner of Police.

Commission (rather than some other agency) committing resources to them.

Investigations are closed at various stages of the investigative process. At one end of the scale, a review of the relevant papers may be sufficient; at the other, the lack of substance may be revealed only after the application of a degree of investigative resources, including the examination of witnesses in private hearings.

In 1997-98, the Commission commenced 81 investigations, 71 of which were preliminary investigations. Fifty three of the investigations resulted from complaints referred to the Commission by the Police Service (40) or the Ombudsman (13). The sources of the other 28 investigations were as follows:

Source of Investigations of Matters other than Referred Complaints



The position as at 30 June 1998 with these 81 investigations was as follows:

- five matters - Operations Warsaw (embracing two investigations), Copper, Nickel and Triton (see under Major Investigations) - had become public and were the subject of public hearings;

- another two matters were being prepared for public hearings in the second half of 1998;

- another matter (Operation Belfast - see below) had also become public and the investigation is continuing;

- in five other matters

  – the officer, the subject of the complaint, was convicted of embezzlement after an investigation by the Police Service Internal Affairs;

  - Police Service procedures were changed as a result of a Commission investigation;

  - an assessment was being prepared for the Commissioner of Police on aspects of informant management practices, with the recommendation that action be taken against the officer under section 181D of the *Police Service Act 1990*[2];

  - assessments were being prepared for the Commissioner of Police on two matters[3];

- 38 matters had been closed; and a further eight have since been closed;

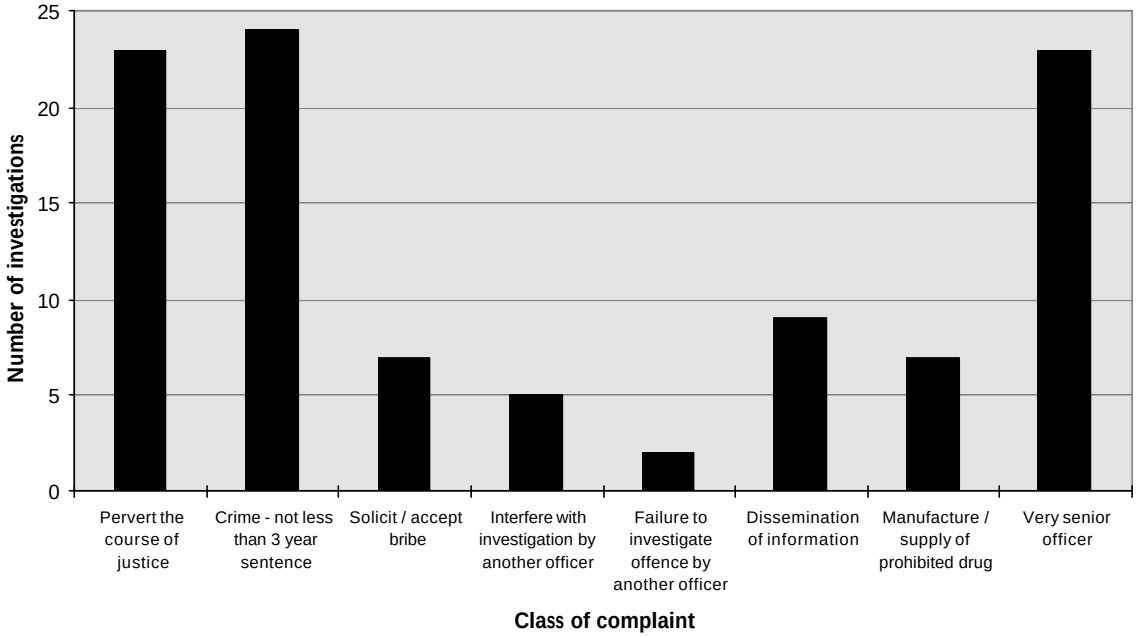
- the remaining matters are continuing.

The chart on the next page shows the subject matter of the investigations by class of Category 1 complaint (see Chapter 5 for further discussion of classes of Category 1 Complaints).

2 The assessment has since been forwarded.

3 One assessment has since been forwarded.

Investigations by Class of Category 1 Complaint



Note: the total of 99 complaints is greater than the number of investigations because some complaints covered more than one class - eg. a complaint that a very senior officer improperly disseminated official information.

MAJOR INVESTIGATIONS

Following are descriptions of major investigations undertaken in the reporting year. For obvious reasons, the Commission can provide more detail about those which have become public.

Operation Brass

This resource intensive investigation was concerned with the former Special Branch of the Police Service.

Evidence was led at hearings of the Royal Commission in December 1996 and March 1997 concerning the activities of the Special Branch. In the light of that evidence, the Commissioner of Police disbanded the Special Branch on 12 March 1997 and secured its records. The following day it was decided that the Police Integrity Commission would conduct an investigation and a notice under section 26 of the *Police Integrity Commission Act 1996* was served on the Commissioner of Police requiring production of these records.

On 17 June 1998, pursuant to section 96 of the Act, the Commission presented to the Parliament its Report regarding the Special Branch. This was the first such report made by the Commission. It contained a detailed account of what the investigation uncovered, and contained the following three recommendations:

- that the proposals for which the Royal Commission recorded its support concerning the creation of a new agency to replace the former Special Branch should be enacted as a priority;

- that the Working Party convened by the Police Service should make recommendations to the Commissioner of Police for decision by the Government on the ongoing use, archiving, etc of the records of the former Special Branch, taking into account the considerations at paragraphs 8.5 - 8.9. in the Report; and

- that there be no further investigation by other agencies of the issues identified by the Royal Commission and by the Police Integrity Commission.

The Minister for Police, the Hon Paul Whelan MP, announced later that day that the Government would accept all three recommendations. As set out in more detail in Chapter 7, legislation concerning the Protective Security Group, which has replaced the Special Branch, was introduced into the Parliament later in June 1998, and commenced in July. The legislation also gave the Commission a monitoring and reporting role with regard to the audits to be carried out by the Police Service on the Protective Security Group.

Operation Jade

Operation Jade was the Commission's principal investigation for 1997-98. In March 1997, the Police Integrity Commission was informed by the New South Wales Crime Commission ('the Crime Commission') that it suspected that a serving New South Wales police officer had provided a convicted drug supplier (referred to as 'J2') with confidential police information. The police officer was identified as Detective Sergeant Robert James Irwin, who was at the time attached to Task Force Bax, a specialist investigative unit. In May 1997, the Commission commenced an investigation, which it code-named Operation Jade. Pursuant to section 17 of the *Police Integrity Commission Act 1996*, the Commission established a joint task force with the Crime Commission, through which both agencies shared information and co-operated in the investigation.

Between June and November 1997, with the assistance of Internal Affairs officers including initiatives by them, the Commission collected evidence and information on police and non-police suspects. Electronic and physical surveillance were used extensively. In addition, the Commission's multi-disciplinary structure provided the joint task force with the specialist skills needed to explore a broad range of avenues of inquiry. The investigation was resource intensive and involved the majority of the Commission's operational staff during the second half of calendar year 1997.

Public hearings commenced on 24 November 1997 and finished on 30 January 1998. The Commission heard evidence that:

- Irwin had leaked sensitive police information to J2 including, amongst other things, the identity of individuals under investigation by Task Force Bax and the existence of a covert informant;

- Irwin and J2 had previously been neighbours, shared a close personal association, and met socially at least weekly; and

- J2 had agreed to pay Irwin a sum of money, ostensibly for the payment of Irwin's council rates.

Evidence was also led that an associate of Irwin's, Sergeant Craig Lee McDonald had approached a police officer in an attempt to have evidence incriminating the same drug dealer destroyed.

As a result of evidence obtained during the Commission's investigation, the Crime Commission investigation, and extensive

brief preparation by officers of Internal Affairs Command, Irwin, McDonald and J2 were charged with conspiring to pervert the course of justice. Together with Superintendent Geoffrey Herbert Wegg (the Commander of Task Force Bax), Irwin and McDonald were also charged with giving false evidence to the Commission. Pursuant to the Police Commissioner's loss of confidence provisions in the *Police Service Act 1990*, Irwin and McDonald have been removed from the Service, while Wegg has resigned. In addition, as at 30 June 1998, three other officers were being considered under the same process.

The Commission will deliver its Report to Parliament with regard to Operation Jade pursuant to section 96 of the Act. The Report will identify a number of failings on the part of the management of Task Force Bax. In particular the Commander of the Task Force failed to recognise and respond to a clear 'tell-tale' sign of misconduct that had been flagged by the Royal Commission. This failure was, in the Commission's view, part of a wider problem. The Commission considers that the management of the Task Force had not learned some of the major lessons from the Royal Commission pertaining to management and supervision.

The principal outcome from Operation Jade for the Police Service, and indeed the community of NSW, was the detection of an inappropriate relationship between a detective and a major drug dealer. This relationship had:

- impaired and compromised police investigations into organised crime and drug trafficking in NSW; and

- provided the drug dealer with access to a wider network of officers.

Furthermore, it is anticipated that the Commission's public hearings and the arrests that followed will serve to deter officers who may be contemplating committing acts of corruption.

As a consequence of the Commission's investigations and public hearings, the Police Service has indicated that it has introduced changes to the manner in which staff are recruited to Crime Agencies, making the system more accountable. It also indicated that it will introduce changes to make the terms of reference of Strike Forces more specific, unlike those under which Task Force Bax operated.

The Commission records its appreciation of the co-operation of the Chairman and staff of the Crime Commission, and the Commander of Internal Affairs and his officers, without whose skill, dedication and hard work this investigation would not have been the success it was.

Operation Warsaw

Public hearings in relation to Operation Warsaw commenced on 14 April 1998, and at 30 June the investigation was continuing.

The scope and purpose of the hearing, as announced by the Commissioner, at the commencement of hearings, was to investigate:

1. The involvement of current or former New South Wales police officers and civilians employed by the New South Wales Police Service in relation to the supply of security related goods or services for the Sydney 2000 Olympic Games;

2. The involvement of current or former New South Wales police officers and civilians employed by the New South Wales Police Service in relation to the supply of security related goods or services;

3. The informal and formal networks and relationships which have developed within the New South Wales Police Service and how they affect and have affected disciplinary and criminal internal investigations, the sanctions and penalties imposed as a result of disciplinary and criminal internal investigations, the employment and promotion of New South Wales police officers and civilians employed by the New South Wales Police Service;

4. The informal and formal networks and relationships which are developing within the Police Service; and

5. Whether there has been or whether there is a potential for police misconduct in the aforesaid matters 1, 2, 3, and 4.

Operations Copper, Nickel and Triton

The Commission conducted investigations into a number of similar but unrelated complaints regarding police officers preparing Court documents on behalf of other officers and forging the signatures of those other police officers on the documents.

The Commission was concerned that the number of complaints may be suggestive of a wider perception in the Police Service that such behaviour was acceptable. The Commission holds the view that such conduct is entirely unacceptable and undermines the proper standards of honesty and integrity which must be reflected and maintained in all aspects of police conduct.

It should also be noted in this context that the complaints which were the subject of the investigation came to the attention of the Commission because the officers who were the victims of the forgeries had the courage to report the misconduct.

Public hearings began on 4 May 1998, and the investigation was continuing at 30 June 1998.

The Commission anticipates that its hearings in regard to these matters will serve to educate and deter other officers from engaging in this misconduct.

Operation Belfast

This matter concerns the assault and murder of Leigh Leigh at Stockton on 3 November 1989. In October 1996, the New South Wales Crime Commission commenced a re-investigation of the matter, and in its report of 16 March 1998, recommended that some aspects of the police investigation be referred to the Police Integrity Commission for further action. On 19 March 1998, the Minister for Police, the Hon Paul Whelan MP, referred the matter to the Commission.

The investigation was continuing at 30 June 1998.

Operation O

During the year a significant proportion of the Commission's resources were devoted to this major investigation which involves allegations of very serious police misconduct but which has not become a public investigation. The investigation was begun on the Commission's own initiative. It was continuing at 30 June 1998.

REVIEWS OF POLICE SERVICE INVESTIGATIONS OF COMPLAINTS

During the year, the Commission began, in a systematic way, to "monitor the quality of the management of investigations conducted within the Police Service and to undertake audits of those investigations"[2].

[2] Section 14(b) *Police Integrity Commission Act 1996*.

Audit of Sample of Category 1 Complaints made in 1996-97

In the first six months of 1997, the Commission dealt with 440 Category 1 complaints. A 10% sample was taken of this group, all of them referred complaints, and the relevant reports on investigations were obtained and analysed. The Commission considered each investigation from the following aspects:

- the justification for a decision not to investigate a complaint;
- the time taken on the investigation;
- the quality of the investigation.

The Commission's provisional conclusions were discussed with the Ombudsman, and late in the reporting period were sent to the Police Service for comment.

The Commission's provisional conclusions on the 44 cases are as follows:

- four matters had not been investigated and of these, one had not been entered on the Police Service's Complaints Information System. Of the other three cases, the Commission considered that two should have been investigated and should still be investigated;
- 18 had been investigated satisfactorily, four investigations were notably well done;
- six were either awaiting the outcome of court proceedings which may affect the allegations against the police concerned, or the police investigations had stalled without apparent justification;
- the Commission had varying degrees of concern about the remaining 16, and requested that the Police Service review the relevant files.

Monitoring of Sample of Category 1 Complaints made in 1997-98

Late in 1997 and early in 1998, the Commission identified a further 37 Category 1 complaints which, in consultation with the Ombudsman, were agreed as warranting investigation, or at least preliminary inquiries. The Commission decided to monitor the Police Service investigation in each case and requested the provision of:

- a copy of the investigation plan;
- the name(s) of the officer(s) allocated to the investigation;
- a final report on the investigation; and
- in all but 3 cases, a monthly report on the progress of the investigation.

Late in the reporting year, the Commission made an assessment of the position with regard to these 37 matters, and sent a copy to the Police Service. The Commission's provisional conclusions were as follows:

- very few investigation plans were received, and monthly reports were the exception rather than the rule;
- of the 19 completed investigations, seven were satisfactory - the Commission had concerns about the remaining 12 and requested of Police Service Internal Affairs that aspects of them be re-considered, including where appropriate re-investigation; and
- of the 18 investigations which had not been completed, no reports had been received in relation to nine.

Other Major Reviews of Police Service Investigations

In March 1997, the Police Minister wrote to the Commission indicating that there had been claims from a senior officer within the Police Service of serious shortcomings associated with investigations into a series of offences that had occurred in Sydney. The Commission determined that it would, pursuant to section 14(b) of the Act, monitor the Police Service Internal Affairs investigation into the original police investigations, which had been established by the Police Commissioner. In determining this course of action the Commission had regard to the fact that no allegations of misconduct had been made. As at 30 June 1998, the Commission was finalising its assessment[3], with regard to the effectiveness of both the original police investigations and the subsequent Police Service Internal Affairs investigation.

During the year the Commission was requested by the Police Service to undertake an audit of investigations into a series of related complaints, the first of which was made in 1994. This is a major exercise and was still in progress at 30 June 1998.

Proposed Special Report on Police Service Investigations

The Commission has decided to make a Special Report to the Parliament during the first half of 1999 dealing with the general question of Police Service investigations of Category 1 complaints. The Report will be drawing on:

- the results of the two exercises described above;
- the results of more than 200 investigations of Category 1 complaints made in the period 1 January 1997 to 31 January 1998, and identified at the time by the Commission as matters on which it wished to receive reports; and
- the results of investigations into complaints made in the period February to June 1998.

As noted in Chapter 5, one effect of the new Category 1 agreement, which came into effect on 1 February 1998, is that the Commission will at least audit investigations into complaints made on or after that date.

Case Studies

The following case studies illustrate various aspects of the Commission's concerns about the investigation of Category 1 complaints.

Case Study 1

A New South Wales Police sporting body, anxious to raise funds to send a team to a worldwide gathering of like organisations, decided to conduct a ball. The function was advertised as being sponsored by a number of agencies, and publicity material showed persons wearing the uniforms of these agencies. The proceeds from the function were said to be going to a particular charity, the name of which was used in the publicity with its permission.

The facts were as follows:

- none of the agencies said to be sponsoring the ball had given permission for its name to be used;
- the persons shown wearing the uniforms of other agencies were police officers;
- although the charity was aware that it would not receive all the proceeds, there was nothing in the publicity material to indicate this to the patrons, nor was there any indication that part of the purpose of

[3] Draft assessment sent to the Police Service on 6 August 1998.

the ball was to raise funds for the sporting body;

- the charity got less than a third of the proceeds, the sporting body kept the balance.

A complaint was made to Police Service Internal Affairs about the matter, and an investigation was carried out (not by Internal Affairs). The investigating officer concluded that "there is no tangible evidence to substantiate the concern expressed by the complainant in this matter" and recommended no further action. This recommendation was accepted by his superior officer.

The Commission took a different view, and requested that the Police Service refer the matter to the Service Solicitor for advice.

Case Study 2

A person wanted by police was stopped in his car and fled on foot. On being detained by two officers, he was taken back to his car to confirm his identity. His driving licence was removed from a satchel, and the vehicle was then secured. After being bailed, the person concerned returned to his car and claimed to have found the satchel and other items missing. He complained about the missing items, the satchel in particular, and the matter was investigated by an officer from the same police station as the two officers.

Shortly after the complaint was made, the satchel was found. The circumstances were as follows. One of the arresting officers had, at the end of that day, proceeded on five days leave. On the day of return to duty, that officer had been removing infringement notice books from a police car outside the station when the missing satchel was discovered among them. The other items said to be missing were not found.

The investigating officer proposed that no further action be taken, on the basis that the satchel had been "located and returned" and that "it cannot be established how this got into a police vehicle". In reviewing the investigation, the Commission noted the following:

- no check had been made with those officers who had been using the police car immediately before the satchel was found - for some reason not explained, the investigating officer checked with another officer who had inspected the car two days previously;

- the investigator suggested that the satchel and other items may have been taken from the complainant's car after he was arrested and before he was released on bail - but the investigator reported that the car was secured before the complainant was taken to the station, and the complainant made no claim that his car had been broken into;

- no consideration had been given to fingerprinting the satchel when it was found.

The Commission asked that its comments be brought to the attention of the officers involved and that they be asked to supply any further information they considered relevant.

Case Study 3

In the space of a month, the Police Service received 29 complaints (some of them the same) from a number of residents in a country town. One letter from ten persons identified 17 matters of concern which were described as "just the tip of the iceberg". The complaints were generally specific as to the police officers concerned and as to particular incidents.

The complaints were investigated, and the Commission identified the following deficiencies in the investigation:

- only one of the complainants was interviewed;
- only five of the complaints were investigated;
- not all the police officers involved were interviewed, one omission being the most senior officer;
- some matters, the subject of complaints about particular officers, were not put to those officers when they were interviewed.

The Commission requested that the matter be re-investigated.

Case Study 4

An off-duty police officer, was involved in a car accident at 5 am. The complainant alleged that the officer had been drinking and that the officer had not been subjected to a breath test at the scene of the accident. It was also alleged that after being taken to hospital the officer had left before a blood test was administered. The investigation into the complaint showed that the officer had in fact been breath tested at the scene of the accident, returning a reading of .04. The investigation also showed that when he was taken to the hospital, he did supply a sample of blood, which when tested proved negative.

All this might lead the reader of the report to believe that the officer had the blood test at the hospital soon after 5 am. This was not so. The hospital records - helpfully included with the investigation report - showed that the blood sample was not taken until 6.40 pm that day.

The Commission has requested an explanation for the delay in the blood test being taken.

Case Study 5

A member of the public contacted the Police Service and said that she had been threatened about a supposed debt on a car she had sold more than three years previously. The person who made the threat said that he had obtained her details from his father who was a member of the Police Service.

The investigation into the complaint:

- failed to identify the owner of the car at the time the threat was made. Using the same access available to the Police Service, the Commission identified the owner and provided the name and address to the Police Service;
- failed to check on the Police Service COPS computer system who had had access to the details of the car;
- despite having the correct name of the complainant, made some checks only on the variant of her name which had initially been recorded, and therefore the investigator found that there had been no unlawful access of the complainant's details;
- failed to check whether the owner of the car and any member of the Police Service had the same surname - checks by the Commission indicated no such common name.

The Commission has requested that the investigation be performed again, with greater thoroughness.

Case Study 6

One of the criticisms which the Royal Commission made of Police Service investigations into complaints against police was that too often the allegations were put to the officer (the subject of the complaint), who then denied them, and the case was closed without further ado.

Another law enforcement agency, acting on information from a source said to be 'extremely reliable', passed to the Police Service a number of allegations of misconduct concerning a police officer.

Although aspects of several of the allegations were able to be checked from police and other records, only one was checked. Most, but not all, of the allegations were put to the police officer, and also to another person said to be a 'close associate' of the police officer. Both denied them. The police officer made a number of claims about the allegations, some aspects of which were able to be checked. None were. Other allegations did not involve the police officer.

The Commission has requested that it be informed of the outcome of the investigations into these other allegations, so that, if they are shown to have substance, the allegations concerning the police officer might be re-investigated.

Case Study 7

It is only fair to say that not all Police Service investigations of complaints about police are of the standard of those above.

A police officer's private vehicle was stolen from his home and not immediately recovered. He claimed and was paid the insurance. Five months later, the vehicle was located in circumstances which aroused suspicion, and local police - properly - undertook an investigation.

The investigation was very thorough, and all relevant witnesses, including a number outside the Police Service, were interviewed. The investigating officer reached the only reasonable conclusion: there was insufficient evidence to determine if an offence had been committed, and no further action should be taken.

THE INTELLIGENCE FUNCTION

The Commission is committed to the development of an intelligence based approach to determining both its strategic and operational priorities.

Strategic intelligence is advice, based on sound, effective research and analysis, that can assist organisational decision making on issues such as operational priorities, policy development and management practices. It often involves the identification of current and emerging trends and patterns relating to a particular activity. Outcomes developed as a result of strategic intelligence typically relate to the prevention and reduction of criminal activities, often through non-investigative measures.

Operational intelligence is advice, again well grounded in effective research and analysis, that can assist operational decision making and outcomes. For a law enforcement agency, operational intelligence can assist in determining the focus of an investigation, identifying investigative opportunities, and recommending investigative priorities. Outcomes developed through operational intelligence typically relate to the detection and investigation of individuals and groups.

For the Commission, strategic advice will usually be in the form of an assessment[4] or a report, prepared as a result of an investigation[5]. Such assessments or reports may indicate findings / conclusions and

[4] Section 16 of the *Police Integrity Commission Act 1996*.
[5] Section 96 of the *Police Integrity Commission Act 1996*.

propose recommendations in relation to organisational priorities for the Commission or misconduct prevention measures, educational programmes, and management issues for the Police Service. Operational advice to the Commission is typically in the form of internal reports and assessments, and usually makes recommendations on possible subjects for investigation, opportunities to obtain evidence, and the use of particular investigative methodologies.

The Commission has implemented a team based investigation structure which, while often focused at a tactical level, is sufficiently flexible to provide for the development of operational and strategic advice. Staff in all disciplines participate to some extent in the provision of this advice. Team lawyers and financial and police investigators have been involved in the preparation of reports and assessments that are both operational and strategic in nature.

In addition, two dedicated Project Analysts, a part-time Research and Reports Analyst and four Operational Analysts contribute to the intelligence function. Project Analysts are usually devoted to relevant strategic projects relating to serious police misconduct with either a regional or thematic focus. The Research and Reports Analyst researches and develops themes arising from hearings, drafts Commission reports on relevant findings and conclusions, and proposes suitable recommendations. The Operational Analysts provide dedicated intelligence support to teams, which complement the teams' legal, financial and police investigative capacities.

The Commission is currently conducting two strategic intelligence projects, one focusing on a range of issues in a particular region, and the other on serious police assaults.

It is expected that these projects will identify trends, maximise the opportunity for the Commission to provide information on the extent of the problems, and influence positive change within the Police Service. It is anticipated that the conclusions reached will be useful for the management of the Police Service and will be incorporated into education and training initiatives for police officers.

TELECOMMUNICATIONS INTERCEPTION

The Royal Commission found that its use of electronic surveillance was the single most important factor in achieving breakthroughs in its investigations. While the Royal Commission was unable to apply for a telecommunications interception warrant of its own volition, it was able to receive information intercepted by other agencies. The Royal Commission determined that telecommunications interception would be required by the Police Integrity Commission in order to effectively detect and investigate serious police corruption, and made a recommendation to this effect in its Interim Report[6].

On 11 November 1997, in accordance with this recommendation and following the subsequent passing of relevant legislation by both the Commonwealth and State Governments, the Commission became eligible to receive information obtained by agencies using telecommunications interception. On 14 July 1998, following the gazettal of a declaration by the Commonwealth Attorney-General which identified the Commission as an 'agency' for the purposes of the *Telecommunications (Interception) Act 1979* (Cth), the Commission became eligible to apply for interception warrants.

Since November 1997, staff of the Commission have been engaged in detailed

[6] Royal Commission, *Interim Report*, February 1996, pp 94 and 97.

planning for the implementation of the telecommunications interception facility, developing policies, procedures, staffing profiles, preparing necessary tender documents, budget papers, and equipment specifications. Following budget approval in March 1998, the Commission commenced a detailed tender process for the supply of suitable equipment and a staged recruitment. Required changes were also made to the accommodation. Recruitment and negotiations with a preferred equipment supplier are expected to be finalised early in 1998-99. During the year work also commenced on the development of an information management system capable of providing for the effective use of intercepted information, while maintaining the complex and detailed records required by the legislation.

The Commission regards telecommunications interception as an essential and cost effective investigative strategy. This will effectively complement other strategies presently used by the Commission in fulfilling its statutory and operational functions, namely, the detection, prevention and investigation of serious police misconduct.

5. COMPLAINTS HANDLING PROCEDURES / OTHER FUNCTIONS

COMPLAINTS HANDLING PROCEDURES

The Commission's procedures for handling complaints underwent several significant changes during the year.

Following a review of the agreement signed by the Commissioner and the Ombudsman on 20 December 1996[7], a new agreement was signed on 15 January 1998 and came into effect on 1 February 1998. A copy of the new agreement is at Appendix 3. In summary, the new agreement removed two classes of complaints from the previous list - improperly gaining access to or releasing official information, and complaints involving very senior officers. A third class was modified, so that only the more serious assaults, larcenies and other indictable offences were deemed to be Category 1 complaints.

There were several factors which gave rise to the new agreement. The Commission considered that as complaints regarding improper access to or the release of official information were receiving particular attention from the Ombudsman, its own role could be removed without risk. Many of the complaints received about very senior officers were of a minor nature, and those of some weight were also categorised within the other classes of complaint. Equally, not all indictable offences are so serious as to justify the Commission's involvement, for example, petty larceny may be dealt with as an indictable offence but is not of sufficient seriousness to warrant the Commission's attention.

The Commission also proposed, and the Ombudsman and the Commissioner of Police agreed, that the Commission should continue to be notified of those complaints which involve very senior officers, or which concern indictable offences with a penalty less than five years but greater than three years. While these are no longer Category 1 complaints, they are recorded on the Commission's databases, form a useful part of its information holdings, and can become Category 1 complaints if the Commission so decides.

In August 1997, the Commission's internal procedures for dealing with Category 1 complaints were also changed. As noted in the 1996-97 Annual Report, the procedure was that complaints received by the Commission were referred to a watch area for assessment and subsequently considered by a Category 1 group[8], with the Commissioner making the decision in each case as to the action to be taken. This procedure was replaced in August 1997 by the establishment of a Screening Committee[9] which having considered the complaints received, made recommendations to the Commissioner for decision. Such decisions were then passed to the watch areas for action.

In November 1997, the Commissioner delegated to the Assistant Commissioner the power to make decisions that are necessary to consider and deal with complaints.

In February 1998, following the signing of the new Category 1 agreement, referred to

[7] Section 67 of the *Police Integrity Commission Act 1996* provides that a Category 1 complaint means a police complaint "that is of a class or kind that the Police Integrity Commission Commissioner and the Ombudsman have agreed should be referred to the Commission".

[8] This group comprised the Commissioner, the Assistant Commissioner and the Information Manager.

[9] This group comprised the Assistant Commissioner, the Senior Operational Lawyer, the Chief Investigator and the Information Manager.

above, and the decision to establish two investigative teams[10], the procedures were further refined. The Director of Operations was included in the Screening Committee, and the Assistant Commissioner began to make decisions on complaints without reference to the teams, unless a particular complaint was relevant to a current investigation. This enabled the teams to concentrate their resources on investigations rather than complaints.

The Commission also decided that once the new Category 1 agreement was implemented, it would take a more active role with the investigations by the Police Service of those Category 1 complaints which were to be dealt with under Part 8A of the *Police Service Act 1990*.

Since 1 February 1998, the Commission now makes one of the following decisions with regard to Category 1 complaints referred to it by the Ombudsman or the Police Service:

- to take over the investigation of the complaint[11];
- to conduct a preliminary investigation to decide whether to make the conduct complained of the subject of a more complete investigation, or to discover or identify conduct that might be made the subject of a more complete investigation[12];
- to refer a complaint to the Ombudsman to be dealt with under Part 8A of the *Police Service Act 1990*, and in doing so it will indicate whether it wishes to manage[13], oversee[14], monitor[15], or audit[16] the police investigation.

Similarly, with non-referred Category 1 complaints, the Commission may decide to investigate the complaint[17], conduct a preliminary investigation, refer the complaint (with the complainant's consent or where the complainant is anonymous) to the Ombudsman[18], or suggest to the complainant that he or she contact the Ombudsman.

Statistics on the various decisions made by the Commission in 1997-98 on referred and non-referred Category 1 complaints are set out on the following pages.

Discussions with the Ombudsman's Office as to the roles to be played by it and the Commission where complaints are being managed, overseen, monitored, or audited by the Commission were continuing at the end of the reporting period.

STATISTICAL SURVEY

In what follows, a 'referred complaint' means a complaint referred to the Commission by either the Police Service or the Ombudsman. A 'non-referred complaint' means a complaint which is sent to the Commission from any other source. A complaint which is 'referred and non-referred' is one which is both referred to the Commission by either the Police Service or the Ombudsman, and also sent from some other source.

During the year the Commission dealt with 1437 Category 1 complaints. Of these, 1218 were referred (1019 by the Police Service, 193 by the Ombudsman and six by both); 208 were non-referred; and 11 were referred and non-referred.

In view of the changes in the Category 1 agreement, those complaints dealt with in the period 1 July 1997 to 31 January 1998

[10] See Chapter 2.
[11] Section 70(3) *Police Integrity Commission Act 1996*.
[12] Section 24 *Police Integrity Commission Act 1996*.
[13] Section 13 *Police Integrity Commission Act 1996*.
[14] Section 13 *Police Integrity Commission Act 1996*.
[15] Section 14 *Police Integrity Commission Act 1996*.
[16] Section 14 *Police Integrity Commission Act 1996*.
[17] Section 70(4) *Police Integrity Commission Act 1996*.
[18] Section 70(4) *Police Integrity Commission Act 1996*.

are best considered separately from those dealt with in the succeeding five months.

The Period 1 July 1997 - 31 January 1998

During this seven-month period, when the original Category 1 agreement was still in operation, the Commission dealt with 1016 Category 1 complaints. Of these, 888 were referred (754 by the Police Service, 131 by the Ombudsman and three by both agencies); 128 were non-referred; and five were both referred and non-referred.

In the first six months of calendar year 1997, the Commission dealt with 440 Category 1 complaints. Even allowing for the fact that there was a backlog of complaints received but not dealt with by the Commission at 30 June 1997, it is apparent that there was a considerable increase in the number of complaints dealt with in the succeeding seven months. The monthly average in the period January-June 1997 was 73, compared to 146 in the next seven months. It is probable that part of the increase was due to the Police Service becoming more familiar with the new complaint-handling system which came into effect on 1 January 1997.

In its 1996-97 Annual Report, the Commission noted that "on present indications Category 1 complaints will comprise about 20% of all police complaints". This calculation was based upon the 5336 police complaints in all categories received by the Ombudsman in 1995-96. A similar number of complaints (5232) was received by the Ombudsman in 1996-97. On the figures shown above, under the original agreement, Category 1 complaints comprised about 25% of all police complaints.

The following table shows the numbers of complaints received and their source.

JULY 1997 TO JANUARY 1998

Source of complaint	Number of complaints
Referred	
POLICE SERVICE	754
OMBUDSMAN	131
BOTH POLICE SERVICE AND OMBUDSMAN	3
Non-referred	
MEMBERS OF THE PUBLIC	72
OTHER LAW ENFORCEMENT AGENCIES	14
ANONYMOUS COMPLAINANTS	13
POLICE OFFICERS / FORMER OFFICERS / POLICE SERVICE EMPLOYEES	10
ROYAL COMMISSION	6
SOLICITORS	5
POLICE INTEGRITY COMMISSION SOURCES	5
MEMBERS OF THE JUDICIARY	3

As the Commission decided, with regard to complaints dealt with after 1 July 1997, to record all Category 1 classes in each complaint, rather than only the principal type, these figures are not really comparable with the table shown on page 22 of last year's Report.

They do however indicate in broad terms that while the percentages of class 2 (39% in the period January - June 1997, 40% in

the period July 1997 - January 1998) and class 6 (16% and 18.5% in the same periods respectively) stayed at about the same level, the percentage of class 1 complaints rose substantially (from 11% to 20%) and the percentage of class 7 complaints fell substantially (from 21% to 7%).

The incidence of the classes of referred complaints in this seven-month period is shown in the following table:

JULY 1997 TO JANUARY 1998

Class of Complaint	Referred Complaint	Non-Referred Complaint
1. PERVERT THE COURSE OF JUSTICE	200	57
2. CRIME - NOT LESS THAN 3 YEAR SENTENCE	406	39
3. SOLICIT / ACCEPT BRIBE	22	25
4. INTERFERE WITH INVESTIGATION BY ANOTHER OFFICER	23	3
5. FAILURE TO INVESTIGATE OFFENCE BY ANOTHER OFFICER	11	2
6. DISSEMINATION OF INFORMATION	188	16
7. MANUFACTURE / SUPPLY OF PROHIBITED DRUG	72	13
8. VERY SENIOR OFFICER	49	10

The Commission's decisions in relation to the complaints listed above were as follows:

JULY 1997 TO JANUARY 1998

Decision	Referred Complaint	Non-Referred Complaint
INVESTIGATE BY THE COMMISSION	46	25
MONITOR BY THE COMMISSION	84	10 (INCLUDES THOSE THAT WERE AUDITED)
AUDIT BY THE COMMISSION	101	
REFERRED FOR ASSESSMENT	3	2
REFERRED TO THE OMBUDSMAN	652	54
NOT TAKEN OVER / NO FURTHER ACTION	-	32
REFERRED TO INTERNAL AFFAIRS	-	4
REFERRED ELSEWHERE	-	1
OTHER	-	2

While the number of complaints taken over by the Commission remained at about 5% in both 1996-97 and in this period, the percentage which were referred back but which were being monitored or audited increased from about 5% in 1996-97 to 20% in this period.

The Period 1 February - 30 June 1998

In this period, when the new Category 1 agreement was in operation, the Commission dealt with 415 Category 1 complaints. Of these, 330 were referred (265 by the Police Service, 62 by the Ombudsman and three by both), 79 were non-referred, and six were both referred and non-referred. The source of the complaints is detailed below:

FEBRUARY TO JUNE 1998

Source of Complaint	Number of Complaints
Referred	
POLICE SERVICE	265
OMBUDSMAN	62
BOTH POLICE SERVICE AND OMBUDSMAN	3
Non-Referred	
MEMBERS OF THE PUBLIC	49
OTHER LAW ENFORCEMENT AGENCIES	10
SOLICITORS	9
ANONYMOUS COMPLAINANTS	6
MEMBERS OF THE JUDICIARY	4
ROYAL COMMISSION	4
POLICE OFFICERS / FORMER OFFICERS / POLICE SERVICE EMPLOYEES	2
MEMBERS OF PARLIAMENT	1

It should be noted in the figures above that some of these Category 1 complaints were actually made in 1997 or in January 1998, but did not reach the Commission until after 1 February 1998. Those complaints made before 1 February were dealt with under the previous Category 1 agreement.

As already noted, the monthly average of complaints dealt with in 1996-97 was 73. In the seven-month period dealt with previously, the corresponding average was 146. In the period 1 February - 30 June 1998, the average dropped to 83. The percentage of all police complaints which were Category 1 complaints dropped to less than 20%.

The incidence of classes of complaints dealt with in this period is shown in the following table. Note that these figures are not comparable with those of the previous two periods, due to the changes to the Category 1 complaint classifications.

FEBRUARY TO JUNE 1998

Class of Complaint	Referred Complaint	Non-Referred Complaint
PERVERT THE COURSE OF JUSTICE	140	48
CRIME - GREIVOUS BODILY HARM ETC	31	0
CRIME - LARCENY ETC	23	5
CRIME - OTHER 5 YEAR SENTENCES	48	6
SOLICIT / ACCEPT BRIBE	42	14
INTERFERE WITH INVESTIGATION BY ANOTHER OFFICER	17	2
FAILURE TO INVESTIGATE OFFENCE BY ANOTHER OFFICER	5	0
MANUFACTURE / SUPPLY OF PROHIBITED DRUG	42	5
OTHER (1997)	38	7

In 1997-98, pursuant to section 70(4) of the *Police Integrity Commission Act 1996*, the Commission referred to the Ombudsman 13 non-referred Category 1 complaints to be dealt with under Part 8A of the *Police Service Act 1990*. These complaints were either received from anonymous sources, or were referred with the concurrence of the complainant.

The decisions made on these complaints were as follows:

FEBRUARY TO JUNE 1998

Decision	Referred Complaint	Non-Referred Complaint
INVESTIGATE BY THE COMMISSION	3	5
MONITOR BY THE COMMISSION	9	-
AUDIT BY THE COMMISSION	204	18
REFERRED FOR ASSESSMENT	7	12
REFERRED TO THE OMBUDSMAN	105	16
DEFERRED	2	-
NOT TAKEN OVER / NO FURTHER ACTION	-	28
OTHER	-	6

INTEGRITY REPORTS

Executive Appointments

Section 24 of the *Police Service Act 1990*, which deals with the appointment of the Commissioner of Police, requires the Commission to furnish a report to the Minister on a person recommended for appointment, on the basis of information available to it and without the need for any special investigation or inquiry.

A parallel provision in section 39 of the *Police Service Act 1990* deals with appointments of executive officers in the Police Service (these being the most senior officers apart from the Commissioner of Police). The Commissioner of Police is required, before recommending or making an appointment, to make inquiries from the Commission as to the integrity of the person to be recommended for appointment. The Commission is required to furnish a report

to the Commissioner of Police on that person, on the basis of information available to it and without the need for any special investigation or inquiry.

Non- Executive Appointments

Sections 64 and 71 of the *Police Service Act 1990* make similar but not identical provision for persons appointed as non-executive officers and non-executive commissioned police officers (broadly speaking, those ranked between executive officers and sergeants).

For both classes of officer, the Commissioner of Police is required, before appointing a person, to make inquiries as to the integrity of the person from any person or body the Commissioner of Police considers appropriate, the Commission not being specifically identified. The Commission is in these cases 'authorised but not required' to furnish a report to the Commissioner of Police on the person.

Section 66 of the *Police Service Act 1990* enables the Commissioner of Police to appoint an officer temporarily to a non-executive position.

In all these sections of that Act, 'appointment' means "appointment by way of promotion or transfer or otherwise".

In 1997-98, the Commission received a total of 32 requests from the Police Service for integrity reports, covering 275 officers. The breakdown by level, following the relevant sections of the Act mentioned above, was as follows:

- under section 39, 21 officers (8%);
- under section 64, 85 officers (35%);
- under section 66, 52 officers (19%);
- under section 71, 81 officers (29%); and
- other (no section of the Act mentioned), 26 officers (9%).

Drawing upon its own records and those of the Royal Commission, the Commission provided reports on those officers whose names were provided. Reports on three officers were outstanding at 30 June 1998.

Although not required by the *Police Integrity Commission Act 1996*, integrity reports were also provided on request from other law enforcement agencies - see under the heading 'Co-operation with Other Agencies'. Reports from other agencies comprised 35% of all requests received by the Commission.

POLICE CORRUPTION EDUCATION AND PREVENTION PROGRAMMES

Section 14(c) of the *Police Integrity Commission Act 1996* enables the Commission to make recommendations concerning police corruption education and prevention programmes conducted within the Police Service or by the Ombudsman, or by the Independent Commission Against Corruption.

In May 1998, the Commission sought details from the Police Service, the Ombudsman and the Independent Commission Against Corruption of programmes of these kinds which each agency conducted, with a view to assessing their adequacy and if necessary making recommendations. Replies to the requests had begun to be received by 30 June 1998, and the Commission will be taking this matter further in 1998-99.

During the reporting period, the Commission itself undertook a modest amount of work in this area. On three occasions officers of the Commission were invited to present guest lectures for the Police Management Development Programme at the Australian Institute of

Police Management in Sydney. The Commission's Senior Operational Lawyer, Mr Matthew Byrne, and the Commission's Information Manager, Mr Denis Lenihan, addressed middle ranking police and emergency services officers from New South Wales, around Australia and from overseas on corruption prevention, the role of the Commission and the implications of the Royal Commission.

In March 1998, Mr Andrew Naylor, Solicitor to the Commission, addressed the Greater Hume Employee Management Project Education and Development Officers in relation to the role and functions of the Commission, the concept of Employee Management, and the role of the Commission in Employee Management and the reform process of the Police Service.

The attendance of Commission officers at such programmes promotes an atmosphere of co-operation and consultation in corruption education and prevention.

On 12-14 November 1997, the Independent Commission Against Corruption in Hong Kong was host to the 5th Regional Seminar on Corruption Related Crime. The seminar, with the main theme of enhancing regional co-operation, was attended by 23 agencies from 15 countries in the Asia-Pacific region. The Commission was represented by its Senior Operational Lawyer, Mr Matthew Byrne, who presented a paper on the functions, structure, powers and strategies of the Commission. The seminar provided a valuable opportunity for the Commission to engage in the exchange of professional experience, discussion of problems and strategies in corruption prevention, detection and investigation and to participate in enhancing regional liaison and co-operation.

Mr Byrne also attended meetings with the Chairman and Board of the Hong Kong Independent Police Complaints Council and senior officers of the Hong Kong Independent Commission Against Corruption, the Hong Kong Police Complaints and Internal Investigations Branch and the Prosecutions Division of the Hong Kong Department of Justice.

CO-OPERATION WITH OTHER AGENCIES

Dissemination of Information

Information on this matter is given under the heading 'The Response Unit'.

Task Forces

During the reporting period, the Commission did not exercise its powers under section 17 of the *Police Integrity Commission Act 1996* with regard to the establishment of, or co-operation with, task forces. In 1996-97, the Commission arranged for the establishment of only one task force within the State, pursuant to sections 17(a) and (d). Further details are given in the account of Operation Jade in Chapter 4.

The Police Service

The Commission continued to enjoy good relations with the Police Service during the year. The Commissioner of the Police Integrity Commission and the Commissioner of Police met and exchanged correspondence as necessary. The Assistant Commissioner of the Police Integrity Commission and the Commander Police Service Internal Affairs met weekly so that the Commission continued to be informed of Internal Affairs' activities. Due to changes in procedures for obtaining reports on investigations by the Police Service into complaints against police, and because of the nature of several of its investigations, the Commission placed a number of demands on the Police Integrity Commission Liaison Unit in Internal Affairs during the year. The Commission continues to be well served by the Liaison Unit.

The New South Wales Crime Commission

As indicated in the account of Operation Jade in Chapter 4, the Commission worked closely with the Crime Commission on this operation in both 1996-97 and 1997-98.

Other Australian Law Enforcement Agencies

A number of other Australian law enforcement agencies supplied relevant information to the Commission during the year. The Commission also assisted other agencies by responding to requests from them for information.

Overseas Agencies

During 1997-98 the Commission received visits from two overseas delegations. In November 1997, at the request of the Department of Foreign Affairs and Trade, the Commissioner and senior Commission officers had discussions with a high level Vietnamese delegation. The delegation was in Australia to study public service reform and administration, particularly with respect to anti-corruption activities. It was led by Mr Le Duc Binh, Assistant to the General Secretary of the Communist Party of Vietnam.

In June 1998, following an approach from the Human Rights and Equal Opportunity Commission, the Commissioner and senior Commission officers had discussions with two delegations of Chinese officials who were visiting Australia under the Australia / China Human Rights Technical Assistance Program. The purpose of their visit was to study the Australian legal system, with particular attention being given to criminal justice and correctional systems. One delegation was from the Supreme People's Procuratorate and was led by Mr Zhang Qiong, Deputy Procurator General. The other delegation was from the Ministry of Justice and was led by Madame Wu Yanshi, Deputy Director-General, Department of Foreign Affairs, Ministry of Justice.

As previously noted, during a visit to Hong Kong in November 1997, the Commission's Senior Operational Lawyer, Mr Matthew Byrne, attended meetings with the Chairman and Board of the Hong Kong Independent Police Complaints Council, with senior officers of the Hong Kong Independent Commission Against Corruption, with the Hong Kong Police Complaints and Internal Investigations Branch and with the Prosecutions Division of the Department of Justice.

The Ombudsman

The Commission continued to have close relationships with the Ombudsman and her Office. As already noted, following discussions between the Commissioner of the Police Integrity Commission and the Ombudsman, the Category 1 agreement, signed pursuant to section 67 of the *Police Integrity Commission Act 1996*, was revised during the year. The Commission also consulted the Ombudsman during its review of police investigations of Category 1 complaints. Regular discussions were held throughout the year between the Assistant Commissioner and the Assistant Ombudsman (Police).

The Inspector

The Commissioner had regular discussions during the reporting period with the Inspector of the Police Integrity Commission, the Hon Mervyn Finlay QC, a former Judge of the Supreme Court of NSW. The Inspector dealt with a number of complaints about the Commission and its staff, details of which may be found in the Inspector's own Annual Report.

Integrity Reports

The previous section entitled 'Integrity Reports' provides details of integrity reports sought by the Police Service on officers being considered for appointment, including promotion and transfer. During the year the Commission also provided similar reports, on request, to other Australian investigative agencies, pursuant to its powers under section 18 of the Act. In total, 17 requests were received covering 158 serving or former New South Wales police officers seeking appointment elsewhere in the State or in the Commonwealth. A report on one request covering 23 officers was outstanding at 30 June 1998.

Memoranda of Understanding

The Commission continues to enter into formal agreements with other law enforcement agencies. Several Memoranda of Understanding have already been settled with a view to regularising these relationships. Agencies with which the Commission has a Memorandum of Understanding include the Independent Commission Against Corruption, the Australian Federal Police (Forensic Services), the Queensland Criminal Justice Commission, the Australian Transaction Reports and Analysis Centre and the Office of the Director of Public Prosecutions. Work is continuing on the development of Memoranda of Understanding with other agencies.

Other Parliamentary Committees

In Sydney, on 5 September 1997, the Commissioner and senior officers met the Chairman, members and staff of the Western Australian Joint Parliamentary Standing Committee on the Anti-Corruption Commission. Matters of mutual interest were discussed during the meeting.

THE RESPONSE UNIT

Background

The Response Unit was established in August 1997 and took over the work previously carried out by the Royal Commission Legal Advising Unit.

During the reporting year the Unit has had responsibility for:

- preparing and assembling briefs of evidence arising from the Royal Commission and the Police Integrity Commission's own investigations for consideration of prosecution action by the Office of the Director of Public Prosecutions;

- responding to requests from the Office of the Director of Public Prosecutions for further information or further inquiries in relation to Royal Commission / Police Integrity Commission briefs and other related matters;

- receiving and assessing requests, from external sources, for dissemination of Police Integrity Commission / Royal Commission non-paedophile holdings, and making recommendations to the Commissioner in relation to such;

- liaison with other law enforcement agencies in relation to requests for non-paedophile information, intelligence and other material from Police Integrity Commission / Royal Commission holdings;

- liaison contact for inquiries from other agencies in relation to witnesses who have assisted in Royal Commission / Police Integrity Commission investigations and to whom the Police Integrity Commission has undertaken to provide assistance;

- preparing responses to subpoena and other court process served upon the Police Integrity Commission and where

necessary arranging representation in court in answer to such process.

Prosecutions

Below is a table that provides the position as of 30 June 1998, in relation to briefs of evidence, compiled by either the Royal Commission or the Police Integrity Commission, that have been referred to the Office of the Director of Public Prosecutions for consideration of prosecution action. Details of when matters were referred to the Office of the Director of Public Prosecutions for consideration have been included where available.

A total of 80 recommendations for prosecution were referred to the Office of the Director of Public Prosecutions. These recommendations involve 73 individuals, as some individuals are the subject of more than one prosecution recommendation.

Of these 73 individuals 60 are either former or serving New South Wales police officers.

The state of matters as at 30 June 1998 can be divided into four categories with the breakdown as follows (see below).

CATEGORY OF PROSECUTION	NUMBER OF PROSECUTIONS
CLOSED - INSUFFICIENT EVIDENCE (NO PROCEEDINGS COMMENCED)	5
CLOSED - PROCEEDINGS CONCLUDED	5
CHARGED AND PROCEEDINGS ON FOOT	31
AWAITING ADVICE FROM THE DIRECTOR OF PUBLIC PROSECUTIONS	39

In relation to the fourth category the Office of the Director of Public Prosecutions has indicated that there is sufficient evidence to support charges in six cases subject to witnesses confirming their willingness to assist and successful applications for any necessary

undertakings / indemnities from the Attorney-General. At 30 June 1998, the remainder were the subject of continuing consideration.

At Appendix 2 is a list of persons charged as a result of investigations as at 30 June.

Assisted Witnesses

At the end of the reporting period, the Commission was giving financial assistance to witnesses, who it is envisaged will be giving evidence on behalf of the prosecution.

Some of those witnesses were not part of any formal witness protection programme and thus the Commission also provided much logistical assistance for relocation and re-settlement as well as being the point of contact for inquiries in relation to their attendance at court, service of subpoenas, etc.

The remaining witnesses were involved in formal witness protection programmes the cost of which is met by the Commission.

There were other witnesses for whom Commission staff acted as points of liaison for service of court process, passing on details of court dates and carrying out further inquiries as requested. The number varied from time to time and the degree of assistance varied from witness to witness. The number may also grow and the nature of the assistance change as advice is received in relation to briefs / matters still

pending with the Office of the Director of Public Prosecutions, but it is not envisaged that this will involve any increased financial obligations on behalf of the Commission.

Disseminations

The Commission is the custodian of all the holdings of the Royal Commission into the NSW Police Service. A voluminous amount of material was collected by the Royal Commission much of which was returned to its source by the Commission during the past reporting year.

Aside from provisions dealing with disseminating information to specific bodies and agencies, under the *Police Integrity Commission Act 1996* the Commission may disseminate intelligence and information to other investigative agencies and such other persons and bodies as the Commission thinks appropriate[19] and in any other situation where the Commissioner certifies it is necessary to do so in the public interest[20]. Under section 56(3), Commission officers have a statutory immunity from being compelled to produce to a court any document or other thing, or to divulge or communicate to any court any matter or thing that "has come to the person's notice in the exercise of the person's functions" under the Act. Exception is provided where the information or material sought arises from a prosecution or disciplinary proceeding instituted as a result of an investigation conducted by the Commission, or the Royal Commission.

During the last reporting year 22 subpoenas were served on the Commission seeking production of information, documents and other material. Of these, six came within the section 56 exception. They related to a prosecution of six persons arising from an investigation conducted by the Royal Commission into allegations of police corruption and drug dealing in the Kings Cross district.

In total, some 30 volumes of material, including audio and video tapes, fell within the terms of these six subpoenas. Objection to production by the Commission was taken to various categories of this material. In relation to two subpoenas successful objection was taken to production of material on public interest immunity and legal professional privilege grounds.

During the last reporting year the Commission issued 297 disseminations[21]. This figure covers briefs of evidence referred to the Office of the Director of Public Prosecutions, replies to requisitions in relation to those briefs, replies to requests for material in support of judicial inquiries for review of convictions, disseminations pursuant to statutory co-operation with other law enforcement agencies and general requests for information.

DISCHARGES OF POLICE FIREARMS AND DEATHS IN POLICE CUSTODY

Discharge of Firearms

In its Final Report, the Royal Commission recommended (Recommendation 78) that the role of the Police Integrity Commission, amongst other matters, should be to,

> take over inquiries into police shootings or serious accidents where that is desirable to ensure impartial investigation.[22]

In paragraph 9.29 of that Report, the Royal Commission noted that (under the heading "The State Coroner")

[19] Section 18(3) Police Integrity Commission Act 1996.

[20] Section 56(4) Police Integrity Commission Act 1996.

[21] Not including integrity checks or paedophile-related disseminations.

[22] Royal Commission, *Final Report, Volume II: Reform*, p. 349.

> Under the system proposed in this Report, the PIC will be able to conduct inquiries into police shootings and deaths in custody, and in other cases where it is considered unlikely that there would be public confidence in a police investigation.

In keeping with these proposals, the Commission works closely with the Coroner in appropriate cases. One such case was the police shooting of Roni Levi on Bondi Beach on 28 June 1997. In that matter the Commission monitored the investigation.

In addition the Commission and the Police Service entered into an arrangement in July 1997 under which the Commission receives prompt notification of each occasion on which a police officer discharges his or her firearm. This notification is irrespective of whether any person is injured or dies as a consequence of the discharge of the firearm. The arrangement does not extend to firearms training or the destruction of animals.

During the course of the year under report, the Commission received notification of 34 instances of discharge of a police firearm. Of these 22 occurred in Sydney city and metropolitan regions and 12 occurred in rural NSW, the vast majority being in urban areas in large provincial cities and towns. Of the total number of discharges of police firearms:

- six discharges were reported as being the result of accidental firing;
- one related to the attempted suicide of an officer;
- one related to an incident other than where an officer was conducting official duties; and
- 26 reports related to discharges in the course of official duties, at least eight in circumstances where the alleged offenders were armed.

The Commission maintains a continuing interest in the discharge of police firearms and is monitoring the response of the Police Service in relation to all reported discharges.

Deaths in Custody

The Commission also receives reports from the Police Service concerning deaths in police custody, and monitors police investigations of such events. At the time of writing this report, Commission officers were due to attend a seminar to be conducted by the Police Service dealing with guidelines for the investigation and review of deaths and serious injury in custody.

IMPLEMENTATION OF ROYAL COMMISSION RECOMMENDATIONS

The Commission was consulted by the Government in July 1997 concerning the implementation of the recommendations of the Royal Commission, and specifically those recommendations which the Commission might have a role in implementing.

In response, the Commissioner said that the Commission had approached the implementation of the Royal Commission recommendations from the standpoint of its current functions in the *Police Integrity Commission Act 1996*, as the Commission preferred, for the foreseeable future, to concentrate its resources on the discharge of those functions. The principal function[23] is to prevent, detect or investigate serious police misconduct. Other relevant functions in this context[24] include undertaking inquiries into or audits of

[23] See section 13 *Police Integrity Commission Act 1996*.

[24] See sections 14 and 19 *Police Integrity Commission Act 1996*

aspects of police activities, making recommendations concerning police corruption education and prevention programmes, and exercising functions under the *Drug Trafficking (Civil Proceedings) Act 1990* (now called the *Criminal Assets Recovery Act 1990*) .

The Commissioner went on to say that on this basis, the Commission believed that it should be involved in the implementation of the following nine recommendations or groups of recommendations:

- the Protective Security Response Group (recommendation 15);
- education, training and development (recommendations 26-42);
- the complaints and discipline system (recommendations 71-83);
- the Internal Witness Program (recommendations 105-112);
- strategic internal inquiries (recommendation 112);
- information management (recommendations 140-143);
- confiscation of the proceeds of corruption (paragraph 8.103);
- the Coroner, deaths in custody and police shootings (recommendation 78, paragraph 9.29); and
- an end to the cycle of corruption, and the reform process (recommendation 174).

The Government generally accepted the Commission's position.

The situation as at 30 June 1998 in regard to each of the nine recommendations was as follows:

- as noted in Chapter 7, the Royal Commission's recommendations concerning the Protective Security Response Group (now called the Protective Security Group) have been enacted in legislation;
- the Commission was in the process of collecting from the Police Service, the Independent Commission Against Corruption and the Ombudsman details of the police corruption education and prevention programmes each agency conducts. After assessing that information, the Commission will be in a position to determine whether it is necessary to make any recommendations about these programmes. The Commission has made a modest contribution in this area by members of its staff addressing courses such as those conducted at the Australian Institute of Police Management at Manly[25];
- The Commission is aware of developments and proposed legislative amendments in relation to the Employee Management System (now known as the Employment Management Project) and has contributed to relevant seminars and training courses;
- the Royal Commission noted in its final report that the Internal Witness Support Unit had largely addressed the problems of the past, and was providing an appropriate level of support and assistance to internal witnesses. The Commission is aware of the action being taken to implement the Royal Commission recommendations, and has been participating with the Support Unit in drawing up procedures for dealing with 'payback' or 'reprisal' complaints;

[25] See Chapter 5.

- as to strategic internal inquiries[26], the Commission and the Police Service used an internal informant in a proactive role in Operation Jade (see Chapter 4);

- the Commission's role in information management reform is principally carried out through its membership of the Steering Committee for the Police Complaints / Case Management System (see Chapter 2);

- the Commission works closely with the Coroner in appropriate cases, and has developed systems with the Police Service whereby the Commission monitors deaths in custody and police shootings;

- the *Drug Trafficking (Civil Proceedings) Act 1990* was amended and renamed the *Criminal Assets Recovery Act 1990* by the *Drug Trafficking (Civil Proceedings) Amendment Act 1997* which commenced on 25 July 1997;

- as noted in Chapter 7, the Commission has been given legislative power to implement the Royal Commission's recommendation concerning the external auditing of the reform process (see also Chapter 8).

While the Commission's perspective on the implementation of the Royal Commission's recommendations was, in 1996-97, narrowly focused, having been confined to those matters relevant to its functions, this will now change given the responsibility it has for the external auditor. The auditor's brief will be across the whole reform process, and will be critical to the success of the process. As the Royal Commission warned, without this step, 'history will repeat itself'.

THE ROYAL COMMISSION WIND-UP TEAM

During the course of the Royal Commission's investigations, a large volume of information was acquired relevant to the paedophile terms of reference.

Prior to the conclusion of the Royal Commission in August 1997, Justice Wood obtained Government approval for the establishment of a Royal Commission Wind-Up Team to continue the task of disseminating the information relating to paedophiles. The primary purpose of the Wind-Up Team was to continue to disseminate such information, in accordance with an order issued by Justice Wood pursuant to section 30 of the *Royal Commission (Police Service) Act 1994*, to the:

- Police Service Child Protection Enforcement Agency;

- Police Integrity Commission;

- Office of the Director of Public Prosecutions;

- Community Services Commission;

- Ombudsman;

- Health Care Complaints Commission;

- Independent Commission Against Corruption; and

- other bodies as appropriate.

A total of 124 disseminations were made between 27 August 1997 and 30 June 1998.

[26] By which the Royal Commission meant the greater use of internal informants or witnesses in situations where corrupt conduct is allowed to continue, so as to permit a broad-based proactive investigation to occur.

The Royal Commission Wind-Up Team had the additional responsibilities of:

- archiving internal records including audio and video cassettes, notices issued pursuant to the *Royal Commission (Police Service) Act 1994*, statements, statutory declarations, other documents prepared by the Royal Commission and exhibits;
- destroying additional copies of internal or external documents;
- returning documents or other property to government bodies or individuals who had assisted the Royal Commission where the documents were not suggestive of a child sexual assault offence;
- contacting people who had assisted the Royal Commission in a confidential manner to seek their consent to divulge their name with the information or material they provided to the Child Protection Enforcement Agency;
- returning documents or other property to government bodies or individuals who had been compelled to produce documents where the documents were not suggestive of a child sexual assault offence;
- returning or disseminating property obtained pursuant to search warrants;
- updating Royal Commission records to show whether documents had been returned, disseminated or archived;
- identifying all telephone intercept material held by the Royal Commission and dealing with it in accordance with the requirements of the *Telecommunications (Interception) Act 1979* (Cth); and
- answering subpoenas.

In addition to disseminating the paedophile holdings, the Royal Commission Wind-Up Team received requests for information, primarily from the Child Protection Enforcement Agency, Office of the Director of Public Prosecutions and this Commission. This necessarily involved extensive searching of the computer databases for relevant internal and external records. Requests were also received to extend access to confidential exhibits tendered at the Royal Commission or to reverse orders relating to the suppression of the identity of individuals who had given evidence at the Royal Commission.[27]

The Wind-Up Team was also required to comply with requests from the various inquiries relating to allegations made in Parliament by the Hon Mrs Franca Arena MLC, and to supply information to the Police Service Strike Force established by Commissioner Ryan after Mrs Arena tabled documents in the Parliament relating to the paedophile inquiry.

It was initially envisaged that the Wind-Up Team would have completed the task of assessing and disseminating the paedophile holdings prior to 30 June 1998 and that the remaining records would be archived. However, as the Office of the Director of Public Prosecutions, Child Protection Enforcement Agency, Task and Strike Forces within the Police Service continued to request information relating to the paedophile holdings, the need to transfer the paedophile records to a permanent body was considered. The *Police Integrity Commission Amendment (Records) Act 1998* was assented to on 3 June 1998 and had the effect of transferring the Royal Commission's paedophile holdings to this Commission. That Act also ensured the

[27] Under Clause 2A(2) of Schedule 3 of the *Police Integrity Commission Act 1996* the Police Integrity Commissioner has the power to vary or revoke an order made by a Police Royal Commissioner or the Police Integrity Commissioner.

legality of disseminations of Royal Commission records which had not been transferred to this Commission, but which remained on the former Royal Commission premises now occupied by this Commission. This countered any technical legal argument that the dissemination of such records should have been made under the *Police Integrity Commission Act 1996*.

The Wind-Up Team was funded by the Premier's Department, not the Police Integrity Commission. The Wind-Up Team formally ended its task on 30 June 1998. The work of the Wind-Up Team was subsumed by the Response Team which continued the task of disseminating the remaining paedophile holdings of the Royal Commission.

6. MEASURING THE COMMISSION'S PERFORMANCE

As noted in Chapter 7 of the Commission's 1996-97 Annual Report, the Commission's performance is most appropriately assessed on a long term and short term basis. That report set out 11 short term key corporate goals and key achievement indicators, which are reproduced below together with 1997-98 activities and outcomes:

GOALS	INDICATORS	ACTIVITIES/OUTCOMES IN 1997-98
INVESTIGATIONS		
ASSEMBLING EVIDENCE THAT MAY BE ADMISSIBLE IN THE PROSECUTION OF PERSONS FOR CRIMINAL OR DISCIPLINARY OFFENCES	• NUMBER OF PERSONS CHARGED AS A RESULT OF THE COMMISSION'S ACTIVITIES • MINOR INVESTIGATIONS COMPLETED WITHIN THREE MONTHS	• FOUR PERSONS WERE CHARGED AS A RESULT OF THE COMMISSION'S ACTIVITIES • 13 MINOR INVESTIGATIONS WERE COMPLETED WITHIN THREE MONTHS; THE COMMISSION WILL GIVE CONTINUING ATTENTION TO THIS ASPECT
MONITORING THE QUALITY OF THE MANAGEMENT OF AND INVESTIGATIONS CONDUCTED WITHIN THE POLICE SERVICE	• NUMBER OF PERSONS CHARGED AS A RESULT OF ACTIVITIES BY THE POLICE SERVICE INTERNAL AFFAIRS • A DECREASING PROPORTION OF THE OUTCOMES OF POLICE INVESTIGATIONS OF SERIOUS POLICE MISCONDUCT CHANGED AS A RESULT OF COMMISSION OR OMBUDSMAN RE-INVESTIGATIONS	• POLICE SERVICE CHARGED 25 POLICE OFFICERS WITH CATEGORY 1 TYPE OFFENCES DURING THE REPORTING PERIOD. THIS NUMBER WILL BE USED AS A BASE LINE FOR FUTURE YEARS • RELEVANT FIGURES NOT AVAILABLE AT THIS STAGE - SEE CHAPTER 4 RE: REPORT TO PARLIAMENT
ASSUMING THE PASSAGE OF THE RELEVANT LEGISLATION, BEGIN TO CONDUCT TELECOMMUNICATIONS INTERCEPTIONS	• SUCH INTERCEPTIONS TO BEGIN WITHIN 6 MONTHS OF THE PASSAGE OF THE LEGISLATION	• AS INDICATED IN CHAPTER 4, THE RELEVANT LEGISLATION DID NOT COME INTO EFFECT UNTIL AFTER JUNE 1998; BUT IN FACT SOME INTERCEPTIONS BEGAN WELL WITHIN 6 MONTHS OF THAT DATE
COMPLAINT HANDLING		
DEALING EFFICIENTLY WITH REFERRED CATEGORY 1 COMPLAINTS	• 90% OF NEW COMPLAINTS TO BE CONSIDERED WITHIN TWO WEEKS OF RECEIPT	• THIS INDICATOR HAS BEEN MET
	• BACKLOG TO BE ELIMINATED	• THIS INDICATOR HAS BEEN MET

GOALS	INDICATORS	ACTIVITIES/OUTCOMES IN 1997-98
DEALING EFFICIENTLY WITH NON-REFERRED CATEGORY 1 COMPLAINTS, AND AN INCREASE IN THE NUMBER OF SUCH COMPLAINTS	• 90% OF NEW COMPLAINTS TO BE DETERMINED WITHIN TWO WEEKS OF RECEIPT • BACKLOG TO BE ELIMINATED • SUBSTANTIAL INCREASE IN THE NUMBER OF SUCH COMPLAINTS RECEIVED, PARTICULARLY FROM POLICE OFFICERS	• THIS INDICATOR HAS BEEN MET • THIS INDICATOR HAS BEEN MET • THERE WERE 219 NON-REFERRED COMPLAINTS RECEIVED, 12 (5%) OF WHICH WERE FROM POLICE OFFICERS, FORMER POLICE OFFICERS OR POLICE SERVICE EMPLOYEES • THERE WERE 50 NON-REFERRED COMPLAINTS RECEIVED IN THE PREVIOUS REPORTING PERIOD
IMPLEMENTATION OF ROYAL COMMISSION RECOMMENDATIONS		
RESPOND EFFICIENTLY AND EFFECTIVELY TO GOVERNMENT DECISIONS ALLOCATING RESPONSIBILITY TO THE COMMISSION	• ACTION TO BE TAKEN WITHIN TIME FRAMES AGREED UPON WITH THE GOVERNMENT	• SEE CHAPTER 5
REPORTING		
RESPONDING IN A TIMELY WAY TO REQUESTS FROM THE POLICE SERVICE FOR APPOINTMENT REPORTS, LOSS OF COMMISSIONER'S CONFIDENCE MATTERS AND INTEGRITY REPORTS ON OFFICERS SEEKING MEDICAL DISCHARGE	• REPORTS TO BE FURNISHED WITHIN 21 DAYS OF REQUESTS BEING MADE	• LESS THAN HALF OF THE APPOINTMENT REPORTS SOUGHT WERE PROVIDED WITHIN 21 DAYS; CONTINUING ATTENTION WILL BE GIVEN TO THIS INDICATOR IN 1998-99.
PUBLIC IMAGE		
TO INCREASE PARLIAMENTARY AND PUBLIC AWARENESS OF THE COMMISSION'S ROLE AND FUNCTIONS	• MAINTAIN GOOD RELATIONS WITH THE PARLIAMENTARY JOINT COMMITTEE • MAKE SPECIAL REPORTS TO PARLIAMENT AS NECESSARY • PUBLISH BROCHURES ON THE COMMISSION FOR WIDE DISTRIBUTION • UNDERTAKE VISITS TO COUNTRY AREAS • COMMENCE PUBLIC HEARINGS	• THIS INDICATOR HAS BEEN MET • THIS INDICATOR HAS BEEN MET, ONE SUCH REPORT HAVING BEEN MADE DURING THE REPORTING PERIOD. • THIS INDICATOR HAS BEEN MET • IT WAS NOT POSSIBLE TO BEGIN VISITS TO COUNTRY AREAS IN 1997-98 • THIS INDICATOR HAS BEEN MET
CORPORATE AND INFORMATION SERVICES **Human Resources**		
TO INCREASE STAFF DEVELOPMENT AND TO MAINTAIN A SAFE AND REWARDING WORK ENVIRONMENT	INCREASE STAFF PARTICIPATION IN TRAINING ACTIVITIES, INCLUDING ATTENDANCE AT CONFERENCES	• 63 STAFF ATTENDED TRAINING COURSES DURING THE YEAR • 8 SPECIALIST TRAINING COURSES WERE IDENTIFIED FOR STAFF TO ATTEND

GOALS	INDICATORS	ACTIVITIES/OUTCOMES IN 1997-98
Financial Services TO PROVIDE EFFECTIVE AND EFFICIENT FINANCIAL SERVICES	• STATUTORY REPORTING WITHIN SPECIFIED TIMEFRAME • 85% OF ACCOUNTS PAID ON TIME	• COMPLIED WITH ALL STATUTORY REPORTING REQUIREMENTS • 85% OF ACCOUNTS WERE PAID ON TIME FOR SECOND HALF OF REPORTING YEAR
Information Services TO INCREASE THE USAGE OF INFORMATION TECHNOLOGY IN BOTH INVESTIGATIVE AND NON-INVESTIGATIVE FUNCTIONS	• CONTINUAL INTRODUCTION OF NEW SOFTWARE AND HARDWARE TECHNOLOGY AND SERVICES	• APPROVAL GIVEN AND WORK COMMENCED ON THE IMPLEMENTATION AND DEVELOPMENT OF AN 'ENTERPRISE APPLICATION' INVOLVING THE UPGRADING OF EXISTING SYSTEM TO 32 BIT
TO PLAY A LEADING ROLE IN THE ESTABLISHMENT OF THE POLICE COMPLAINTS / CASE MANAGEMENT SYSTEM (PCCM)	• PCCM PROJECT PROGRESSES IN ACCORDANCE WITH AGREED TIMETABLES	• APPROVAL GIVEN FOR THE DEVELOPMENT OF TI SYSTEM, INVESTIGATION SYSTEM, AND RECORDS / CASE MANAGEMENT SYSTEM • THE COMMISSION WAS ACTIVELY INVOLVED IN ALL ASPECTS OF THE STEERING COMMITTEE AND WORKING PARTY AND ACTIVE IN DATA WAREHOUSING

The goals and indicators above reflect a largely short-term concern with the Commission's future. The Commission is giving consideration to the development of broader long term objectives, strategies and indicators.

STATUTORY REPORTING REQUIREMENTS

Section 99(2) of the *Police Integrity Commission Act 1996* requires the Commission to include in its Annual Report eight particular matters. These are listed below together with the Commission's responses:

a) a description of the types of matters that were referred to the Commission;

   This description is provided in Chapter 5.

b) description of the types of matters investigated by the Commission;

   This description is provided in Chapter 4.

c) an evaluation of the response of the Commissioner of Police, relevant members of the Police Service Senior Executive Service and other relevant authorities to the findings and recommendations of the Commission;

   The Commission, in its Report to Parliament on the former Special Branch, submitted in June 1998, made three recommendations, all of which were accepted by the Government. Further details are given at Chapter 4. No recommendations were made during the reporting period which required a response from the Commissioner of Police.

d) any recommendations for changes in the laws of the State, or for administrative action, that the Commission considers

should be made as a result of the exercise of its functions;

This matter is dealt with at Chapter 7.

e) the general nature and extent of any information furnished under the *Police Integrity Commission Act 1996* by the Commission during the year to a law enforcement agency;

This matter is dealt with in Chapter 5.

f) the extent to which its investigations have resulted in prosecutions or disciplinary action in that year;

As noted in Chapter 4, the Commission's investigations in 1997-98 resulted in four persons being charged.

g) the number of search warrants issued by authorised justices and the Commissioner respectively under this Act in that year;

No search warrants were issued under the Act in the reporting period.

h) a description of its activities during that year in relation to its education and advising functions;

The relevant details are set out in Chapter 5.

7. LEGISLATIVE MATTERS AND LAW REFORM

INTRODUCTION

In the 12 months to 30 June 1998, the Commission experienced significant legislative change, much of which has had a direct impact on operational matters. Most notably, the Commission became eligible[28] to seek and obtain telecommunications interception warrants and to receive intercepted information from other law enforcement agencies.

The Commission is also now authorised to conduct controlled operations. The result is that evidence obtained through the participation of civilians, or Commission personnel, in what would otherwise be unlawful activities is prima facie admissible, provided that the activities are authorised and carried out under strictly controlled conditions.

Further detail regarding legislative change affecting the Commission is set out below.

AMENDMENTS TO THE POLICE INTEGRITY COMMISSION ACT 1996

Since 1 July 1997, the *Police Integrity Commission Act 1996* has been amended on four occasions.

Investigative Bodies Legislation Amendment Act 1997

The *Investigative Bodies Legislation Amendment Act 1997*, which commenced on 2 July 1997 amended the *Police Integrity Commission Act 1996* as follows:

- to permit the conditional release of witnesses arrested and taken into custody after having failed to appear in answer to a summons;
- to permit the conditional release of persons arrested and taken into custody as a result of an alleged contempt of the Commission;
- to extend the Commissioner's power to make provision for the safety of witnesses by permitting the making of protection orders; and
- to make it clear that arrangements for the protection of witnesses and non-publication orders made by the Royal Commission into the NSW Police Service[29] continue in force, and that these arrangements and orders may be varied or revoked by the Commissioner of the Police Integrity Commission.

Police Integrity Commission Amendment Act 1998

The enactment of the *Police Integrity Commission Amendment Act 1998* made several significant amendments to the *Police Integrity Commission Act 1996*.

Qualitative and Strategic Audit of the Reform Process

The *Police Integrity Commission Amendment Act 1998* implemented the Royal Commission's Recommendation 174 which provided for the

> appointment of an external strategic auditor upon engagement to the PIC to carry out a qualitative and strategic audit of the reform process and to report to the PIC which in

[28] Subject to a declaration by the Commonwealth Attorney-General which was gazetted on 14 July 1998.

[29] Pursuant to sections 26 and 27 of the *Royal Commission (Police Service) Act 1994*.

turn should report to the Minister and the Service.[30]

The purpose of the recommendation was to ensure that the reform agenda being implemented by the Police Service stays on track and that the Police Service remains accountable for its implementation. The audit will be conducted over a period of three years.

Consistent with what was envisaged by the Royal Commission, the role of the Police Integrity Commission in the audit process - now defined by section 14A of the *Police Integrity Commission Act 1996* - involves:

- selecting and engaging one or more suitably qualified and experienced persons to conduct the audit;
- approving the audit specifications and terms of reference;
- oversight and administration of the audit process;
- receiving progress reports and a final report from the auditor; and
- furnishing a copy of each auditor's report to the Minister for Police and the Commissioner for Police, together with such comments and recommendations as the Commission thinks fit.

Former Police Investigators

The Commission is now permitted to employ former police officers from jurisdictions other than New South Wales as investigators with the powers of a New South Wales police officer. Prior to the amendments, the Commission was restricted to relying on police officers being seconded from other jurisdictions. Under the amendments, former police officers who have at least five years experience and who satisfy the Commission that they have the appropriate skills can be employed by the Commission.

Integrity Reports

The amendments also limited the extent to which police integrity reports can be further divulged. These reports are issued pursuant to sections 24(7), 39(4), 64(5), 66(1), and 71(3) of *the Police Service Act 1990* and are to remain confidential as between the Police Service and the Commission. The information in these reports is often highly sensitive, containing untested allegations. The amendments reflect the fact that the information is provided for a limited purpose and ought not be further divulged without the consent of the Commission.

Casino Control Authority Information Holdings

The final matter of significance dealt with in the *Police Integrity Commission Amendment Act 1998* related to the Commission's access to information held by the Casino Control Authority ('the Authority'). The *Police Integrity Commission Act 1996* was amended to provide that the secrecy provisions of section 148 of the *Casino Control Act 1992* do not apply to the Commission. Section 148 provides that information acquired by the Authority in the course of the exercise of its statutory functions is confidential and can only be disclosed in certain circumstances. Such circumstances include that it is necessary in the public interest to divulge information to a prescribed person or authority. On 11 February 1998, by regulation, the Commission was prescribed as an authority for the purposes of section 148.

In addition, the amendments make it clear that, for the purposes of section 149, the

[30] Royal Commission, *Final Report, Volume II:Reform*, May 1997, p. 560.

Commission is taken to be a law enforcement agency. Section 149 of the *Casino Control Act 1992* permits the Authority to direct a casino operator to provide information to the Authority for the purpose of assisting a law enforcement agency.

Police Integrity Commission (Records) Amendment Act 1998

The *Police Integrity Commission (Records) Amendment Act 1998*, which commenced on 3 June 1998, amended the *Police Integrity Commission Act 1996* to ensure that the Commission had lawful possession of, and may lawfully deal with, all records of the Royal Commission.

During the course of its inquiry, the Royal Commission accumulated a significant volume of information regarding police corruption and paedophilia. The paedophile inquiry holdings were retained in the possession of the Police Integrity Commission pending their disposal to other agencies by the Wind-Up Team. It subsequently became apparent that, due to the volume and form of storage, the task of disposing of the paedophile inquiry holdings could not be achieved as quickly as predicted. The obvious and most efficient solution was that the responsibility of properly disposing of the holdings should reside with the Police Integrity Commission. The amendments made by the *Police Integrity Commission (Records) Amendment Act 1998* were necessary to counter doubts about the legal validity of the Police Integrity Commission's ability to deal with the paedophile inquiry holdings and other information holdings not transferred to it with the Royal Commission's police corruption holdings.

The *Police Integrity Commission Amendment (Records) Act 1998* applies retrospectively to ensure that the dissemination of information by the Police Integrity Commission, following the Royal Commission and prior to the commencement of the *Police Integrity Commission Amendment (Records) Act 1998*, was valid. It also makes it clear that Royal Commission records are included in the exception to the secrecy provisions which relate to proceedings instituted as a result of an inquiry by the Commission or the Royal Commission.

Police Legislation Amendment (Protective Security Group) Act 1998

The Royal Commission recommended the disbanding of Special Branch and the establishment of the Protective Security Response Group with certain safeguards. In June 1998 the Police Integrity Commission issued a report to Parliament following its investigation into the former Special Branch. In that report the Commission recommended that the proposals of the Royal Commission concerning the creation of the new agency to replace Special Branch should be enacted as a priority.

The *Police Legislation Amendment (Protective Security Group) Act 1998* proposed the modification of *the Police Service Act 1990* in two ways:

- by imposing an obligation on the Commissioner of Police to carry out an annual audit of the operations, policies and procedures of the Protective Security Group; and

- by imposing an obligation on the Commissioner of Police to ensure that a Deputy Commissioner conduct a special review of the operations, policies and procedures of the Protective Security Group as soon as practicable after the conclusion of the Sydney Olympic Games.

In both cases, a report of the audit is to be provided to this Commission.

The *Police Legislation Amendment (Protective Security Group) Act 1998* also proposed to extend the statutory functions of the Commission to include the requirements:

- to monitor and report on the conduct and effectiveness of the annual audits of the Protective Security Group; and

- to assess and report on the recommendations as to the future of the Protective Security Group contained in the report of the special review, and to monitor and report on the conduct and effectiveness of that review.[31]

TELECOMMUNICATIONS INTERCEPTION

The *Telecommunications (Interception) and Listening Devices Amendment Act 1997* (Cth), which commenced on 11 November 1997, amended the *Telecommunications (Interception) Act 1979* (Cth) to permit the Commission:

- to receive intercepted information originally obtained by other law enforcement agencies, where that information relates, or appears to relate, to police misconduct, and to make use of such information for its own investigations; and

- to seek a declaration by the Federal Attorney-General that the Commission be an 'agency' for the purposes of the *Telecommunications (Interception) Act 1979* and thereby be able to seek and obtain interception warrants of its own volition.

Following the amendments a request that the Commission be declared an 'agency' for the purposes of the *Telecommunications (Interception) Act 1979* (Cth) was made.[32]

OTHER COMMONWEALTH LAWS

The *Telecommunications (Interception) and Listening Devices Amendment Act 1997* (Cth) also:

- amended the *Customs Act 1901* (Cth) to permit the chief officer of a Commonwealth law enforcement agency to communicate information obtained by use of a listening device directly to the Commission, where the information appears to relate to police misconduct within the ambit of the Commission's statutory functions; and

- amended the *Financial Transactions Reports Act 1988* to permit the Director of the Australian Transaction Reports and Analysis Centre to authorise the Commission to have access to financial transaction reports information, provided that the Commission undertakes to comply with specified Information Privacy Principles contained in the *Privacy Act 1988* (Cth).

Following the signing of a Memorandum of Agreement between the Commission and Australian Transaction Reports and Analysis Centre, on 18 March 1998, the Commission now has access to financial transaction reports information.

These amendments were part of a package of amendments to Commonwealth statutes recommended by the Royal Commission.

Insurance Information

The Royal Commission also recommended that Commonwealth life insurance laws be

[31] The *Police Legislation Amendment (Protective Security Group) Act 1998* commenced on 10 July 1998.

[32] The declaration was made on 10 July 1998 and gazetted on 14 July 1998, with the result that the Commission is now eligible to seek and obtain warrants for the interception of telecommunications.

amended to give access to necessary life insurance information. *The Financial Laws Amendment Act 1997* standardised secrecy provisions in all legislation administered by the Insurance and Superannuation Commission. As a consequence, amendments to regulations were made to permit information sharing with the Commission. These amendments, which commenced on 10 September 1997, were made under the Insurance Regulations, the Insurance Acquisitions and Takeover Regulations, the Insurance (Agents and Brokers) Regulations, the Insurance Contracts Regulations, the Life Insurance Regulations, the Superannuation Industry (Supervision) Regulations and the Retirement Savings Account Regulations.

Telecommunications Information

The Commission makes significant use of call charge records and related information in the course of its investigations. This information is available from telecommunications carriers and service providers. The *Telecommunications Act 1997* (Cth) provides that this information is confidential and may not be disclosed, except in certain circumstances. One of these circumstances is where the disclosure is sought by an authorised officer of a criminal law enforcement agency who has certified that the disclosure is reasonably necessary for the enforcement of the criminal law, the imposition of a pecuniary penalty or the protection of the public revenue.

On 28 April 1998, the Telecommunications Regulation 1998 amended the *Telecommunications Act 1997* (Cth) to include the Commission within the meaning of 'criminal law enforcement agency'. The result is that the Commission now has improved access to telecommunications information.

LISTENING DEVICES

On 4 February 1998, the Supreme Court of New South Wales declared void six warrants obtained by the Royal Commission under Part 4 of *the Listening Devices Act 1984* (NSW). Each of the warrants purported to authorise the installation of listening devices into premises. The warrants were each declared void on the ground that they omitted to mention a requirement that the device installed pursuant to each warrant be retrieved.

Subsequently, concerns arose among law enforcement agencies that, where a consecutive warrant has been obtained, a strict construction of the *Listening Devices Act 1984* may imply that a device already installed cannot remain installed for use where an authority is granted by a second warrant. Instead, it must be retrieved under the terms of the first warrant. Legal advice subsequently confirmed this view. Where installation and retrieval is difficult or where the investigation demands that, subject to the grant of a warrant, the device remain *in situ* for a period longer than 21 days (the maximum duration of a warrant), the requirement to retrieve prior to the expiration of each warrant leads to profound practical difficulties, including risks to the safety of those involved in installations and retrievals.

The *Listening Devices Amendment (Warrants) Act 1998*, which commenced on 2 May 1998, overcame these difficulties by amending the *Listening Devices Act 1984* in two ways:

- the requirement to retrieve a listening device if a further warrant is granted before the expiry of the previous warrant in respect of the same premises was waived; and

- in circumstances where a subsequent warrant is not obtained in respect of the same premises, the period of time for retrieval was extended by 10 days

beyond the expiration of the warrant, or such longer period as is allowed by a Judge.

CONTROLLED OPERATIONS

In 1995[33], the High Court upheld an appeal against a conviction for importation of heroin into Australia. The High Court held that, as the importation was facilitated by the Australian Federal Police, the evidence used against the defendant at his trial had been illegally obtained.

The New South Wales response to this decision took the form of the *Law Enforcement (Controlled Operations) Act 1997*. This Act, which commenced on 3 December 1997, was drafted in consultation with law enforcement agencies, including this Commission. It permits certain prescribed New South Wales law enforcement agencies[34] to engage in conduct which, but for the Act, would be unlawful, provided that this is done under strictly controlled circumstances and that the agencies and their participants remain fully accountable for their actions.

The amendments made by the *Law Enforcement (Controlled Operations) Act 1997* enable the chief executive officer of a prescribed law enforcement agency to authorise the conduct of a 'controlled operation'. In the case of the Commission, the chief executive officer is the Commissioner. This power is non-delegable. The Act and the Law Enforcement (Controlled Operations) Regulation 1998 set out detailed requirements for applications, variations and renewals of authorities to conduct controlled operations.

As a precondition to obtaining access to the controlled operations regime, the Commission was required to enter into a code of conduct. All prescribed law enforcement agencies agreed to utilise the same code of conduct. The draft Code of Conduct was approved by the Inspector of the Police Integrity Commission and now forms part of the Regulation.

In an effort to ensure optimum levels of efficiency and at the same time comply with the rigorous procedural requirements laid down in the *Law Enforcement (Controlled Operations) Act 1997* and Regulation, the Commission has developed a comprehensive set of forms for each stage of the controlled operations process. It is hoped that the forms used by the various agencies can, as far as practicable, be standardised.

PROPOSALS FOR LAW REFORM

Employee Management

One of the critical recommendations of the Royal Commission (Recommendation 71) was that:

> The current complaints handling and discipline system be replaced by a new system, the Employee Management System (EMS), that has as its primary objective the enabling of ... Local Commanders to deal with complaints and take remedial action or impose sanctions on a managerial basis, without recourse to formalities such as the preferment of disciplinary charges and hearings.[35]

This and other related proposals contemplate far-reaching reforms to the current complaints handling and discipline system provided for by Parts 8A and 9 of the *Police Service Act 1990* respectively.

[33] *Ridgeway v R* (1995) 184 CLR 19.

[34] The Police Service, the Independent Commission Against Corruption, the New South Wales Crime Commission, and the Police Integrity Commission.

[35] Royal Commission, *Final Report, Volume II: Reform*, May 1997, p. 547.

In order to provide the necessary legislative infrastructure to support the new disciplinary system, a working party was convened by the Ministry for Police to bring forward proposals for suitable amendments to Part 9 of *the Police Service Act 1990*. The working party comprises representatives from the Ministry, the Police Service including the Office of Internal Affairs, the Police Association, the Commissioned Police Officers Association and this Commission. At the time of reporting, the working party has not yet finalised its recommendations, though it is anticipated that suitable legislative amendments will be introduced into the Spring 1998 session of Parliament.

Taxation Information

Included in the recommendations arising from the Royal Commission was a recommendation that the *Taxation Administration Act 1953* (Cth) be amended to enable the Commission to receive taxation information. This request remains outstanding. By letter dated 1 October 1997, the Commission was advised that suitable amendments were to be included in the Taxation Laws Amendment Bill (No 6) 1998. Ultimately, the relevant amendments were incorporated into the Taxation Laws Amendment Bill (No 4) 1998 which had not passed through Parliament by the end of June 1998.

The delay in implementing the Royal Commission's recommendations is a matter of regret.

Other Matters

During the reporting period, the Commission provided comments to the Ministry for Police in relation to proposals for a range of other legislative amendments including, among other things, use of video surveillance in the workplace and protection of confidential information.

8. CORPORATE AND INFORMATION SERVICES

INTRODUCTION

The Commission's operations and activities are supported by the Corporate and Information Services Division. This Division provides a wide range of financial, personnel, administration and management, registry, information technology services and support to the Commission's operational areas.

In 1997-98 the Division provided services to both the Commission and the Police Royal Commission. This arrangement was partly continued in that following the completion of the Royal Commission in August 1997, the Division was required to provide corporate services to the Royal Commission Wind-up Team.

As at 30 June 1998 the Division was also responsible for the Qualitative and Strategic Audit Process (QSARP) of the Police Service.

The services and management support provided by the Division during 1997-98 are detailed below.

HUMAN RESOURCES

The staff of the Police Integrity Commission are employed under section 10(2) of *the Police Integrity Commission Act 1996*.

The Human Resources Unit encompasses the functions of:

- Recruitment
- Payroll
- HR planning and policy
- Industrial Relations
- Occupational Health and Safety
- Training and Development

The Human Resources Unit utilises a Computerised Human Resource Information System (CHRIS) to maintain Human Resources records and process the Commission's payroll.

Industrial Relations

No industrial disputes resulting in work stoppages occurred during the year.

Training and Development

The Commission is committed to providing an ongoing staff development and training programme for its staff. Over the last twelve months training for staff members focused on job specific or competency based training.

Programmes attended by staff included:

- Analyst training
- Basic accounting
- Salary packaging
- Payroll Tax
- Fringe Benefits Tax
- Specialised legal workshops
- Firearms training
- Occupational health and safety

As a means of support and encouragement to staff, study time is provided for staff to undertake private study / lectures for courses relevant to the Commission.

Code of Conduct

Following consultation with all Commission staff a Code of Conduct was developed and implemented that incorporated the values and attitudes expected from staff. Staff members are required to sign an acknowledgment that they have read, and agree to abide by, the Commission's Code of Conduct when they accept an offer of employment. A copy of the Code of Conduct is at Appendix 4 of this Report.

Performance Management

The Commission has developed a performance management system to enable the professional development needs of staff to be identified as well as being able to achieve outcomes consistent with the Commission's corporate goals. It is expected that this system will be fully implemented by the Commission in the latter half of 1998.

Job Evaluation

The Commission is committed to providing a recognised structure for determining classification and grading of positions throughout the Commission through a job evaluation process. It is expected that all newly created positions, or positions that have been subject to variation, will be evaluated over the next twelve months to ensure that appropriate levels of responsibility and remuneration are determined.

Occupational Health and Safety

The Commission continued to promote Occupational Health and Safety during the year. Particular emphasis was given to evacuation and building safety, and selected personnel underwent training in safety and emergency response procedures. One worker's compensation claim was lodged during the year with a total of 18.25 days lost over the reviewing period.

PIC Staff Movement - In - 1997 / 1998

	MALE	FEMALE	TOTAL
NEW RECRUITS	24	28	52
SECONDMENTS	1	0	1
TOTAL	**25**	**28**	**53**

PIC Staff Movement - Out - 1997 / 1998

	MALE	FEMALE	TOTAL
RESIGNATIONS	4	4	8
SECONDMENTS OUT	1	0	1
CESSATION OF CASUAL EMPLOYMENT	1	5	6
TOTAL	**6**	**9**	**15**

Staff Numbers as at 30 June 1998 by EEO Target Groups

Level	Total Staff	Women	Men	Aboriginal And Torres Strait Islander People	People From Racial, Ethnic, Ethno-Religious Groups	People With A Disability	People With A Disability Requiring Adjustment At Work
$22,215–$29,178	9	3	6	0	0	0	0
$29,179–$32,618	1	1	0	0	0	0	0
$32,619–$41,278	32	24	8	1	4	0	0
$41,279–$53,379	16	13	3	0	3	0	0
$53,380–$66,724	12	5	7	1	1	0	0
>$66,724	41	8	33	0	3	1	1
TOTAL	**111**	**54**	**57**	**2**	**6**	**1**	**1**

FINANCIAL SERVICES

Audits

The Audit Office of New South Wales was engaged to carry out the audit of the Commission's 1997-98 financial statements. Its report appears with the Financial Statements at Appendix 5 of this Report.

Accounts Payable Policy

The Commission has a policy that provides for payment of accounts either within creditors' trading terms, or within 30 days of invoice date where the trading terms are not stated. Suppliers are notified of this policy when orders are raised.

The Commission aims to pay 85% of its accounts on time, and although this was not achieved in the first quarter of the reporting period (due to the ongoing support necessary to wind-up the Royal Commission accounts) the benchmark was exceeded in the following periods.

The Commission has not paid any penalty interest on outstanding accounts.

	1ST QTR	2ND QTR	3RD QTR	4TH QTR
ACCOUNTS PAYABLE AT THE END OF EACH QUARTER				
CURRENT (IE. WITHIN DUE DATE)	$ 224,379.12	0.00	0.00	$ 776,641.85
LESS THAN 30 DAYS OVERDUE	0.00	0.00	0.00	0.00
BETWEEN 30 AND 60 DAYS OVERDUE	0.00	0.00	0.00	0.00
BETWEEN 60 AND 90 DAYS OVERDUE	0.00	0.00	0.00	$ 10,458.72
GREATER THAN 90 DAYS OVERDUE	0.00	0.00	0.00	0.00

	1ST QTR	2ND QTR	3RD QTR	4TH QTR
DETAILS OF ACCOUNTS PAID ON TIME (PAID WITHIN TRADING TERMS)				
TOTAL AMOUNT OF ACCOUNTS PAID	$1,555,258.61	$2,587,852.48	$2,635,861.98	$2,569,323.22
ACCOUNTS PAID ON TIME	82 %	91 %	89 %	98 %
TOTAL AMOUNT OF ACCOUNTS PAID ON TIME	$1,276,870.87	$2,468,119.73	$2,451,919.12	$2,525,088.98

Statutory Reporting

The Commission's Financial Statements for 1997–98 were submitted to the Audit Office within the specified time frame.

Expenses

The majority of the Commission's expenses were employee related, accounting for approximately 60% of total expenditure. Other major operating expenses included payments of $684,000 to contractors for Legal, Court Reporting and Information Technology services and $315,000 to protected witnesses for secure accommodation and living expenses.

Revenue

The Commission's main source of funding is by way of Consolidated Fund Appropriations received from the Crown Transactions Entity for both operating and capital expenses.

Minor revenue of $4,000 was received for the sale of transcript and receipt of conduct fees; interest of $33,000 was also received during the year. A cash management policy will be implemented during the coming year to ensure maximum interest is returned to the Commission.

Transfer of recreation leave by other departments amounted to $48,000.

The Commission has shown under other revenue in the financial statements the acquisition of transferred assets to comply with accounting standard AAS29.

Consultants

The Commission engaged the services of one consultant during the year. The consultant's fee was less than $20,000.

Risk Management and Insurance

During 1997-98 the Commission's insurance was conducted through the New South Wales Treasury Managed Fund Scheme of self insurance for Government Agencies. The premium was determined by the fund manager based on the previous year.

A full comprehensive range of insurance is undertaken by the Commission covering motor vehicles, workers' compensation, public liability and property. Other minor insurance was held for operational purposes.

During 1998-99 the Commission intends to approach the Internal Audit Bureau to help identify key areas of risk.

Disclosure of Controlled Entities

The Commission does not have any controlled entities.

Major Assets and Acquisitions

Details of purchases of major non-current property, plant and equipment are included in the notes to the financial statements. The Commission did not expend its total capital allocation due to delays with delivery of equipment and the implementation of telecommunication intercept facilities. Following approval from Treasury $1.18m of the 1997-98 capital allocation has been rolled over to 1998-99.

Assets of the Royal Commission with a fair value of $4.258m were transferred to this Commission in June 1998. The majority of these assets consisted of fixtures, plant and equipment.

The Commission does not own or control any property.

Current liabilities include recreation leave and other minor employee expenses, as well as minor commitments of $85,000 payable to other creditors. A provision for the payment of tax on behalf of witnesses has also been established.

The Commission has in place procedures to ensure most accounts are paid within the creditors' trading terms when specified, or 30 days after receipt of an invoice as required by Treasury. Where this is not possible due to discrepancies or queries, accounts are settled within a reasonable time.

Value of Leave

Recreation and Extended leave is valued at current salary rates. The Commission keeps a provision for the current value of recreation leave while extended leave is accepted by the Crown Transactions Entity. The current value of both recreation and extended leave is shown below.

Liabilities

Value of Leave

	JUNE 1997	JUNE 1998
RECREATION LEAVE	$122,273	$254,631
EXTENDED LEAVE	$ 43,747	$116,887

INFORMATION TECHNOLOGY

The Commission has a number of computer systems including some inherited from the Royal Commission. Considerable effort has been directed during the year to align these systems with those required by the Commission to function effectively well into the future.

The Commission's Information Technology Unit is focusing its development on the anticipated introduction of a data warehouse facility which is part of the proposed Police Complaints / Case Management System.

Software Development

The Commission implemented a number of systems during the year, including an

improved document management system, document scanning, barcode recognition and imaging software. A number of administrative packages were also introduced or upgraded including time management, personnel, payroll and fleet management applications. The Commission's Hearing Room systems were also improved to include more effective transcript analysis and exhibit tracking tools. The establishment of the Telephone Interception Unit required the development of new software specifically designed to assist its purpose.

Network Hardware

The Commission inherited a network infrastructure which required upgrading and rationalisation to distinguish it from the Royal Commission and to facilitate its individual operations. Suitable equipment was purchased to perform this task. However, with the extension of Royal Commission activities this task was delayed until the end of the financial year and beyond.

Workstation Computers

A Standard Operating Environment was introduced with a Corporate LAN Standard to give the Commission a professional environment. New desktop workstations were purchased as well as laptop computers for use in isolation.

Workstations inherited by the Royal Commission were gradually disconnected from the network, prepared for return to the Premier's Department and replaced with the new equipment.

The Police Complaints / Case Management System

The Commission continued its involvement with this project during the year by being an active member of the Steering Committee which has responsibility for overseeing the project.

The Police Complaints / Case Management Project was established in 1996 within the Premier's Department to project manage the new system on behalf of the Police Service and oversight agencies, including this Commission. The objective of the project is to review existing complaints and case management systems, to determine the requirements for new and improved systems, and to acquire and develop those systems.

The current status of the project is that a successful tender has been issued to Doll Martin Associates to develop the user and technical specifications and requirements, and define an overall strategy for acquisition and development of the Police Complaints / Case Management System components in each agency.

Millennium Bug Activities

Planning activities commenced to ensure the impact of the Millennium bug would be avoided by the Commission. Many of the Royal Commission's systems and software applications were identified as being non-compliant. The gradual removal of affected equipment began as did the upgrade of software and re-writing of affected applications. These activities will continue into 1998-99.

Year 2000 (Millennium Bug) Schedule

Scope / Status:

- A project team has been formed to address this issue and it has formulated a business methodology, undertaken a risk assessment and developed a rectification plan.

- The Commission has also identified and scheduled all of the computer hardware,

software and automated equipment that is not Year 2000 compliant.

- Copies of the plan and schedules have been forwarded to the Office of Information Technology.

Contingency Plan:

- The Commission is confident that all of its systems and equipment will be compliant within the agreed time-frames.

Independent Verification:

- It is intended to seek certification of our rectification plan from the Audit Office.

Estimated Costs:

- The estimated cost to the Commission to have all its systems and equipment Year 2000 compliant is approximately $150,000.

The Enterprise Application

The Commission commenced standardisation of its software development approach. This involved the re-writing of some existing software and the development of future software in 32-bit code. A modular approach to software development was adopted which not only enables easier maintenance and support, but also allows the sharing of common components between software applications. The use of commonly available and readily supported platforms was also adopted to ensure minimum disruption with the introduction of the data warehouse which constitutes part of the Police Complaints / Case Management Project.

RECORDS MANAGEMENT

The Registry has the responsibility for providing the Commission with a comprehensive records management system covering registration, processing, summarisation, dissemination, and filing and retrieval of documents.

Its responsibilities also include maintaining telephone intercept material within legislative requirements, and ensuring the Commission's large holding of documents, property and exhibits is effectively managed.

Royal Commission Wind-Up

While the Royal Commission officially ceased its functions on 26 August 1997, this Commission still had a large amount of administrative and dissemination duties to undertake relating to the Royal Commission's records.

As noted in Chapter 5, to address these tasks the Government agreed to fund a Royal Commission Wind-Up Team, headed by a former Royal Commission Solicitor, and various legal / research staff. Some of 15 Registry Wind-Up staff were also appointed to help with these tasks and they worked alongside the permanent Commission Registry staff.

Registry played a significant role in this task by carrying out the decisions of the legal team in returning, disseminating or retaining material acquired by the Royal Commission during the period 1994-1997.

Registry Functions

Permanent Commission Registry staff levels grew from five to eight during the year. This was due to Registry being allocated extra tasks that had either been previously the task of other units in the Commission or were newly created to deal with the end of the Royal Commission. These included:

- A Hearing Room Officer position with a newly expanded role for Registry which meant that a team member was permanently assigned to all Hearing Room tasks. Such tasks include the creation and collation of briefs for the hearing room, the monitoring of the hearing room in order for the electronic hearing room system to function correctly, and the maintenance of hearing room exhibits.

- To assist the Response Unit with the heavy load of inquiries stemming from prosecutions initiated by this Commission and the Royal Commission, additional funding provided for two members of Registry to support this area of work.

Prior to the establishment of the Telecommunications Interception Unit, the Registry Manager assisted in the development and introduction of the interim guidelines for the handling of any telephone intercept material received from other agencies, and was responsible for ensuring the material was handled in accordance with those guidelines. This function of the Registry ceased when the new Unit began.

SUPPORT SERVICES

As the Commission needs to be self-reliant, its support services are also focused on providing those services necessary for the success of the Commission.

These services include the leasing of property and building management, co-ordination of leasehold improvements, co-ordination of motor vehicle fleet acquisition, provision of stores and purchasing, maintenance of plant and equipment, management of assets, cleaning services, co-ordination of contracting arrangements for court reporters and interpreters, and other services as needed.

Fleet Management

The Commission procured 'FigFleet', a fleet management computer package, during the year to ensure adequate and precise information was available to the Commission about its vehicles. The information includes precise details about each vehicle in the fleet, their daily usage, petrol consumption, maintenance and insurance.

Hearing Room Support

The Corporate and Information Services Division also provides support services to the Commission when it conducts hearings during the course of investigations. These support services include providing hearing room monitoring services, provision and distribution of hearing room transcript and court room security services.

Waste Reduction Policy

During the year the Commission established a Waste Reduction and Purchasing Plan in accordance with the Government's policy to achieve the 60% waste reduction target for New South Wales. The plan details how the Commission minimises generation of waste in the four key areas: paper products; office equipment and components; vegetation material; and construction and demolition material.

Overseas Travel Return

Below is a list of those officers within the Commission who travelled overseas during the year.

DATES	OFFICER	COUNTRY	PURPOSE OF VISIT	COST

		VISITED		
9 - 17/11/97	LEGAL OFFICER	HONG KONG	ATTEND REGIONAL SEMINAR ON RELATED CRIME AND VISIT HONG KONG ICAC	$4,136
13 - 22/6/98	SURVEILLANCE OFFICER	HONG KONG	TRAINING AND EXCHANGE OF INFORMATION RE SURVEILLANCE TECHNIQUES	$4,200

SECURITY SERVICES

The Commission engages the officers of the New South Wales Sheriff's Office to provide 24 hour security services for the staff and premises.

The Sheriff's Office at the Commission consists of six Sheriff's officers seconded to provide the Commission with perimeter and premises security 24 hours per day, seven days per week, year round. One of the Sheriff's officers is also attached to the hearing room and acts as a court officer and provides a security presence for the Commissioner and the hearing room staff.

During the year the Sheriff's Office monitored 2077 visitors into the Commission's premises. They X-rayed and scanned 7559 items and signed in 1174 letters and documents. A number of weapons were confiscated from members of the public and there was need to escort from the premises a number of undesirable people. The Sheriff's officers also provided day relief switchboard services and provided after hours switch services.

The Sheriff's officers oversee the dispatch of courier items and trade services. They assist administration staff whenever

required and have assisted the investigative teams in prisoner escort and witness protection. They also monitor air conditioning controls and the condenser water pump, provide secure key services to staff and control the master keys for the Commission. They monitor the duress alarm system and call the duty investigator when required.

Financial Statements 1997–98

The Commission's financial statements for 1997-98 are at Appendix 5.

Chief and Senior Executive Officers

There are no officers within the Commission appointed under section 13 of the *Public Sector Management Act 1988*.

The Commissioner, Judge P D Urquhart QC, was appointed to the position under Schedule 1 of the *Police Integrity Commission Act 1996*.

Together with an Assistant Commissioner and two other executive positions (Director, Corporate and Information Services and Director, Operations), the Commissioner has the responsibility for the strategic management and administration of the Commission's statutory functions.

QSARP

Recommendation 174 of the Royal Commission read as follows:

> Appointment of an external auditor upon engagement to the PIC, to carry out a qualitative and strategic audit of the reform process, and to report to the PIC, which in turn should report to the Minister and the Service.[36]

The Qualitative and Strategic Audit of the Reform Process (QSARP) represents a regular and independent means of assuring the Government and the community that the

[36] Royal Commission, *Final Report Volume II: Reform*, May 1997 p 560.

Police Service is implementing the reforms as articulated by the Royal Commission. In addition it provides assurance that progress is occurring at an acceptable rate and scale towards a Police Service in which the community can have confidence.

Purpose

The purpose of the audit, which is to be undertaken over a three year period, is to:

- evaluate and report on the progressive implementation of the reform of the Police Service;
- advise on measures to improve the process;
- engender greater public confidence in the Police Service through independent and open reporting of progress in the reform process and performance of the Police Service; and
- support the leadership of the Police Service by providing independent objective feedback.

Implementation Initiatives

The Commission implemented a number of initiatives during 1997-98 to assist with the smooth operation of the audit by:

- gaining Government support for the audit, and Treasury approval for the allocation of additional funding over the next three years;
- assisting the Ministry for Police in preparing a bill which became the *Police Integrity Commission Amendment Act 1998*, the statutory basis for undertaking the audit - the bill was assented to on 30 June 1998;
- appointing a Project Manager to manage the process and to establish close working relationships with key agencies and other stake holders, to finalise draft documentation which will lead to a two stage tender process and selection of the external auditor towards the end of 1998, and to co-ordinate reports to the Commission and the Minister; and
- convening a QSARP Consultative Group, chaired by the Commissioner and comprising representatives of the Cabinet Office, the Ministry for Police, the Police Service, and the Treasury[37], to provide expert advice to the Commission and to engender commitment to the smooth implementation of the audit.

[37] Representatives of the Office of the Ombudsman and of the Audit Office of NSW were later added to the Group.

9. APPENDICES

APPENDIX 1 - STATISTICAL DATA

The following table shows the frequency with which the Commission exercised its various powers in 1997-98 compared with 1996-97. As noted previously, the Commission was only operational for part of 1996-97. Powers not listed have not been exercised.

FUNCTION UNDER POLICE INTEGRITY COMMISSION ACT 1996	YEAR ENDING 30 JUNE 1997	YEAR ENDING 30 JUNE 1998
S 16 - ESTABLISHMENT OF TASK FORCES WITHIN THE STATE	1	NIL
S 25 - REQUIRING PUBLIC AUTHORITY OR PUBLIC OFFICIAL TO PRODUCE STATEMENT OF INFORMATION	4	119
S 26 - REQUIRING A PERSON TO ATTEND BEFORE AN OFFICER OF THE COMMISSION AND PRODUCE A SPECIFIED DOCUMENT OR OTHER THING	28	206
S 29 - COMMISSIONER MAY AUTHORISE AN OFFICER OF THE COMMISSION TO ENTER AND INSPECT PREMISES ETC	NIL	3
S 32 and S 33 - HEARING DAYS		
• PUBLIC	NIL	28
• PRIVATE		30
S 38 - COMMISSIONER MAY SUMMON A PERSON TO APPEAR BEFORE THE COMMISSION AND GIVE EVIDENCE OR PRODUCE DOCUMENTS OR OTHER THINGS	NIL	95
S 50 - NUMBER OF WARRANTS OBTAINED UNDER *LISTENING DEVICES ACT 1984*	5	126
APPLICATIONS TO COMMISSIONER FOR AUTHORITY TO CONDUCT CONTROLLED OPERATIONS	*LAW ENFORCEMENT (CONTROLLED OPERATIONS) ACT 1997* NOT IN OPERATION	4

APPENDIX 2 - LIST OF PERSONS CHARGED AS A RESULT OF INVESTIGATIONS AS AT 30 JUNE 1998

ROYAL COMMISSION PROSECUTIONS		
Name/s	**Offence**	**Status as at 30 June 1998**
SAMUEL HAMMOUD GERALD KENNEALLY	IN RELATION TO HAMMOUD: • AID AND ABET / FRAUDULENT PERSONATION - CRIMES ACT 1900 (NSW) s179, s309 • UNLAWFUL ACCESS TO DATA IN COMPUTER - CRIMES ACT 1900 (NSW) s309 IN RELATION TO KENNEALLY: • FRAUDULENT PERSONATION - CRIMES ACT 1900 (NSW) s184	24 OCTOBER 1997 - ARRAIGNMENT RE: KENNEALLY - DOWNING CENTRE DISTRICT COURT. 14 NOVEMBER 1997 - ARRAIGNMENT RE: HAMMOUD - DOWNING CENTRE DISTRICT COURT.
DAVID ALDERMAN CORNEL ARNOLD MARK COTTEE PHILLIP DUNN JOHN FARLEY PAUL HAWKINS THEODORE HAULTAIN PETER HERZOG GLENN LAWLOR MARK O'CONNELL CHRISTOPHER PAINE VICTOR RULEWSKI PHILLIP WOOLLARD ANTHONY YEO	• FURNISH FALSE OR MISLEADING INFORMATION - ROYAL COMMISSION (POLICE SERVICE) 1994 (NSW) s6(4)(b)	AWAITING HEARING OF STATED CASE BEFORE THE SUPREME COURT.
BILL BAYEH DOMINIC PEDAVOLI PETER KAY @ KARAMIHALIS	• CONSPIRACY TO SUPPLY NOT LESS THAN LARGE COMMERCIAL QUANTITY OF COCAINE; ALT CONSPIRACY TO SUPPLY COMMERCIAL QUANTITY OF COCAINE - DRUG MISUSE & TRAFFICKING ACT 1985 (NSW) s25(1), s25(2), s26 • CONSPIRACY TO SUPPLY COMMERCIAL QUANTITY OF HEROIN; ALT CONSPIRACY TO SUPPLY HEROIN - DRUG MISUSE & TRAFFICKING ACT 1985 (NSW) s25(1), s25(2), s26	28 MAY 1998 - TRIAL ABORTED - NEW TRIAL DATE SET FOR 27 JULY 1998 - DOWNING CENTRE DISTRICT COURT.

ROYAL COMMISSION PROSECUTIONS		
Name/s	**Offence**	**Status as at 30 June 1998**
ROULA MAKRIS @ KAY	• CONSPIRACY TO SUPPLY NOT LESS THAN LARGE COMMERCIAL QUANTITY OF COCAINE; ALT CONSPIRACY TO SUPPLY COMMERCIAL QUANTITY OF COCAINE - DRUG MISUSE & TRAFFICKING ACT 1985 (NSW) s25(1), s25(2), s26 • CONSPIRACY TO SUPPLY COMMERCIAL QUANTITY OF HEROIN; ALT CONSPIRACY TO SUPPLY HEROIN - DRUG MISUSE & TRAFFICKING ACT 1985 (NSW) s25(1), s25(2), s26	28 APRIL 1998 - APPLICATION BY ROULA KAY FOR AN ADJOURNMENT GRANTED - DOWNING CENTRE DISTRICT COURT.
LOUIS BAYEH	• CONSPIRACY TO SUPPLY NOT LESS THAN LARGE COMMERCIAL QUANTITY OF COCAINE; ALT CONSPIRACY TO SUPPLY COMMERCIAL QUANTITY OF COCAINE - DRUG MISUSE & TRAFFICKING ACT 1985 (NSW) s25(1), s25(2), s26 • CONSPIRACY TO SUPPLY COMMERCIAL QUANTITY OF HEROIN; ALT CONSPIRACY TO SUPPLY HEROIN - DRUG MISUSE & TRAFFICKING ACT 1985 (NSW) s25(1), s25(2), s26	STAY APPLICATION PENDING - ADJOURNED TO 31 JULY 1998.
TANYA BAYEH	• KNOWINGLY TAKE PART IN SUPPLY PROHIBITED DRUG X 2 - s25	15 DECEMBER 1997 - SEPARATE TRIAL APPLICATION MADE AND ULTIMATELY GRANTED. AWAITING TRIAL DATE TO BE FIXED - DOWNING CENTRE DISTRICT COURT.
GRAHAM FOWLER	• OBTAINING MONEY ETC BY FALSE OR MISLEADING STATEMENTS - CRIMES ACT 1900 (NSW) s177BB • FALSE TESTIMONY - ROYAL COMMISSIONS ACT 1923 (NSW) s21	INFORMATION LAID ON 14 MAY 1998 FOR RETURN OF SUMMONS ON 4 JUNE 1998.
PHILLIP GIOVANNONE	• PERVERT THE COURSE OF JUSTICE X 2 - CRIMES ACT 1900 (NSW) s319 • FALSE TESTIMONY - ROYAL COMMISSIONS ACT 1923 (NSW) s21 • CORRUPTLY GIVE BENEFIT - CRIMES ACT 1900 (NSW) s249B	INFORMATION LAID ON 26 JUNE 1998 FOR RETURN OF SUMMONS ON 4 AUGUST 1998.
EMILE CHAHINE	• FALSE TESTIMONY X 5 - ROYAL COMMISSIONS ACT 1923 (NSW) s21	LISTED FOR ARRAIGNMENT 7 AUGUST 1998 - DOWNING CENTRE DISTRICT COURT - GUILTY PLEA TO ALL 5 CHARGES.

ROYAL COMMISSION PROSECUTIONS

Name/s	Offence	Status as at 30 June 1998
WAYNE EADE	• INCITE SUPPLY PROHIBITED DRUG X 1 - DRUG MISUSE & TRAFFICKING ACT 1985 (NSW) s27 • FALSE TESTIMONY - ROYAL COMMISSIONS ACT 1923 (NSW) s21	INFORMATION LAID ON 4 MAY 1998 FOR RETURN OF SUMMONS ON 1 JUNE 1998.
WAYNE EADE	• PERVERT THE COURSE OF JUSTICE - CRIMES ACT 1900 (NSW) s319	INFORMATION LAID ON 29 JUNE 1998 FOR RETURN OF SUMMONS ON 28 JULY 1998.
FREDERICK ISON GREIG VICARY	IN RELATION TO ISON: • PERVERT THE COURSE OF JUSTICE X 3 - CRIMES ACT 1900 (NSW) s319 • FALSE TESTIMONY WITH INTENT THEREBY TO PERVERT THE COURSE OF JUSTICE - COMMON LAW MISDEMEANOR • GIVE FALSE EVIDENCE (2 COUNTS) • CONSPIRACY TO MAKE CORRUPT PAYMENT X 2 - COMMON LAW MISDEMEANOR IN RELATION TO VICARY: • CONSPIRACY TO MAKE CORRUPT PAYMENT X 1 - COMMON LAW MISDEMEANOR	29 JUNE 1998 - FOR MENTION - DOWNING CENTRE LOCAL COURT
RODNEY COOK	• FALSE TESTIMONY - ROYAL COMMISSIONS ACT 1923 (NSW) s21	INFORMATION LAID ON 29 JUNE 1998 FOR RETURN OF SUMMONS ON 28 JULY 1998.

POLICE INTEGRITY COMMISSION PROSECUTIONS		
Name/s	**Offence**	**Status as at 30 June 1998**
ROBERT IRWIN CRAIG MCDONALD	• PERVERT THE COURSE OF JUSTICE - CRIMES ACT 1900 (NSW) s319 • GIVE FALSE/MISLEADING EVIDENCE - POLICE INTEGRITY COMMISSION ACT 1996 (NSW) s107	12 JUNE 1998 - FOR MENTION - DOWNING CENTRE LOCAL COURT.
J2	• PERVERT THE COURSE OF JUSTICE - CRIMES ACT 1900 (NSW) s319	FOR MENTION - DOWNING CENTRE LOCAL COURT.
GEOFFREY WEGG	• GIVE FALSE/MISLEADING EVIDENCE - POLICE INTEGRITY COMMISSION ACT 1996 (NSW) s107	24 JUNE 1998 - COMMITTAL - DOWNING CENTRE LOCAL COURT.

APPENDIX 3 - NEW CATEGORY 1 AGREEMENT

AGREEMENT made this TWENTIETH day of DECEMBER 1996

BETWEEN **THE COMMISSIONER FOR THE POLICE INTEGRITY COMMISSION** ("the PIC Commissioner") AND **THE OMBUDSMAN** ("the Ombudsman")

WHEREAS:

A. the Commissioner, the Ombudsman and others have certain duties in relation to police complaints within the meaning of the Police Integrity Commission Act 1996 ("the PIC Act") and in relation to complaints within the meaning of Part 8A of the Police Service Act 1990;

B. complaints within the meaning of the said Part 8A are classified as Category 1 complaints, Category 2 complaints, Category 3 complaints and Category 4 complaints;

C. a Category 1 complaint within the meaning of the said Part 8A is a Category 1 complaint as defined in section 67 of the PIC Act;

D. the said section 67 provides as follows

> ***Category 1 complaint*** *means a police complaint:*
>
> *(a) that is of a class or kind that the PIC Commissioner and the Ombudsman have agreed should be referred to the Commission, or*
>
> *(b) that the PIC Commissioner has requested should be referred to the Commission, or*
>
> *(c) that is of a class or kind prescribed by the regulations.*

IT IS HEREBY AGREED pursuant to the said section 67 (a) that a police complaint that is of a class or kind mentioned in the Schedule hereto shall be referred to the Police Integrity Commission.

PIC Commissioner

20/12/96

Ombudsman

20th December, 1996

THE SCHEDULE

1. A complaint that a police officer has or may have sought to pervert the course of justice by giving false evidence, by destroying or interfering with evidence, by withholding or refraining from giving evidence, by fabricating evidence or by influencing another to so act.

2. A complaint that a police officer has or may have committed a crime punishable on conviction on indictment by a maximum sentence of not less than 3 years imprisonment or 3 years penal servitude.

3. A complaint that a police officer has or may have solicited or accepted a benefit for himself/herself or for another in return for failing to carry out his/her duties.

4. A complaint that a police officer has or may have sought to interfere improperly in the investigation by another police officer of an alleged offence.

5. A complaint that a police officer investigating an offence alleged to have been committed by another police officer, has or may have failed to carry out his/her duties in the course of that investigation.

6. A complaint that a police officer has or may have disseminated to a person not authorised to receive it or has or may have used for an unauthorised purpose any information of which he/she has become aware through proper or improper use of an information storage system of the Police Service or of any unit or part of the Police Service or of a system to which the Police Service or any unit or part of the Police Service has access.

7. A complaint that a police officer has or may have manufactured a prohibited drug, cultivated a prohibited plant, or supplied a prohibited drug or a prohibited plant unless the amount or number of such drug or plant is less than the indictable quantity therefor as specified in the Drug Misuse and Trafficking Act 1985.

8. A complaint made against a police officer who is of or above the rank of Superintendent or who holds a position referred to in Schedule 2 to the Police Service Act 1990.

PIC Commissioner 20/12/96

Ombudsman

20th December, 1996

APPENDIX 4 - CODE OF CONDUCT

Introduction

The Police Integrity Commission's charter is to:

- detect, investigate and prevent police corruption and other serious police misconduct
- provide special mechanisms for the detection, investigation and prevention of serious police misconduct and other police misconduct
- protect the public interest by preventing and dealing with police misconduct.

The Police Integrity Commission values its staff as an important resource in meeting its charter. At the same time it recognises that the public has the right to expect the highest standards of conduct and ethics from its staff in the performance of their duties. The public also has the right to expect that the business of the Commission will be conducted with efficiency, economy, fairness, impartiality and integrity.

To help meet these expectations, the Code of Conduct sets out the standards of behaviour all Commission staff are to observe.

The Commission recognises that each and every staff member delivers a service of some kind, whether it be directly in the performance of the Commission's functions or in supporting those staff who perform those direct functions. We should therefore strive to provide our particular service to the highest possible standards and encourage and support each other in upholding the Commission's values.

Compliance With The Law

Staff members must:

- exercise the special powers and authorities given to them by the law and the Commission and not misuse them
- carry out lawful and reasonable directions.

Management Responsibilites

Managers are accountable for work related needs of their staff and are expected to:

- keep staff informed of legislation which applies to them and the consequences if they fail to comply
- develop and instill corporate values as the cornerstone of service and proper conduct
- treat all staff with honesty and courtesy.

In particular managers must:

- inform staff of this Code of Conduct and set good examples for staff through their own behaviour in upholding the Code's principles

- provide an environment supportive of flexible work practices and adaptive to staff needs both in and outside the work place

- ensure staff have an explanation of the objectives and duties of their positions and have access to and are familiar with any operations manuals and guidelines applicable to their area of work

- explain to staff the performance standards expected of them and objectively access their performance against those standards

- ensure all staff have equal access to training and development and foster in staff a learning ethic through offering and actively planning for development opportunities

- provide the optimum work environment for staff within available resources and to meet occupational health and safety standards

- acknowledge and reward individual and team achievements

- ensure staff create and maintain accurate records that document appropriate activities, incidents, decisions and the reasons for them

- ensure staff are made aware of their rights and responsibilities under the legislative, industrial and administrative requirements of the Commission

- support the right of staff to pursue grievances and complaints using internal and external processes

- take consistent and appropriate action against staff who fail to comply with this Code and related standards of conduct, in accordance with the principles of natural justice.

Employee's Responsibilities

As an employee of the Police Integrity Commission, your conduct, whether during or outside working hours, impacts on the Commission. Always conduct yourself in a manner that, if your conduct was to be made public, would enhance the Commission's positive image.

In the performance of your duties you should:

- treat members of the public and other staff with the highest level of courtesy and sensitivity to their rights

- exercise your best judgement, professional or technical

- comply with any relevant legislative, industrial or administrative requirements

- maintain adequate documentation to support any important decision making
- strive to attain value for money spent and avoid waste in the use of public resources
- not take improper advantage of any official information gained in the course of employment
- not sexually harass or discriminate on the basis of gender, marital status, pregnancy, sexual preference, disability, age, race, religion or political conviction.

Conflict Of Interest

Conflict of interest is where the public or staff might think that an official is not acting fairly or impartially because of, for example:

- expressed or implied personal values or beliefs (including those based on more general religious, cultural or other values)
- other professional ethics
- personal or professional relationships
- financial or proprietary interests
- prior dealings with a person or subject matter
- the employee's status or other roles (professional or personal).

Staff should:

- avoid (as far as possible) having any financial or other interests which would create an impression that they are not able to perform some or all of their duties fairly and impartially
- declare in writing any potential or actual conflict of interest that arises
- not ask for, nor encourage the offer of, personal gifts or benefits in connection with the performance of their duties
- not accept any personal gifts or benefits in connection with the performance of their duties except where the gift or benefit is of no significant or lasting value (e.g. a bunch of flowers as thanks for speaking at a seminar) - if it appears that the gift should be accepted because of cultural values of the giver, the gift is to be accepted on behalf of the Commission and is to be considered the property of the Commission
- not engage in outside employment without proper approval.

Confidential Information

Treat all information received as confidential. You are granted access to private and sensitive information only to enable you to do your work.

Unauthorised disclosure of information, either deliberate or unintentional, to the media or to any other third party has the potential to compromise investigations. Disclosure of information is also unlawful.

Unless specifically authorised by law or direction by your supervisor, you must not disclose or use any information other than in the course of your work.

Standard Of Service

Staff members at all levels must:

- treat colleagues and members of the public with courtesy, respect and dignity
- avoid any behaviour that is either discriminatory or harassing
- make all reasonable effort to develop and maintain cross cultural skills, so that decisions and actions will respect and accommodate the culture, language and religion of others
- assist colleagues and members of the public to know and understand their rights, entitlements and obligations under the laws administered by the Commission, including their rights to pursue grievances
- strive to ensure a safe and healthy workplace for staff and visitors

Fairness And Equity

In dealing with other Commission employees, staff members are to:

- maintain open and honest communication
- follow the rules of procedural fairness in coming to decisions by:
  - taking all reasonable steps to find out any relevant facts
  - informing those persons whose rights may be adversely affected by the decision that the matter is being considered
  - providing those persons with any relevant information and giving them the chance to respond and present their case
  - giving reasons for decisions and informing the person of any rights of appeal or review concerning those decisions
- strive to ensure decisions and actions are made without undue delay
- ensure proper consideration is given to:

- decisions that are not in accord with a relevant established policy
- any adverse effects a decision or action may have on any person or group
- the purpose of the power being exercised
- ensure that the procedures for employment and promotion are fair open and equitable and that decisions are made on merit.

Reporting Suspected Corrupt Conduct

Corruption is deliberate dishonesty or deliberate unlawful conduct (for example taking bribes; falsifying or destroying official documents; misuse of confidential information). It is not the making of honest mistakes that can be addressed at a local level through performance management practices.

Staff must:

- report suspected corrupt conduct, misconduct, serious mismanagement or substantial waste of public resources to your supervisor or senior officer as appropriate
- report breaches of this Code of Conduct to your supervisor or senior officer as appropriate
- not take reprisal action against a person who reports any of the above matters.

Requirement To Comply

Staff who fail to comply with this Code or any other lawful directions will be asked to explain their actions.

If their conduct is contrary to those requirements and does not involve an honest mistake, they will be subject to a range of management options or remedies including, where considered that serious breaches have occurred, appropriate disciplinary action.

Summary

As individuals, we all hold differing views, beliefs, standards and expectations. You and many of your colleagues have contributed to the creation of our Code of Conduct. In doing so, you have helped to define the shared standards of conduct expected of all employees of the Commission.

It is intended to be a practical and useful document which will help you to resolve any ethical dilemmas that might confront you in your employment with the Police Integrity Commission.

Our Code of Conduct is not designed to be a book containing absolute rules. Rather, it is intended to be a common sense document that offers guidance regarding the Commission's

expectations of you in relation to ethical conduct. It is a document from which you may draw support when your decisions are made in the spirit of it.

Acknowledgement Of Intent To Adhere To The Code Of Conduct

I, _____, acknowledge that I received and read the Code of Conduct for the Police Integrity Commission.

I understand that the standards contained in the Code will apply to me in the performance of my duties as an employee of the Commission and I agree to adhere to those standards at all times while I am such an employee.

I am aware that, if at any time I find my personal beliefs or attitudes at variance with the Code, I should discuss the matter with my supervisor or another senior officer, in order to ensure that any course of action I am proposing to take is supported by the Commission.

Finally I also understand that if I fail to comply with this Code, or any other lawful direction, I will be asked to explain my action. If my action is found to be contrary to those requirements and is either not an honest mistake or supported by the Commission, I will be subject to a range of management options or remedies including, where appropriate, disciplinary action if it is considered that there has been a serious breach of the Code.

Signed _____ Date _____

APPENDIX 5

Financial Statements 1997–98

Contents

Statement by Department Head 80

Independent audit report 81

Operating Statement 82

Statement of Financial Position 83

Cash Flow Statement 84

Summary of Compliance with Financial Directives 85

Notes to Financial Statements 87-99

Statement by Department Head

Pursuant to Section 45F of the *Public Finance and Audit Act 1983,* I state that:

a) the accompanying financial statements in respect of the year ended 30 June 1998 have been prepared in accordance with the provisions of the *Public Finance and Audit Act 1983* and Regulations, the *Financial Reporting Code for Budget Dependent Agencies,* and the *Treasurer's Directions*

b) the statements exhibit a true and fair view of the financial position and transactions of the Commission, and

c) there are no circumstances that would render any particulars included in the financial statements to be misleading or inaccurate.

Judge P D Urquhart QC

Commissioner

1 December 1998

AUDITOR-GENERAL
NEW SOUTH WALES

BOX 12 GPO
SYDNEY NSW 2001

INDEPENDENT AUDIT REPORT

POLICE INTEGRITY COMMISSION

To Members of the New South Wales Parliament and the Commission

Scope

I have audited the accounts of the Police Integrity Commission for the year ended 30 June 1998. The Commissioner is responsible for the financial report consisting of the accompanying balance sheet, income and expenditure statement, statement of cash flows, and summary of compliance with financial directives together with the notes thereto and the information contained therein. My responsibility is to express an opinion on the financial report to Members of the New South Wales Parliament and the Commissioner based on my audit as required by sections 34 and 45F(1) of the *Public Finance and Audit Act 1983*. My responsibility does not extend here to an assessment of the assumptions used in formulating budget figures disclosed in the financial statements.

My audit has been conducted in accordance with the provisions of the Act and Australian Auditing Standards to provide reasonable assurance as to whether the financial report is free of material misstatement. My procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report, and the evaluation of accounting policies and significant accounting estimates.

In addition, other legislative requirements which could have an impact on the Police Integrity Commission's financial report have been reviewed on a cyclical basis. For this year, the requirements examined comprise: Compliance with Treasurer's Directions in respect of usage of fuel cards, credit cards and cash advances.

These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial report is presented fairly in accordance with the requirements of the *Public Finance and Audit Act 1983*, Accounting Standards and other mandatory professional reporting requirements so as to present a view which is consistent with my understanding of the Police Integrity Commission's financial position, the results of its operations and its cash flows.

The audit opinion expressed in this report has been formed on the above basis.

Audit Opinion

In my opinion the financial report of Police Integrity Commission complies with section 45E of the Act and presents fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements the financial position of the Police Integrity Commission as at 30 June 1998 and the results of its operations and its cash flows for the year then ended.

P. J. BOULOUS, CA
PRINCIPAL AUDITOR
(duly authorised by the Auditor-General of New South Wales
under section 41C(1A) of the Act)

SYDNEY
3 December 1998

i:\c1024\iar98a.doc

Operating Statement for the Year Ended 30 June 1998

	Notes	Actual 1997–98 $'000	Budget 1997–98 $'000	Actual 1996–97 $'000
Expenses				
Operating Expenses				
Employee related	2(a)	6,261	5,431	1,303
Other operating expenses	2(b)	4,701	4,599	478
Maintenance	2(c)	146	111	3
Depreciation and amortisation	2(d)	216	66	15
Other Expenses	2(e)	--	--	2
Total expenses		**11,324**	**10,207**	**1,801**
Less:				
Retained Revenue				
Sale of goods and services	3(a)	4	--	--
Investment income	3(b)	33	--	--
Other revenue	3(c)	4,258	--	--
Total Retained Revenue		**4,295**	**--**	**--**
NET COST OF SERVICES	27	**7,029**	**10,207**	**1,801**
Government Contributions				
Recurrent appropriation	6	10,716	9,996	1,855
Capital appropriation	6	1,519	954	401
Acceptance by the Crown Transactions Entity of employee entitlements and other liabilities	9	294	145	21
Total Government Contributions		**12,529**	**11,095**	**2,277**
SURPLUS FOR THE YEAR		**5,500**	**888**	**476**

The accompanying notes form part of these Statements

Statement of Financial Position as at 30 June 1998

	Notes	Actual 1997–98 $'000	Budget 1997–98 $'000	Actual 1996–97 $'000
ASSETS				
Current Assets				
Cash	26	607	501	209
Receivables	13	8	2	5
Total Current Assets		**615**	**503**	**214**
Non-Current Assets				
Plant and equipment	15	5,946	1,273	385
Total Non-Current Assets		**5,946**	**1,273**	**385**
Total Assets		**6,561**	**1,776**	**599**
LIABILITIES				
Current liabilities				
Accounts payable	17	130	100	1
Employee entitlements	19	456	204	122
Total Current Liabilities		**586**	**304**	**123**
Total Liabilities		**586**	**304**	**123**
Net Assets		**5,975**	**1,472**	**476**
EQUITY				
Accumulated funds	21	5,975	1,472	476
Total Equity		**5,975**	**1,472**	**476**

The accompanying notes form part of these Statements

Statement of Cash Flows for the Year Ended 30 June 1998

	Notes	Actual 1997–98 $'000	Budget 1997–98 $'000	Actual 1996–97 $'000
CASH FLOWS FROM OPERATING ACTIVITIES				
Payments				
Employee related		(5,768)	(5,286)	(1,244)
Other		(4,770)	(4,677)	(484)
Total Payments		**(10,538)**	**(9,963)**	**(1,728)**
Receipts				
Sale of goods and services		4	--	--
Interest received		33	--	--
Other (transfer of staff recreation leave entitlements)		48	--	81
Total Receipts		**85**	**--**	**81**
Cash flows from Government				
Recurrent appropriation		10,715	9,996	1,855
Capital appropriation		1,519	954	401
Cash reimbursements from the Crown Transactions Entity		137	145	--
Net cash flows from Government		**12,371**	**11,095**	**2,256**
NET CASH FLOWS FROM OPERATING ACTIVITIES	27	**1,918**	**1,132**	**609**
CASH FLOWS FROM INVESTING ACTIVITIES				
Purchases of property, plant and equipment		(1,519)	(954)	(400)
NET CASH FLOWS FROM INVESTING ACTIVITIES		**(1,519)**	**(954)**	**(400)**
NET INCREASE/(DECREASE) IN CASH		398	292	209
Opening cash and cash equivalents		209	209	--
CLOSING CASH AND CASH EQUIVALENTS	26	**607**	**501**	**209**

The accompanying notes form part of these Statements

Summary of Compliance with Financial Directives

for the Year Ended 30 June 1998

	Actual appropriations		Estimated expenditure *	Actual appropriations		Estimated expenditure
	Original 1997–98 $'000	**Revised 1997–98 $'000**	**1997–98 $'000**	**Original 1996–97 $'000**	**Revised 1996–97 $'000**	**1996–97 $'000**
Recurrent appropriations						
Program 1						
Prevention of Serious Police Misconduct	9,996	10,716	10,716	4,340	1,855	1,855
	9,996	10,716	10,716	4,340	1,855	1,855
Capital appropriations						
Program 1						
Prevention of Serious Police Misconduct	954	1,519	1,519	746	401	401
	954	1,519	1,519	746	401	401
Total appropriations (includes transfer payments)	**10,950**	**12,235**	**12,235**	**5,086**	**2,256**	**2,256**

Recurrent Appropriations

During the reporting period, the Police Integrity Commission received a number of recurrent allocation supplementations.

These supplementations were for the completion of the Police Royal Commission matters ($434,000), the Police Complaints Case Management System ($208,000), telecommunications interception (a protected item of $212,000) and a minor insurance adjustment ($25,000). In June 1998, Treasury reduced the Commission's 1997–98 allocation by an amount of $127,000 as a result of adjustments to the Commission's 1996–97 expenditure. Also during that month, another adjustment was made to the allocation to reflect an unspent amount of $31,653 for the protected item of telecommunications interception.

Capital Appropriation

The capital appropriation increased by $565,000 as a result of the bringing forward of $845,000 unspent in the 1996–97 financial year, as well as an additional $900,000 being given to the Commission for the capital purchase of telecommunications interception equipment. In May 1998, the Treasurer approved the carrying forward to 1998–99 of $1.18m as a result of the delays in tendering processes for purchase of telecommunications interception equipment, and the delays in delivery of equipment from overseas due to the waterfront dispute.

* In New South Wales agencies are not required to separately record expenditures which are financed by the Consolidated Fund as distinct from expenditures financed by their own user charges. As a result they are not able to determine the exact amount of expenditures that are related to the Consolidated Fund. However, the amount of the revised appropriation should approximate the actual expenditure of Consolidated Fund monies by agencies.

Notes to and forming part of the Financial Statements for the year ended 30 June 1998

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) *Reporting entity*
The Police Integrity Commission is constituted by the *Police Integrity Commission Act 1996*, and comprises a single entity. The Commission's activities for the 1997–98 period are covered by these financial statements. the Commission is a separate reporting entity and there are no reporting entities under its control.

(b) *Basis of accounting*
The Commission's financial statements are a general purpose financial report that has been prepared on an accrual basis and in accordance with applicable Australian Accounting Standards and other mandatory reporting requirements, the requirements of the Public Finance and Audit Act and Regulations, and the Financial Reporting Directions published in the *Financial Reporting Code for Budget Dependent Agencies* or issued by the Treasurer under s9(2)(n) of the Act.

These financial statements have been prepared in accordance with the historical cost convention. All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency. The accounting policies adopted are consistent with those of previous years. Where appropriate comparative amounts have been adjusted to conform with the current year's disclosure requirements.

(c) *Administered activities*
The Commission does not administer activities on behalf of the Crown Transactions Entity.

(d) *Parliamentary Appropriations and Contributions from Other Bodies*
Parliamentary appropriations are recognised as revenues during the reporting period (see note 6).

(e) *Employee entitlements*

(i) Wages and Salaries, Annual Leave, Sick Leave and On-costs
Liabilities for wages and salaries, annual leave and vesting sick leave are recognised and measured as the amount unpaid at the reporting date at current pay rates in respect of employee's services up to that date.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the entitlements accrued in the future.

The outstanding amounts of payroll tax and fringe benefits tax, that are considered consequential to employment, are recognised as liabilities and expenses where the employee entitlements to which they relate have been recognised.

(ii) Extended Leave and Superannuation
The Commission's liabilities for extended leave and superannuation are assumed by the Crown Transactions Entity. The agency accounts for the liability as having been extinguished resulting in the amount assumed being shown as part of the non-monetary revenue item described as "Acceptance by the Crown Transactions Entity of employee entitlements and other liabilities".

Extended leave is measured on a nominal basis. The nominal method is based on the remuneration rate at end of year for all employees with five or more years of service. It is considered that this measurement technique produces results not materially different from the estimate determined by using the present value basis of measurement.

The superannuation expenses for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (ie Basic Benefit and First State Super) is calculated as a percentage of the employee's salary. For other superannuation schemes (ie State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employee's superannuation contributions.

(f) *Insurance*
The agency's insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self insurance for government agencies. The expense (premium) is determined by the Fund Manager based on past experience.

(g) *Acquisition of Assets*
The cost method of accounting is used for the initial recording of all acquisition of assets controlled by the agency. Cost is determined as the fair value of assets given as consideration plus the costs incidental to the acquisition.

(h) *Plant and equipment*
Plant and equipment costing $5,000 and above are individually capitalised, as is plant and equipment costing less than $5,000 that forms part of an overall asset.

(i) *Re-valuation of Physical Non-Current Assets*
There has been no re-valuation of any of the Commission's physical non-current assets during the reporting period.

The agency still plans to re-value its physical non-current assets during the next financial period to ensure that the depreciation rates shown at note (k) are reflective of the true cost of asset utilisation. Following this review, each class of asset will be reviewed as appropriate, given the nature of the Commission's physical non-current assets.

(j) *Assets not able to be Reliably Measured*
The Commission does not hold any assets that have not been recognised in the financial statements.

(k) *Depreciation of Non-Current Physical Assets*
Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the Commission.

The agency has adopted the following depreciation rates for the reporting period:

Computer equipment	4 years
Office machines	7 years
Other plant and equipment	7 years

Leasehold improvements	The initial period of the lease

Following re-valuation of non-current assets in the next financial period, the depreciation rates shown above will be reviewed (see note (i)).

To ensure the correct depreciation for the acquired Police Royal Commission assets (see note 7), the following rates were adopted upon transfer:

Computer equipment	2 years
Office machines	3 years
Other plant and equipment	3 years
Leasehold improvements	5 years

(l) *Leased Assets*
The Commission's motor vehicle fleet are the only assets subject to an operating lease.

(m) *Financial instruments*
The Commission's accounting policies, including the terms and conditions of each class of financial asset, financial liability and equity instrument, both recognised and unrecognised at the balance date, are detailed below:

(i) Cash
Cash comprises cash on hand and cash within the Treasury banking system. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (TCorp) 11.00am unofficial cash rate adjusted for a management fee to Treasury.

(ii) Receivables
All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Debts that are known to be uncollectable are written off. A provision for doubtful debts is raised when some doubt as to collection exists. The credit risk is the carrying amount (net of any provision for doubtful debts). No interest is earned on trade debtors. The carrying amount approximates the net fair value.

(iii) Bank Overdraft
The Commission does not have a bank overdraft facility.

(iv) Trade Creditors and Accruals
The liabilities are recognised for amounts due to be paid for future goods or services received, whether or not invoiced. Amounts owing to suppliers (that are unsecured) are settled in accordance with the policy set out in Treasurer's Direction 219.01. If trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or statement is received. Treasurer's Direction 219.01 allows the Minister to award interest for late payment. No such payments were made during the reporting period.

(v) Comparative Figures
Comparative figures have not been provided on the financial instruments disclosure because Australian Accounting Standard AAS33, *Presentation and Disclosure of Financial Instruments* has been applied for the first time in the 1997–98 financial year.

2. EXPENSES

(a) Employee related expenses comprise the following specific items:

	1998 $'000	1997 $'000
Salaries and wages (including recreation leave)	5,063	1,131
Superannuation entitlements	385	54
Extended leave	117	7
Worker's compensation insurance	27	--
Payroll tax and fringe benefits tax	514	70
Other	155	41
	6,261	**1,303**

(b) Other operating expenses

	1998 $'000	1997 $'000
Administration charges	653	10
Bad and doubtful debts	--	--
Books and periodicals	29	16
Auditor's remuneration	21	12
Consultancies	2	7
Contractors	683	34
EDP expenses	105	16
Insurance	17	1
Rent and outgoings	1,351	28
Minor equipment	975	271
Motor vehicle costs (including leasing charges)	251	18
Advertising	57	8
Printing and stationery	125	15
Staff development	27	5
Travelling expenses	78	17
Telephones	218	11
Other	109	9
	4,701	**478**

(c) Maintenance

	1998 $'000	1997 $'000
Repairs and routine maintenance	146	3
	146	**3**

(d) Depreciation and amortisation expense	1998 $'000	1997 $'000
Depreciation		
Computer Equipment	119	4
Office Equipment	85	9
Amortisation of Leasehold Improvements	12	2
	216	**15**

(e) Other expenses	1998 $'000	1997 $'000
Legal	--	2
	--	**2**

3. REVENUES

(a) Sale of goods and services	1998 $'000	1997 $'000
Sale of transcript from Commission hearings	4	--
	4	**--**

(b) Investment income	1998 $'000	1997 $'000
Interest	33	--
	33	**--**

(c) Other Revenue	1998 $'000	1997 $'000
Assets transferred - refer note 7	4,258	--
	4,258	**--**

4. GAIN / (LOSS) ON SALE OF NON-CURRENT ASSETS

The agency did not sell any non-current assets during the reporting period.

5. CONDITIONS ON CONTRIBUTIONS

The Commission did not receive any contributions during 1997–98.

6. APPROPRIATIONS

	1998 $'000	1997 $'000
Total recurrent appropriations	10,716	1,855
Less: Transfer payments	--	--
Recurrent appropriations	**10,716**	**1,855**

	1998 $'000	1997 $'000
Total capital appropriations	1,519	401
Less: Transfer payments	--	--
Capital appropriations	**1,519**	**401**

7. ABNORMAL ITEMS

In June 1998, the assets of the former Police Royal Commission were transferred to the Commission. These assets were acquired for nominal consideration, and are recognised as assets and revenues at their fair value at date of acquisition, $4.258m. The Commission also took control of a number of items of minor office equipment that were acquired by the Police Royal Commission during its life, however these items were of little or no economic value (ie below the $5,000 threshold), and are not shown in the financial statements.

8. EXTRAORDINARY ITEMS

There were no extraordinary items during the reporting period.

9. ACCEPTANCE BY THE CROWN TRANSACTIONS ENTITY OF EMPLOYEE ENTITLEMENTS AND OTHER LIABILITIES

The following liabilities and/or expenses have been assumed by the Crown Transactions Entity

	1998 $'000	1997 $'000
Superannuation	167	21
Extended leave	117	--
Payroll tax	10	--
	294	**21**

10. TRANSFER PAYMENTS

There were no transfer payments during the reporting period.

11. PROGRAMS/ACTIVITIES OF THE AGENCY

Program 1: *Prevention of Serious Police Misconduct*

Objective: *To prevent, detect or investigate serious police misconduct and manage and oversee other agencies in the detection or investigation of police misconduct.*

12. CURRENT / NON-CURRENT ASSETS—INVESTMENTS

The Commission did not have any funds invested during the current year or the prior year

13. CURRENT ASSETS—RECEIVABLES

	1998 $'000	1997 $'000
Other debtors	3	5
Prepayments	5	--
	8	**5**

No provision for doubtful debts has been raised as all amounts are considered to be collectable.

14. CURRENT / NON-CURRENT ASSETS—INVENTORIES

The Commission had no inventories in the current year or the prior year.

15. NON-CURRENT ASSETS—PROPERTY, PLANT AND EQUIPMENT

	Computer equipment $'000	Plant & equipment $'000	Leasehold improvements $'000	Works in progress $'000	Total 1998 $'000	Total 1997 $'000
(i) At cost						
- Balance 1 July 1997	109	247	26	18	400	--
- Additions	703	745	4,147	182	5,777	401
Balance at 30 June 1998	**812**	**992**	**4,173**	**200**	**6,177**	**401**
(ii) Accumulated depreciation						
- Balance at 1 July 1997	4	9	2	--	15	--
- Depreciation for the Year	119	85	12	--	216	16
Balance at 30 June 1998	**123**	**94**	**14**	**--**	**231**	**16**
(iii) Written Down Value						
As at 1 July 1997	**105**	**238**	**24**	**18**	**385**	**--**
As at 30 June 1998	**689**	**898**	**4,159**	**200**	**5,946**	**385**

There has been no re-valuation of physical non-current assets during the reporting period. The Commission considers that the written down value of assets approximates the market value of these assets.

16. RESTRICTED ASSETS

The agency does not recognise any restricted assets in its *Statement of Financial Position*.

17. CURRENT LIABILITIES—ACCOUNTS PAYABLE

	1998 $'000	1997 $'000
Creditors	85	1
Other (accruals for witnesses)	45	--
	130	**1**

18. CURRENT / NON-CURRENT LIABILITIES—BORROWINGS

The Commission does not have any current or non-current borrowings, or bank overdraft facilities.

19. CURRENT / NON-CURRENT LIABILITIES—EMPLOYEE ENTITLEMENTS

	1998 $'000	1997 $'000
Recreation leave	259	122
Accrued salaries and wages	63	--
Other (FBT provision)	134	--
Aggregate employee entitlements	**456**	**122**

20. OTHER PROVISIONS

There are no other provisions affecting the Commission.

21. CHANGES IN EQUITY

Accumulated funds	1998 $'000	1997 $'000
Balance at 1 July	476	--
Surplus for the Year	5,499	476
Balance at 30 June	**5,975**	**476**

22. INCREASE / DECREASE IN NET ASSETS FROM ADMINISTRATIVE RESTRUCTURING

During the reporting period, there were no administrative restructures affecting the Commission.

23. COMMITMENTS FOR EXPENDITURE

		1998 $'000	1997 $'000
(a)	**Capital Commitments**		
	Aggregate capital expenditure contracted for at balance date and not provided for:		
	Not later than one year	170	493
		170	**493**

		1998 $'000	1997 $'000
(b)	**Other Expenditure Commitments**		
	Aggregate other expenditure contracted for at balance date and not provided for:		
	Not later than one year	--	340
		0	**340**

(c)	**Operating Lease Commitments**	1998 $'000	1997 $'000
	Commitments in relation to non-cancellable operating leases as payable as follows:		
	Not later than one year	991	60
	Later than one year and not later than two years	991	--
	Later than two years and not later than five years	1,982	--
		3,964	**60**

These operating lease commitments relate to the Commission's rental of property and its motor vehicle fleet, and are not recognised in the financial statements as liabilities.

(d) Finance Lease Commitments

The Commission has no finance lease commitments.

24. CONTINGENT LIABILITIES

As at the reporting date, the Commission is not aware of any contingent liabilities that will materially affect its financial position.

25. BUDGET REVIEW

Net cost of services

The net cost of services was lower than budget by $4.4m because of the transfer of assets relating to the former Royal Commission into the New South Wales Police Service. The assets, valued at $4.258m, were transferred from the Premier's Department during the year.

Assets and liabilities

The transfer of assets noted above also resulted in Commission's net assets being $4.2m in excess of budget.

Cash flows

There were no major variances between budgeted and actual cash flows.

26. CASH AND CASH EQUIVALENTS

For the purposes of the *Statement of Cash Flows*, cash comprises cash on hand and bank balances within the Treasury banking system. Cash at the end of the financial year as shown on the *Statement of Cash Flows* is reconciled to the related items in the *Statement of Financial Position* as follows:

	1998 $'000	1997 $'000
Cash (bank balances)	597	199
Cash on hand	10	10
Closing Cash and Cash Equivalents	**607**	**209**

27. RECONCILIATION OF NET COST OF SERVICES TO NET CASH FLOWS FROM OPERATING ACTIVITIES

	1998 $'000	1997 $'000
Net cash used on operating activities	1,918	609
Consolidated Fund Appropriation	(12,235)	(2,256)
Acceptance by Crown Transactions Entity of employee liabilities	(294)	(21)
Transfer of Assets	4,258	--
Depreciation and amortisation	(216)	(15)
Decrease/(increase) in provisions	(334)	(122)
Increase/(decrease) in receivables	3	5
Decrease/(increase) in creditors	(129)	(1)
Net cost of services	**(7,029)**	**(1,801)**

28. NON-CASH FINANCING AND INVESTING ACTIVITIES

There were no non-cash financing and investing activities undertaken by the Commission for the reporting period.

End of audited financial statements

10. DIRECTORY

KEY PERSONNEL

Judge PD Urquhart QC
Commissioner

GE (Tim) Sage
Assistant Commissioner

Andy Nattress
Director of Operations

Dave Rawson
Director, Corporate and Information Services

CONTACT DETAILS

Street Address
Level 3, 111 Elizabeth St
Sydney NSW 2000

Postal Address
PO Box 3880
Sydney NSW 2001

Counter Services
8.30 am - 4.30 pm

TELEPHONE INQUIRIES

Telephone Inquiries 8.30 - 5.00pm
Telephone (02) 9321 6700
Freecall 1 800 657 079
Fax (02) 9321 6799

PRINTING REQUIREMENTS

Number of copies printed: 700
Average Cost per copy: $8.51 based on external printing costs
All layout, design and editing was undertaken in-house