

REPORT TO PARLIAMENT
OPERATION JADE

REGARDING

THE FORMER TASK FORCE BAX

OF THE NEW SOUTH WALES POLICE SERVICE

October 1998

POLICE INTEGRITY COMMISSION REPORT TO PARLIAMENT REGARDING THE FORMER TASK FORCE BAX OF THE NEW SOUTH WALES POLICE SERVICE OCTOBER 1998

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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

In accordance with section 96(2) of the *Police Integrity Commission Act 1996*, the Commission hereby furnishes to you a report regarding Operation Jade, being a report in relation to a matter as to which the Commission has conducted a public hearing.

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

Yours faithfully

Judge P D Urquhart QC
Commissioner

October 1998

LEVEL 3 111 ELIZABETH STREET GPO BOX 3880 SYDNEY NSW 2001 AUSTRALIA
TELEPHONE [61 2] 9321 6700 FACSIMILE [61 2] 9321 6799 FREECALL 1 800 657 079

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EXECUTIVE SUMMARY

Throughout 1995, the Royal Commission into the NSW Police Service ("the Royal Commission") brought into sharp public focus the problems of organised crime, drug trafficking and police corruption in Kings Cross. Evidence from a corrupt former Kings Cross detective, Trevor Haken, of the hand-in-glove relationship between corrupt police and criminals demonstrated how organised crime had been allowed to flourish. In February 1996, the NSW Police Service ("the Police Service") established a special unit to investigate crime in Kings Cross. The unit was named Task Force Bax.

On 20 March 1997, the NSW Crime Commission informed the Police Integrity Commission ("the Commission") that it suspected a member of Task Force Bax, Sergeant Robert James Irwin ("Irwin"), had provided confidential police information to a convicted heroin dealer (referred to below as "J2"). In May 1997, the Commission commenced an investigation, which it code-named Operation Jade. A task force was established with the Crime Commission, through which the two agencies shared information and cooperated in their respective investigations.

Following an extensive covert operation, which included physical and electronic surveillance of police and non-police suspects, the Commission conducted a series of public hearings commencing on 24 November 1997. The purpose of these hearings was to investigate misconduct and improper practices involving any members of Task Force Bax and any other members of the Police Service.

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.

The Commission considers that Irwin's close association with J2 had a severe and adverse impact on the effectiveness and integrity of some Task Force Bax's investigations. In his appearance before the Commission, Irwin conceded that an investigation into a suspected major criminal identity had been "unintentionally" compromised as a direct consequence of sensitive operational information he had passed to J2. In describing the impact of the Irwin-J2 relationship, the Commander of Task Force Bax, Superintendent Geoffrey Herbert Wegg ("Wegg"), concluded that Irwin had jeopardised and compromised a large number of Bax investigations.

Another significant aspect of the public hearings related to conversations recorded by listening device between an individual known as "Snidely" and a Maroubra-based

detective. Snidely was a nickname used by Detective Sergeant Craig Lee McDonald ("McDonald"), a police officer on sick leave from the Service and a close personal associate of Irwin. The Maroubra-based detective, who assisted the Commission with its investigation, is an internal police witness and is referred to below as J1. The conversations between these two individuals took place after J1 had taken part in a raid on premises being used by J2, which netted a large quantity of drugs and other items.

The Commission heard evidence that McDonald:

- approached J1 to have fingerprint evidence that incriminated J2 in the supply of illicit drugs destroyed; and
- paid J1 a sum of money, and promised to pay $3500 in total, in return for this service.

Broader implications for both the Commission and the Police Service can also be identified from this segment of the public hearings. Evidence heard by the Commission offers a strong indication that informal networks of corrupt officers persist in the Police Service. Tapes and transcripts obtained through a listening device reveal a person, whom the Commission considers to be the same as McDonald, telling J1 that by engaging in a corrupt act, he (J1) was now "playing first grade" - a phrase similar to that used by corrupt police to refer to officers engaged in misconduct. Additional comments made by that same person, including a remark about a "family" that would take action against J1 if anything was done to harm him, add further weight to this view.

The evidence heard by the Commission reinforces the important role of police managers, particularly first-line managers, in detecting and preventing misconduct amongst their staff. The Commission considers that the evidence heard during the public hearings indicates that the true nature of Irwin's association with J2 went undetected as a direct consequence of management shortcomings in Task Force Bax. Specific deficiencies with regard to corruption detection included the following:

- The Commander of the Task Force failed to recognise and respond to a clear tell-tale sign or indicator of corruption. The fact that J2 and Irwin were friends was known to the Commander, as was the fact that J2 was a convicted criminal and closely associated with criminals under investigation by Bax. The Royal Commission had clearly established that associations between police and criminals should be regarded as a possible indicator of corruption.
- The Commander of Task Force Bax failed to recognise and respond to information, contained in an October 1996 report prepared by Bax staff, that J2 was a convicted heroin dealer and SP Bookmaker. He had vetted and signed the report, thereby verifying that he had read it, but claimed it did not register with him. The Commander gave evidence that if he had been aware of the seriousness of J2's criminal history, action would have been taken that may have seen Irwin removed from the Task Force altogether.

The Commission considers that the evidence heard during the public hearings indicates that the Commander of Bax:

- managed the Task Force in a manner indicative of the discredited practice of showing "blind" trust in the integrity of staff;
- did not effectively communicate the Task Force's corruption prevention plan to members of the unit;
- employed an "open management approach" (whereby there were no restrictions on access to operational information by members of the Task Force) which was not complemented by effective corruption prevention and detection measures;
- failed to look after his safe in such a manner as to prevent opportunities for corrupt acts arising (insofar as the key to the safe was stored in an unlocked desk drawer, a fact known to most staff); and
- did not ensure that all police officers under his command had read and were conversant with the *Informant Management Manual*.

Of considerable concern, three of the management deficiencies noted above - placing "blind" trust in the integrity of staff, the absence of a system to identify tell-tale signs of corruption, and a failure to adequately implement the informant management plan - had been highlighted in the Royal Commission's Final Report of May 1997 as key reasons why corruption had gone unexposed within the Police Service as a whole. The apparent failure by the Commander of Bax to embrace key findings from the Royal Commission is even more astounding since Task Force Bax commenced at the time the Royal Commission was running, and evidence of serious police corruption and the failure of management to prevent it was being adduced on a daily basis. Armed with the knowledge of past failings of the Police Service, Bax management should have been ideally placed to develop effective corruption prevention and detection systems.

As a result of evidence collected during the Commission's investigation, Irwin, McDonald and J2 were charged with conspiring to pervert the course of justice. Together with Wegg, Irwin and McDonald were also charged with giving false evidence to the Commission. All four have now been committed to stand trial in relation to the matters for which they were charged. Irwin and McDonald have been removed from the Service, pursuant to the loss of Commissioner's confidence provisions of the Police Service Act 1990, while Wegg has resigned.

In addition, action is being considered with regard to a number of other police officers on the basis of evidence and information obtained during Operation Jade and the Crime Commission's investigations. One police officer has been removed from the Police Service through the loss of Commissioner's confidence process. A further two officers are currently being considered under the same process.

The principal outcome from Operation Jade for the Police Service, and indeed the community of NSW, was the detection of serious police misconduct, in this case 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 (J2) with access to a wider network of corrupt officers.

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

1/ INTRODUCTION

BACKGROUND

1.1 On 20 March 1997, the Police Integrity Commission ("the Commission") was informed by the New South Wales Crime Commission that it suspected a serving New South Wales police officer had provided a convicted drug supplier with confidential police information. The convicted drug supplier was at the time under electronic surveillance as part of the Crime Commission's investigation, Operation Gymea. The police officer was identified as Detective Sergeant Irwin, who was at the time attached to Task Force Bax. A suppression order remains in force on the name of the drug dealer who faces trial on several other matters. For the purposes of this Report, the convicted drug dealer is referred to as "J2" to help ensure these other trials are not prejudiced.

1.2 Task Force Bax was a special investigation unit, the purpose of which was "to investigate criminal activity centred on Kings Cross". It was initially established on 22 February 1996 within the New South Wales Police Service ("the Police Service") under the auspices of a senior management committee comprised of the State Commander, the Assistant Commissioner South Region, the Assistant Commissioner Region Support, the Assistant Commissioner Special Agencies and the District Commander Sydney District. On 26 March 1996, following the issue of a reference to the Crime Commission concerning criminal activity in the Kings Cross area, Task Force Bax commenced working with the Crime Commission. In July 1997, following the restructure of the Police Service, the Task Force was amalgamated into the Crime Agencies.

OPERATION JADE

1.3 On 30 May 1997, by arrangement between the Commission and the Crime Commission, the Commission commenced an investigation of police corruption that had come to light through Operation Gymea. The Commission code-named its investigation Operation Jade. To facilitate the investigation, a joint task force was established between the two agencies pursuant to section 17 of the *Police Integrity Commission Act 1996* ("the Act").

1.4 Between June and November 1997, the Commission collected information and evidence concerning possible police misconduct involving members of Task Force Bax. In particular, it covertly recorded conversations between Irwin, other members of Task Force Bax and their associates, using listening devices. These conversations provided evidence that Irwin and Detective Sergeant McDonald, a serving police officer, were involved in a conspiracy to pervert the course of justice by destroying fingerprint evidence implicating J2 in the commission of drug related offences.

1.5 Between 24 November 1997 and 13 February 1998, the Commission held a series of public hearings in relation to Task Force Bax, the general scope and purpose of which was:

> To investigate misconduct, improper practices and corrupt activities involving any members of the New South Wales Police Service attached to former Task Force Bax and any members of the New South Wales Police Service associated with officers attached to former Task Force Bax.

THIS REPORT

1.6 This Report, prepared and furnished pursuant to sections 96 and 97 of the Act:

- summarises the evidence heard by the Commission relating to the activities of Irwin, McDonald, Constable Murray Bartlett and J2; and
- discusses managerial and organisational shortcomings relating to Task Force Bax.

1.7 It makes assessments and forms opinions as to the facts as found by the Commission during the course of the investigation. The Report concludes by making recommendations for changes to police practices, policies and procedures which, it is hoped, will serve to help prevent police misconduct in the future.

2/ THE COMMISSION'S APPROACH

ROLE AND FUNCTIONS OF THE COMMISSION

2.1 The Commission was established under the Act on the recommendation of the Royal Commission into the New South Wales Police Service. The principal functions of the Commission, set out in section 13 of the Act, are:

a) to prevent serious police misconduct and other police misconduct,

b) to detect or investigate, or manage other agencies in the detection or investigation of, serious police misconduct,

c) to detect or investigate, or oversee other agencies in the detection or investigation of, other police misconduct, as it thinks fit,

d) to receive and assess all matters not completed by the Police Royal Commission, to treat any investigations or assessments of the Police Royal Commission as its own, to initiate or continue the investigation of any such matters where appropriate, and otherwise to deal with those matters under this Act.

2.2 As far as practicable, the Commission is required to turn its attention principally to serious police misconduct (sub-section 13(2)).

2.3 Other functions of the Commission are set out in sections 14, 14A and 15 of the Act. Section 14 sets out the Commission's functions in regard to police activities and education programs, namely:

a) to undertake inquiries into or audits of any aspect of police activities for the purpose of ascertaining whether there is police misconduct or any circumstances that may be conducive to police misconduct,

b) in particular, to monitor the quality of the management of and investigations conducted within the Police Service and to undertake audits of those investigations,

c) to make recommendations concerning police corruption education programs, police corruption prevention programs, and similar programs, conducted within the Police Service or by the Ombudsman or the Independent Commission Against Corruption for the Police Service,

d) to advise police and other authorities on ways in which police misconduct may be eliminated.

e) to monitor and report on the conduct and effectiveness of the annual audits of the Protective Security Group of the Police Service under Part 3 of the *Police Service Act 1990*,

f) assess and report on the recommendations as to the future of the Protective Security Group of the Police Service contained in the report on the special review of the Group under Part 3 of the *Police Service Act 1990*, and to monitor and report on the conduct and effectiveness of that review.

2.4 Section 14A sets out the Commission's functions with regard to the special audit and reform process:

(1) The Commission is required to engage one or more suitably qualified or experienced persons (referred to in this section as *auditors*) to conduct an ongoing audit of the kind referred to in Recommendation 174 of the Final Report of the Police Royal Commission and described in Appendix 31 to that Report.

(2) The audit is to be conducted over the period of three years commencing with the date of commencement of this section, but is to have regard to matters arising before as well as after that date.

(3) The Commission is responsible for the selection and engagement of the auditors, the approval of the audit specifications and terms of reference, and the oversight and administration of the audit process.

(4) The auditor are to furnish progress reports to the Commission as to the conduct of the audit, and are to furnish a final report to the Commission as soon as possible after the end of the period of three years.

(5) The Commission is to furnish a copy of each such report to the Minister and the Commissioner of Police, together with such comments and recommendations as it thinks fit.

(6) Nothing in this section affects any other function of the Commission with respect to the monitoring and auditing of the operations and procedures of the Police Service.

2.5 Section 15 sets out the Commission's functions in regard to the collection of information and evidence, namely:

a) to assemble evidence that may be admissible in the prosecution of a person for a criminal offence against the law of the State and to furnish any such evidence to the Director of Public Prosecutions,

b) to assemble evidence that may be admissible in the prosecution of a police officer for a disciplinary offence under the law of the State and to furnish any

such evidence to the Minister, the Commissioner of Police or other appropriate authority in the State,

c) to assemble evidence that may be admissible in the prosecution of a person (other than a police officer) for a disciplinary offence under the law of the State and to furnish any such evidence to the appropriate authority in the State,

d) to furnish evidence obtained in the course of its investigations (being evidence that may be admissible in the prosecution of a person for a criminal offence against or a disciplinary offence under the law of the Commonwealth or another State or Territory) to the Attorney General or to the appropriate authority in the jurisdiction concerned.

POLICE MISCONDUCT

2.6 "Police misconduct" is not specifically defined by the Act but includes the following (see sub-section 5(2)):

a) police corruption,

b) the commission of a criminal offence or disciplinary offence by a police officer,

c) corrupt conduct within the meaning of the *Independent Commission Against Corruption Act 1988* involving a police officer,

d) any other matters about which a complaint can be made under the *Police Service Act 1990*.

2.7 As a means of providing more detailed guidance to the New South Wales Ombudsman and the Police Service as to the types of complaints about police in which the Commission is likely to have an interest, the Commission and the Ombudsman entered into an agreement pursuant to section 67 of the Act to specify the class or kind of complaints that are to be considered as Category 1 complaints. The Act requires that the Commission be notified of all Category 1 complaints. On 20 December 1996, the Commissioner of Police Integrity Commission and the Ombudsman entered into an agreement (which came into effect on 1 January 1997) in which the following classes of complaints were specified:

(1) perjury, perverting the course of justice and related offences,

(2) indictable offences with a minimum penalty of three years imprisonment or more, an example being assault occasioning actual bodily harm,

(3) bribery,

(4) improper interference with a police investigation, including an internal investigation,

(5) complaints relating to a failure of an officer to carry out duties in the course of an investigation into another police officer,

(6) improperly gaining access to or releasing official information,

(7) involvement in the manufacture, cultivation or supply of drugs,

(8) complaints involving an officer of the rank of superintendent or higher.

2.8 On 15 January 1998, this agreement was amended. As from 1 February 1998, Category 1 complaints now consist of the following:

(1) A complaint that a police officer has or may have sought or may seek 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 so to act

(2) A complaint that a police officer has or may have committed or may commit

a) an assault which has caused or may cause a serious injury and which could lead to a charge of maliciously wounding or inflicting grievous bodily harm upon a person pursuant to section 35 of the *Crimes Act 1900*; or

b) an offence (including larceny) relating to property where the value exceeds $5000; or

c) any offence (other than assault occasioning actual bodily harm) punishable on conviction on indictment by a maximum sentence of imprisonment or penal servitude for five years or more.

(3) A complaint that a police officer has or may have solicited or accepted, or may solicit or accept, 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 or may seek 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 improperly failed to carry out, or may improperly fail to carry out, his/her duties in the course of that investigation.

(6) A complaint that a police officer has or may have manufactured, or may manufacture, a prohibited drug, cultivated or may cultivate a prohibited plant, or supplied or may supply a prohibited drug or a prohibited plant, unless the amount or number of such

2.9 In practice most Category 1 complaints are referred back for investigation by the Police Service. The Commission may elect, however, to take over the investigation of a Category 1 or any other complaint (sub-sections 23(1) and 70(3)(a)). It may also conduct an investigation on its own initiative (sub-section 23(1)).

INVESTIGATIONS

2.10 In matters where the Commission does decide to conduct an investigation (whether or not in the nature of a preliminary investigation), it has a wide range of powers at its disposal in order to compel the production of information. For example, the Commission may:

- require public officials and public authorities to produce statements of information (section 25);
- require any person (whether or not a public official or public authority) to produce documents or other things (section 26);
- enter public premises (section 29);
- obtain search warrants (section 45);
- obtain warrants under the *Listening Devices Act 1984* (section 50); and
- require persons to attend and give evidence, either in public or in private (section 38).

REPORTS TO PARLIAMENT

2.11 In the event that the Commission holds public hearings as part of an investigation, the Commission must prepare a report in relation to the matter (section 96). The report must be furnished it to the Presiding Officer of each House of Parliament as soon as possible after the Commission has concluded its involvement in the matter, unless it is considered desirable, in the public interest, for the making of the report to be deferred.

2.12 The Commission may include in a report to Parliament:

a) statements as to any of its assessments, opinions and recommendations, and

b) statements as to the Commission's reasons for any of its assessments, opinion and recommendations (sub-section 97(1)).

2.13 The Commission is an investigative agency. It is not a court or tribunal, nor is it responsible for determining whether persons are in fact prosecuted for criminal or disciplinary offences.

2.14 The assessments which the Commission may make and the opinions which the Commission may form may relate to whether police misconduct or other misconduct:

- has or may have occurred, or
- is or may be occurring, or
- is or may be about to occur, or
- is likely to occur.

2.15 An opinion that a person has engaged, is engaging or about to engage in police misconduct or other specified conduct (being conduct that constitutes or involves or could constitute or involve police misconduct) is not a finding or opinion that the person is guilty of or has committed, or is committing or is about to commit a criminal offence (sub-section 16(3)). The Commission may not make a finding or form an opinion that a specified person is guilty of or has committed, is committing or is about to commit a criminal or disciplinary offence (sub-section 16(2)(a)).

2.16 The Commission may make recommendations as to whether consideration should or should not be given to the prosecution of or the taking of other disciplinary action against persons (sub-section 16(1)(b)). It may also make recommendations for the taking of other action that it considers should be taken in relation to the subject-matter of its assessments or opinions or the results of any such investigations (sub-section 16(1)(c)). The Commission may not make a recommendation that a specified person be, or in its opinion that a specified person should be, prosecuted for a criminal or disciplinary offence (sub-section 16(2)(b)).

"AFFECTED" PERSONS

2.17 Where the Commission makes a report to Parliament and, in the Commission's opinion, substantial allegations have been made in the course of or in connection with an investigation to which the report relates, the person against whom the allegations are made is deemed to be an "affected" person (sub-section 97(3)). The Commission's report must include, in respect of each "affected" person, a statement as to whether or not in all the circumstances the Commission is of the opinion that consideration should be given to the following:

a) prosecution of a person for a specified criminal offence,

b) the taking of action against the person for a specified disciplinary offence,

c) the taking of action against the person as a police officer on specified grounds, with a view to dismissing, dispensing with the services or otherwise terminating the services of the police officer.

3/ EVIDENCE HEARD BY THE COMMISSION CONCERNING THE ACTIVITIES OF IRWIN, MCDONALD, BARTLETT & J2

3.1 During the course of the public hearings in relation to Operation Jade, evidence was presented before the Commission that:

- Detective Sergeant Irwin, a member of Task Force Bax, had provided confidential police information to a convicted drug supplier, J2; and
- Detective Sergeant McDonald approached a Maroubra-based detective to have fingerprint evidence incriminating J2 in the supply of illicit drugs destroyed.

3.2 Both McDonald and Irwin were charged by officers from the Internal Affairs Command with conspiring to pervert the course of justice in relation to the latter allegation. In addition, as a result of the public hearings, McDonald, Irwin and Superintendent Wegg (the former Commander of the Task Force) were also charged, under section 107 of the Act with giving false evidence to the Police Integrity Commission.

3.3 A summary of all criminal charges arising from the Operation Jade public hearings is presented in this Report in Chapter 7.

NATURE OF ASSOCIATION BETWEEN IRWIN & J2

3.4 On 10 December 1997, Irwin was questioned by Counsel Assisting the Commission in relation to listening device evidence that indicated J2 was aware of the details of Task Force Bax investigations. J2 was recorded making comments to other individuals that suggested he had a knowledge of:

- the identity of targets under active investigation by Task Force Bax;[1]
- the existence and placement of a covert Task Force Bax informant;[2] and
- the existence of a Task Force Bax file on him (J2).[3]

3.5 Under questioning from Counsel Assisting the Commission, Irwin accepted that he had on some occasions, and may have on others, provided information to J2 concerning the investigations of Task Force Bax. For example, the following exchange between Irwin and Counsel Assisting the Commission, took place on 10 December 1997:[4]

> Q: Did you tell him [ie J2] you were working on the [name of suspected crime group]?
>
> A: It was common knowledge.

1 Exhibit 47/1.
2 Exhibit 47/1.
3 PIC Transcript RJ Irwin 10 Dec 1997 p 510.
4 PIC Transcript RJ Irwin 10 Dec 1997 p 500.

Q: Did you tell [J2] you were working on the [name of suspected crime group]?

A: I may have.

Q: He could tip the [name of suspected crime group] off couldn't he?

A: I trusted [J2].

Q: Did you tell Superintendent Wegg you trusted him enough to tell him you were working on the [name of suspected crime group]?

A: No.

3.6 On 10 December 1997, listening device evidence (Exhibit 48) was presented before the Commission where J2, speaking on the telephone, appeared to discuss ways in which a suspected criminal could be informed that he was under investigation by Task Force Bax. The following is an extract from the transcript of Exhibit 48:

[J2]: Hello. Now, I can't see you. Right? So what I'll tell you... I need you to ... When are you seeing the other bloke? Fuckin' hell!

[J2]: You know, I mustn't have heard it. You know... When will you be seeing him next? Has he gone to play golf? Well, can you ring him at the golf club?

[J2]: Leave a message for him to ring you. Right. I'll tell you this. My mate, you know I said he's in charge of a big mob. Right? They've got, definitely in that [name of suspected criminal], that [name of suspected criminal].

[J2]: He's O double F, (*off*). Right? They've (ind) got (ind), that's his business. And I'm (...ind...) that's his, that's his problem. Right? But ... have a guess who's been to his joint in the last week?

3.7 Under examination from Counsel Assisting the Commission, Irwin conceded to having provided J2 with this information, and of "unintentionally" compromising an investigation into the member of a suspected family-based crime group:[5]

Q: So it would appear to you, wouldn't it, Detective, that indeed Mr [name of suspected criminal] was told a month ago?

A: According to that, yes.

Q: It looks like he was tipped off, doesn't it?

A: Yes.

Q: It looks like the operation was compromised; right?

[5] PIC Transcript RJ Irwin 10 Dec 1997 p 506.

A: It appears so, yes.

Q: It appears that you were the source of the compromise; true?

A: Unintentionally.

Q: So you were the unintentional source of the compromise; is that right?

A: It appears that way, yes.

3.8 The reason offered by Irwin in his evidence for leaking confidential information on Task Force Bax investigations was that he was using his "initiative" to "glean" information from J2 that would assist in Task Force Bax's investigations. Significantly, however, this flow of information from Irwin to J2 occurred without the knowledge or permission of the Task Force Bax Commander, Superintendent Geoffrey Wegg. The following exchange took place between Irwin and Counsel Assisting the Commission on 10 December 1997:[6]

Q: But you had no authority to go handing out sensitive information about Bax operations did you?

A: As I said, I tried to glean information.

Q: But you had no authority to do that?

A: No, I was using my initiative.

3.9 Irwin gave evidence that in order to "glean" information from J2 he needed to provide him (J2) with information concerning police investigations. The following exchange took place between Irwin and Counsel Assisting the Commission:[7]

Q: What I'm suggesting you were doing is you were involved in an improper association with [J2]; you knew exactly what [J2] was up to?

A: No, I did not.

Q: And you were feeding him with information that he could use from time to time?

Q: No.

Q: To assist his criminal friends; that's what you were doing, isn't it?

A: No, it is not.

6 PIC Transcript RJ Irwin 10 Dec 1997 p 506.

7 PIC Transcript RJ Irwin 9 Dec 1997 p 480.

Q: Why else would you tell him? No police officer would tell him information like that?

A: If you have to get information out of someone, sometimes you have to give a little bit to get a lot.

3.10 J2, however, was not a registered informant of either the NSW Police Service or the NSW Crime Commission. Irwin gave evidence to the Commission that J2 was not prepared to be registered. Furthermore, Irwin stated that he did not inform the Commander of Task Force Bax, Superintendent Wegg or his second in command Inspector O'Grady, of this fact. Irwin gave evidence that J2 was his "community asset", although again he did not inform the management of Task Force Bax that he was.[8] On 10 December 1997, Counsel for the Police Service returned to Irwin's evidence that J2 was his "community asset":[9]

Q: Where did you get the phrase 'community asset' from?

A: I picked it up - someone's mentioned it, so I said he's my community asset.

Q: You wouldn't, of course, be referring to a definition of 'community source' which is referred to in the informant management plans.

A: No

3.11 Counsel for the Police Service pursued the issue of the extent to which the information "gleaned" from J2 by Irwin assisted in the investigations of Task Force Bax. Irwin gave evidence that J2 had provided him with information relating to the daily movements and personal habits of suspected criminals. According to Irwin, J2 provided information relating to:[10]

- the interstate travel movements of a suspected criminal;
- the intentions of a convicted criminal to move overseas and not carry out a vendetta against a police officer; and
- the fact that a suspected criminal visited a particular delicatessen in Paddington, NSW.

3.12 Irwin indicated that while the information was potentially useful, it did not relate to any Bax lines of inquiry. The following exchange took place between Counsel Assisting the Police Service and Irwin on 10 December 1997:[11]

Q: All vital information - all pieces of vital information?

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8 PIC Transcript RJ Irwin 9 Dec 1997 p 480.
9 PIC Transcript RJ Irwin 10 Dec 1997 p 523.
10 PIC Transcript RJ Irwin 10 Dec 1997 p 521.
11 PIC Transcript RJ Irwin 10 Dec 1997 pp 521-522.

A: Actually information that could assist us.

Q: Which could assist you. Did it assist you?

A: We haven't gone on to those - we never got on to those extensions.

3.13 Despite admitting having discussed Task Force Bax operational information, Irwin gave evidence that it did not occur to him that providing information to J2 would compromise or jeopardise the work of Operation Bax. The following exchange took place between Counsel Assisting the Commission and Irwin on 10 December 1997:[12]

Q: Did it occur to you as an experienced detective, that giving sensitive information to your drug dealing mates might compromise some operations of Task Force Bax?

A: No...

...

Q: ... Why did it never occur to you?

A: Because it did not. I was trying to gather information.

Personal Relationship between Irwin & J2

3.14 It is apparent that Irwin's leaking of sensitive police information to J2 occurred in the context of a close personal relationship between the two. In his evidence before the Commission Irwin described J2 as a friend, although he denied they were "very good friends". The following exchange between Irwin and Counsel Assisting the Commission relates to the nature of the relationship between the two:[13]

Q: Whilst you were at Bax, just how close were you to [J2]? How would you describe your association with [J2]?

A: We had dinner once a week, maybe twice at the most - that was my children and I and him and his lady would go and have dinner. I spoke to him on the phone. He spoke to me on my phone. He called into my home. I called at his place.

Q: Am I putting it too highly to suggest to you that you and [J2] were in fact very good friends, weren't you?

A: We were friends. That's as far as it goes. I'm not going to say very good friends.

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[12] PIC Transcript RJ Irwin 10 Dec 1997 p 502.
[13] PIC Transcript RJ Irwin 01 Dec 1997 p 201.

3.15 On 9 December 1997, listening device evidence was presented before the Commission that suggested that J2 had provided money to Irwin, ostensibly for the payment of his (Irwin's) council rates. Irwin, however, did not agree with this interpretation of the conversation, suggesting that J2 was repaying money he (J2) owed him:[14]

Irwin: Got me rates. That's all. Got me rates, next month..on the (ui)

[J2]: So what'll...do that?

Irwin: That's two hundred.

[J2]: That's it?

Irwin: For this time it is. *(Laugh).*

[J2]: Well got that now, might as well give you that and you can tidy them up. What was it, two what?

Irwin: Two hundred dollars. Two, two hundred and ten dollars.

[J2]: 'ang on. That's it. All right? So now everything is up to date, everythings up to date...

3.16 Irwin gave evidence that he had endeavoured to reform J2 from his criminal background. Irwin claimed that he had sought and received an assurance from J2 that after his arrest for drug charges some years earlier, he would not be involved in that type of activity again. The following exchange took place between Irwin and Counsel Assisting the Commission on 1 December 1997:[15]

Q: ... So you certainly knew his background in terms of him being a convicted drug supplier?

A: Yes, I did.

Q: And indeed a heroin supplier?

A: That's right.

Q: That didn't provide a barrier to you, did it, for him being your friend, did it?

A: My values are that he served his sentence. When he got in strife in '92 he assured me he wasn't going to be involved in anything more in relation to drug activities. On that ground, I kept him as a friend.

[14] Exhibit 38

[15] PIC Transcript RJ Irwin 01 Dec 1997 p 204.

3.17 Irwin also gave evidence that he had attempted to guide J2 away from his association with criminals. Under examination from Counsel Assisting the Police Service, the following exchange took place:[16]

> Q: So how did you think you were going to get all this information regarding all these drug dealers from him [J2]?
>
> A: [J2] is still associated with people and they still ring him. I even said to him at one stage, 'I don't think you should keep seeing these people.'

3.18 Consistent with his claim that he had trusted J2 with confidential Bax information,[17] Irwin gave evidence that he viewed the revelations that J2 had used the information he had obtained from Irwin to compromise a Bax investigation as a personal betrayal. The following exchange took place between Irwin and Counsel Assisting the Police Service on 10 December 1997:[18]

> Q: So your [sic] telling another criminal about operational matters was a disgrace on your part, wasn't it?
>
> A: I trusted [J2]. My trust was in the wrong spot. That's right.
>
> Q: Well, that's for sure. How many years has it taken you to work that out?
>
> A: I've realised –
>
> Q: It's only been in the last week, has it, that you've realised your trust has been misplaced?
>
> A: When [J2] got locked up, I realised that he's been playing me for a bunny.

3.19 Evidence presented in the public hearings indicates that J2's perception of his relationship with Irwin was altogether different from that of Detective Sergeant Irwin. Recordings made using a listening device (Exhibit 55) and played during the Commission's hearings revealed that J2 referred to Irwin as his "resource". The following exchange took place between Irwin and Counsel Assisting the Commission and Irwin on 10 December 1997:[19]

> Q: Detective, you seem to feature in that conversation as some sort of a drug dealer's resource?
>
> A: That's what [J2] was referring, but, no, I'm not.
>
> Q: You don't know anything about that; is that right?

---

16 PIC Transcript RJ Irwin 10 Dec 1997 pp 522-523.
17 PIC Transcript RJ Irwin 10 Dec 1997 p 500.
18 PIC Transcript RJ Irwin 10 Dec 1997 p 534.
19 PIC Transcript RJ Irwin 10 Dec 1997 p 517.

A: No.

Q: Maybe he thinks that because you've been providing him with all sorts of information, including sensitive police information?

A: No. My interpretation of the first part is that if someone comes around to put the bounce on for protection money, things along that line, we in turn may investigate it.

3.20 The close relationship between Irwin and J2 was corroborated by other members of the Task Force who were called to give evidence before the Commission. Sergeant Raymond Lambie, for example, indicated that Irwin would mention his relationship with J2 quite openly in the office.[20]

3.21 The Commander of the Task Force, Superintendent Wegg, also gave evidence that he was aware of the close association between Irwin and J2. He indicated that he thought the two were neighbours:[21]

Q: All right. But it certainly was clear in your mind, wasn't it, that whilst Detective Irwin was on Task Force Bax, he had a personal association with [J2]?

A: I believed him to be his next-door neighbour.

Q: Right. Did he ever tell you that he was his next-door neighbour?

A: No.

3.22 The relationship between Irwin and J2 was known to non-sworn officers working in Task Force Bax as well as Irwin's police colleagues. Elizabeth Hepburn, a clerical assistant working within the Task Force gave evidence that she was, and indeed most officers were, aware of Irwin's friendship with J2:[22]

Q: I think you are aware of some type of relationship between Detective Irwin and a man by the name of [J2]?

A: Yes.

Q: When did you become aware of that?

A: Probably about October, November '96.

Q: That was common knowledge inside Bax, was it?

A: I believed it to be so, yes.

---

[20] PIC Transcript RJ Lambie 25 Nov 1997 p 87.
[21] PIC Transcript GH Wegg 24 Nov 1997 p 17.
[22] PIC Transcript EA Hepburn 26 Nov 1997 pp 136-137.

Q: What was the extent of the relationship as far as you knew?

A: Just that [J2] had helped out the family at the time of his wife's death, because of cancer, possibly just social. Yeah, that's about all I knew.

Q: Did Detective Irwin speak about [J2] in the office from time to time?

A: From time to time, yep.

Q: And did he speak about him in the presence of other staff members?

A: Yeah.

Q: Did you understand that [J2] was a neighbour or an ex-neighbour of Detective Irwin?

A: I believed that he had moved away from where - from being a neighbour.

Q: Where did you get that information from?

A: I couldn't be exact, but on an informal basis, from stuff I'd heard in the office.

3.23 Of greater significance, the Operation Jade public hearings revealed that some members of Task Force Bax were knowing beneficiaries of J2's largesse. Hepburn gave evidence that J2, through Sergeant Irwin, had arranged for a rugby jumper to be signed by members of the Australian Rugby Union team. She also indicated in her appearance before the Commission that she had received some tickets for a rugby union match at the Sydney Football Stadium, which she had assumed were arranged by J2:[23]

Q: Were there any other instances of that type of occurrence?

A: Bob arranged - my father came up to Sydney and I went to the football at Sydney Football Stadium.

Q: Mmm?

A: I received some tickets from Bob. I think they may have been facilitated through him, [J2].

Q: So yes, tickets. How many tickets?

A: Three - three of us went.

Q: Did you pay for them?

A: No.

[23] PIC Transcript EA Hepburn 26 Nov 1997 p 138.

Q: They were free tickets?

A: They were members' tickets.

Q: Members' tickets?

A: Yes.

3.24 On 1 December 1997, Irwin confirmed that J2 had in fact obtained members tickets for Hepburn at the Sydney Football Stadium.[24]

3.25 In addition to the above, some members of the Task Force gave evidence that a pornographic video, that had been played in the Bax offices during business hours, had been provided by J2 through Irwin. The following exchange took place between Detective Senior Constable Campbell and Counsel Assisting the Commission on 26 November 1997:[25]

Q: Do you have any knowledge of [J2] providing a video to members of Bax, a pornographic video?

A: I have knowledge of the video, sir, but whether it was - I thought he got it from someone at the surf club.

Q: You thought - when you say, "He", Detective Irwin?

A: Yes.

Q: You thought Detective Irwin got it from someone from the surf club?

A: Yes. Whether that was or not - and, you know, I have heard - I have been asked myself, "Have you got the video, [J2] wants it back", but it wasn't by Irwin.

Q: Well, who asked you that?

A: Morgan, I think - or Senior Constable Morgan.

EXAMINATION OF IRWIN & MCDONALD REGARDING FINGERPRINT EVIDENCE

Sergeant Craig McDonald's Evidence

3.26 On 8 and 9 December 1997, Detective Sergeant McDonald gave evidence to the Commission. On both days, McDonald was examined about the nature of his contact from 8 July 1997 onwards with a detective from the Maroubra Local Area Command - a protected internal witness who was code-named J1 for the purposes of the hearings.

[24] PIC Transcript RJ Irwin 01 Dec 1997 p 282.
[25] PIC Transcript IA Campbell 26 Nov 1997 p 174.

McDonald was questioned directly by Counsel as to whether he had approached J1 and asked him to wipe J2's fingerprints from a set of scales that were seized from premises allegedly being used by J2 to store drugs and other items. On 9 December 1997, for example, the following exchange took place between McDonald and Counsel Assisting the Commission:[26]

> Q: Right, so your position still is, isn't it, that at no stage did you approach [J1] with a view to having the scales wiped for the purpose of removing identifiable fingerprints?
>
> A: No.

3.27 On 2 July 1997, J1 had assisted members of Task Force Gymea (a NSW Crime Commission investigation) to execute a search warrant on premises allegedly being used by J2. The search resulted in the seizure of 3.5 kilograms of amphetamine, along with a set of scales and other drug paraphernalia.

3.28 McDonald gave evidence that he had regular social contact with J1. The following exchange took place between Counsel Assisting the Commission and McDonald on 8 December 1997:[27]

> Q. Do you socialise with any of those persons? [ie police from Maroubra police station].
>
> A: Yes, I play - I play golf with [J1].
>
> Q: How often?
>
> A: Probably once - it depends when he's available - once every fortnight, once a month, once a week sometimes.
>
> Q: Are you as close to [J1] as you are to, say, Irwin?
>
> A: No.
>
> Q: Do you ring [J1] or not?
>
> A: Yes.
>
> Q: How often?
>
> A: I probably speak to him, oh, once - once a week, twice, or when - once a fortnight.

---

[26] PIC Transcript CL McDonald 09 Dec 1997 page 404.
[27] PIC Transcript CL McDonald 08 Dec 1997 pp 358-359.

Exhibits # 20 & 21: References by J2 to his Car being "Cleaned" & "Detailed"

3.29 On 8 December 1997, Counsel Assisting the Commission examined McDonald regarding a series of conversations and excerpts from conversations recorded on a listening device involving J2. Recordings and transcripts of these conversations were admitted into evidence. In one, J2, apparently speaking on the telephone, made remarks about having his car "cleaned" and "detailed". An extract from the transcript of Exhibit 20 is as follows:

> [J2]: And the other thing sweet is, the bloke there, my man got the thing and... And cleaned my car, all the car parts. Do you know what I'm saying?
>
> [J2]: So you know, the car's nice and clean and they can't do things, but it's, it's... As you know the cleaner did the car a good detail and it's not cheap. Oh well... It's not that, but there might, but he's a mate of mine.
>
> [J2]: Put it this way, (ind) No, no, he... When I explain I'll tell you. But I'm... Put it this way, I'm not worried, Do you know what I mean?

3.30 Prior to the audio tape being played, Counsel Assisting the Commission questioned McDonald as to whether references to a car being cleaned could be regarded as coded language to discuss having fingerprints removed from evidence:[28]

> Q: If a criminal was talking about, for example, having fingerprints removed from an item such as a set of scales, he may well talk about it in the context of 'I've got my car cleaned', or something like that?
>
> A: Well, I can't really comment on that.

3.31 In another conversation, J2, again, apparently speaking on the telephone, made remarks about having his car "detailed". An extract of the transcript from Exhibit 21 is as follows:

> [J2]: And the other thing, all that other business is finished, they can't even talk to me. They can't even speak to me because me friend... Um... My friends what's-er-name um...
>
> [J2]: They managed to clean, to clean everything up, if you know what I'm saying.
>
> [J2]: They cleaned me unit up and so ... Right, so, they detailed the car very well for me. So... They said no, the only thing is they said, you know, it's not cheap to detail a car.

[28] PIC Transcript CL McDonald 08 Dec 1997 p 371.

Exhibit # 23: Reference by J2 to "Snidely", Fingerprints & a Maroubra Detective

3.32 On 11 July 1997, J2 was recorded by listening device making remarks concerning "fingerprints". He also referred to an individual called "Snidely" - a nickname by which McDonald was known[29] - and indicated that there was a young detective from Maroubra who did anything Snidely asked him. McDonald was questioned by Counsel Assisting the Commission on 8 December 1997 regarding his possible personal involvement in arranging to have J2's fingerprints wiped from an exhibit. An extract of the transcript from Exhibit 23 is as follows (emphasis has been added):

Unidentified Male = (UM):

UM: So what do you think about um... tell me (...ind...) the other mate did he fix your problem?

[J2]: Well we don't know... well even if... even Ken ... said to me, right? Ken ... said to me, [J2], I don't care if your prints are on it. He said they can't really do that (...ind...)

UM: [*overtalking*] Roger thinks he knows him too. Yeah.

[J2]: No, well Roger's already (...ind...)

UM: [*overtalking*] no I'm saying (...ind...) again.

[J2]: Yeah, but it's like... they (...ind...) before Roger. Fuck it... 'cause he suffers from anxiety, right?

UM: Yeah.

[J2]: But it was all the young Maroubra detectives, right? But see, put it this way Dave, he... no doubt he's taken... 'cause they said to me months ago...

[J2]: ... they said look Robert's been there a few times late at night. Right?

UM: H's taken (...ind...) What I worry about is they... if they really step up and start puttin' the boot...

[J2]: No, no, no, no.

UM: ...refuse him bail and then what's Roger...

[J2]: No, no.

[J2]: No, they've let him go.

[29] PIC Transcript CL McDonald 08 Dec 1997 p 362.

UM: Yeah but I'm saying if they contact him...

[J2]: They can't now...they can't. That's what Ken said. That...that...that...boom, but see there's only two young detectives from Maroubra, right?

[J2]: Now the... one of them... one of them does anything Snidely says!

UM: Yeah, right.

[J2]: Right? What they did so far... what we've done so far is we... between us, is that we've managed... it hasn't been reported to the DEA. It's right?

UM: (...ind...)

[J2]: So (...ind...) was saying that scales (...ind...)

UM: [overtalking] they'd have to report it (...ind...)

[J2]: No. There's scales... there's scales, there's a big container which we (...ind...) and a big sort of spoon, right?

[J2]: Which is all ready, all they've gotta do is put it in the bag, right? Next thing you know... next thing you know is um... the top of the scales, me prints are off, they're not (...ind...).

[J2]: There's... there's four blokes (...ind...). We've got one. Right? We've got one. So he's... so once it's arrived there, well it misses him... it's just gonna go... nothing comes back.

3.33 Counsel Assisting the Commission put it to McDonald that the above extract involving J2 and an unidentified male indicated that he (McDonald) was involved in arranging for J2's fingerprints to be wiped from the exhibits. This suggestion was denied by McDonald:[30]

Q: You're the person who knows the detectives from Maroubra, aren't you?

A: Yes.

Q: You're Snidely, aren't you?

A: I am.

Q: One of them, one of the detectives from Maroubra, according to [J2], does anything Snidely says; right?

[30] PIC Transcript CL McDonald 08 Dec 1997 p 377.

A: That's what he says, yes.

Q: That's what he says. As a detective, you would glean that what [J2] is saying is that you were who intervened on his behalf with the Maroubra detectives to effect the removal of the prints from the scales; right?

A: That's what he's saying, yes.

Q: That's what he's saying, but you don't know anything about that, of course, do you?

A: No.

Exhibit # 25: Contact between McDonald & J1 following Drug Seizure

3.34 The nature and content of conversations between McDonald and J1, following the seizure of illicit drugs from J2's premises in early July 1997, were explored by Counsel Assisting the Commission in his examination of McDonald. On 1 August 1997, J1 and another male had been recorded, by listening device, having a conversation in which the male appeared to provide J1 with money (Exhibit 25). Counsel Assisting the Commission suggested to McDonald that the other voice on the tape was his (ie McDonald's). McDonald indicated he had no recollection of having had the conversation and said that he had never heard his voice before on tape:[31]

Male voice = MV:

MV: Tell me this. I've got something for you, right?

[J1]: Mm.

MV: But I, I think I should hang on to something for you, know what I mean?

[J1]: Yeah, no worries.

MV: I don't want you to piss it up against the wall.

[J1]: I know what you're saying, I know what you're saying.

MV: And I don't want you to get caught with it in your pocket at home.

[J1]: Put it, put it this way --- I, I've got a little, a little .. uh.. ---we've got a tin that we've probably had for eighteen months all we do is put our like, loose coins and there --- it's one of those big, big tins.

MV: Well where are you gonna put three grand?

31 Exhibit 25.

[J1]: No, I'm not gonna do that.

MV: (*Laughter*)

[J1]: Thank you, thank you. Oh no, I'm not gonna do that — no, but I've got that.

MV: What, what we'll do, I'll give you a grand tonight —

[J1]: Righteo.

MV: And then next week I'll give you another grand, bit I don't want you to piss it up against a wall, alright?

[J1]: No worries.

MV: But also, I don't want you to get caught with the fuckin thing.

3.35 The other individual recorded on tape - who identified himself as "Super Snidely" in the course of the conversation - returned to the issue of payment to J1:

MV: There's five thousand, ah five thousand right, you've got to give five hundred to the courier, right, that's the transport fee, right...

[J1]: Yeah

MV: There's three, three five for you and a thousand for me.

[J1]: Yeah?

3.36 Counsel Assisting the Commission put it to McDonald that it was his (McDonald's) voice on the taped conversation (Exhibit 25) offering J1 money to remove fingerprints from some scales:[32]

Q: Wasn't that a tape-recording of you in effect offering [J1] $5000 to remove fingerprints from some scales?

A: That's what the tape indicates, yes.

Q: And it's your voice on the tape?

A: I can't recall having that conversation with him.

Q: So do you say that it's someone who sounds exactly like you; is that right?

A: Well, as I said, I've never heard myself on tape, so - -

[32] PIC Transcript CL McDonald 09 Dec 1997 pp 413-414.

Q: It sounds like [J1] doesn't it?

A: It sounds like [J1], yes.

3.37 The tape recording also revealed the individual - whom Counsel Assisting the Commission suggested sounded like McDonald - instructing J1: to be careful with the money he had given him; not to inform his wife about the money; and that these opportunities came along only every five or ten years. The individual also indicated that he was trying to "educate" J1; not "corrupt" him:[33]

MV: You don't tell her. Mate, you know, I've seen guys go home with gold chains and fuckin's rings. — True, you know.

[J1]: Oh, I think, I think you know —

MV: Mate, well that's the only reason, hey, I'm not trying to put you in a I'm not trying to corrupt you, right? I'm just trying to educate you.

[J1]: Yeah, I was gonna say — I'm — yeah —

MV: These things happen once every fuckin' five or ten years.

3.38 The language used by the individual in Exhibit 25 - whom Counsel Assisting the Commission suggested sounded like McDonald - appears to be reflective of corrupt networking within the Police Service. The individual made a number of references to J1 that he (J1) was now "playing first grade". The following extract includes a reference by the individual to him having a "family", and that no-one would ever hurt him as a consequence:[34]

MV: See there's not a problem in the world because there's only you and I that know, right, and of course the baddie,

but when you say ..iu.., you're playing first grade, right because I've got a family, you're gonna get a fuckin' family, you hurt me, and my fuckin' people will hurt you, right? But don't get me wrong, mate I love you like a brother, you know that.

[J1]: I was gonna say, gee, yeah.

MV: So, and I'd never ever, no cunt will ever hurt you while I'm around, right? But don't ever get fooled by...I'm only tryin' to fuckin' forewarn you.

[J1]: Yeah.

33 Exhibit 25.
34 Exhibit 25.

3.39 Counsel Assisting the Commission put it to McDonald that his references to "playing first grade" related to corrupt behaviour within the Police Service. The following exchange took place between Counsel Assisting the Commission and McDonald:[35]

> Q: Have you ever spoken about police officers getting respect by playing first grade?
>
> A: Getting respect?
>
> Q: Getting respect. That's how you get respect - playing first grade. You get respect playing first grade.
>
> A: No.
>
> Q: You see, I suggest this to you, that you were playing first grade in terms of corruption, weren't you? You were a first grade corruptor, [sic] weren't you?
>
> A: No.

Sergeant Robert Irwin's Evidence

3.40 On 9 December 1997, Counsel Assisting the Commission questioned Sergeant Irwin regarding his contact with both J2 and McDonald at and around the time a large quantity of drugs were seized by the NSW Crime Commission from J2's premises (ie 2 July 1997). Irwin was also questioned as to whether he had discussed the issue of the fingerprints with either J2 or McDonald.

3.41 Counsel Assisting the Commission suggested to Irwin that J2 had come to see him at about 7:10 am on 3 July 1997, the morning after the police raid on the premises he (J2) was using in Kingsford. As noted above, the raid had resulted in the seizure of a quantity of amphetamine and other items. Irwin, while conceding the meeting may have taken place, claimed not to remember what was discussed:[36]

> Q: I'm suggesting that at 7 o'clock in the morning - about 7.10 on the morning of 3 July - he came around to your house; that's right isn't it?
>
> A: Well, it's possible.
>
> Q: What did you talk about?
>
> A: I'm sorry, I don't - possible what happened the night before, what happened to his mate or - I don't know.

3.42 Listening device evidence was later presented before the Commission which Counsel Assisting the Commission suggested was a recording of a meeting between Irwin and J2

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35 PIC Transcript CL McDonald 09 Dec 1997 p 420.
36 PIC Transcript RJ Irwin 09 Dec 1997 p 456.

at 7.10 am on 3 July 1997.[37] Irwin, however, indicated that he could not "understand a word" of the tape that was played.[38]

3.43 Counsel Assisting the Commission suggested to Irwin that after J2 had visited him on the morning of 3 July, he (Irwin) had contacted Craig McDonald:[39]

> Q: All right. I'm suggesting to you that on the morning of 3 July, following the visit from [J2], you rang McDonald, didn't you?
>
> A: Where - from home - or - I speak to Mr McDonald daily. He rings up and asks me how I'm feeling and how's things. We're friends.

3.44 Irwin was questioned by Counsel Assisting the Commission about whether he (Irwin) had met with McDonald the afternoon after the raid had taken place:[40]

> Q: Didn't you speak to him [McDonald] outside the Bax office at 1:52 pm?
>
> A: Mr McDonald called in some time - quite a few times actually, so I could have spoken to him then.

3.45 Counsel Assisting the Commission questioned Irwin in relation to whether he (Irwin) had spoken to McDonald about fingerprints. Counsel suggested that Irwin met with McDonald at the Doncaster Hotel on 4 July 1997:[41]

> Q: Did you discuss fingerprints with McDonald?
>
> A: No.
>
> Q: You've never discussed fingerprints in relation to [J2] with anybody, have you?
>
> A: It's my belief I haven't; that's right.
>
> Q: Not even with [J2]?
>
> A: I said I can't recall if I did.

3.46 Counsel went on to suggest that on 23 July 1997, McDonald called in to see Irwin after he (McDonald) had spoken to J1 about "fingerprints" and "scales":[42]

> Q: What I'm suggesting to you is this, that Craig McDonald, having had a conversation with [J1] re scales and fingerprints at the Doncaster on 23 July, called in to report to you at about a quarter to 11 at your home; right?

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37 Exhibit 40.
38 PIC Transcript RJ Irwin 09 Dec 1997 p 482.
39 PIC Transcript RJ Irwin 09 Dec 1997 p 457.
40 PIC Transcript RJ Irwin 09 Dec 1997 p 458.
41 PIC Transcript RJ Irwin 09 Dec 1997 p 461.
42 PIC Transcript RJ Irwin 09 Dec 1997 p 463.

A: If he's called in, if you've got the records that he called in, he's called in.

Q: Right. You can't recall him calling in about this time?

A: I can't recall him calling in. He's called in many a time.

CONSTABLE MURRAY BARTLETT'S EVIDENCE

3.47 An ancillary hearing to the Operation Jade investigation, held by the Commission on 30 January 1998, revealed that J2 had developed an association with another police officer in addition to Sergeant Irwin. Constable Murray Bartlett gave evidence that he had met and developed an association with J2 through the gym where they both exercised. Bartlett indicated that he:

- had frequent breakfasts with J2 after gym workouts;[43]
- met J2 on some social outings;[44]
- visited J2's home on 31 July1997;[45] and
- had a restaurant meal paid for by J2.[46]

3.48 Bartlett gave evidence he knew that J2 had a criminal record and had served a custodial sentence, but had not inquired as to the offence(s) he (J2) had been convicted of committing. According to Bartlett, J2 apparently spoke openly of his gaol term to individuals he associated with at the gym, although never mentioned why he had gone to prison.[47]

3.49 Evidence presented before the Commission suggests that Bartlett had provided information to J2 relating to a licensing matter that affected J2's business interests. An audio tape of a series of remarks made by J2 - apparently on the telephone - indicates that an individual called "Murray" had warned J2 to be careful of a particular licensing officer at the Newtown patrol where Bartlett worked.[48] It was suggested that the reference to "Murray" was a reference to Bartlett:[49]

Q: Can you assist by perhaps suggesting who this Murray could be?

A: I have no idea.

Q: There is some other Murray that apparently has some knowledge of licencing [sic] matters to do with [J2]?

A: I don't know.

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43 PIC Transcript MS Bartlett 30 Jan 1998 p 699.
44 PIC Transcript MS Bartlett 30 Jan 1998 p 699.
45 Exhibit 12.
46 PIC Transcript MS Bartlett 30 Jan 1998 pages 775 & 764 .
47 PIC Transcript MS Bartlett 30 Jan 1998 pp 698-699.
48 PIC Transcript MS Bartlett 30 Jan 1998 p 710.
49 PIC Transcript MS Bartlett 30 Jan 1998 p 712.

Q: And the licencing [sic] matters to do with [J2] were being dealt with by someone at Newtown, namely Mr O'Hearne; right?

A: Yes.

Q: And you had conversations with Mr O'Hearne from time to time about those licensing matters?

A: Yes.

Q: Do you know any other Murray that spoke to Mr O'Hearne about those licensing matters?

A: No.

Q: So prima facie it would point to you, wouldn't it?

A: Well, it wasn't me, sir.

3.50 In addition, Counsel Assisting the Commission led evidence that indicated that J2 was aware that a warrant had been issued for his arrest by the licensing sergeant at Newtown. J2 made the following comments during the course of a conversation recorded by listening device on 4 August 1997 (Exhibit 4): "We have a major problem with O'Hearne, he's got a warrant out for my arrest."[50]

ASSESSMENT

Corrupt Networking

3.51 The evidence presented during the public hearings offers a strong indication that a broad informal network of corrupt police officers remains within the Police Service. As previously noted, the language used in Exhibit 25 by the individual whom Counsel Assisting the Commission suggested sounded like Sergeant McDonald contains strong overtones of corrupt networking. The individual:

- advised J1 that he (J1) was now "playing first grade"; and
- warned J1 that he (the individual Counsel Assisting the Commission suggested sounded like McDonald) was part of a "family" that would take action against J1 if J1 did anything to harm him (ie the individual Counsel Assisting the Commission suggested sounded like McDonald).

3.52 It is noted that the comments made in relation to "playing first grade" are remarkably similar to evidence given to the Royal Commission by corrupt former detective, Trevor Haken, that corrupt officers were known as those who "played A grade".[51] A reasonable inference that could be drawn from this reference contained in Exhibit 25,

[50] PIC Transcript MS Bartlett 30 Jan 1998 p 731.
[51] RCPS, Final Report, Volume I, p 167.

therefore, is that J1 was being introduced to a form of corrupt "brotherhood" within the Service by his receiving of money in exchange for destroying evidence.

3.53 Both the Commission and the Police Service should be alert to the possibility that corrupt networks can be rapidly formed from personal associations and contacts. Less than a month after the seizure of amphetamines and other items from premises allegedly being used by J2 (2 July 1997), evidence was recorded on listening device (on 26 July 1997) of J2 boasting that he had successfully arranged to have his fingerprints wiped from a set of scales. Further listening device evidence recorded shortly afterwards (on 1 August 1997) revealed a male - whom Counsel Assisting the Commission suggested sounded like Sergeant McDonald - allegedly paying a sum of money to one of the detectives who had been involved in the execution of the search warrant on 2 July 1997 (ie J1) in return for wiping fingerprints from a set of scales.

Extent of the Alleged Misconduct

3.54 There was no evidence revealed during the public hearings of network-based corruption within Task Force Bax or consisting of Bax officers. Early indications of network-based corruption within Bax were investigated but subsequently discounted by the Commission. While other members of the Task Force were aware of Irwin's relationship with J2, there is no evidence they passed confidential information to J2 or performed any corrupt act on his behalf.

4/ IMPACT ON THE PERFORMANCE OF TASK FORCE BAX OF IRWIN'S ASSOCIATION WITH J2

4.1 That sensitive operational information from Task Force Bax was passed to J2 by Irwin is not, in the Commission's opinion, in question. Irwin conceded during his evidence on 10 December 1997 that he was the source of an "unintentional" compromise in relation to an investigation into a suspected major criminal. On 11 December 1997, Superintendent Wegg described the degree of impact of Irwin's relationship with J2 on Bax investigations in the following terms:[52]

> Q: I think it is a fact, isn't it, that you'd now accept that Irwin passed on some information?
>
> A: Yes.
>
> Q: Which, in some way, has compromised some operations?
>
> A: The way I understand it, the information that he passed on jeopardised and compromised a large number of our operations.

4.2 Wegg, however, maintained in his evidence before the Commission that Task Force Bax achieved significant results, despite the activities of Irwin and his relationship with J2. The following exchange took place between Counsel for the Police Service and Superintendent Wegg on 11 December 1997:[53]

> Q: When Lambie gave his evidence, his excuse for not knowing about the revocation of warrant was, "Probably just slipped through the net". This is a specialised intelligence-gathering unit. How does it slip through the net?
>
> A: It was a specialised operational unit.
>
> Q: How does it slip through the net?
>
> A: I don't know how it slips through the net.
>
> Q: Because it shouldn't have, should it?
>
> A: Maybe it shouldn't. Maybe a lot of things shouldn't have happened, but they did. The specialised operational unit that it was, in spite of the interference it received from one of its members, was very successful. We arrested over 80 people. 20 of those - that's 25 per cent of the people we arrested - are facing charges which carry life imprisonment. That's the same as having 25 homicide briefs. Another 40-odd are facing terms of imprisonment of in excess of 15 years, so 75 per cent of our targets carry - are facing sentences which carry

[52] PIC Transcript GH Wegg 11 Dec 1997 p 544.
[53] PIC Transcript GH Wegg 11 Dec 1997 p 582.

> long terms of imprisonment. Those matters that have been concluded have 100 per cent conviction rates.

4.3 Notwithstanding these arrest results, the Commission considers a conclusion that the performance of the Task Force was not significantly impaired by the relationship between Sergeant Irwin and J2 is highly problematic. Two reasons may be advanced. First, serious corruption problems have in the past existed within, and hampered the efforts of, investigative units of the Police Service which also achieved high levels of arrests. For example, corrupt former detective, Trevor Haken, was able to simultaneously maintain his corrupt activities and a high arrest rate while working as a detective in Kings Cross:[54]

> In 1991 Mr Haken was appointed as head of the Kings Cross Drug Unit which earned a reputation for a high workload and arrest rate at street level. When as a supervisor he allocated jobs which had a corruption potential, he assigned them to officers he knew were corrupt. He went undetected for years because there were so many officers in precisely the same position, and such a high volume of work.

4.4 Similarly, the Royal Commission demonstrated that members of the former Joint Task Force, comprising officers from the NSW Police Service and the Australian Federal Police, were able to maintain high arrest results while at the same time engaging in corrupt practices:[55]

> In the outcome very many members of the JTF admitted to corrupt practices. The overwhelming conclusion must be that its members operated as a group with their own morality and rules, where the price of admission was a willingness to achieve results with faint regard for due process. There can be little doubt that it was arrest and conviction rate driven. Its apparent success rate in these terms was very high. This, combined with the wealth of resources available to it, created a pride of membership and a zeal to achieve gains in the war on drug traffickers, where process corruption was a means to an end and the end was all that mattered.

4.5 Second, the terms of reference issued to Superintendent Wegg at the inception of Task Force Bax were imprecise and did not provide a clear basis for measuring the progress, direction or performance of the Task Force. As noted previously in this Report, the terms of reference were "to investigate criminal activity centred on Kings Cross". In the absence of any clear objectives and performance measures, the possibility cannot be discounted that the overall performance of the Task Force was impaired by the relationship between J2 and Irwin.

4.6 It is noted that the operational plans introduced to Bax by Crime Agencies after it assumed control of the Task Force on 1 July 1997 were more precise and focused than had previously been the case. Documents dated 28 July 1997 indicate that the

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54 RCPS, Final Report, Volume I, p 168.
55 RCPS, Final Report, Volume I, p 187.

Commander of the Task Force was issued with operational plans by Crime Agencies containing the names of specific targets.

4.7 In submissions before the Commission, Counsel for the Police Service noted that the terms of reference developed for Task Force Bax at its inception were simple, open-ended (in terms of time) and left much to the discretion of the Commander or manager. Counsel indicated that the terms of reference subsequently developed by Crime Agencies for Strike Forces were as an improvement on those employed by Bax:[56]

> The first, in my submission, is the terms of reference. The terms of reference of Bax is exhibit 72, which was tendered this morning by Mr Frearson. You will see from that, your Honour, that it is dated 22 February '96. It is subject to review at 31 August 1996, but it has no completion date; it is open-ended and it is a very, can I say, simple document in that it is left very much to the manager or the commander to do what he thinks.
>
> From the evidence of Mr O'Grady and I think also of Mr Tate and perhaps others, there were over 250 targets; whereas now, your Honour, if you contrast it with the terms of reference now for strike forces, you will see a completely different way of doing things as far as crime agencies is concerned...
>
> ...You will see in the '97 document, Mr Commissioner, that it is much more specific than the open-ended terms of reference that were in force for Bax. There is a commencement time. It has details, under paragraph 2, of the definite personnel who will be assigned to the investigation, certain directions as to how the investigation will be conducted and then the second page, certain directions to the commander. But then, your Honour, more importantly, when you look at the '98 document, which is exhibit 67C, your Honour will see this is taken from an actual strike force - an actual term of reference where all the relevant details, apart from the case title, have been deleted. But you will see, your Honour, that particularly paragraph 2 on the second page is an anticorruption [sic] measure which certainly wasn't in the '97 one and certainly wasn't in the terms of reference for Bax. That has been brought in, on my instructions, your Honour, specifically to deal with what has transpired in the Bax investigation.

[56] PIC Transcript Counsel for the Police Service 13 Feb 1998 pp 781-782.

5/ MANAGEMENT ISSUES: CORRUPTION DETECTION & PREVENTION

5.1 Chapter Three of this Report provides a summary of the evidence relating to police misconduct heard by Commission during the public hearings. Of equal importance, however, is whether the corruption prevention and detection strategies employed by the management of the Task Force were appropriate and effective. The Final Report of the Royal Commission underscored the important role of police managers in preventing and identifying corruption within the Police Service. Under the heading of "Risk Minimisation", Volume I noted that local police commanders are best placed to evaluate the nature and level of local criminality, and identify tell-tale signs or indicators of police misconduct when they appear:[57]

> Similarly, in the absence of accountability on the part of commanders and supervisors for failure to identify and deal with corrupt practices, and of an appreciation that corruption control is a service-wide problem rather than a problem of the internal affairs command, the development of serious corruption is almost inevitable. It is the local supervisors and commanders who are best placed to understand the patrol or district for which they are responsible, to assess the nature and level of criminality operational police under their command are likely to encounter, to assess and monitor their work practices and to respond to any tell-tale signs of corruption. Typically in those services where a problem exists, it has not been identified as a matter for the service as a whole, nor has the performance of supervisors and commanders been the subject of critical assessment and review.

5.2 Volume I further emphasised the importance of an effective first-line of management in detecting corruption. The following observations were presented in paragraph 6.33:[58]

> Without effective first-line supervision, accountability by commanders and supervisors for failure to identify and deal with corrupt practices, and action from Senior Command that matched rhetoric, there was little hope of detecting and effectively targetting corruption. Part of the problem in this regard has been the lack of any real sense of responsibility at local level, the view having been taken that corruption should be left to the Office of Professional Responsibility or its predecessors. As a result local supervisors and commanders who should have been best placed to know what was going on, were frozen out of the circuit.

5.3 This Chapter evaluates the corruption detection and prevention strategies employed by the management of Task Force Bax.

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[57] RCPS, Final Report, Volume I, p 42.
[58] RCPS, Final Report, Volume I, p 198.

CORRUPTION DETECTION

5.4 Two issues are considered below in relation to corruption detection:

- the extent to which the management of the Task Force responded to tell-tale signs or indicators of corruption; and
- the extent to which organisational inefficiencies impaired the capacity of the Task Force's management to detect corrupt behaviour.

Tell-tale Signs or Indicators

5.5 As a corruption detection strategy, an awareness of corruption tell-tale signs or indicators provides a framework through which police managers can, at an early stage, identify behaviour in their personnel that may be indicative of serious misconduct, and take action to reduce the likelihood of corruption impairing or jeopardising investigations and other policing initiatives. The Final Report of the Royal Commission identified a number of such tell-tale signs, including alcohol-abuse[59], unexplained wealth, gambling[60], and inappropriate associations between police officers and criminals.[61]

5.6 Two points can be made in this context with regard to the management of Task Force Bax. First, it is apparent from the evidence that the nature and extent of the personal association between Irwin and J2 was known to the Commander of Task Force Bax. The fact that J2 had a criminal record and was associated with targets of Bax investigations was also known to Superintendent Wegg.

5.7 Second, there was ample information of a recent nature available to the Commander of Bax to demonstrate that relationships between criminals and police officers should be regarded as a possible indicator of corruption. The Royal Commission hearings and investigations identified that relationships between police and criminals had been a major cause of police corruption. The Final Report made the following comment about the relationships between police and criminals:[62]

> ...the existence of inappropriate relationships between police and criminals was identified early as a major cause of the emergence of corruption.

5.8 Moreover, as pointed out in Volume II of the Final Report, the issue of relationships between police and criminals had been the subject of a 1994 report by the Independent Commission Against Corruption (Operation Milloo), and had therefore been established as a major issue prior to the advent of the Royal Commission.[63]

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59 RCPS, Final Report, Volume I p 99.
60 RCPS, Final Report, Volume I p 198.
61 RCPS, Final Report, Volume II p 432.
62 RCPS, Final Report, Volume II p 432.
63 RCPS, Final Report, Volume II p 423.

5.9 The evidence revealed during the Operation Jade public hearings indicates that the Commander of Task Force Bax neither sought clarification regarding J2's criminal antecedents, nor initiated any action to monitor or curtail the association between Irwin and J2.

Knowledge of J2's Criminal Record & Criminal Associations

5.10 On 24 November 1997, Wegg gave evidence that he believed J2 had served a gaol sentence for shoplifting, although he could not recall how he had come to this understanding:[64]

> Q: And part of the appropriate and relevant information would be the criminal antecedents of [J2]?
>
> A: Yes, he [Irwin] told me about him. The name didn't mean anything to me.
>
> Q: You didn't know he was a criminal?
>
> A: I heard he was a criminal. He told me he was a criminal - he had a criminal background, that he had done time in gaol. I understood it that he was a receiver, that he was a shoplifter.
>
> Q: So he definitely told you he'd done time in gaol?
>
> A: Yes.
>
> Q: Your understanding was that it was in relation to some matter of dishonesty and not drugs?
>
> A: I understood that his criminal history related to property matters and not drugs.
>
> Q: And how did you come by that understanding?
>
> A: That was just my understanding, sir.
>
> Q: Well, it didn't come out of thin air. Somebody must have told you something for you to form that opinion?
>
> A: I don't recall where it came from, but that was understanding of it.

5.11 The Commission heard evidence that J2 had been photographed with a group of suspected criminals, giving rise to him being identified as a "person of interest" to the Task Force and flagged on the Police Service's Computer Operated Policing System

[64] PIC Transcript GH Wegg 24 Nov 1997 p 28.

(COPS).[65] The following exchange occurred between Counsel Assisting the Commission and O'Grady on 16 December 1997:[66]

> Q: Anybody looking at that and looking at the intelligence material that was available, in particular the suggested involvement in drug importation in 1992 with [name of suspected criminal], they would conclude that, whilst he may not have been high up on the tree, he was certainly a person of substantial interest?
>
> A: He was, but I am just - the way we had it was - won't say the names, but we had certain names of certain people who appeared to have a lot of activity in what we would suggest was large-scale drug distribution. To my knowledge, [J2] had only come into that on, I think, only one occasion - I could be wrong there - but on one occasion when he was photographed with what I would call one of our more major targets. Bearing in mind the job was still in its developmental stage - we hadn't gone into full operation on it - as I think I said in my evidence before, [J2] very may well have built his way up and become a major target in it.

5.12 Evidence given by Wegg on 24 November 1997 indicates that he was aware J2 was a "person of interest" to Task Force Bax investigations:[67]

> Q: If [J2] came into an operation you were conducting as a person of interest, it would be no longer appropriate, would it, to have Detective Irwin on the task force?
>
> A: Well, that could well have been the case, but at that stage that was a decision that I made at that time. If I'm wrong, I'm wrong.
>
> Q: Your decision was to leave Detective Irwin on the task force, even though at some stage you became aware that [J2] was at least a person of interest; is that right?
>
> A: It may well have been to our advantage.
>
> Q: And it may well have been to your disadvantage?
>
> A: Obviously it has been.

Attitudes by some Bax members towards the J2-Irwin Relationship

5.13 Following the revelations in the Commission's hearing room that Irwin had provided confidential police information to J2, and evidence of the involvement of Irwin and McDonald in the destruction of fingerprint evidence, a number of members of Task Force Bax were recalled to give evidence.

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[65] "Flagging" is a process whereby a police officer is notified via the COPS system when other officers conduct online inquiries regarding a particular individual.

[66] PIC Transcript SG O'Grady 16 Dec 1997 p 686.

[67] PIC Transcript GH Wegg 24 Nov 1997 p 18.

5.14 Wegg gave evidence that it was only in hindsight that he could see that his decision to put his faith in Detective Sergeant Irwin was flawed. His evidence suggests that he did not believe he had sufficient information at the time to make any decisions concerning Irwin and his relationship with J2:[68]

> Q: ...what I'm suggesting to you is that this task force came into operation towards the end of the Royal Commission hearings, or certainly during 1996?
>
> A: Yes.
>
> Q: When there were still hearings?
>
> A: Yes.
>
> Q: When still corruption was being ventilated and aired?
>
> A: Yes.
>
> Q: When still managers, people in senior positions were saying, "I didn't know, I had no idea. I trusted them." And yet you haven't learned from that, have you?
>
> A: I don't think that you can put that strong an emphasis on it.
>
> Q: You trusted Irwin. They were your words 10 minutes ago.
>
> A: As I say, it's very easy to have 20/20 hindsight, but you make your decision on the information that you have available to you.

5.15 Lambie gave evidence that the true nature of the relationship between Irwin and J2 was revealed only after an extensive covert investigation - something that Task Force Bax did not have the benefit of - and therefore its members could not have reached the conclusion that he (Irwin) was a risk:[69]

> Q: What is the appropriate practice - I'm just curious about this - supposing this situation developed again in some other task force? I know the ultimate responsibility is with the commander in charge of the task force, but what is the mechanism for alerting the appropriate people of the potential difficulty? Is there some mechanism that can be used?
>
> A: I don't know of any mechanism that is in place. You would have to suspect that recruitment would be the mechanism which would clear people for a task force like this.
>
> Q: Do you think there's been some deficiency in that area of recruitment?

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[68] PIC Transcript GH Wegg 11 Dec 1997 pp 576-577.
[69] PIC Transcript RJ Lambie 15 Dec 1997 p 622.

A: No. I don't think so because, on the face of it, all the people were good and true people. What's come out now is a matter of obviously a 12-month investigation with intrusive electronic surveillance into Mr Irwin's character, which is something we just didn't have the benefit of.

5.16 As the following except indicates, Constable David Rope concluded that Irwin had "let everybody down":[70]

Q: Detective, what have you learnt as a detective from what's happened in the last two weeks?

A: In respect of what?

Q: In respect of anything?

A: I've learnt that Bob Irwin has severely let everybody down.

Organisational Inefficiencies

5.17 The Operation Jade public hearings also explored the level of organisational efficiency within Task Force Bax, insofar as it impacted on the capacity of its members to detect corrupt behaviour.

Information Report: 17 October 1996

5.18 Notwithstanding the fact that he had not initiated inquiries to determine J2's actual criminal record, the Commander of the Task Force gave evidence to that he understood J2 had been convicted of minor criminal offences (as noted above). It is a matter of record that J2 is, in fact, a convicted heroin supplier and SP Bookmaker. Moreover, evidence was led by the Commission that J2's criminal convictions had been recorded in a Bax information report, prepared by Lambie on 17 October 1996, that was subsequently vetted and signed by the Commander of the Task Force.

5.19 In response to this evidence, Wegg noted that while he had vetted the report, the information concerning J2's criminal convictions may not have registered with him. He also indicated that there was a considerable amount of information and number of names contained in that document:[71]

Q: What you also knew was that he was a convicted drug supplier?

A: Well, that information is contained in that information report in October 1996.

Q: Yes, but you told me you vetted it and read it?

A: Yes, I may have read it, but it may not have registered.

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[70] PIC Transcript DW Rope 15 Dec 1997 p 638.
[71] PIC Transcript GH Wegg 11 Dec 1997 p 559.

Q: You think you could have read it and somehow it didn't register?

A: Yes.

5.20 The Commission heard evidence that had the Commander of Bax been aware of J2's criminal convictions, he would have taken action that may have resulted in Irwin being removed from the Task Force altogether.[72]

Information Regarding J2's Parole Revocation

5.21 On 25 November 1997, Detective Sergeant Lambie was questioned as to whether he had responded in an appropriate manner to a print-out of information from COPS indicating that J2's parole had been revoked. Evidence was presented that Senior Constable David Rope, who was supervised by Lambie, had printed information from the COPS system, on 17 October 1996, that contained a parole revocation warning.[73]

5.22 Lambie gave evidence that his failure to act on the information indicating J2's parole had been revoked was a "slip-up". He indicated, however, that this was not an uncommon mistake. The following exchange took place between Counsel Assisting the Commission and Lambie on 25 November 1997:[74]

Q: No, but you would ascertain, wouldn't you, whether or not there was a warrant in existence and you would cause, if so, the warrant to be executed?

A: I think that's reasonable, yes.

Q: That's what you'd expect any efficient officer to do; is that right?

A: Well, as I said, if they knew about it.

Q: And everybody at Bax was efficient, weren't they?

A: Oh, look, yes, they were. I agree. I mean, this would appear to be, on the face of it, a slip-up, but that is not uncommon.

CORRUPTION PREVENTION STRATEGIES

5.23 Two issues are discussed below in relation to the corruption prevention strategies employed in Task Force Bax:

- the effectiveness of the Bax management's corruption prevention planning; and
- the appropriateness of the general management practices employed in Task Force Bax.

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72 PIC Transcript GH Wegg 24 Nov 1997 pp 26-27
73 PIC Transcript RJ Lambie 25 Nov 1997 p 97.
74 PIC Transcript RJ Lambie 25 Nov 1997 p 101.

Corruption Prevention Planning

5.24 For the period that Bax operated under the line management command of Crime Agencies, the Commander of the Task Force was required by written direction to implement corruption prevention initiatives.[75] A series of planning documents dated 28 July 1997 contain the following statement:[76]

> You will ensure that Corruption Prevention initiatives are in place and all members of the Investigation Team are aware of and comply with these Terms of Reference.

Task Force Bax Corruption Prevention Plan

5.25 Task Force Bax was created for the specific purpose of investigating crime in the Kings Cross area of Sydney. The terms of reference for Bax were "to investigate criminal activity centred on Kings Cross". During the course of the Royal Commission's public hearings and investigations, Kings Cross had been repeatedly flagged as a high risk area for police corruption, largely as a consequence of the financially lucrative drug trade that operated in the area. The interaction between criminals and police had given rise to entrenched corruption in the area over a number of years. It was well known, therefore, that the likelihood or probability that corruption would occur was high simply by virtue of the fact that the Task Force was involved in investigating crime in Kings Cross. The following extract from the Royal Commission Final Report is illustrative of the entrenched corruption that operated in Kings Cross:[77]

> Upon his arrival at Kings Cross, Detective Sergeants John Swan and Neville Scullion introduced Mr Haken to 'the laugh' - an arrangement by which police received payments from drug dealers and operators of strip clubs. 'The laugh' was confined to the sergeants in the Detectives' Office. Mr Haken eventually became the person who collected and divided the contributions among members of 'the laugh' sorting it into envelopes with coded pictures to identify the officers.
>
> In 1991 Mr Haken was appointed as head of the Kings Cross Drug Unit which earned a reputation for a high workload and arrest rate at street level. When as a supervisor he allocated jobs which had a corruption potential, he assigned them to officers he knew were corrupt. He went undetected for years because there were so many officers in precisely the same position, and such a high volume of work.
>
> Partly as a result of the rules which Mr Haken and other senior Kings Cross police had developed in consultation with the criminal element, the drug trade

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75 As previously noted, As at 1 July 1997, Task Force Bax was under the line management control of what is now called Crime Agencies.

76 Terms of Reference: Strike Force CAC Ref: 97-0102, 97-0108, 97-0107 28 July 1997.

77 RCPS, Final Report, Volume I, p 168.

in Kings Cross changed from a largely disorganised ad hoc affair to an organised network of major drug factions operating with relative impunity.

5.26 The two most senior officers in Task Force Bax, Wegg and O'Grady, gave evidence that they had developed their anti-corruption plan on the basis of information arising from the Royal Commission, including the revelations regarding the operating risks associated with the Kings Cross environment. O'Grady described the anti-corruption techniques employed by Bax in the following terms:[78]

Q: I think you and Superintendent Wegg did from time to time discuss anti-corruption techniques, didn't you?

A: Yes, sir.

Q: Just go into that in a little bit of detail, if you would?

A: At the commencement of the operation, we looked at areas that had been identified by the Royal Commission as to areas of potential corruption, and we tried to put in place things which would take away those areas of potential corruption. So we looked at things like associations with the targets that we were working on, being the people in Kings Cross, and our staff were not encouraged to go to Kings Cross and spend a lot of time there, say, hanging around nightclubs and things like that.

We looked at areas that the Commission identified in the execution of search warrants and we put into place the videoing of all search warrants, and we put into place the use of an independent commissioned officer at the scene of that search warrant. That was done - that now has been adopted by the Police Service as a policy for all search warrants.

On top of that, in relation to search warrants, both Superintendent Wegg and myself would turn up at the various search warrants unexpectedly and we would - as you mentioned before, sir, the intrusive supervision, we would ask questions as to who's exhibit officer, speak to the Commissioned officer there, the independent officer, and make sure he knew what he was doing, who was doing what, so that everything was being done properly in search warrants.

5.27 The evidence presented by Wegg echoed that given by his deputy. Wegg indicated to the Commission that he and O'Grady had made it clear to the staff of Task Force Bax that the "lessons learnt" from the Royal Commission were to be "taken on board". The following exchange took place between Counsel Assisting the Police Service and Wegg:[79]

Q: Did you prepare any corruption plan for Task Force Bax?

[78] PIC Transcript SG O'Grady 26 Nov 1997 pp 120-121.
[79] PIC Transcript GH Wegg 11 Dec 1997 pp 587-588.

A: No, we had an anti-corruption plan.

Q: Sorry, you?

A: We had an anti-corruption plan.

Q. You did, right?

A: Yes, together with my 2IC, Detective Inspector O'Grady.

Q: Was that in writing, or did you just tell your officers what was involved?

A: We made it quite clear that the lessons learnt from the Royal Commission were to be taken on board by the command, and that - and there were a number of initiatives that we introduced to our command as anti-corruption strategies, such as an internal audit function that we carried out within the operation. We carried out intrusive, if you like, audit of operations by turning up at particular operations unexpectedly. We insisted that our standard operating procedures in relation to the execution of search warrants was carried out in full and utilising video cameras, external officers to supervise search warrant operations. We attended various operations unannounced and unexpectedly to see that procedures were carried out correctly and that people were doing their job correctly.

5.28 Wegg gave evidence that he repeatedly reinforced their corruption prevention plan with their staff at Task Force Bax. He noted that he emphasised the plan at weekly meetings:[80]

Q: Right. So what, did you hold a meeting when you started Task Force Bax and tell everybody that this was the position?

A: Yes, we did, and it was reinforced on a regular basis.

Q: How was it reinforced?

A: At our weekly meetings.

Effectiveness of Corruption Prevention Planning

5.29 It is acknowledged that two of the anti-corruption strategies employed by Bax - the video-taping of search warrant executions and the use of an independent observer from another area of the Police Service to attend the execution of search warrants - were listed in the Royal Commission Final Report as measures that had been introduced to the Police Service to limit opportunities for corrupt behaviour.[81]

[80] PIC Transcript GH Wegg 11 Dec 1997 p 588.
[81] RCPS, Final Report, Volume I, p 199.

5.30 Two points, however, indicate that the corruption prevention strategies developed by the management of the Task Force were not effectively communicated to, and understood by, individual members of Bax. First, Wegg gave evidence that the Bax anti-corruption plan, which he had devised and implemented in conjunction with O'Grady, had not been recorded or documented. The following exchange took place between Wegg and Counsel Assisting the Police Service:[82]

> Q: ...Was that [anti-corruption plan] up on a wall or was that in your office, or where was that plan stored?
>
> A: It wasn't a written plan.
>
> Q: It wasn't written?
>
> A: No.

5.31 It would seem reasonable to infer that the absence of a properly documented anti-corruption plan significantly reduced the ability of Bax officers to comply with, and be held accountable to, that plan's conditions and requirements. Additionally, it is difficult to see how the management of the Task Force could be held accountable to anti-corruption strategies if they were never documented.

5.32 Second, there appears to be a significant discrepancy between the views expressed by the Commander of the Task Force in his evidence before the Operation Jade public hearings, and responses by members of the Task Force to directive memoranda issued by the Internal Affairs Command of the Police Service on 24 October 1997. Whereas Wegg gave evidence that he had regularly reinforced the Bax corruption prevention plan with members of his staff, the responses to the directive memoranda reveal confusion amongst staff regarding the nature and origin of these planning arrangements.

5.33 The directive memoranda posed the following question:

> Do you have a separate Corruption Prevention Plan for Task Force Bax? If 'yes', what objectives, strategies and performance indicators have you developed that you deem appropriate and necessary for the needs of the task force? Where is it and what is the awareness of task force members of its existence?

5.34 Responses fell into a number of different categories. One group of officers indicated that there was a anti-corruption plan specifically developed or modified for Operation Bax (the names of officers have been removed).

Sergeant	I believe that the corruption prevention plan is unique to TF Bax, though it was motivated by the major Crime Squad, South anti-corruption plan. All members on induction to TF Bax sign the plan. I have not personally developed any strategies for this plan.

[82] PIC Transcript GH Wegg 11 Dec 1997 p 588.

Sergeant — No. The only other plan implicated by Task Force BAX is that we respect the Officer in Charge of Task Force BAX and would not do him a disservice by bring BAX into disrepute.

Senior Constable — The corruption prevention plan used by the task force has been moulded from that provided by the Police Service and can be found in the administration area. Task force members have been made aware of its existence and a copy forwarded to each member.

Senior Constable — Task Force Bax does have its own set of corruption-prevention guidelines in place. I did not personally develop any of the strategies in the plan but I have read the plan and consider that it contains commonsense material relating to the management of informants, conducting of search warrants etc which would assist in reducing the potential for corruption as much as any plan possibly could. The plan is kept in the office alongside SOP's and all members of the Task force are made aware of the existence of the plan and it is accessible if required.

Senior Constable — There is a corruption prevention plan in place at the task force it is with the SOP near the administrative desk. There is a strict informant procedure in place which is regularly checked by all supervisors. The Commander expects to know where all staff are at any given time and what they are doing. When going out on a job a supervisor always is informed and approval is granted. There is a white board in place where staff are to record details of where they are and when they will return.

5.35 Another group reported that they adhered to the Police Service anti-corruption plan, or that they were unaware that Task Force Bax had a separate corruption prevention plan.

Sergeant — Can't remember if our corruption prevention plan is unique or not.

Sergeant — The NSW Police Service Corruption Management Plan is completely adhered to in the office. I believe it meets the needs of our Task Force. The Corruption Management has been discussed at meetings in the past. I have in the past had numerous discussions with investigators under my control informing them of there [sic] responsibilities to this Plan and in turn supervisors have spoken to me about it in the past. I closely monitor officers actions under my control as to any excessive spending of monies or new purchases of property.

Sergeant — No. We follow and strictly adhere to Police Service Policy.

Senior Constable — To my knowledge there is no corruption prevention plan specifically for task force BAX personnel. We adhere to the police services corruption prevention plan.

Senior Constable — I am not familiar with a separate corruption prevention plan for Task Force Bax.

Senior Constable — There is no separate corruption plan in place for task Force BAX.

Senior Constable	I am not aware of a separate corruption prevention plan for the Task Force.
Senior Constable	I am not aware of a separate corruption plan in place for Task Force Bax.
Constable	I am not aware of a separate Corruption Prevention plan for the task force.

5.36 A further group reported that Task Force Bax adhered to the corruption prevention plan of the Major Crime Squad South.

Sergeant	The Corruption Prevention Plan is the one utilised by South Region as the Task Force was initially set up under their umbrella.
Sergeant	I have not seen a specific corruption prevention plan for the BAX operation. I have always been aware of the existence of the Major Crime Squad South corruption prevention strategies and have my copy of same at the BAX premises. I do not believe that it is irrelevant to the BAX operation.
Senior Constable	I am aware that the Corruption Prevention Plan adheres to that of the Major Crime Squad South. Task Force BAX was a South Region Task Force. Amendments may have been made to adhere to Task Force requirements. A copy of the plan is kept in the BAX office.
Senior Constable	The only corruption prevention plan I am aware of is the South Region one, since a short time after the task Force was formed it was renamed, the Special Investigation Unit, South Region, to throw off the criminals who made it known they were interested in us and what operations we were conducting. This occurred after the media printed a story via the Royal Commission of Task Force Bax, the unapproachables who did not even have parking tickets they were so clean.
Senior Constable	Not known. I believe we follow the same corruption prevention plan at the South Region Crime Squad. I am aware that if I saw or heard of any corrupt behaviour to report it to my senior officers or internal affairs depending on the level of corruption.

5.37 Had the Bax anti-corruption plan been repeatedly impressed upon staff members, as Wegg claimed, a more informed understanding of the Task Force's corruption prevention arrangements might reasonably have been expected. It is difficult to see how police officers from Bax could have been effectively employing anti-corruption strategies in their investigations in the face of such confusion over their own unit's corruption prevention arrangements.

Appropriateness of General Management Practices

"Blind" Trust in Staff

5.38 On 24 November 1997, Wegg was questioned about his management approach to Irwin in light of the Detective Sergeant's personal association with a convicted criminal (ie

J2). Wegg gave evidence that he regarded Irwin as a "man of integrity", noting that he had considerable experience in "high risk specialist investigations". His evidence suggests that he regarded Irwin's relationship with J2 as a matter to be handled by Irwin himself, despite the fact that J2 was a convicted criminal and person of interest to Bax investigations. Wegg noted that Irwin could have been trusted with operational information about matters that involved J2:[83]

> Q: Well, did you think it was a good idea for Detective Irwin to have information about matters that involved [J2]?
>
> A: It was my understanding that [J2] had been Irwin's neighbour for a number of years. Now, he had been working in other areas of high risk, specialist investigation prior to coming to Bax. He's an experienced Detective Sergeant with more than 20 years service. I consider him to be a man of integrity. I consider him to be an experienced police officer. He had informed me of his relationship, if you like, some 18 months prior. I felt that, under those circumstances, he could be trusted with that particular information if it became necessary. That may have been a matter for judgment on my part, which may be considered to be wrong. However, I made that decision based on the information that I had.

5.39 Wegg gave further evidence that while he could give instructions to his staff regarding procedures and the like, he could not "live their lives for them":[84]

> Q: For some reason it appears, doesn't it, that in relation to Detective Irwin you had made an exception to your general rule about what's a proper or what's a wholesome arrangement and a non-wholesome arrangement, if I can put it that way?
>
> A: I could give my people instructions and tell them what the policy is and what the rules were and how they should conduct their investigations and manage the information. I could guide them in what was expected of them, but I can't live their lives for them.

5.40 The Commission considers the evidence given by Wegg concerning his approach and attitude to the Irwin-J2 friendship is indicative of a discredited police management practice of showing "blind" trust in the integrity of staff. Under the heading of "Command Accountability and Effective Supervision", Volume I of the Royal Commission Final Report identified this practice as a major management problem that had contributed to corruption going undetected within the Police Service.[85]

5.41 It is an unfortunate but unavoidable fact that some individuals lacking in personal integrity will be recruited into the Police Service, and that others will become corrupt in time.

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83 PIC Transcript GH Wegg 24 Nov 1997 p 19.
84 PIC Transcript GH Wegg 24 Nov 1997 p 19.
85 RCPS, Final Report, Volume I, p 198.

The Final Report Volume I of the Royal Commission made this point in explicit terms (albeit in passing):[86]

> It is inevitable within any organisation of the size of the NSW Police Service, that some persons will be recruited who lack the personal integrity or strength of character required for the job, or who for any one of a number of reasons will slip into criminal or corrupt conduct ...

5.42 The management practice of showing "blind" trust in the integrity of staff fails to recognise the existence of such corruption risks within the Police Service.

Open Management Approach

5.43 As an apparent extension of his trust for the staff of Task Force Bax, Superintendent Wegg gave evidence that he employed an open management style. His philosophy was that there should have been a free and open exchange of information between members of the Task Force. The Commission heard the following evidence on 24 November 1997:[87]

Q: All right. You said that there was a free exchange of information within Bax?

A: Yes.

Q: How did that take place?

A: Well, it was part of my management philosophy that all the people that were working on Bax should be informed of what was going on in relation to each of the investigations, the reason for that being our resources were limited, we had a number of major inquiries running at any one time. It was an operational necessity that they know what was happening with everyone else's brief because of the fact that at any stage they could be called upon in an operational role to assist on a whole range of investigations. Now, that was the - my strategic aim, if you like, in relation to my investigations, that everyone that operated within the task force be aware of each other's investigations so that they could play an operational - a meaningful operational role if they were called upon to assist in that particular operation.

Q: You said that was part of your management philosophy; is that right?

A: Yes.

5.44 The argument presented by Wegg for an open information policy in Task Force Bax is not necessarily flawed. In a small investigative unit there may be a legitimate requirement for staff to be well aware of all investigations and lines of inquiry in the event that their services may need to be called on or in case investigations intersected.

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86 RCPS, Final Report, Volume I, p 27

87 PIC Transcript GH Wegg 24 Nov 1997 pp 11-12.

The problem with this approach, in the Commission's view, was that it was not complemented by effective corruption detection and prevention mechanisms.

Approach to Physical security

5.45 Although not central to the Operation Jade public hearings, the Commission heard evidence relating to internal physical measures employed by Bax's management. Inspector O'Grady gave evidence that the keys to the safe in the Commander's officer were kept in the drawer in his office and that other members of the Task Force knew where they were located and could have accessed them:[88]

> Q: Do I understand from what you said to Mr Frearson then that, notwithstanding you were the only person with the keys to the safe, you don't know how the documents found their way into the safe?
>
> A: No.
>
> Q: Did you have the keys on your person all the time or did you leave them in the same spot, say on a hook?
>
> A: They were kept in a drawer in the commander's office.
>
> Q: And was everybody in Bax aware of where the keys were kept?
>
> A: Most people would have known, yes.
>
> Q: So anybody could have come in and got the keys out and opened the safe; that is correct?
>
> A: They could have, but it would be most unusual for someone to do that.

5.46 In September 1997, Commission investigators executed a covert search upon the Operation Bax premises pursuant to section 29 of the Act. The search revealed that the keys to the Bax safe (located in the Commander's office) were stored in an unlocked drawer of Superintendent Wegg's office. Items contained within the safe included:

- completed informant registration forms, containing the names of informants; and
- the keys to the firearms cabinet.

5.47 The search also revealed that completed Contact Advice Reports from informants were sitting unsecured on top of the safe. These documents provide information relating to the circumstances of contact between the informant and their case officer.

[88] PIC Transcript SG O'Grady 16 Dec 1997 p 689.

5.48 The approach to physical security employed by the Commander of Bax does not appear to have taken into consideration the inherently sensitive nature of documentation relating to informants. Moreover, the Commander did not, in the Commission's opinion, look after his safe in such a manner as to prevent opportunities for corrupt acts arising. The fact that most members of Bax were able to access his safe supports this view. Again, it would appear that Wegg's approach to this aspect of management was governed by a "blind" trust in the integrity of his staff.

FUTURE STRATEGIES: CORRUPTION DETECTION & PREVENTION

Corruption Risk Minimisation Strategies

5.49 In evaluating the causes of the alleged misconduct that occurred in Task Force Bax, the Commission considers that the management of the investigative unit did not take adequate steps to detect and prevent corruption. Indeed, it is apparent that organisational inefficiencies and a failure by management to respond to a tell-tale sign of corruption allowed the behaviour that gave rise to the misconduct-related charges against Irwin to go undetected. The Commander's approach to corruption prevention and detection was piecemeal and failed to embrace some of the major findings of the Royal Commission with regard to management matters.

5.50 The requirement for managers within the Police Service to play an active role in the prevention and detection of corruption, as highlighted in the Final Report of the Royal Commission, remains significant. In order to avoid a disjointed and incomplete approach to this difficult task, there may be some merit in each relevant manager within the Service being required to develop a misconduct risk management strategy that:

- integrates both prevention and detection components; and
- is tailored to counteract the specific misconduct risks faced by the local area or specialised work unit in question.

5.51 In addition, the Commission considers that there may be some benefit in the Police Service developing a standardised methodology that managers can use and tailor to meet their specific needs. This could include a series of generic indicators or tell-tale signs of possible corrupt behaviour.

5.52 In the context of police misconduct, "risk" relates to the likelihood, or probability, that misconduct will occur, coupled with the degree or level of harm that would occur if it did. In broad terms, therefore, corruption risk management should involve, amongst other steps and processes, an objective assessment of the nature and level of corruption risks facing local areas or specialised work units within the Service, and the implementation of strategies to reduce the likelihood of those risks being realised, or minimising their impact. These strategies would affect the manner in which personnel, official procedures, planning processes, physical security arrangements, and the like are managed.

5.53 The merits of risk minimisation strategies as a means of reducing the opportunities for corruption on a Service-wide basis were discussed on a number of occasions in the Final Report of the Royal Commission into the Police Service. Volume I noted the absence of corruption risk minimisation strategies at patrol level prior to the Royal Commission:[89]

> Prior to the Royal Commission virtually nothing was done to minimise corruption risks within the patrol. Reference has previously been made to the limited vetting of the integrity of detectives transferred to the patrol, and of the return of detectives whose integrity had previously been questioned. Not only was there an absence of any system for limiting the term of duty of officers within the patrol, it appears that commanders did not have the capacity to remove officers under suspicion.

5.54 Drawing on information from the Mollen Commission Report (1994) into Police Corruption in New York City, Volume I of the Final Report observed that a police service that fails to develop and implement risk minimisation strategies with regard to misconduct is bound to encounter serious corruption problems:[90]

> A service which does not adopt risk minimisation strategies, whether they be in the form of informant management plans, rotation of duties, careful recruit selection, appropriate training and in-service development, close supervision, command accountability, avoidance of 'favouritism', an effective investigations command, support of internal witnesses and of those exposed to the most stressful tasks, and the like, is bound to encounter serious problems of corruption.

5.55 The importance of risk management was again highlighted in paragraph 6.37 of Volume I of the Final Report, which noted that many of the guidelines and instructions designed to prevent, deter and identify corrupt behaviour were, for the most part, too complex and did not address the high-risk activities in the Police Service. This section of the Report also outlined a range of strategies that had been, by the time the Report was drafted, introduced into the Service to reduce the opportunities for corruption.[91]

5.56 **The Commission recommends that the Police Service give consideration to developing a standardised corruption risk management methodology that managers within the Police Service can use to assess the risk of misconduct and develop specific strategies to reduce its incidence.**

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89 RCPS, Final Report, Volume I, p 175.
90 RCPS, Final Report, Volume I, p 41.
91 RCPS, Final Report, Volume I, p 199.

6/ PROCEDURAL SHORTCOMINGS REVEALED THROUGH OPERATION JADE PUBLIC HEARINGS

6.1 A number of witnesses from Task Force Bax and other areas of the Police Service, who were called to give evidence before the Commission during the Operation Jade public hearings, were questioned on a range of issues concerning official procedures. The evidence presented exposed:

- a failure on the part of both Sergeant Irwin and the management of Task Force Bax to adhere to the Police Service's *Informant Management Manual*; and
- a failure on the part of Constable Murray Bartlett to familiarise himself with the Police Service Code of Conduct.

6.2 The hearings revealed a need for the Police Service to develop and implement additional procedures relating to:

- the payment of informants; and
- the recording and reporting of confidential matters by the Fingerprint Specialist Support Branch.

6.3 A requirement was also identified for a new procedure that would allow managers within the Police Service to conduct online COPS inquiries on behalf of officers under their supervision, where those officers have expressed a concern about the possible criminal background or affiliations of an individual with whom they have formed an association.

INFORMANT MANAGEMENT

Principles of Police Service Informant Management Manual

6.4 Among other things, the 1997 Police Service *Informant Management Manual* outlines the principles governing the management of criminal informants, the roles and responsibilities of case officers and managers, and the procedures that each officer in the chain of command must observe (including the provision of financial rewards to informants). The Manual also includes copies of the various forms that are required in the recruitment and management of informants.

6.5 One of the principal purposes of the Manual is to ensure accountability in the process of informant management within the Service. The aims of the informant management systems contained in the Manual include, amongst other things, to:[92]

- protect police officers from false allegations of corruption and impropriety arising out of dealings with informants;

[92] NSW Police Service *Informant Management Manual* March 1997, paragraph 1.3, page 3.

- reduce corruption/impropriety or the perception of corruption/impropriety; and
- provide objective supervision and assessment of the relationship between police officers and informants.

6.6 The role of management in the process of accountability is highlighted in paragraph 1.2 of the Manual:[93]

> The NSW Police Service has developed an Informant Management System based on a tiered management structure which ensures close supervision and full documentation of all steps in the relationship.

Adherence to the Informant Management Manual: Task Force Bax

6.7 Sergeant Irwin gave evidence before the Commission that he had not read either the 1997 *Informant Management Manual* or the informant management procedures published in 1994:[94]

> Q: Prior to this year, the last one [informant management plan] came into force in 1994; are you aware of that?
>
> A: Apparently so.
>
> Q: What do you mean 'apparently so'?
>
> A: I haven't read it.
>
> Q: You have not read it?
>
> A: That's right.
>
> Q: Have you read the informant management manual that came into force in March this year?
>
> A: No.

6.8 While it was undoubtedly the responsibility of Irwin to read and be familiar with procedures that are intended to ensure accountability and govern the professional conduct of police officers, the question arises as to how an officer was recruited to such a high profile investigative unit within the Police Service without an understanding of, or familiarity with, the established informant management procedures. Under the heading of the Role of the Supervisor, the Manual (paragraph 4.3) indicates that supervisors should not only provide their staff with a copy of the Manual but should check to ensure they have understood its principles and procedures:[95]

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93 NSW Police Service *Informant Management Manual* March 1997, paragraph 1.2, page 3.
94 PIC Transcript RJ Irwin 10 Dec 1997 p 520.
95 NSW Police Service *Informant Management Manual*, March 1997, paragraph 4.3, page 25.

> Give all your case officers a copy of this manual and any Command SOPs. Check that they understand the principles and procedures of handling informants.

6.9 Similarly, the Manual indicates that senior supervisors should check to ensure that its contents are understood:[96]

> Check to ensure that each case officer and supervisor has a copy of this manual and any Command SOPs and that they fully understand the principles and procedures relating to their work.

6.10 The following exchange between Counsel for the Police Service and Wegg indicates that Wegg had not checked with Irwin to ensure that he understood the principles and procedures of the Manual.

> Q: Now, what do you mean by that? Do you mean O'Grady and you delivered a paper or a lecture?
>
> A: We set out what the management plan was and what was required of the officers in relation to informant management, the care to be taken with it, the documentation that had to be done in relation to informants, and the care needed to ensure that the documentation was completed correctly and that informants were dealt with in the proper manner for their own protection.
>
> Q: Right. Was this in writing or was this orally?
>
> A: No, this was orally, and it was reinforced on a regular basis.
>
> Q: Right. What about Mr Irwin, did you ever check Irwin to see if he knew his responsibilities under the informant management plan?
>
> A: Well, what do you mean did I check Irwin?
>
> Q: Did you ever ask him –
>
> A: Personally?
>
> Q: Yes.
>
> A: No.

Payment of Informants

6.11 Sergeant Irwin gave evidence before the Commission that he had claimed $2930 in payment to informants as a deduction on his income tax return. The following exchange

[96] NSW Police Service *Informant Management Manual*, March 1997, paragraph 5.3, page 38.

took place between Counsel Assisting the Commission and Irwin on 1 December 1997:[97]

Q: In the year ending 30 June 1997, I think you made certain payments to informants, didn't you?

A: Yes.

Q: Totalling $2,930; is that right?

A: Correct.

Q: And I suppose you documented those?

A: I did document them. I can't find the book, unfortunately.

Q: It's lost, is it?

A: That's right - misplaced.

Q: First of all, maybe we can help you. What book was it?

A: It was a diary.

Q: What type of a diary?

A: Just a small diary.

Q: A police diary?

A: No.

Q: A non-police diary?

A: That's right.

Q: What, a personal diary?

A: Yes.

Q: Where did you keep it?

A: I kept it at home. I kept it in my briefcase and once the year was over, I put it somewhere and I'm buggered if I know where it is.

[97] PIC Transcript RJ Irwin 1 Dec 1997 pp 258-259.

6.12 This issue was pursued by Counsel for the Police Service when Irwin again appeared before the Commission on 10 December 1997:[98]

> Q: Do you remember giving evidence on the last occasion about $2930 which you paid to informants?
>
> A: Yes.
>
> Q: Right. I take it from your lack of knowledge, or lack of reading of both plans to which I've referred, you haven't filled in the requisite forms?
>
> A: I don't know of any requisite forms you fill in.

6.13 Counsel for the Police Service asked Irwin whether he had recorded in detail in his notebook the people he had spoken to and any payment to informants. Irwin stated he had not.[99]

6.14 The Commander of the Task Force, Superintendent Wegg, was also questioned in regard to the expenses claimed by Irwin. It was suggested to Wegg by Counsel Assisting the Commission that Irwin's failure to complete Contact Advice Reports (CARs) was a breach of the established informant procedures. Wegg claimed that he did not think the Crime Commission's informant management arrangements carried the same requirements:[100]

> Q: Did you also hear that during the financial year ending 30 June '97 he had paid, I think it was, $2,930 to informants?
>
> A: Well, that's what he claimed on his taxes, that's what you're saying.
>
> Q: That's what he said here. I haven't seen his tax return. And the only notation of it, as I recall, was in his personal diary?
>
> A: Yes.
>
> Q: You know, don't you, that the '94 [informant management] plan said - I think it was clause 13 - that every payment to do with informants had to be documented?
>
> A: Yes.
>
> Q: And in the '97 plan there's a schedule at the back of the plan where amounts and details have to be filled in?

98 PIC Transcript RJ Irwin 10 Dec 1997 p 531.
99 PIC Transcript RJ Irwin 10 Dec 1997 p 532.
100 PIC Transcript GH Wegg 11 Dec 1997 p 593.

A: Yes, there's a form that is attached to the CARs in relation to the payment of informants and there's also provision on the CARs for payment to informants.

Q: And so that is blatant evidence, isn't it, that at least one person in your command wasn't complying with the informant management plan for whatever reason?

A: Well, I don't think it was spelt out in the New South Wales Crime Commission informant management plan in that manner.

6.15 The 1994 Plan required, and the 1997 Manual requires, case officers to note all contacts with community sources in official duty books and or note books and to promptly report all contacts with informants to the supervisor by way of CARs. The 1992 informant management procedures also required each case officer to make a record in his/her official diary of any intended meeting with the registered informant. It follows therefore that since August 1992, any meeting with a registered informant for whatever purpose should be recorded by an officer in his/her diary. Further, since March 1994, similar records should exist in respect of contact with community resources and CARs should exist in respect of all contact with informants.

6.16 The payments totalling $2930 to informants in respect of which Irwin claimed a tax deduction were in essence funded by the Special Expenses Allowance the Police Service pays detectives, with the balance coming from Irwin's other personal funds. Evidence from the Royal Commission indicated that Special Expenses Allowances are intended for:[101]

> ... the gathering of information and evidence and are intended to include payments of cash to informants or other persons or for payments of meals, liquor, cigarettes and the like and may also extend to the payment of membership fees in relation to institutions to which members belong for the purposes of gathering information.

6.17 Accounting for personal deductions is left to the Australian Taxation Office which has established a number of key rules in relation to such claims. These rules are usually publicised in July each year through articles in the *Police Service Weekly* and *NSW Police News*:

- you must have spent the money;
- you must have incurred the expense in the course of earning your income;
- for total claims over $300, you must have written evidence, (eg detailed and signed diary entry), to prove your claim;
- you cannot claim an automatic deduction just because you got an allowance; and

[101] RCPS Transcript Counsel for the NSW Police Service 25.01.1996 pp. 18986 - 18990.

- when you sign your tax return, you are declaring everything you have told the Australian Taxation Office is true and you have, or can get, the written evidence you need to prove your claims.

6.18 The *Informant Management Manual* does not mention the Special Expenses Allowance or consider how it relates to the broader issue of informant management. The Commission considers, however, that the absence of specific procedures in this regard does not obviate the requirement stipulated by the Manual that an appropriate record must be raised of any and all contact with community sources, prospective informants or registered informants (including contact which results in a police officer making a payment or incurring a working expense paid for by the officer from their own funds).

6.19 **The Commission recommends that the Police Service develop, as an addendum to the *Informant Management Manual*, procedures that explain the relationship between the Special Expenses Allowance (currently paid to detectives) and other aspects of the Service's informant management systems, particularly:**

- **the recording and reporting of contact with community sources, prospective informants or registered informants; and**
- **the payment to registered informants from official fund sources.**

NSWCC & Police Service Informant Management Arrangements

6.20 Under examination from Counsel Assisting the Commission, Wegg claimed that Task Force Bax did not follow Police Service informant management arrangements, but those of the Crime Commission:[102]

> Q: Right. I take it that you are very well aware with what was the '94 plan and now the '97 plan?
>
> A: Yes, but of course --
>
> Q: Dealing with informant management?
>
> A: We didn't operate under the New South Wales Police Service informant management plans, but in the principles we did operate, the New South Wales Crime Commission informant management plan is the same, so the principles are the same.

6.21 This view, however, is inconsistent with the procedural arrangements of the NSW Crime Commission relating to informant management. The report by the Comprehensive Audit Section to the Commander of Internal Affairs on Task Force Bax observed that, while there were some procedural variations between the management of Police and Crime Commission informants, an officer of the NSW Police Service when dealing with any

[102] PIC Transcript GH Wegg 11 Dec 1997 p 591.

informant was required to comply with the Police Service *Informant Management Manual*, in addition to other requirements of the Crime Commission.[103]

6.22 In the Commission's opinion, further guidance in relation to informant management is warranted regarding the obligations of NSW police officers who are involved in formalised cooperative working arrangements with other agencies (such as in task force situations). The *Informant Management Manual* does not adequately explain the responsibilities of officers who are under the line management command of the Police Service but working closely with another agency, such as the NSW Crime Commission, in a formalised cooperative arrangement. The section of the *Informant Management Manual* regarding exemptions from the informant management systems is as follows:[104]

> Police performing duty in the Internal Affairs Command, or in external agencies which have their own informant management system (such as the Independent Commission Against Corruption, NSW Crime Commission or the National Crime Authority) are not required to register informants with whom they deal in the course of their duties with those bodies. However, they are required to follow the principles of ethical and professional conduct with informants outlined in this manual.

6.23 Officers of the NSW Police Service who are performing duties under the line management control of the Commissioner of Police need to appreciate that they are accountable to the procedures of the Service, regardless of what other additional requirements may be placed on their conduct by their participation in joint working arrangements with other agencies.

6.24 **The Commission recommends that the Police Service prepare an addendum to the *Informant Management Manual* that articulates the obligations of officers who may be involved in close formalised working arrangements with other agencies (such as task forces). Such an addendum should note that if officers fall under the line management control of the Service, they are to observe its informant management procedures.**

FINGERPRINTING PROCEDURES: CONFIDENTIAL MATTERS

6.25 On 2 December 1997, two officers from the Fingerprint Specialist Support Branch, Sergeant Geoffrey Smith and Sergeant Peter Oldman, gave evidence in regard to a NSW Crime Commission document that had been submitted by Task Force Bax for fingerprint analysis. The document had been discovered in a Sydney Eastern Suburbs cafe and had, allegedly, been in the possession of suspected criminals.

6.26 Both Oldman and Smith gave evidence that they had been working in the area of fingerprint analysis with the NSW Police Service for eighteen years.[105]

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103 Comprehensive Audit of Task Force Bax 21.11.1997 page 2.
104 NSW Police Service *Informant Management Manual*, March 1997, paragraph 2.20, page 7.
105 PIC Transcript GT Smith 02 Dec 1997 p 313 & PH Oldman 02 Dec 1997 p 344.

6.27 Sergeant Smith gave evidence that fingerprint analysis on the document revealed the fingerprints of J2 and two other suspected criminals.[106] Smith indicated that Sergeant Irwin had advised him that the request was confidential in view of the concern that the document had been leaked by a police officer, a public servant or a staff member of the Crime Commission:[107]

> Q: All right, okay. You have a clear recollection, do you, that Irwin told you on 20 June that unless police were identified, the prints were really of no value?
>
> A: Well, I was - his conversation and parameters to me were either police or some other - whether it be public servant or member of the Crime Commission. See, I didn't know where these documents were actually taken from, what they contained in detail except what was available for me on the photographs to see, and I don't even bother reading that 95 per cent of the time. So whether it be police or whether it just be somebody else that was a public servant or - yeah, as I said before, just attached to the Commission, where the documents would have originated from. And these three people had reasonably lengthy records.

6.28 Smith also gave evidence that the results of the fingerprint analysis, by virtue of the fact that they were deemed to be of a confidential nature, were not recorded in any official way, nor were they communicated to anyone within the Police Service:[108]

> Q: Any time after 25 June 1997, did the results come to be recorded in any official way at all?
>
> A: No, they were just left in the actual confidential folder.
>
> Q: Is that unusual for the results, on your understanding, simply not to be communicated to anybody?
>
> A: I felt it was unusual that I wasn't contacted, and that's still my feeling, that I haven't been - received that phone call back from Sergeant Irwin. I didn't choose to chase that up at all because what I had achieved was not what he'd asked me to try and find out, which was to find some person or police officer who had instigated the copies or the originals, I don't even know what they were.
>
> Q: Did Detective Irwin ask you not to record the results?
>
> A: No.

6.29 Smith further indicated under examination from Counsel for the Police Service that since Sergeant Irwin had not contacted him, he had not recorded the results anywhere other than the back of the photographs:[109]

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106 PIC Transcript GT Smith 02 Dec 1997 p 324.
107 PIC Transcript GT Smith 02 Dec 1997 p 322.
108 PIC Transcript GT Smith 02 Dec 1997 p 323.
109 PIC Transcript GT Smith 02 Dec 1997 p 329.

Q: ...Do I understand you to say that because Irwin didn't contact you, you then just put the results of the fingerprints in the safe or locked it away wherever they were locked away, and you didn't record it anywhere, didn't record the results anywhere.

A: Not anywhere else apart from on the back of the photos.

6.30 Smith gave evidence that, at the time of his appearance before the Commission, the procedures relating to the communication of fingerprint information in confidential matters were being developed:[110]

Q: ...Are there any standard operating procedures that were in operation as at June 1997 which set out to whom you should convey results.

A: We're still developing those.

6.31 Similarly, Counsel for the Police Service questioned Sergeant Oldman about the absence of procedures for communicating the result of confidential fingerprint analyses:[111]

Q: ... What I'm asking you is, in the case of confidential matters, are there any standard operating procedures which require communication in any way.

A: Not at this stage I don't think. I haven't seen any communication.

Q: How long have you been involved in fingerprints?

A: Eighteen years.

Q: You've never seen any?

A: Not in relation to that, no.

6.32 That there were no procedures in place for the communication of confidential fingerprint analyses is, in the Commission's opinion, a matter of some concern, particularly since both officers who gave evidence had worked in the one area of fingerprint analysis for eighteen years. In her submissions before the Commission, Counsel for the Police Service indicated that Internal Affairs had developed standard operating procedures for the reporting of fingerprints that are relevant to confidential investigations.[112]

6.33 While shortcomings such as these can be rectified as a result of evidence being brought to light in hearings and other investigations, there should be some facility whereby they can be identified before a problem emerges. In the Commission's opinion, proactive audits ought to be conducted by the Comprehensive Audit Section of various areas within the Police Service in order that procedures can be reviewed by an external party.

110 PIC Transcript GT Smith 02 Dec 1997 p 331.
111 PIC Transcript PH Oldman 02 Dec 1997 p 344.
112 PIC Transcript Counsel for the Police Service 13 Feb 1998 p 780.

6.34 **The Commission recommends that the Comprehensive Audit Section of the Police Service proactively conduct audits to evaluate the efficiency and effectiveness of procedures in both specialist and non-specialist areas of the Police Service.**

AWARENESS OF POLICE SERVICE PROCEDURES

6.35 In addition to Sergeant Irwin's failure to read the Police Service *Informant Management Manual* (referred to above), the Operation Jade hearing revealed another instance of a police officer failing to make himself aware of important procedures relating to accountability and professional conduct.

6.36 As noted elsewhere in this Report, a police officer from the Newtown Local Area Command, Constable Murray Bartlett, was called to give evidence on 30 January 1998 regarding his association with J2. Bartlett indicated he never gave any thought to the reasons why J2 went to prison.[113] The Commissioner asked Bartlett whether he understood the concept of a conflict of interest; that one does not wait until the conflict actually arises, but does something before the conflict arises. Bartlett responded that he was exercising with a group of people at the gym where he had met J2, which included well-respected people in the community, such as priests and doctors. Bartlett said that if these people were associating with J2 then there ought not to be a problem with him doing so.[114] He noted later, however, that he had not considered the issue of conflict of interest very deeply at all.[115]

6.37 Against this background, Bartlett gave evidence that he had only the skimmed the Police Service Code of Conduct, reading the "headings".[116]

> Q: Did you read it?
>
> A: Read what?
>
> Q: The code of conduct?
>
> A: I've skimmed through it.
>
> Q: When?
>
> A: I skimmed through it last training day we had - I think it was last - Tuesday week ago.
>
> Q: Last Tuesday week?
>
> A: Yes.

113 PIC Transcript MS Bartlett 3 Feb 1998 p 754.
114 PIC Transcript MS Bartlett 3 Feb 1998 pp 755-756.
115 PIC Transcript MS Bartlett 3 Feb 1998 p 756.
116 PIC Transcript MS Bartlett 3 Feb 1998 pp 763-764.

Q: Is that the first time that you have actually looked at it, is it?

A: I don't think so, no. I think the Commissioner issued a pamphlet about the code of conduct.

Q: This pamphlet here?

A: Yes.

Q: You might have had a smaller or different size--

A: Yes, something like that.

Q: -- in February last year?

A: I don't know when it was. I remember seeing something like that, though.

Q: Did you read it then?

A: I just picked it up and looked at it, basically.

Q: What do you mean picked it up and looked at it basically?

A: I didn't read the content of it. You know, you flick the pages over, read the headline and that's about it. I mean, we get issued with that sort of - you know, memos and things all the time.

Q: But this code of conduct came with a letter to you from the Commissioner, did it not, telling you to read it and to understand it and, if you didn't understand it or you had any problems, you were told someone you could contact to discuss it. Just have a look at this. (Handed to witness). Do you recognise your signature at the bottom of that page?

A: Yes, that's my signature on the bottom of the page.

Q: Do you see just above your signature there are three lines?

A: Yes, I see that.

Q: Do you see the end of the first line:

I hereby acknowledge I have received and read the New South Wales Police Service Code of Conduct.

A: Yes, I see that.

Q: And you've signed that?

A: Yes.

Q: 19 February 1997?

A: Yes.

Q: Yet, you didn't read it, did you?

A: No, I said I looked through it and read the headings and things.

Q: Read the headline?

A: From memory, it happened back in, when, February, was it?

LACK OF NAME CHECKING PROCEDURES

6.38 On 3 February 1998, Counsel Assisting the Police Service questioned Bartlett as to whether he had ever checked J2's background and criminal history through COPS. Bartlett's response indicated that this course of action was problematic and that one had to have reasons to conduct online searches.[117]

6.39 It is accepted that police officers may inadvertently form associations with individuals: who may have been, or are currently, involved in criminal activities; who may be seeking unlawful access to confidential police information; or who may, for some other ulterior motive, be seeking to befriend a police officer.

6.40 In view of the current arrangements relating to COPS, whereby audits are periodically run of the online searches conducted by sworn and non-sworn officers, the establishment of a formalised procedure is warranted whereby officers can request that their manager conduct a COPS name check if they have concerns that an individual with whom they have formed an association has a criminal record or criminal associations.

6.41 **The Commission recommends that managers be authorised to conduct online COPS inquiries about the possible criminal background or affiliations of individuals with whom their staff have formed associations. Managers should be required to record the reasons for such searches in their duty books or diaries.**

117 PIC Transcript MS Bartlett 3 Feb 1998 p 751.

7/ "AFFECTED" PERSONS

7.1 Persons against whom, in the Commission's opinion, substantial allegations have been made in the course of or in connection with an investigation, are "affected" persons for the purposes of a report to Parliament by the Commission.

7.2 The Commission considers that the following persons are "affected" persons for the purposes of section 97(3) of the Act, namely:

- Robert James Irwin
- Geoffrey Herbert Wegg
- Craig Lee MacDonald
- J2
- Raymond James Lambie, and
- Murray Sefton Bartlett.

7.3 At the conclusion of their respective evidence at public hearings of the Police Integrity Commission, Irwin, Wegg, McDonald and J2 were charged by officers of the Internal Affairs Command of the New South Wales Police Service with various criminal offences. Set out below are details of the charges preferred against each person and a report as to progress in respect of these and related charges. As prosecutions have already been initiated against these persons, the Commission makes no statement pursuant to section 97(2) in respect of these "affected" persons.

7.4 Officers of the Internal Affairs Command of the NSW Police Service were present throughout the public hearings and, under the joint Task Force arrangements with the NSW Crime Commission, all evidence against Irwin, MacDonald and Wegg was made available to the officers of the Internal Affairs attached to Operation Gymea of the NSW Crime Commission.

Robert James Irwin

7.5 Robert James Irwin was charged with the following offences:

- Conspiracy to pervert the course of justice, contrary to section 319 of the *Crimes Act 1900;*
- Giving false or misleading evidence, contrary to section 107 of the *Police Integrity Commission Act 1996*;
- Concealing a serious offence, contrary to section 316 of the *Crimes Act 1900.*

7.6 On 25 March 1998, Irwin was removed from the Police Service pursuant to section 181D of the *Police Service Act 1990* for loss of the Police Commissioner's confidence.

7.7 On 1 September 1998, Irwin was committed for trial in respect of these charges.

Geoffrey Herbert Wegg

7.8 Geoffrey Herbert Wegg was charged with two counts of giving false or misleading evidence, pursuant to section 107 of the *Police Integrity Commission Act 1996*. On 22 July 1998, Wegg was committed to stand trial on these charges at the Sydney District Court.

7.9 Wegg is no longer employed by the Police Service, having resigned on 12 December 1997.

Craig Lee McDonald

7.10 Craig Lee McDonald was charged for the following offences:

- Giving false or misleading evidence, contrary to section 107 of the *Police Integrity Commission Act 1996;*
- Conspiring to pervert the course of justice, contrary to section 319 of the *Crimes Act 1900*.

7.11 On 25 February 1998, McDonald was removed from the Police Service pursuant to section 181D of the *Police Service Act 1990* for loss of the Police Commissioner's confidence.

7.12 On 1 September 1998, McDonald was committed for trial in respect of these charges.

"J2"

7.13 On 9 December 1997, J2 was charged with the following offence:

- Conspiracy to pervert the course of justice, contrary to section 319 of the *Crimes Act 1900*.

7.14 On 20 August 1998, J2 was committed for trial on this charge.

Raymond James Lambie

7.15 Detective Sergeant Lambie gave evidence he had no recollection of the warning relating to the revocation of J2's parole that was contained in a print-out from the Police Service's computer database. He described the failure to act on the parole revocation as a "not uncommon slip up".

Murray Sefton Bartlett

7.16 The Commission received evidence that Constable Bartlett had formed an association with the convicted drug supplier, J2. The association was formed as a consequence of regular attendance at the same Coogee gymnasium.

7.17 The Commission also received evidence that Constable Bartlett had engaged in discussions with Senior Constable O'Hearn and J2 in regard to J2's licensing interests in the Town and Country Hotel.

7.18 At the time of the writing of this Report there was pending in the Industrial Relations Commission an application by Bartlett for a review of an order removing him from the Police Service made by the Police Commissioner on 7 August 1998 under section 181D of the *Police Services Act 1990*.

Loss of Commissioner's Confidence

7.19 Two officers are currently being considered pursuant to section 181D of the *Police Service Act 1990* for loss of the Police Commissioner's confidence. Action in relation to each of these officers was initiated on the basis of evidence and information obtained during Operation Jade and the Crime Commission's investigations.

8/ STRATEGIES DEVELOPED BY THE POLICE SERVICE IN RESPONSE TO OPERATION JADE

8.1 This Chapter summarises the strategies the Police Service indicated it would implement in response to the deficiencies and shortcomings revealed through the evidence heard by the Commission. These strategies were presented by Counsel for the Police Service on 13 February 1998.

Fingerprinting Procedures for Confidential Matters

8.2 In response to the evidence that the Fingerprint Specialist Support Branch did not have procedures for recording and disseminating the results of fingerprint analysis that related to confidential matters, Counsel Assisting the Police Service indicated that Internal Affairs had developed standard operating procedures for the reporting of fingerprints that are relevant to confidential investigations.[118]

Terms of Reference for Strike Forces

8.3 As noted elsewhere in this Report, the terms of reference for Task Force Bax were imprecise and did not provide a clear basis for measuring the progress, direction or performance of the Task Force. The Police Service indicated that specific terms of reference would be adopted as part of the Strike Force model. It was submitted that this was in contrast with the "open-ended and very general raw terms of reference" used by Task Force Bax.[119]

8.4 The Police Service noted that the Bax terms of reference were dated 22 February 1996 and were subject to review at 31 August 1996. It was further noted that there was no completion date included in the terms of reference and it was left very much to the Commander to do "what he thinks" appropriate.

Recruitment of Staff: Crime Agencies

8.5 The Police Service pointed out that it was apparent from the evidence presented during the course of the hearings that there did not seem to be any standard accountability procedures as to how staff were recruited to Bax.[120] The Service indicated that under the Charter of Crime Agencies brought in October 1997 there were specific references that dealt with the recruitment staffing policy. The Police Service offered the assurance that there would be no "wink-and-nod" agreements on staff recruitment, thereby reducing the possibility that corrupt managers would be able to recruit like-minded staff. Counsel stressed that her comments were not made in relation to Superintendent Wegg.[121]

118 PIC Transcript Counsel for the Police Service 13 Feb 1998 p 780.
119 PIC Transcript Counsel for the Police Service 13 Feb 1998 p 780.
120 PIC Transcript Counsel for the Police Service 13 Feb 1998 p 786.
121 PIC Transcript Counsel for the Police Service 13 Feb 1998 p 787.

8.6 Counsel noted that jobs now have to be advertised and there has to be some sort of structured application and interview. In addition the selection process will involve:[122]

- integrity testing;
- a statement of financial assets;
- psychological testing (if appropriate);
- an assets declaration; and
- the possibility of an asset audit.

The Commission's Response

8.7 The strategies presented by Counsel for the Police Service for addressing the management and procedural shortcomings revealed through the Operation Jade hearings appear appropriate. The Police Service should, however, review the level of compliance and effectiveness of these procedures after an appropriate period of time.

8.8 **The Commission recommends that the Police Service review the level of compliance and effectiveness of the new procedures presented in its submissions to the Commission on 13 February 1998 to address the management and procedural shortcomings revealed during the Operation Jade public hearings. That review should be conducted twelve months hence and the results communicated to the Commission.**

8.9 The Commission notes the particular significance of the initiative outlined in relation to the recruitment of staff as a means of ensuring the integrity of the investigations of Crime Agencies. At the time of writing, the Commission was in the process of engaging an auditor to carry out a qualitative and strategic audit of the reform process begun by the Royal Commission (Recommendation 174 of the RCPS Final Report).

8.10 **The Commission recommends that, upon appointment, the auditor review the effectiveness of the Crime Agencies recruitment policy outlined in the Police Service submissions on 13 February 1998.**

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122 PIC Transcript Counsel for the Police Service 13 Feb 1998 p 787.

9/ ASSESSMENT & RECOMMENDATIONS

ASSESSMENT

9.1 The following section contains an assessment of the information and evidence presented in this Report.

Evidence Concerning the Activities of Irwin, Bartlett, McDonald & J2

The Commission heard evidence that:

- While working in Task Force Bax, Detective Sergeant Irwin leaked sensitive police information to J2 including, amongst other things, the identity of individuals under investigation by Task Force Bax and the existence and placement of a covert Bax informant.

- Confidential information was passed by Irwin to J2 in the context of a close personal association.

- A Task Force Bax investigation into a suspected major criminal identity had been compromised as a direct consequence of sensitive operational information leaked to J2 by Irwin.

- J2 paid Irwin a sum of money ostensibly for the payment of Irwin's council rates.

- Detective Sergeant McDonald, while on sick leave from the Police Service, approached a Maroubra-based detective to have fingerprint evidence, which incriminated J2 in the supply of drugs, destroyed. McDonald and Irwin were subsequently charged with conspiring to pervert the course of justice in relation to this matter.

- McDonald informed the Maroubra-based detective that by participating in the destruction of evidence, he was now "playing A grade".

- In addition to Irwin, J2 developed a personal association with Constable Murray Bartlett, a police officer not connected with Task Force Bax. Investigations revealed that Bartlett provided information to J2 in relation to a licensing matter.

The Commission considers that:

- Comments made in relation to the Maroubra-based detective now "playing first grade" indicates that he (the Maroubra-based detective) was being introduced to a corrupt "brotherhood" or loose network of corrupt officers.

- Operation Jade investigations and hearings did not reveal a network of corrupt officers within Task Force Bax. Early indications of network-based corruption within Bax were investigated and discounted by the Commission.

Management Shortcomings: Corruption Prevention & Detection

The Commission considers that:

- The Commander of the Task Force failed to recognise and respond to a clear tell-tale sign or indicator of corruption. The fact that J2 and Irwin were friends was known to the Commander, as was the fact that J2 was a convicted criminal and closely associated with persons under investigation by Bax. The Royal Commission had clearly established that associations between police and criminals should be regarded as a possible tell-tale sign of corruption.

- The Commander of Task Force Bax failed to recognise and respond to information contained in an October 1996 report generated by Bax staff that J2 was a convicted heroin supplier and SP Bookmaker. The Commander had vetted and signed the report, thereby verifying that he had read it, but claimed the information did not "register" with him. Wegg gave evidence that if he had been aware of the seriousness of J2's criminal history, action would have been taken that may have seen Irwin removed from the Task Force altogether.

- The Commander of Bax managed the Task Force in a manner indicative of the discredited management practice of showing "blind" trust in the integrity of staff. Evidence given by Wegg to the Commission suggests that he regarded Irwin's relationship with J2 as a matter to be handled by Irwin himself,

despite J2's criminal history and links with active criminals.

- The Task Force Bax corruption prevention plan was not effectively communicated to members of staff by the Commander. Evidence presented before the Commission revealed that the plan was not documented or recorded. Responses by staff members from Bax to a directive memoranda indicated confusion over its content and origin.

- The "open management approach" employed by the Commander of Bax with regard to the flow and access of information relating to Bax investigations (whereby there were no internal restrictions on operational information) was inappropriate in the absence of compensating corruption prevention and detection strategies.

- The Commander did not look after his safe in such a manner as to prevent opportunities for corrupt acts arising. The Commission heard evidence that the key to the Commander's safe was stored in an unlocked desk drawer, a fact known to members of the investigative unit. A covert search of the Bax premises, conducted by the Commission in September 1997, showed highly sensitive documents, some revealing the identity of informants, had not been adequately secured.

- The Commander of Bax did not ensure that all members of staff under his command had read and were conversant with the *Informant Management Manual*. In his evidence before the Commission, Irwin indicated that he had read neither the 1994 nor the 1997 informant management arrangements. The Manual stipulates that supervisors and senior supervisors need to check to ensure that case officers have read and are conversant with informant management procedures.

Procedural Issues

The Commission considers that:

- Further procedural guidance in relation to informant management is required regarding the obligations of police officers who are involved in formalised working arrangements with other agencies (such as

task forces). Task Force Bax management appeared to be under the misconception that the informant management procedures of the NSW Crime Commission superseded those of the NSW Police Service. Officers of the NSW Police Service who perform duties under the line management control of the Commissioner of Police need to appreciate that they are accountable to the procedures of the Service, regardless of what other additional requirements may be placed on their conduct by their participation in joint working arrangements with other agencies.

- There is a requirement for proactive efficiency audits to be conducted within the Police Service to evaluate the effectiveness of both specialist and non-specialist areas. The Operation Jade hearings revealed that the Fingerprint Specialist Support Branch, which had conducted a fingerprint analysis of a document for Task Force Bax, lacked procedures for the recording and communicating of results of confidential cases.

- The establishment of a formalised procedure is warranted whereby officers can request that their manager conduct a name check through the Police Service's Computer Operated Policing System (COPS) if they have concerns that an individual with whom they have formed an association has a criminal record or criminal associations. The Operation Jade hearings revealed that because of the auditing arrangements currently in place for that computer system, Constable Bartlett had not checked J2's criminal history through COPS, despite being aware of the fact that he had a criminal record.

RECOMMENDATIONS

9.2 On the basis of the information presented in this Report, the Commission recommends that:

- the Police Service give consideration to developing a standardised corruption risk management methodology that managers within the Police Service can use to assess the risk and tailor specific strategies for their areas of responsibility;

- the Police Service develop, as an addendum to the *Informant Management Manual*, procedures that explain the relationship between the Special Expenses Allowance (currently paid to detectives) and other aspects of the Service's informant management systems, particularly, the recording and reporting of contact with community sources, prospective informants or registered informants, and the payment to registered informants from official fund sources;

- the Police Service prepare an addendum to the *Informant Management Manual* that articulates the obligations of officers who may be involved in close formalised working arrangements with other agencies (such as task forces). That is, if officers fall under the line management control of the Service, they are to observe its informant management procedures;

- the Comprehensive Audit Section of the Police Service proactively conduct audits to evaluate the efficiency and effectiveness of procedures in both specialist and non-specialist areas of the Police Service;

- managers be authorised to conduct online COPS inquiries about the possible criminal background or affiliations of individuals with whom their staff have formed associations. Managers should be required to record the reasons for such searches in their duty books or diaries;

- the Police Service review the level of compliance and effectiveness of the new procedures, presented in its submissions to the Commission, to address the management and procedural shortcomings revealed during the Operation Jade public hearings. That review should be conducted twelve months hence and the results communicated to the Commission; and

- upon appointment, the auditor responsible for carrying out a qualitative and strategic audit of the reform process begun by the Royal Commission review the effectiveness of the Crime Agencies recruitment policy outlined in the Police Service submissions on 13 February 1998.