

**COMMENT ON THE 1993/94 ANNUAL REPORT BY THE  
NEW SOUTH WALES CRIME COMMISSION  
MANAGEMENT COMMITTEE**

This report is an account of the Commission's eighth full year of operation.

The report is particularly pleasing to the Management Committee in that it reflects the changing nature of the Crime Commission in response to changing circumstances and continued success in the efficient management of resources.

The Commission has both expanded and diversified its activities. It has continued in its mainstream activities of fighting drug trafficking in partnership with the Drug Enforcement Agency (DEA). The Committee has increased the workload of the Commission by referring to it a number of new references relating to cocaine and amphetamine trafficking and associated money laundering. The Commission now employs its special resources to support four DEA task forces.

The Commission continues to work with the Building Industry Task Force in the investigation of matters arising from the Building Royal Commission. It is expected that the Commission will further expand in the area of fraud investigation, arising from the establishment of the Fraud Enforcement Agency.

Additionally, the Criminal Investigation Division of the Commission has been involved in a number of *ad-hoc* references which it has completed to the satisfaction of the Committee.

The Confiscation Division of the Commission continues to achieve pleasing results from action taken under the Drug Trafficking (Civil Proceedings) Act.

The Commission has continued its efforts to achieve law reforms which would add to its ability to meet its existing statutory objectives and corporate goals.

As was the case with the 1992/93 financial year, the Commission's efforts to contain costs through structural reform and more efficient deployment of resources have borne fruit in the form of a surplus which this year exceeded \$2 million. This is particularly pleasing in the light of the productivity gains which have also been achieved.

.....  
G B West, Chairman

.....  
D Mackay, Member

.....  
A R Lauer, Member

.....  
P A Bradley, Member

.....  
T A Sherman, Member

.....  
27 September 1994

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27 September 1994

The Hon G B West, MP  
Minister for Police and  
Minister for Emergency Services  
Parliament House  
SYDNEY 2000

Dear Minister,

We are pleased to submit to you the Commission's Annual Report and Financial Statements for the year ended 30 June 1994 for tabling in Parliament. The Report and Financial Statements have been prepared in accordance with the provisions of the New South Wales Crime Commission Act 1985, the Annual Reports (Departments) Act 1985 and the Public Finance and Audit Act 1985.

Yours sincerely,

.....  
P A Bradley, Chairman

.....  
C R Briese, Commissioner

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## LIST OF ABBREVIATIONS

ABCI	Australian Bureau of Criminal Intelligence
ACA	Association of Chartered Accountants
ACID	Australian Criminal Intelligence Database
ACS	Australian Customs Service
AFP	Australian Federal Police
ASC	Australian Securities Commission
ATO	Australian Taxation Office
AUSTEL	Australian Telecommunications Authority
AUSTRAC	Australian Transaction Reports and Analysis Centre
BA	Bachelor of Arts
BITF	Building Industry Task Force
CD	Confiscation Division
CEO	Chief Executive Officer
CJC	Criminal Justice Commission
COPOC Act	Confiscation of Proceeds of Crime Act 1989
Cth	Commonwealth
DEA	Drug Enforcement Agency
DPP	Director of Public Prosecutions
DTCP Act	Drug Trafficking (Civil Proceedings) Act 1990
DX	Document Exchange
EEO	Equal Employment Opportunity
FOI	Freedom of Information
ICAC	Independent Commission Against Corruption
ID	Investigation Division
ITU	Information Technology Unit
FEA	Fraud Enforcement Agency
LEAC	Law Enforcement Advisory Committee
LLB	Bachelor of Laws
MOU	Memorandum of Understanding
MP	Member of Parliament
NCA	National Crime Authority
NESB	Non-English Speaking Backgrounds
NSWCC	New South Wales Crime Commission
NSWPS	New South Wales Police Service
OMCG	Outlaw Motorcycle Gangs
PEIRS	Public Employment Industrial Relations Service
POA	Professional Officers Association
POIROT	Person and Organisational Intelligence Relating to Operational Targets
PSA	Public Service Association
PWPD	People With Physical Disabilities
SES	Senior Executive Service
TI Act	Telecommunications (Interception) Act 1979
TIRAC	Telecommunications Interception Remote Access Control
TIU	Telecommunications Interception Unit

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## COMMISSION MEMBERSHIP

Under section 5 of the New South Wales Crime Commission Act, the Commission must consist of two or more members, one of whom is appointed as a full-time member and Chairman of the Commission, and must have special legal qualifications. The other one or more member(s) can be appointed either as full-time or part-time members. Brief biographies of the Chairman and Commissioner who served in 1993/94 are set out below:

**MR P A BRADLEY, BA LLB**  
**Full-time Member and Chairman**

Mr Bradley was born in Sydney in 1952. He worked as a lawyer with the Commonwealth Crown Solicitor for eight years before joining the Stewart Royal Commission in 1983. He then spent a short time in 1986 with the National Crime Authority before joining the Commonwealth Director of Public Prosecutions. He was appointed to the Commission as a full-time member on 17 July 1989. On 28 May 1993, Mr Bradley became Acting Chairman of the Commission and was appointed Chairman of the Commission on 18 August 1993.

**MR C R BRIESE, BA DipCrim**  
**Full-time Member**

Mr Briese was born in Temora in 1930. During a career in Local Courts as a Clerk of the Court he qualified as a Barrister-at-Law and later in 1966 was appointed a Magistrate. Mr Briese received a Diploma of Criminology from Cambridge University on a Churchill Fellowship in 1977. In 1979 he became Chief Magistrate, a position he held until his retirement from the bench in 1990. He took up his present position as a full-time member of the Commission on 1 February 1990.

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## THE YEAR IN SUMMARY

The reporting year was again marked by an expansion in work load and a contraction in operating costs. There was also, as in 1992-93, significant change in personnel at senior levels.

The Minister and Chairman of the Management Committee, the Hon Terry Griffiths MP, was replaced at the end of the year by the Hon Garry West MP. On the retirement of Judge Thorley as Chairman of the Police Board, the Committee gained a new member, Mr Don Mackay.

The Commission was restructured at the end of last financial year and Ms Deborah Sweeney became Director of the newly-formed Investigation Division. Mr John Giorgiutti became Director of the Confiscation Division upon the departure of its founding Director, Mr Mark Buscombe.

The Commission had referred to it by the Management Committee a number of new references. The effect of these has been an increase in workload, particularly in support of DEA task forces. The Commission now supports four DEA task forces, where previously there were two. This, combined with *ad-hoc* references and continued support for the Building Industry Task Force, has placed considerable additional workload on a number of functional areas.

The Confiscation Division has continued to return pleasing results. It is responsible for all drug confiscation work arising from State-based investigations and now undertakes sophisticated investigations into related money laundering.

Against this background the Commission's budgetary result was very pleasing with the Commission doubling its annual surplus to over \$2 million and creating a capital base of some \$6 million through application of its recurrent resources.

These results have been achieved by a disciplined concentration on core activities and shedding work and functions which are not productive of results in line with primary objectives.

The Commission also acquired state-of-the-art computer systems and a new digitised system for processing telecommunications interceptions. The result has been further improvements in productivity and a reduction in operating costs.

As at 30 June 1994, the Commission employed 73 staff.

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## CHAPTER ONE

# ESTABLISHMENT AND FUNCTIONS

### ESTABLISHMENT

- 1.1 The Commission was established in January 1986 as an independent statutory authority under the then State Drug Crime Commission Act 1985. The Commission, as at 30 June 1994, was constituted by a Chairman and a full-time member, each of whom has special legal qualifications and is appointed by the Governor.

### LEGISLATION GOVERNING THE COMMISSION

- 1.2 The Commission is constituted under the New South Wales Crime Commission Act 1985 (as amended). There were no amendments to the Act during this financial year.
- 1.3 On 3 August 1990 the Government proclaimed the Drug Trafficking (Civil Proceedings) Act 1990, which provides for the confiscation of the assets of drug traffickers and the proceeds of drug offences through civil proceedings in the Supreme Court. The Commission is responsible for the administration of this legislation. Details of its activities are set out in Chapter Four of this report.

### CHARTER

- 1.4 The Commission's charter is to combat illegal drug trafficking and organised and other crime in New South Wales.

### FUNCTIONS AND OBJECTIVES

- 1.5 The principal objective of the Commission is to reduce the incidence of illegal drug trafficking. A second objective is to reduce the incidence of organised and other crime.
- 1.6 The principal functions of the Commission are to:
- . assemble admissible evidence and furnish it to the Director of Public Prosecutions (DPP) for use in the prosecution of persons allegedly engaged in relevant criminal activities;
  - . make applications for the restraint and confiscation of property under the Drug Trafficking (Civil Proceedings) Act 1990;
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- . furnish admissible evidence of indictable offences (other than evidence of a relevant offence which is furnished to the DPP), to the Attorney-General, together with recommendations as to action to be taken;
- . review police inquiries referred by the Management Committee, into matters relating to any criminal activity and provide recommendations to the Management Committee for further action;
- . conduct investigations into any criminal activity;
- . with the approval of the Management Committee, disseminate intelligence and information to, and cooperate and consult with, such persons or bodies as the Commission thinks appropriate;
- . furnish reports relating to illegal drug trafficking and organised crime including, where appropriate, make recommendations for changes in the laws of the State;
- . disseminate investigatory, technological and analytical expertise to such persons or bodies as the Commission thinks fit; and
- . manage its resources effectively, efficiently and economically.

## MEETINGS OF THE COMMISSION

- 1.7 The Commission meets formally to decide policy matters and transact significant business. The meetings are minuted. The Commission met on 46 occasions during the year. These meetings consisted of regularly scheduled meetings and *ad-hoc* meetings. The latter were held when the Commission was required to transact urgent business related to operational or administrative matters which justified consideration by the Commission in a formal meeting.

## RESPONSIBLE MINISTER

- 1.8 The Minister for Police and Emergency Services has responsibility for administration of the New South Wales Crime Commission Act and the Drug Trafficking (Civil Proceedings) Act and is Chairman of the Commission's Management Committee. Mr T A Griffiths MP was the relevant Minister until 27 June 1994, when he resigned, and was replaced by the Hon G B West MP.
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## MANAGEMENT COMMITTEE

- 1.9 During 1993/94 the Management Committee comprised the Minister for Police and Emergency Services, the Hon T A Griffiths MP (until 27 June 1994) and then the Hon G B West MP (Chairman); the Commissioner of Police, Mr A R Lauer APM; the Chairman of the National Crime Authority, Mr T A Sherman; Judge B R Thorley AM, Chairman of the Police Board of NSW until February 1994, when he resigned and was replaced by Mr Don Mackay; and the Chairman of the Commission.
- 1.10 The principal functions of the Management Committee are to:
- . refer (by written notice) relevant criminal activities to the Commission for investigation;
  - . refer (by written notice) to the Commission, for review, police inquiries into matters relating to any criminal activities;
  - . arrange for police task forces to assist the Commission to carry out investigations into matters relating to relevant criminal activities;
  - . give directions and furnish guidelines for the purpose of coordinating any such investigations;
  - . review and monitor generally the work of the Commission; and
  - . coordinate (by giving approvals) the operations of the Commission with other bodies.
- 1.11 The Management Committee met on 13 occasions during the year. The meetings were also attended by Commissioner Briese and other persons were permitted to attend from time to time.
- 1.12 Draft agenda and papers for meetings of the Management Committee are prepared by officers of the Commission. The meetings are minuted in accordance with the Commission's Act.
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## CHAPTER TWO

# INVESTIGATIONS

### FUNCTIONS AND POWERS OF THE COMMISSION

- 2.1 Under section 6 of the New South Wales Crime Commission Act 1985 ('the Act'), the Commission is required to investigate matters relating to relevant criminal activity referred to the Commission by the Management Committee, to assemble admissible evidence of relevant offences and to furnish that evidence to the Director of Public Prosecutions.
- 2.2 As defined in section 3 of the Act, 'relevant criminal activity' means 'any circumstances implying, or any allegations, that a relevant offence may have been, or may be being, or may be about to be, committed.'
- 2.3 'Relevant offence' is also defined in section 3 of the Act. It means:
- . a serious drug offence that involves substantial planning and organisation; or
  - . any other offence that involves substantial planning and organisation and that involves, or is of a kind that ordinarily involves, the use of sophisticated methods and techniques.
- 2.4 To perform its function of investigating serious organised crime, the Commission has been given powers that are greater than normal policing powers. These powers include:
- . the power to conduct hearings in camera at which witnesses may be compelled to give evidence on oath and produce documents;
  - . the power to compel the production of documents and things relevant to an investigation of the Commission; and
  - . the power to apply for special search warrants.
- 2.5 The services of NSW Police task forces, are made available to assist the Commission, pursuant to section 27A of the Commission's Act. Members of these task forces have the usual police powers.

### MANAGEMENT OF INVESTIGATIONS

- 2.6 Investigation of matters referred to the Commission are conducted by teams generally consisting of members of the NSW Police Service and Commission staff.
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- 2.7 During 1993-94, the majority of the Commission's investigative work related to drug trafficking, under three long-standing references (Azure, Bianco and Gecko), as in previous years, and three new references (Umina, Vacy and Waratah). This work was carried out by teams of DEA task force police officers and Commission staff under the supervision of the Commanders of the DEA Task Forces numbered 1 to 4. The Azure and Bianco References were investigated by Task Force One, the Waratah Reference by Task Force Two, the Gecko Reference by Task Force Three (formerly Task Force Five) and the Umina and Vacy References by Task Force Four.
- 2.8 Investigations under other references were conducted by *ad-hoc* police task forces working with Commission officers. Investigations arising out of the Building Industry Royal Commission References were conducted by the Building Industry Task Force (BITF).
- 2.9 The teams of task force police officers and Commission staff have day to day carriage of investigations but report to the Commission through weekly operations meetings. Task force commanders meet with the teams as required.

## THE DRUG ENFORCEMENT AGENCY

- 2.10 The Commission is pleased to report, as in previous years, the results achieved by the DEA task forces assigned to work on the Commission's references. These task forces have had a great deal of success in the pursuit of drug traffickers and have been responsible for almost all of the arrests and prosecutions referred to later in this chapter.
- 2.11 The task forces are assigned to assist the Commission, pursuant to an arrangement made by the Management Committee with the Police Commissioner under section 27A of the Act. The arrangement is embodied in Directions and Guidelines settled by the Management Committee. Central to this arrangement is the maintenance of the command structure within the Police Service. Section 27(A)(2) provides that the police task forces are 'under the direction and control of the Commissioner of Police', and subject to the Directions and Guidelines of the Management Committee.
- 2.12 This arrangement has proved to be very successful. The achievements of DEA Task Forces 1 and 3 on the Azure, Bianco and Gecko References influenced the decisions to commence the Umina, Vacy and Waratah References, with investigative work by DEA Task Forces 2 and 4.
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- 2.13 Each task force consists of a group of police officers working in a covert environment under the command of a senior police officer, usually of the rank of Superintendent. The Commission provides a range of resources including lawyers, accountants, analysts, computer facilities, electronic surveillance, keyboard services and significant financial support for operations. The powers available to the Commission under the Act, such as the power to compel persons to produce documents, to attend hearings and to answer questions, are also used to further the investigations.
- 2.14 The Task Force Commanders report through the DEA Commander and the Police Service command structure and are subject to the discipline of the Service. They also provide operational reports to the Commission. As the officers in charge of investigations under the Commission's primary references, they supervise Commission staff (mainly analysts and linguists) as well as police personnel. The mix of disciplines has resulted in a high degree of success in apprehending drug traffickers.

### **MATTERS REFERRED TO THE COMMISSION**

- 2.15 During the year under review, the Commission was given seven new references. Two references were concluded. Before the Commission is given a reference, the Management Committee must be satisfied that ordinary police methods of investigation into the matter are unlikely to be effective.
- 2.16 In May 1992 the Government decided to refer serious criminal matters arising from the Royal Commission into Productivity in the Building Industry in New South Wales to the Commission. During 1993/94 investigations continued on five BITF references.
- 2.17 Significant prosecutions which have resulted from Commission references and which were concluded in 1993/94 are summarised in Appendix G Particulars of the arrests which resulted from Commission references during the year are summarised at paragraph 2.87.
- 2.18 For reasons of security and the requirements of the Act that individuals not be named, details of activities under all references are not provided here. The Management Committee is provided with detailed monthly reports on the progress being made in each reference. The following information relates to references which were current in 1993/94.

#### **Reference codenamed "Azure II", referred on 10 September 1992**

- 2.19 On 7 December 1987 the Management Committee referred to the Commission the Azure Reference, to investigate drug trafficking by persons in the Lebanese community.
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- 2.20 On 10 September 1992, the Azure Reference was superseded by the Azure II Reference, to investigate drug trafficking, and associated offences involving violence or money laundering, by members of the Australian/Lebanese community in NSW.
- 2.21 The investigative work is conducted by officers of DEA Task Force 1, assisted by Commission officers. Some operations conducted by Task Force 1, with the support of the Commission, and at the request of the Management Committee, did not concern the Lebanese community.
- 2.22 During 1993/94, from 26 operations, 26 persons were arrested, \$45,132 in cash was seized and 77 charges were preferred under the Azure II Reference and other operations arising in the course of it. The operations resulted in the seizure of, *inter alia*, 10 cannabis plants, 1.325 kilograms of cannabis leaf, 791 grams of heroin, 142 grams of cocaine, and 3.696 kilograms of methylamphetamine.
- 2.23 The Commission has developed knowledge about the methods and sources of the subjects of this Reference, which information it shares with other interested law enforcement agencies. The investigators also maintain close liaison with the Confiscation Division, although the Commission has noted a tendency for persons investigated under this Reference to transfer assets overseas.

**Reference codenamed “Bianco II” , referred on 10 September 1992**

- 2.24 The Bianco Reference, which investigated drug trafficking by persons in the Australian and Romanian community, was superseded by the granting of the Bianco II Reference on 10 September 1992. The new Reference concerns criminal activity, including serious drug offences, larceny, money laundering, corruption and associated violence in the Australian/Romanian community and associated groups.
- 2.25 Investigations relating to these References were conducted by a team of police officers attached to DEA Task Force 1, assisted by Commission officers. During 1993/94, operations from this Reference resulted in the arrest of 12 persons and in the seizure of, *inter alia*, 1.084 kilograms of heroin.

**Reference codenamed “Gecko” , referred on 5 May 1991**

- 2.26 This Reference directs the Commission to investigate drug trafficking and other serious crime involving persons of South-East Asian extraction in Sydney and elsewhere in NSW. DEA Task Force 3 investigates this Reference. The Task Force included a number of specialist investigators, recruited from Hong Kong. The Task Force is assisted by Commission officers.
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2.27 Investigations under this Reference during 1993/94 were very successful, with 31 operations conducted, leading to the arrests of 38 persons. These operations resulted in the seizure of, *inter alia*, 2.565 kilograms of amphetamine, 60 grams of cannabis leaf, 63 grams of cocaine and 25.030 kilograms of heroin.

2.28 One initiative during the 1993/94 year was the establishment of the "Thunderbolt" Hotline (008 023 143) staffed by Task Force and Commission officers at the Commission premises, and a special mailing address (PO Box A8888, Sydney South 2000). The Hotline and special address were established to enable people to contact the Commission, anonymously if necessary, with information about drug-trafficking within the South-East Asian community in NSW. From its inception on 6 June 1994, 57 calls and 17 mail items were received. All information has either been investigated by Task Force officers or disseminated to other parts of the Police Service for action.

**Reference codenamed "Umina", referred on 18 October 1993**

2.29 The Management Committee referred the matters, codenamed 'Umina', to the Commission on 18 October 1993.

2.30 The Umina Reference primarily concerns a group of people involved in the manufacture and supply of amphetamines, and chemical company employees knowingly supplying to those people chemicals used in the manufacture of amphetamines.

2.31 Investigations in this Reference during 1993/94 have been very successful. Six operations have been conducted, leading to the arrest of 17 persons for drug-related activities. These operations resulted in the seizure, *inter alia*, of 2.229 kilograms of amphetamine, 20 litres of liquid amphetamine, 1.724 kilograms of cannabis leaf, 146 cannabis plants, 28 grams of heroin, 1.25 kilograms of methylamphetamine and 210 grams of *nexus*. In addition, a number of clandestine amphetamine laboratories and one pill press were located, and equipment and chemicals seized.

**Reference codenamed "Vacy", referred on 2 November 1993**

2.32 The Management Committee referred this matter to the Commission on 2 November 1993.

2.33 The Vacy Reference relates to the suspected manufacture and supply of amphetamines and associated money laundering by specified individuals.

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- 2.34 Fourteen operations have been conducted in the Reference during 1993/94, and 7 persons have been arrested for drug-related activities. These operations resulted in the seizure, *inter alia*, of 662 grams of amphetamine, 87 litres of liquid amphetamine, 12 kilograms of MDMA precursors, 1.001 kilograms of cannabis leaf, 3 cannabis plants, 0.12 grams of cannabis resin, 1.6 grams of cannabis oil, 6 litres of hydriodic Acid, 20 litres of prescribed restricted substance (testosterone liquid) and 2 kilograms of prescribed restricted substance (testosterone powder).

**Reference codenamed “Waratah”, referred on 2 November 1993**

- 2.35 The Management Committee referred the Waratah Reference to the NSW Crime Commission on 2 November 1993. The Reference concerns people engaged in the supply of cocaine, as well as money laundering. The Reference has a long-term strategy, focusing on criminal investigations and the identification of assets. Most of the significant results under this Reference were achieved after 30 June 1994.

**Reference codenamed “Lismore”, referred on 22 July 1992**

- 2.36 The Lismore Reference was referred to the Commission on 22 July 1992, and was reported upon in last year’s Report.
- 2.37 To date, 9 persons have been arrested as a result of operations under the Lismore Reference. Three people have been sentenced to terms of imprisonment for drug and armed robbery offences. Others are awaiting trial or other court proceedings.
- 2.38 Assets to the value of \$145,000 have been seized and property owned by two people charged has been restrained.

**Reference codenamed “Penshurst II”, referred on 4 March 1993**

- 2.39 The Penshurst Reference was referred to the Commission on 25 February 1993, and was established to review the police inquiry into the shooting of a police officer while on duty at Frenchs Forest Police Station in June 1992. Penshurst II was referred to the Commission on 4 March 1993. It related to an investigation of matters which came to notice during the Commission’s review of the police inquiry, and permitted the Commission to use its coercive powers.
- 2.40 The Commission submitted its interim report on both References to its Management Committee on 30 March 1993. This report was tabled in the NSW Parliament on 28 October 1993.
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- 2.41 The Commission submitted its final report to the Management Committee on 19 July 1994. The final report was postponed due to the unavailability for some time of a significant witness. The findings and recommendations made in the Commission's interim report did not change significantly as a result of the evidence received by the Commission at the hearing of the previously unavailable witness.

**Reference codenamed "Riverwood" and "Riverwood II", referred on 12 July 1993 and 20 September 1993, respectively**

- 2.42 This Reference concerns extortionate demands for money made of shipping owners on the waterfront. A lengthy police investigation, prior to the Commission's involvement, had been frustrated by the refusal of key people to speak to police. In Riverwood II, the Reference was expanded to include several instances of similar conduct which came to notice during the investigation. Hearings were held and documents required to be produced. At the time of writing, the Office of the Director of Public Prosecutions had advised that there was sufficient evidence to justify the commencement of prosecution proceedings subject to the collection of some further evidence.

**Reference codenamed "Seaforth", referred on 22 July 1993**

- 2.43 This Reference concerns an armed robbery. The Commission held hearings and required documents to be produced. During the investigation two people were charged with offences relating to the robbery but at the time of reporting the main objectives of the investigation had not yet been achieved.

**Reference codenamed "Taree", referred on 6 August 1993**

- 2.44 The Commission investigated an allegation against a police officer, concerning conduct said to have occurred several years ago, which fell within the Commission's jurisdiction. A police task force investigation of the same allegation and other allegations which did not come within the Commission's purview, proceeded at the same time. The Commission concluded its investigation on 28 September 1993, finding that there was no evidence available for the Commission to disagree with the police task force's finding that the allegation was "not sustained".

**Reference codenamed "Xanadu", referred on 10 November 1993**

- 2.45 The Commission was requested by the Management Committee to conduct an investigation into, *inter alia*, allegations that nominated persons were then involved, and had been involved, in offences relating to drug trafficking and money laundering, and allegations that persons had been involved in offences involving extortion and demanding money with menaces.
- 2.46 In the course of its investigation, the Commission interviewed and/or obtained statements from 55 persons, conducted hearings in relation to 20 witnesses
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and issued 30 notices for the production of relevant material. As a result of its investigation, in May 1994 the Commission submitted briefs of evidence to the Commonwealth Director of Public Prosecutions and the New South Wales Director of Public Prosecutions, recommending the prosecution of two persons for offences under the Customs Act 1901, the Crimes Act 1900 and the Commission's Act.

**BITF Reference codenamed "Hilltop", referred on 6 May 1992**

- 2.47 This Reference relates to a conspiracy to cheat and defraud sub-contractors and building material suppliers in connection with an extension and refurbishment project at the Lake Abattoirs, Lake Cargelligo.
- 2.48 One person has been convicted and sentenced under this Reference. Three other persons have been committed for trial, but the date for trial is yet to be fixed.

**BITF Reference codenamed "Junee", referred on 8 July 1992**

- 2.49 This Reference relates to collusive tendering practices in the building and civil engineering industries.
- 2.50 Litigation which delayed the investigation is reported upon in paragraph 2.88 of this report.
- 2.51 Summonses have been issued against six construction contractors and two industry associations for conspiracies to cheat and defraud and for obtaining money by false or misleading statement. The two conspiracies concern an agreement to include in tenders for a building project, a sum to be paid to the unsuccessful tenderers and the industry associations by the successful tenderer, without informing the client company or its agents; and an agreement not to inform the client of the arrangements between the tenderers prior to the submission of the tenders.
- 2.52 Currently a number of other constructions projects are being investigated in which there is strong evidence of similar agreements.

**BITF Reference codenamed "Ironbark", referred on 29 June 1992**

- 2.53 This Reference involves allegations of theft of scaffolding, offences involving large scale fraud and conspiracy to defraud, intimidation, extortion, blackmail, threats of physical violence and offences against the Companies (NSW) Code in the building industry.
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- 2.54 In relation to one aspect of the investigation, five charges under the Royal Commissions Act have been preferred against one individual and are awaiting committal hearing. In relation to a further aspect of this investigation, advice has been received from the Office of the Director of Public Prosecutions that there is sufficient evidence to warrant charges against a particular company.

**BITF Reference codenamed “Queenscliff” and “Queenscliff II”, referred on 7 June 1993 and 6 August 1993**

- 2.55 This Reference relates to the investigation of offences including fraud, obtaining money by deception, and soliciting and receiving corrupt commissions in relation to building projects carried out for a large overseas corporation.
- 2.56 There are ten separate investigations of aspects of this matter which are at different stages. It is anticipated that a brief of evidence in relation to three aspects will be submitted to the New South Wales Director of Public Prosecutions towards the end of 1994.

**BITF Reference codenamed “Moree”, referred on 12 August 1992**

- 2.57 Under this Reference the BITF has investigated allegations of forgery, payment of corrupt commissions and conspiracy in relation to the activities of a major development company. Substantial evidence of such conduct has been obtained and there will likely be Commission hearings to obtain further evidence.
- 2.58 Another aspect of its investigation concerns allegedly corrupt payments by one building/developer to two employees of the major development company. It is anticipated that this investigation will be finalised by the end of October 1994.

**INVESTIGATIVE TOOLS**

**Hearings and Notices to Produce**

- 2.59 The utilisation of the Commission’s coercive powers, which relate to the conduct of hearings and production of documents, has proved effective in obtaining evidence, particularly documentary evidence, for use in prosecutions.
- 2.60 Pursuant to section 16 of the Commission’s Act, a person may be summonsed to appear before a hearing of the Commission to give evidence and to produce such documents or other things as are required by the summons. Persons summonsed to appear are required to answer all questions asked of them, and to produce all nominated documents, unless they have a reasonable excuse not to do so.
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- 2.61 During the 1993/94 year, the Commission issued 88 summonses to witnesses to give evidence in hearings. The Commission issued 232 notices under section 17 of the Act, requiring individuals or organisations to produce to the Commission documents or things relevant to an investigation. The Confiscation Division obtained 357 production orders under the Drug Trafficking (Civil Proceedings) Act.

### **Listening Devices**

- 2.62 The use of listening devices is an essential tool in the investigation of serious crime. In 1993/94 the Commission sought and obtained from Judges of the Supreme Court 259 warrants for the use of listening devices under the Listening Devices Act. Some of these warrants were obtained to extend the operation of a device installed pursuant to a previous warrant. Listening device warrants have a maximum period of operation of 21 days and in long operations it is necessary to make more than one application. In some operations, for technical reasons, more than one warrant is required so that more than one device can be used.

### **Search Warrants**

- 2.63 During the year, members of the Commission made no applications for search warrants under the New South Wales Crime Commission Act. This was partly because of the amendment made to the Search Warrants Act in September 1992, which was reported in the Commission's last Annual Report, which requires that Commissioners make application for search warrants in person. As during the previous year, the Commission sought advice from the Attorney-General's Office as to when an amendment might be effected to remove this personal obligation upon Commissioners. No amendment occurred during the reporting year. Where it was necessary for police conducting investigations in support of Commission references to obtain search warrants, usually to search for prohibited drugs, police officers obtained search warrants under the Search Warrants Act 1985. In one investigation involving offences against Commonwealth criminal laws, 7 search warrants were sought and obtained pursuant to the Commonwealth search warrant provisions in the Crimes Act 1914.
- 2.64 Search warrants obtained pursuant to the Drug Trafficking (Civil Proceedings) Act 1990, to permit the Commission to search for property tracking documents in aid of its confiscation function, are reported on in Chapter 4.

### **Telephone Interception**

- 2.65 The Commission applied for and was granted 58 warrants during the 1993/94 financial year. 51 people were arrested as a result of operations involving interception.
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- 2.66 Amendments to the Telecommunications (Interception) Act 1979 (TI Act), finalised in 1993, came into effect on 1 February 1994. The amendments on the whole represent only minor changes to the former telephone interception system. The most significant change insofar as the Commission is concerned is the removal of geographical restrictions to interception. A warrant can now operate in a State other than the State in which it was granted. The introduction of the TIRAC system has changed the physical arrangements and reduced the cost of interception. This system allows Commonwealth control of State interceptions by means of remote computer switching operated by the Australian Federal Police in Canberra.
- 2.67 The Commission remains concerned that the amendments fail to address many of the defects formerly identified in the TI Act and that there has been little response to the need for legislative change to address technological developments in the telecommunications area.
- 2.68 The Commonwealth Government commissioned a review of telecommunications interception during this financial year. The central issue was the long-term cost effectiveness of interception. A report of the findings and recommendations of the review team has been published.
- 2.69 Essentially, the review established that interception is an important and effective investigatory tool, that interception is well managed by the agencies involved and that procedures are in place to ensure that privacy considerations are met in a sensitive and effective manner.
- 2.70 The review highlighted the difficulties faced by agencies with developments and changes in technology as well as developments in service concepts. Vodafone Pty Limited commenced operations as the third carrier during the financial year and the situation will be further complicated by deregulation in 1997 and further technologies and value added services.
- 2.71 Notwithstanding the problems, the review acknowledged that the level of serious crime and the increasing threat of greater involvement in Australia by organised crime, as well as international pressures on law enforcement and security agencies to have credible systems in place in the lead-up to the Sydney Olympics, make interception indispensable.
- 2.72 The Commission disagrees with costing recommendations made by the review to the extent to which an additional burden will fall on agencies. The report agrees with the views formerly expressed by the agencies that initiatives underway at an international level are probably the most cost effective long-term solution to technological challenges. A further review following deregulation in 1997 is recommended.
- 2.73 The role of the Law Enforcement Advisory Committee (LEAC) of AUSTEL has become increasingly important as the telecommunications environment becomes more complex. The Commission's Chairman has continued to participate as a member of LEAC during the financial year as a representative of State law enforcement interests.
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- 2.74 At the close of the year, the Commission introduced a new digitised processing system to enable it to cope with direct interception and a larger number of operations.

## INTER-AGENCY COOPERATION

### Liaison

- 2.75 The Commission is committed to cooperation with law enforcement agencies and other bodies at the State and Federal level in both an advisory and operational capacity. The NSW Police Commissioner and the Chairman of the National Crime Authority (NCA) are members of the Commission's Management Committee. This facilitates close liaison and cooperation between the three agencies.
- 2.76 In 1993/94, the Commission, through both its coercive powers and various formal and informal arrangements, received a great deal of cooperation from numerous Government and semi-Government bodies. In many instances this cooperation included the granting of computer access to relevant available information held by these agencies.
- 2.77 The Commission has entered into Memoranda of Understanding (MOU's) with a number of agencies. These MOU's relate, *inter alia*, to exchange of intelligence and joint operations. The relevant agencies now include the Australian Federal Police (AFP), the Australian Transaction Reports and Analysis Centre (AUSTRAC), the Queensland Criminal Justice Commission (CJC), Victoria Police, the Australian Bureau of Criminal Intelligence (ABCI), the Australian Customs Service (ACS), the Australian Securities Commission (ASC) and the National Crime Authority (NCA).
- 2.78 The Commission continued its close relationship with AUSTRAC during 1993/94. As part of this liaison, the Commission has on-line communications with AUSTRAC. The Commission, together with other law enforcement agencies, is also represented at regular liaison meetings with AUSTRAC. It is anticipated that the MOU with AUSTRAC will be renegotiated during 1994/95 to take account of name changes and broader areas of activity of AUSTRAC (including monitoring of international transfers).
- 2.79 During the year, the Commission attended intelligence meetings of State and Federal agencies. The Commission continues to encourage joint operations with State and Federal agencies. The Commission has reported in previous years the existing deficiencies in a coordinated law enforcement response. There has been little change in this area and the Commission remains concerned about the level of communication, and duplication of effort.
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### **Role of the ABCI**

- 2.80 Although the Commission is not a party to or a member of the ABCI, a close liaison has developed, and an MOU was signed between the two organisations in September 1992. Although the secrecy provisions of the Commission's Act restrict access to the Commission's database, provision has been made to allow the ABCI access to information on the database, subject to the exemption of nominated classes of sensitive information, including that which was obtained using the coercive powers of the Commission. The Commission commenced discussions with the ABCI with a view to extending this arrangement.
- 2.81 The Commission remains committed to the concept of the ABCI as a mechanism for sharing of intelligence and coordination of law enforcement responses. The Commission remains concerned that the ABCI will not be permitted to reach its full potential due to the impediments to effective cooperation referred to in previous annual reports.
- 2.82 The Commission has contributed to client surveys in relation to the ABCI and is hopeful that these will bring about changes which will assist the agency to reach its full potential.

### **Dissemination**

- 2.83 The Commission frequently provides information to other law enforcement agencies and relevant bodies. During 1993/94 the Commission, with the approval of the Management Committee, disseminated criminal intelligence material to other organisations on 126 occasions. This compares with 186 disseminations in 1992/93. Organisations receiving disseminated material included the AFP, NCA, CJC, ABCI, sections of the NSWPS, other State Police Forces and bodies such as the ATO, AUSTRAC, Department of Social Security and ACS.

### **PROSECUTIONS**

- 2.84 Pursuant to section 31(2)(e) of its Act, the Commission is required to report the extent to which its investigations have resulted in the prosecution of persons for offences. By virtue of section 31(3), the report must not identify persons suspected of having committed offences or persons who have committed offences, unless those persons have been convicted.
- 2.85 During the year, police task forces assigned to Commission references arrested 147 persons and laid 373 charges. Of the 147 persons arrested, 137 were charged with serious drug offences, as shown in the following table. These figures can be compared with 192 arrests and 475 charges in 1992/93.
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2.86 Charges laid in 1993/94 and previous years of the Commission's operations are at various stages in the prosecution process. Details of some successful prosecutions of persons arrested pursuant to operations in previous years and concluded during this financial year are set out in Appendix G.

2.87 The table below summarises arrests made and charges laid in connection with Commission/DEA task force operations in 1993/94.

REFERENCE	TOTAL ARRESTS	ARRESTS FOR SERIOUS DRUG OFFENCES	CHARGES
Azure II	26	24	66
Bianco II	15	15	42
Gecko	51	48	115
Lismore	7	4	18
Umina	17	17	44
Vacy	8	7	17
Other	23	22	71
<b>TOTAL</b>	<b>147</b>	<b>137</b>	<b>373</b>

## COURT PROCEEDINGS AND APPLICATIONS

### Ganin and Ors v NSW Crime Commission

2.88 The Commission reported last year on applications made to the Supreme Court, pursuant to s19(2) of the NSW Crime Commission Act ("the Act") by Messrs M Ganin, B M Burden, R E Creswell and J H Phillips, for review of decisions made by Commissioner Brieze in Commission hearings in the Junee Reference. Following decisions by Campbell J, in the case of Mr Ganin, and Ireland J, in the cases of Messrs Burden, Creswell and Phillips, which were reported in last year's Report, all four persons appealed to the Court of Appeal.

2.89 The appeals were heard together, because of common issues, and the Court of Appeal delivered its judgment on 14 December 1993.

2.90 The issues were the validity of the Commission's investigation, that is, whether the preconditions for the Commission's jurisdiction set out in the Act had been established, the particularity of the notice referring the investigation to the Commission, and the interpretation to be given to the "reasonable excuse" provision in s18 of the Act.

2.91 The Court found in favour of the Commission in respect of the challenges to the validity of the Commission's investigation and the notice.

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2.92 In respect of s18, the Court noted that s18(2) of the Act, which permits refusal by a witness to answer a question, is cast in very general terms. Parliament had not chosen to limit “reasonable excuse” to the privilege against self-incrimination, which is specified as a reasonable excuse in s18(4). The Court stated that the term “without reasonable excuse” should be widely interpreted; it goes beyond whether a witness has a lawful excuse. The reasonable excuse must be relevant to the refusal to answer a question, but a witness need not express a reasonable excuse - the test is whether a witness has a reasonable excuse at the time of the refusal to answer a question. The Court said that in deciding whether a reasonable excuse exists, the decision maker may put aside imaginary fears which are so remote as to be safely ignored or overruled as unreasonable.

2.93 In the particular case the provision to the appellants of undertakings by the Attorney-General and the Commonwealth Director of Public Prosecutions that the evidence they gave would not be used against them removed the excuse of self-incrimination. The Court remitted the matters to the Commission for consideration of whether, apart from self-incrimination, the appellants had a reasonable excuse to refuse to answer questions. However, the questions that led to the above proceedings were not pressed before the Commission and had the effect of bringing the examinations to an end.

**R v A (Identity Withheld)**

2.94 In the course of prosecutions arising from Commission investigations, the Commission often receives subpoenas from the legal representatives of persons being prosecuted, seeking documents related to the Commission’s investigation. Frequently the subpoenas are couched in wide terms and seek a wide range of documents. Where subpoenas seek documents which contain information which could attract public interest immunity, the Commission makes claims for immunity in respect of such documents.

2.95 A was charged with offences as a result of a Commission investigation. His trial in the District Court of NSW was due to commence in June 1994. In May 1994 A’s solicitors served a subpoena upon the Commission requiring the Commission to produce documents in the District Court. The Commission claimed public interest immunity in respect of the documents sought. A’s legal representatives also made an application for a permanent stay of the criminal proceedings against A, on the basis of issues relating to the Crown’s duty to call witnesses at trial. The subpoena, the Commission’s claim and the stay application were heard together, although the Commission was not a party to the application for a stay, which was argued on behalf of the Crown by a Crown Prosecutor. The hearing proceeded before His Honour Judge Kirkham over several days in May. His Honour delivered judgment on 1 June 1994, setting aside the subpoena and dismissing the application for a permanent stay of the criminal proceedings.

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- 2.96 On 17 June 1994, A made an application, pursuant to the Criminal Appeal Act 1912, for leave to appeal to the Court of Criminal Appeal against the decisions of His Honour Judge Kirkham. Leave to appeal was granted on the basis that the matters involve important issues of public interest immunity and in relation to stays of proceedings and the production of witnesses in a criminal trial.
- 2.97 At the end of the year the appeal had not been heard and no hearing date for the appeal had been set.

## NATURE AND EXTENT OF ORGANISED AND OTHER CRIME

### Drug Trafficking

- 2.98 The Commission has previously reported its observations on this subject based on its limited view of the environment through its specific drug trafficking references. As mentioned elsewhere in this report the Commission has expanded its outlook during the course of the year by working in a wider range of drug-related areas.
- 2.99 The Commission now investigates a wide range of heroin trafficking by targeting criminals within the Lebanese, Romanian and South-East Asian communities in Australia. It has also taken on a reference into cocaine trafficking, involving a large group centred in Sydney. Amphetamines trafficking involving outlaw motorcycle gangs (OMCG) and others is now also the subject of a reference. Apart from cannabis cultivation and distribution (which is investigated by the Plantation Unit of the DEA), these are the main areas of organised drug trafficking in Australia. The Commission's perspective also covers areas outside the drug references due to its activity under the Drug Trafficking (Civil Proceedings) Act.
- 2.100 The patterns of importation and distribution of drugs, previously noted, continue to apply with a noticeable increase in the quantities of cocaine available in Australia, due, it is believed, to saturation of foreign markets and an endeavour on the part of producers to find new areas of consumption. Intelligence indicates that previously unheard of quantities of cocaine are now brought to Australia and extensive retail outlets have been established in places such as Kings Cross. The Commission has focussed on the distribution process with a view to incapacitating the organised retailers and identifying their suppliers. Some success has been achieved in this at the time of writing.
- 2.101 Amphetamines trafficking has a number of aspects which distinguish it from drugs such as cocaine and heroin. These may be summarised as follows:
- . it is usually not imported as a finished product, as is the case with cocaine, heroin, some forms of cannabis and some exotic chemical psycho-stimulants.
  - . its precursors may be imported.
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- . security attaching to ingredients has not in the past been consistent with its potential danger and value. Large quantities have been stolen or imported by amphetamine manufacturers.
- . it can be readily manufactured using widely available recipes if the ingredients can be obtained.
- . it enjoys a reputation as relatively harmless which is inconsistent with morbidity information.
- . it is relatively cheap and can produce substantial stimulation and euphoria for an extended period. It does, however, return very high profit for the manufacturers and distributors.
- . it has established networks for manufacture and supply through OMCG's.
- . patterns of money laundering differ from other drugs.

2.102 Largely through the efforts of Task Force 4 of the DEA and other agencies with which it has worked, there has been a high incidence of arrests and a heightened awareness of the problems associated with amphetamines. Legislation restricting the supply of precursors, publicity and codes of conduct have contributed to the process of raising awareness and limiting opportunities for supplies. The Commission intends to devote substantial resources in the forthcoming year to maximise the law enforcement impact on the problem. Money laundering and asset confiscation will be specific targets.

### **Fraud**

2.103 The Commission has previously reported on the problem of fraud in New South Wales and elsewhere. It is pleasing to note that in the closing stages of the year under review, the NSW Police Service moved to establish the Fraud Enforcement Agency (FEA) which has a specific objective of working with the Commission in this area. The Commission looks forward to success with the FEA.

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## CHAPTER THREE

### LEGAL CHANGE

- 3.1 There were some legislative amendments effected during the year which affect the Commission's work. The Commission also proposed some changes to the New South Wales Crime Commission Act, and responded to invitations to comment on proposed legislation (the Evidence Bill, proposed Commonwealth Witness Protection legislation, the Model Bill on Forensic Procedure and State Records legislation). Some of the proposals for legislative change made by the Commission during the previous year and reported in last year's report remain under consideration.
- 3.2 In its last Annual Report the Commission reported on a number of legislative changes which impact on its operations. These included:
- . the New South Wales Crime Commission Act 1985 (the Act);
  - . the Confiscation of Proceeds of Crime Act 1989 - Regulations (COPOC Act);
  - . the Search Warrants Act 1985;
  - . the Supreme Court Rules;
  - . the Service and Execution of Process Act 1992 (Commonwealth); and
  - . the Proceeds of Crime Act 1987 (Commonwealth).
- 3.3 The Commission continues to seek specific amendments to:
- . the New South Wales Crime Commission Act 1985;
  - . the Drug Trafficking (Civil Proceedings) Act 1990;
  - . the Search Warrants Act 1985; and
  - . the Listening Devices Act 1984.
- These were not achieved prior to July 1994.
- 3.4 In the Commission's view, as previously reported, new legislation is required in relation to electronic surveillance involving videos and tracking equipment, destruction of seized drugs, telecommunications interception (Commonwealth) and other Commonwealth legislation which inhibits access to information, especially tax information for the purpose of State confiscation action.
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## LEGISLATIVE CHANGE

### **New South Wales Crime Commission Act 1985**

- 3.5 There were no amendments to this Act during the year. The changes proposed by the Commission to its legislation are reported below, at paragraph 3.7.

### **Telecommunications (Interception) Act 1979**

- 3.6 Amendments to the Telecommunications (Interception) Act commenced to operate on 1 February 1994. (See Paragraph 2.66)

## RECOMMENDATIONS

### **New South Wales Crime Commission Act 1985**

- 3.7 During the year the Commission proposed to the Ministry of Police some amendments to the New South Wales Crime Commission Act, which the Commission considers would enable the Commission to perform its functions more effectively.
- 3.8 The matter is presently under consideration by the Ministry.

### **Search Warrants Act 1985, Listening Devices Act 1984 and Electronic Surveillance**

- 3.9 The Commission's recommendations for changes to the Search Warrants Act 1985 and the Listening Devices Act 1984 and for legislation to deal with video taping and electronic tracking, reported in last year's report, remain under consideration.

### **Drug Misuse and Trafficking Act 1985**

- 3.10 The Commission reported in last year's report that it had recommended this Act be amended to include an omnibus offence to cover multiple transactions with different purchases and multiple drug types. The Director of Public Prosecutions expressed the opinion that such conduct could be the subject of criminal charges within the present structure of the Act and that an amendment to the Act is not necessary to achieve what was suggested by the Commission.
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## CHAPTER FOUR

# CONFISCATION

### BACKGROUND

4.1 The Confiscation Division (“CD”) was established within the Commission during May of 1990, to administer the Drug Trafficking (Civil Proceedings) Act 1990 (“the DTCP Act”) which was proclaimed on 3 August 1990. The principal objects of the DTCP Act are:

- . to provide for the confiscation, without requiring a conviction, of property of a person, if the Supreme Court finds it to be more probable than not that the person has engaged in drug-related activities;
- . to enable the proceeds of drug-related activities to be recovered as a debt due to the Crown; and
- . to enable law enforcement authorities to effectively identify and recover property.

A drug-related activity is defined in the legislation to be, in essence, a serious drug offence under the Drug Misuse and Trafficking Act 1985.

4.2 The DTCP Act provides for the Commission to make application to the Supreme Court for:

- . restraining orders preventing dealings with the property of persons reasonably suspected of having engaged in a drug-related activity or of persons whose interests in property are reasonably suspected of being drug-derived property within the meaning of section 9 of the DTCP Act;
  - . asset forfeiture orders for the forfeiture of property subject to a restraining order;
  - . proceeds assessment orders assessing the value of proceeds derived by a person from drug-related activities; and
  - . search warrants, production orders and monitoring orders to allow property, documents and information to be obtained, so that property and the sources of that property can be located and identified.
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- 4.3 Asset forfeiture orders and proceeds assessment orders can only be obtained where the Commission can establish upon the civil onus of proof, that the person whose suspected drug-related activity was the basis of the restraining order did, in fact, engage in a drug-related activity involving an indictable quantity of a prohibited drug or plant within the six year period prior to the making of the Commission's application. "Indictable quantity" is that quantity of a prohibited drug or plant that is an indictable quantity under the Drug Misuse and Trafficking Act 1985.

## STAFF

- 4.4 Review of staffing of the CD has continued into the 1994/95 period. At the time of writing, the CD was staffed by nine lawyers, seven financial investigators, two general analysts and four stenographers/clerical officers. There has been a reduction in staff in CD during the reporting year comprising five full time legal clerks and four casual legal clerks.
- 4.5 This year the Commission continued to employ legal and accounting staff on a contract basis so as to recruit experienced staff capable of fulfilling the CD's specialised requirements.
- 4.6 In May 1990 Mark Buscombe commenced with the Commission as the Director of CD. Mr Buscombe continued in that role until 12 November 1993 when he left the Commission to return to the Office of the Commonwealth Director of Public Prosecutions where he took up the position of head of its Criminal Assets Branch. Mr Buscombe was a driving force in the establishment of the CD and the successes of CD are largely due to his skills and professionalism. Whilst Director of CD, Mr Buscombe received the Excellence Award in Government Legal Service in the inaugural year of that Award by the Law Society of New South Wales. The current Director, Mr John Giorgiutti, was appointed in December 1993.

## RESTRAINING ORDERS

- 4.7 During the 1993/94 year, 44 restraining orders were obtained by the Commission under the DTCP Act. Of those, 19 were obtained on the basis that the persons, who, in some instances included corporate entities, were reasonably suspected of having property that was drug-derived from the drug-related activities of another person. The balance of the restraining orders were obtained on the basis that the persons whose property was restrained, were reasonably suspected of having engaged in a drug-related activity. In all cases in which the Commission obtained restraining orders, the Commission filed a summons seeking either an assets forfeiture order, a proceeds assessment order or both, within the forty eight hour period provided in section 10(9) of the DTCP Act.
- 4.8 During the 1992/93 year, 24 restraining orders were obtained by the Commission under the DTCP Act. Of those, 5 were obtained on the basis
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that persons were reasonably suspected of having property that was drug-derived from the drug-related activities of another person.

4.9 Potential targets of confiscation proceedings are now well aware of the impact of the DTCP Act and other proceeds of crime legislation, and are devoting greater effort and resources to the laundering of drug proceeds and the concealment of their assets. Commonly aliases or the names of other persons are used to conceal the identity of the beneficial owner of assets. All law enforcement agencies, including this Commission, are having to work harder to identify and restrain property and to allocate an increasing proportion of resources to pre-litigation investigation work.

4.10 The considerable increase in the number of restraining orders obtained in 1993/94 over the previous year to a large degree reflects an increased level of awareness on the part of police, increased experience and specialist skills gained over the last four years by the Commission (particularly by the staff in CD) in the confiscation area and the further allocation of resources in CD to investigation work.

#### **ASSET FORFEITURE ORDERS AND PROCEEDS ASSESSMENT ORDERS**

4.11 A proceeds assessment order is directed at recovering monies which can be shown to have been generated by drug-related activity, whereas an assets forfeiture order attaches to so much of a person's property as cannot be shown to have been lawfully acquired.

4.12 During 1993/94 16 applications for assets forfeiture orders were completed by the Commission either by way of hearing or negotiated settlement, resulting in orders that property having an approximate value of \$1,298,600.00 be forfeited to the Crown. The property forfeited included motor vehicles, jewellery, real property and funds held in bank accounts. One application for an assets forfeiture order was discontinued by the Commission. No order as to costs was made against the Commission in this matter.

4.13 During 1993/94, two applications for proceeds assessment orders were completed by way of negotiated settlement, resulting in orders that \$230,000 be paid to the Treasurer. In addition, an order was made in one of these matters that \$3,000 be paid to the Commission for legal costs.

4.14 The following table enables a comparison between the results quoted above and those quoted in the last three annual reports. The figures have been rounded off.

<b>Year</b>	<b>Assets Forfeiture Orders</b>	<b>Proceeds Assessment Orders</b>	<b>Total</b>
1990/91	\$118,000	\$383,000	\$501,000
1991/92	\$650,000	\$500	\$650,500
1992/93	\$2,673,000	\$1,930,000	\$4,603,000
1993/94	\$1,298,000	\$230,000	\$1,528,000

TOTAL	\$4,739,000	\$2,543,500	\$7,282,500
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- 4.15 The decline in the value of assets forfeiture orders made in 1993/94 in part reflects the fact that a large number of confiscation matters are awaiting the allocation of hearing dates in the Supreme Court and also reflects the allocation of resources to the investigation of matters which resulted in an increase in the number of restraining orders (see 4.7 to 4.10 supra).
- 4.16 A number of assets forfeiture orders made to date have been made as a result of negotiated settlement.
- 4.17 Of the total of \$2,543,500 comprising proceeds assessment orders, \$1,803,250 is unlikely to be recovered because assets of the persons against whom the orders were made cannot be located so as to satisfy the orders. The value of proceeds assessment orders that can be satisfied, at this time, is about \$740,250. The total amount of realisable confiscation orders since the commencement of the DTCP Act is about \$5,479,250.

## PRODUCTION ORDERS

- 4.18 Section 33(1) of the DTCP Act provides that an authorised officer, if he has reasonable grounds for suspecting that a person has possession or control of property-tracking documents, may apply, *ex parte*, to the Supreme Court for an order against that person requiring that person to produce to the Commission, such documents as are in that person's possession or control, or, in the case of bankers' books, to produce all relevant documents for inspection by the Commission.
- 4.19 Production orders are the means by which the majority of documents relevant to proceedings commenced by the Commission are obtained, unless the person against whom proceedings have been commenced also falls within the terms of a Commission reference. In the latter case, notices under sections 10 and 17 of the New South Wales Crime Commission Act 1985 are issued requiring the production of documents and things to the Commission. During 1993/94 the Commission applied for and obtained 357 production orders. The Commission also issued 95 notices pursuant to section 10 and 17 of the Commission's Act in support of the confiscation function.

## SEARCH WARRANTS

- 4.20 A full-time member of the Commission or a member of the New South Wales Police Service (NSWPS) may apply, in certain circumstances, to an authorised justice for the issue of a warrant pursuant to section 38 of the DTCP Act, to search premises for drug-derived property; illegally acquired property; evidence of a drug-related activity; evidence of illegal activity of a person reasonably suspected of having been engaged in drug-related activities; and property which is subject to a restraining order. In 1993/94 no search warrants were applied for pursuant to these provisions.
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- 4.21 Pursuant to sections 44 and 45 of the DTCP Act a full-time member of the Commission or a member of the NSWPS may apply to the Supreme Court for a warrant authorising the search of premises for property tracking documents.
- 4.22 During the 1993/94 year, the Commission applied for the issue of one warrant under these provisions. The extensive use by the Commission of Production Orders and Notices pursuant to sections 10 and 17 of the Commission's Act has reduced the necessity for the Commission to obtain search warrants under sections 38, 44 and 45 of the DTCP Act.

### **MONITORING ORDERS**

- 4.23 Section 48 of the DTCP Act provides that an authorised officer may make an *ex parte* application to the Supreme Court for a monitoring order. Such orders direct financial institutions to give to the Commission financial information obtained by the institution about transactions conducted by a particular person with the institution.
- 4.24 The Commission did not apply for monitoring orders during the 1993/94 year. The fact that no monitoring orders were sought by the Commission is due, in part, to the fact that the Commission made extensive use of section 51 of the DTCP Act which enables financial institutions to provide information to the Commission upon request.

### **LITIGATION CONDUCTED BY THE COMMISSION**

- 4.25 Only two areas concerning the operation of the DTCP Act were subject to consideration in judgments by the New South Wales Court of Appeal and the Supreme Court during 1993/94. A brief outline of the relevant judgments and the issues involved follows.

#### **Applications for Release of Restrained Property to Pay Reasonable Legal Expenses**

- 4.26 Section 10(5) of the DTCP Act, provides:-
- "A restraining order may, at the time it is made or at a later time, make provision for meeting out of the property, to which the order applies all or any of the following:
- (b) the reasonable legal expenses of any person whose interests in property are subject to the restraining order being expenses incurred in connection with the application for the restraining order or an application for a confiscation order, or incurred in defending a criminal charge."
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4.27 As was indicated in the Commission's earlier reports, the issue of the right of a person to use restrained property to pay legal expenses associated with the defence of criminal charges and the defence of the proceedings taken by the Commission under the DTCP Act, is the most controversial issue in the proceeds of crime/forfeiture area of law enforcement.

NSW Crime Commission v Younan and Trad (unreported decision of Mr Justice Carruthers, NSW Supreme Court, 19 November 1993)

4.28 On 2 July 1993 the Court of Appeal remitted applications by Peter Younan and Carl Trad for payment of their present and anticipated legal expenses out of monies subject to restraining order under the DTCP Act to the Supreme Court for a determination conforming with the decision of the Court of Appeal handed down on 2 July 1993.

4.29 The Court of Appeal held that the discretion of his Honour Mr Justice Sharpe, the Justice at first instance in allowing access to the restrained funds, had miscarried. The Court of Appeal held that his Honour had failed to take into account relevant considerations in the exercise of his discretion; such as, the apparent strength of the prosecution case, the size of the fund of property involved and the probable amount of the legal expenses involved. The Court of Appeal held that the fact that his Honour had concluded that there was "almost overwhelming" evidence that the restrained funds were the product of drug-related crime should have been reflected in more attention to these discretionary considerations.

4.30 His Honour Mr Justice Carruthers ("Carruthers J.") reheard the applications and delivered judgment on 19 November 1993.

4.31 Carruthers J. found it "overwhelming" that the monies subject to the restraining order constituted portion of the amount of \$340,000 which had been stolen (either *in specie* or as laundered). His Honour noted that the restrained funds (totalling \$93,000) had already been seriously depleted (to the extent of \$28,000) as a result of payments to meet legal expenses. His Honour reiterated that the issue of whether or not the funds should be released to meet such expenses was a matter for the exercise of his discretion. In exercising that discretion, his Honour took into account that, by reason of the residual size of the funds and the probable amount of the contemplated legal expenses, it seemed probable that if the orders sought were made, the funds would be exhausted by the outstanding litigation. In these circumstances, the restraining orders would be defeated, as would the purposes of the DTCP Act, which was passed in the public interest and with the intent of deterring criminal conduct of the kind under consideration.

4.32 Carruthers J. adopted the terminology of Studdert J. in Saxon (unreported, 3 August 1990, NSW Supreme Court) and held that the evidence was so compelling that the monies constituting the subject funds were unlawfully acquired, that it would be inappropriate to make the orders sought. He then dismissed the applications seeking release of the restrained property.

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### Examination Orders

4.33 Section 12 of the DTCP Act relevantly provides that the Supreme Court may, when it makes a restraining order or at any later time, make ancillary orders including:

“an order for the examination on oath of:

- (i) the owner of an interest in property that is subject to the restraining order; or
- (ii) another person,

before the Court, or before an officer of the Court prescribed by the rules of Court, concerning the affairs of the owner, including the nature and location of any property in which the owner has an interest.”

NSW Crime Commission v Joseph KOVACS (unreported decision of Mr Justice Abadee, NSW Supreme Court, 3 February 1994)

4.34 The above decision is authority for the following propositions:

- (i) that a person found in possession of an amount of cash has an interest in that cash in terms of section 7 of the DTCP Act, sufficient to properly ground a restraining order in respect of that person’s interest;
- (ii) an examination of that person under section 12 of the Act should be completed before the Commission is obliged to respond to an exclusion application or to a motion seeking a declaration as to the interests of other persons in the restrained cash.

4.35 The facts in the matter were briefly as follows. On 20 July 1993, a Mr Kovacs was arrested in possession of \$33,000 in cash. On 23 July 1993 the Court made a restraining order under section 10 relating to Mr Kovacs’ interest in the \$33,000 cash.

4.36 On 25 November 1993, the examination of Mr Kovacs commenced and was adjourned, part heard, to 14 February 1994.

4.37 Mr Kovacs filed a motion returnable on 3 February 1994 in which he sought to have the examination adjourned until his motion had been dealt with. Mr Kovacs’ motion sought orders joining other parties to the Supreme Court proceedings and orders declaring the nature and extent of the interests of those parties in the \$33,000 cash.

4.38 Mr Kovacs’ counsel submitted that it was appropriate to resolve who was the owner of the \$33,000 before the examination of Mr Kovacs continued. This application was opposed by the Commission on two bases:

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- (i) that the restraining order was an order properly founded and properly made in the circumstances, having regard, *inter alia*, to the definition of “interest” in section 7 of the DTCP Act;

The Court accepted that the finding of the \$33,000 cash in the possession of Mr Kovacs was sufficient to give him an interest in the property in terms of section 7(4) of the Act.

- (ii) that it was proper that there should be a completed examination of Mr Kovacs, particularly for the purposes of section 25(7) of the Act, before the motion was dealt with. This sub-section provides that if the Commission proposes to contest an application for an exclusion order, it must give the applicant notice of the grounds upon which the application is to be contested. The Commission submitted that it would be extremely difficult to comply with that sub-section unless and until the examination of Mr Kovacs had been completed.

The Commission relied in support of this second submission upon the decision in Regina v Asaad (Badgery-Parker J., NSW Supreme Court, 13 July 1992 unreported). In that case his Honour indicated at page 7 of the judgment that the Commission would not be in a position to comply with, nor did the DTCP Act contemplate that the Commission would be in a position to comply with, section 25(7), until after the section 12 examination had taken place.

- 4.39 The Court accepted both submissions and the application for the adjournment of the examination of Mr Kovacs was refused.

#### **LIAISON WITH DPP**

- 4.40 The Offices of the State and Commonwealth Directors of Public Prosecutions (DPP) each have a statutory role to play in the area of forfeiture of criminal assets through the Confiscation of Proceeds of Crime Act 1989 (NSW) (COPOC Act), the Customs Act 1901 (Cth) and the Proceeds of Crime Act 1987 (Cth).

- 4.41 The Confiscation Division has continued its close links with both agencies and regularly liaises on both operational and policy matters.

#### **THE COPOC ACT**

- 4.42 On 22 March 1993, a regulation pursuant to the COPOC Act was gazetted which empowered the Commission to take proceedings for restraint and forfeiture of tainted property in indictable drug matters under the Drug Misuse and Trafficking Act 1985. This regulation was made in order to overcome the overlap in functions between the NSW DPP and the Commission in respect of the forfeiture of the property of persons involved in drug crime.
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- 4.43 Each matter referred to the Commission for assessment of confiscation action under the DTCP Act is also assessed for confiscation action under the COPOC Act.
- 4.44 During 1993/94 one restraining order was obtained under the COPOC Act. That matter was, in fact, finalised on 4 July 1994 when consent orders were made in the Supreme Court whereby the person whose property was restrained agreed to forfeit to the Crown the sum of \$33,373.18 on terms.

#### **LIAISON WITH THE AUSTRALIAN TAXATION OFFICE**

- 4.45 In the 1991, 1992 and 1993 reports, it was noted that Commission's attempts to negotiate a resolution of the potential conflict between the work undertaken by the Commission and work by the Australian Taxation Office (ATO) had not progressed. During 1993, the ATO intervened in certain confiscation proceedings conducted by the Commission and indicated that it proposed to embark upon a constitutional challenge to the DTCP Act. After a meeting between officers of the Commission, the Director-General of the Ministry for Police and senior officers of the ATO, the ATO withdrew from the proceedings. The issue of the conflict between action taken by the ATO and action by State and Commonwealth agencies administering proceeds of crime legislation was subsequently raised by the NSW Minister for Police at the Australian Police Ministers' Council on 28 May 1993. The Council resolved that a working party be formed to examine the issue and to report at the next meeting of the Council.
- 4.46 The working party met twice in 1993/94. Although some progress was made at the first meeting of the working party, the ATO indicated at the second meeting of the working party the attitude of the ATO was such that there are negligible prospects of a resolution being negotiated through the working party.
- 4.47 Indeed, the Commission has been informed that in respect of two matters (in both of which confiscation action was completed by the Commission nearly two years ago) the Commonwealth intends to take Court proceedings to recover assets previously forfeited to the State under the DTCP Act.

#### **LIAISON WITH FINANCIAL INSTITUTIONS**

- 4.48 As a result of the large numbers of production orders obtained under the DTCP Act and notices issued under section 17 of the Commission's Act, the Division has established close liaison with the State's major banks and building societies.
- 4.49 Section 51 of the DTCP Act provides:-
- “(1) If a financial institution has reasonable grounds for believing that information it has about a transaction with the institution:
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- (a) might be relevant to an investigation of a drug-related activity or the making of a confiscation order; or
- (b) might otherwise be of assistance in the enforcement of this Act or the regulations,

the institution may give the information to the Commission”.

The CD has obtained information on a number of occasions pursuant to section 51.

- 4.50 The assistance provided by both banking and other financial institutions has been essential to the CD’s operations.

### **INTERNATIONAL AND INTERSTATE INQUIRIES**

- 4.51 In an increasing number of matters investigated by the CD, there has been evidence to suggest the removal of funds offshore and the acquisition of property in foreign jurisdictions. In such cases the CD has made requests through the Commonwealth Attorney-General’s Department for documents relevant to the Commission’s investigations to be obtained from foreign jurisdictions. The Commission’s experience of such inquiries is that often little is achieved and long delays are involved.

- 4.52 Initially, the Commission was hampered by the fact that the DTCP Act was not declared a “corresponding law” under the Proceeds of Crime Act 1987 (C’t) until 13 July 1993. Because the DTCP Act was not a “corresponding law”, orders under the Act did not fall within the terms of the Mutual Assistance in Criminal Matters Act 1987 (the Commonwealth statute whereby requests for enforcement of Australian proceeds of crime orders are made in foreign jurisdictions). The DTCP Act was declared a “corresponding law” by the Commonwealth, and as a result of a request by the NSW Attorney-General instigated by the Commission.

- 4.53 The Commission’s continuing experience of the difficulties associated with detecting assets of offenders which are located in Australia suggests that law enforcement agencies generally will need to concentrate more of their efforts on the tracing of assets into foreign jurisdictions and improving their ability to do so.

- 4.54 The first global conference on Mutual Legal Assistance will be held in Oxford, United Kingdom between 5 and 10 September 1994. The conference will be attended by representatives from over 70 countries. The Director of CD will attend the conference.
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### **LIAISON WITH SUPREME COURT AND DISTRICT COURT REGISTRIES**

- 4.55 The work generated by the CD continued to place further demands upon the resources of the Supreme Court and in particular upon the Criminal Registry and Common Law Listing staff. The assistance provided by those staff has facilitated the operations of the Commission, as has the assistance given by the District Court Criminal Registry, which provides access to files and certificates of conviction.

### **LIAISON WITH THE DRUG ENFORCEMENT AGENCY AND OTHER POLICE**

- 4.56 The contribution of the DEA Task Forces, the Regional Drug Units and a number of other police to the litigation commenced by the Commission has been substantial. The CD has access to the NSWPS on-line charging system which provides early notice of arrests of persons in connection with relevant drug-related activities.
- 4.57 During 1993/94 a total of 898 matters were referred to the CD for assessment of confiscation action under the DTCP Act and/or COPOC Act.
- 4.58 The small number of restraining orders obtained (relative to the large number of matters referred to the CD) is due to the fact that police arrest large numbers of users/dealers and persons who make a living out of dealing in illicit drugs or plants without acquiring substantial wealth.
- 4.59 A number of seminars were conducted in 1993/94 to further educate police as to the role of the CD and the operation of the DTCP Act. The CD continued the system it introduced in 1992, of reporting monthly to the NSWPS Standing Committee on Drugs. The reports submitted included details of matters referred to the CD for its consideration, matters in which proceedings had been commenced, and matters in which the Commission has decided not to institute proceedings and the results of concluded matters. Assistance has also been provided to police in a number of instances by way of the dissemination of financial reports or information concerning persons allegedly involved in drug-trafficking.

### **LIAISON WITH THE PUBLIC TRUSTEE**

- 4.60 The Public Trustee has two significant roles under the DTCP Act. The first is the management of property placed in its control pursuant to orders obtained under sections 10 and 12, while the second is the realisation of property subject to forfeiture or proceeds assessment orders under the DTCP Act. Close liaison with the Solicitor for the Public Trustee has been established to ensure that, in those matters where property has been placed in the Trustee's control, the Solicitor is kept informed of developments in the proceedings and that property successfully forfeited is promptly recovered.
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## **THE CONFISCATED DRUG PROCEEDS ACCOUNT**

- 4.61 Monies realised from the sale of properties forfeited under the DTCP Act and monies received by the Treasurer pursuant to proceeds assessment orders are credited to an account administered by the Treasurer called the Confiscated Drug Proceeds Account.
- 4.62 To date the monies paid into the Account have largely been paid to the Treasury to recoup the costs of administering the DTCP Act.

## **REVIEW OF THE DTCP ACT**

- 4.63 As reported in the last annual report, during 1992/93 the Commission conducted a review of the operation of the DTCP Act and provided to the Ministry for Police an Issues Paper reflecting that review. In the Issues Paper the Commission raised for consideration amendment to a number of aspects of the DTCP Act.
- 4.64 The matter remains under consideration.

## **TRAINING**

- 4.65 There is a continuing need for law enforcement to improve its ability to identify, locate and recover laundered proceeds of crime and assets in both local and foreign jurisdictions. The Commission has gained significant experience and skills in those areas over the last four years of operation of the DTCP Act. Those skills need to be acquired by the wider law enforcement community. Seminars conducted by the Commission and other agencies are having their impact but more needs to be done to inform officers at the coalface.

## **RESOURCES**

- 4.66 The confiscation process is complex and consumes legal and investigative resources. There is a need to simplify the procedure for the forfeiture of personalty and to reform a number of the provisions in the DTCP Act in order to make the forfeiture process more efficient.
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## CHAPTER FIVE

### ADMINISTRATION

#### INTRODUCTION

- 5.1 There were a number of significant administrative changes in the Commission during 1993/94. The Acting Chairman, Mr P Bradley became the Chairman on 18 August 1993. He and Mr C Briese were the two full-time members of the Commission. The Chairman performs the functions of Chief Executive Officer.
- 5.2 Upon his retirement in February 1994, Judge B Thorley was replaced as Chairman of the Police Board (and a member of the Commission's Management Committee) by Mr D Mackay.
- 5.3 A restructuring of the organisation occurred bringing all functions of the Commission within two Divisions: the Investigation Division, and the Confiscation Division, each headed by a Director. An organisation chart of the Commission is shown at Appendix C.

#### STRUCTURE

##### **Constitution of the Commission**

- 5.4 During 1993/94 the Commission was constituted by two full-time officers, the Chairman and one member. The Commission members and the Directors of each of the two Divisions constitute the Management Team.
- 5.5 The Management Team is responsible for the Commission's strategic plan and for the achievement of its aims and objectives.

##### **Administrative Office**

- 5.6 The Commission maintained a head office in Sydney throughout the year, with a move to newly-acquired premises in mid-December 1993. The new address, telephone, facsimile and DX numbers and business hours of the Commission's head office are shown in Appendix F.
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## Organisation

- 5.7 The Investigation Division provides services which support the investigative work of the DEA task forces comprised usually of New South Wales Police Service officers. The purpose of this work is to assemble admissible evidence of serious criminal offences and to furnish that evidence in briefs of evidence, to the relevant Director of Public Prosecutions. These services comprise a Legal Unit; a Telecommunications Interception Unit (TIU); an Analytical Unit; an Operations Support Unit; a Finance Unit; a Personnel Unit; and a Keyboard Services Unit.
- 5.8 The Investigation Division is headed by a Director, who has oversight of all these functions.
- 5.9 The Confiscation Division is sub-divided into teams, each comprising lawyers, financial analysts and support staff. The purpose of the Division is to identify the assets of those engaged in serious drug offences and/or in receipt of the proceeds of those offences, and to take proceedings in the Supreme Court under the DTCP Act for the restraint and confiscation of those assets and proceeds.
- 5.10 The Confiscation Division is headed by a Director, who has oversight of all these functions, as well as that of the Information Technology Unit (ITU) which provides support services to the whole Commission and some task forces.

## HUMAN RESOURCES

### Staff Establishment

- 5.11 The staff establishment of the Commission is subject to approval by the Treasury and the Minister for Police and Emergency Services. In 1993/94 the establishment comprised positions under the Public Sector Management Act, and a number of members of staff employed on a contract basis pursuant to the NSW Crime Commission Act.
- 5.12 At the end of the reporting year, the number of staff employed by the Commission was 73. The categories of staff comprising the establishment are tabulated below. A comparison with the staffing levels of the previous three years is included.

	1993/94	1992/93	1991/92	1990/91
Chief & Senior Executive Serv.	4	5	5	4
Public Service Staff	46	59	62	68
Security	2	2	2	2
Contracted Employees	21	24	22	7
<b>TOTAL</b>	<b>73</b>	<b>90</b>	<b>91</b>	<b>81</b>

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### SES Positions

5.13 The composition of SES level positions held by Commission staff during 1990/91, 1991/92, 1992/93 and 1993/94 is set out in the following table.

Level	CES/SES End 1993/94	CES/SES End 1992/93	CES/SES End 1992/91	CES/SES End 1990/91
5	1	1	1	1
4	1	1	2	2
2	2	2	1	0
1	0	0	1	2
<b>TOTAL</b>	<b>4</b>	<b>4</b>	<b>5</b>	<b>5</b>

5.14 The members of the Commission are strictly not SES officers. They are remunerated at SES levels in accordance with the Statutory and Other Offices Remuneration Act 1975. At the end of the year there were only two SES level positions (apart from the Commission members). Approval was granted by the Office of Public Management for the creation of the second SES position, which replaced, and assumed the functions of, two other positions, one SES and one non-SES.

### Officers at or above Level 5

5.15 The Chairman, who is the Chief Executive, holds a position equivalent to Level 5 of the Chief Executive Service. A statement by the Minister of his performance is at Appendix L.

### Female Executive Officers

5.16 There was one female executive officer employed by the Commission during the reporting period, in the position of Director, Investigation Division.

### Staffing Changes

5.17 During 1993/94 there were reductions in staff numbers in the public service and contracted employees categories at the Commission. A number of vacated public service and contracted positions were not filled. There were three voluntary redundancies in 1993/94.

### Personnel Policies and Practices

#### Job Evaluation

5.18 During 1993/94, position descriptions for all positions held by public service staff in the Commission were completed, however, the evaluation of these positions will be examined in the context of staffing changes and enterprise bargaining during 1994/95.

#### Performance Management

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- 5.19 The Commission has been developing a performance management system during 1993/94. The implementation of the system will be considered within the context of enterprise bargaining during 1994/95.
- 5.20 The Commission is an operational investigatory body and its performance in terms of the law enforcement impact of its work is somewhat difficult to measure. However, through its Management Committee, the Commission closely monitors the progress of each matter referred to it for investigation. On the basis of regular reports to the Management Committee, decisions are made as to investigatory activities. The criteria used to evaluate the effectiveness of operations include the value of intelligence gathered, the number of arrests, subsequent prosecutions and length of sentences imposed, the value and quantity of the drugs seized, the value of monies and/or property seized, and the costs incurred in achieving these results.
- 5.21 The Commission measures its performance in the administration of the DTCP Act by application of, *inter alia*, the following criteria: the number and value of the confiscation orders made by the Supreme Court on the application of the Commission; the number of restraining orders made and the value of the property restrained; and the costs incurred in investigation and litigation under the Act. The law enforcement effect, in terms of deterrence and public confidence, must also be considered.
- 5.22 Much of the operational work to produce the results referred to in this report is carried out by police in task forces. These police report through the command structure of the NSW Police Service and are not subject to general control by the Commission. Several of the Commission's employees are also placed under the supervision of task force commanders to maintain the structure of operational teams and to reflect the responsibility for productivity. The Commission prefers to portray itself as fulfilling a support role in this work.
- 5.23 However, the provision of support services and special resources to a group over which there is limited control in respect of an investigation, for which the commander has a direct responsibility, gives rise to anomalies in terms of performance management. The structure works through the diligence and commitment of those involved. The Commission feels strongly that the structural relationship should be maintained, lest the command and discipline arrangement of the Police Service be diluted, or public confidence and perceptions of the Police Service, as the primary agency for law enforcement, be diminished.
- 5.24 Performance measurement is also affected by the fact that many of the tasks assigned to the Commission are difficult and not readily amenable to investigation. There is a statutory requirement that the Management Committee be satisfied in respect of those matters which it refers to the Commission for investigation, that ordinary police methods of investigation would be unlikely to be successful.
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Training

5.25 During the year staff members participated in and contributed to training courses and conferences conducted by other agencies, and in-house courses designed for the needs of Commission staff. The Commission's investment in training for the year ending 30 June 1994 exceeded the training guarantee levy, with an amount equivalent to 1.8% of the salary budget invested. A total of 267 working days was spent in training.

Equal Employment Opportunity

5.26 The Commission's Equal Employment Opportunity (EEO) Annual Report was completed and provided to the Director of Equal Opportunity in Public Employment. The Commission has also completed an EEO Management Plan for 1994/95 which will be reviewed for the next reporting cycle.

5.27 In general, results of EEO initiatives have been pleasing. In the reporting period, 15 new members of staff were recruited. Of these, 9 were women (60%), and 2 were people of non-English speaking backgrounds (NESB) (13%).

5.28 The proportion of women employed at Grade 10 and above has increased from 31% in 1992/93 to 41% in 1993/94.

5.29 The following tables contain EEO statistics for 1991/92, 1992/93 and 1993/94.

**Table 1: Representation and Recruitment of Target Groups (Aboriginals, People with Physical Disability (PWP), People of non-English Speaking Backgrounds (NESB), and Women)**

1993/94	Total Staff	Aboriginals	PWP	NESB	Women
Total Employees	73	0	*	18 (24.7%)	44 (60.3%)
Recruited 1993/94	15	0	*	2 (13.3%)	9 (60%)

\* The Commission does not ask staff to identify themselves as having a physical disability, because of the size of the organisation and resultant privacy implications.

1992/93	Total Staff	Aboriginals	PWP	NESB	Women
Total Employees	82	0	*	23 (28%)	49 (59.8%)
Recruited 1992/93	12	0	*	4 (33.3%)	8 (66.7%)

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1991/92	Total Staff	Aborigi nals	PWPD	NESB	Women
Total Employees	97	0	*	24 (24.7%)	44 (45.3%)
Recruited 1991/92	38	0	*	12 (31.6%)	18 (47.4%)

**Table 2: Representation of EEO Target Groups by Level 1993/**

Grade	Total Staff	Women	NESB
Above Grade 12	12	4 (33.3%)	2 (16.7%)
Grades 10 - 12	5	3 (60.0%)	2 (40.0%)
Grades 6 - 9	17	9 (52.9%)	5 (29.4%)
Grades 3 - 5	17	11 (64.7%)	3 (17.7%)
Grades 1 - 2	16	13 (81.3%)	3 (18.8%)
CO 1 - Grade 1	6	4 (66.7%)	1 (16.7%)
Below CO 1	0	0	0
<b>TOTAL</b>	<b>73</b>	<b>44 (60.3%)</b>	<b>16 (21.9%)</b>

**Table 3: Representation of Women by Level as a Total of Staff who are Women 1993/94**

Grade	Women
Above Grade 12	4 (9.1%)
Grades 10 - 12	3 (6.8%)
Grades 6 - 9	9 (20.5%)
Grades 3 - 5	11 (25.0%)
Grades 1 - 2	13 (29.6%)
CO 1 - Grade 1	4 (9.1%)
Below CO 1	0
<b>TOTAL</b>	<b>44 (60.3%)</b>

**Table 4: Representation of NESB by Level as a Total of Staff who are NESB 1993/94**

Grade	NESB
Above Grade 12	2 (12.5%)
Grades 10 - 12	2 (12.5%)
Grades 6 - 9	5 (31.3%)
Grades 3 - 5	3 (18.8%)
Grades 1 - 2	3 (18.8%)
CO 1 - Grade 1	1 (8.3%)
Below CO 1	0
<b>TOTAL</b>	<b>16 (21.9%)</b>

**Table 5: Representation of EEO Target Groups by Level 1992/93**

<b>Grade</b>	<b>Total Staff</b>	<b>Women</b>	<b>NESB</b>
Above Grade 12	15	5 (33.3%)	6 (40.0%)
Grades 10 - 12	11	3 (27.3%)	1 (9.0%)
Grades 6 - 9	9	5 (55.5%)	2 (18.2%)
Grades 3 - 5	20	15 (75.0%)	3 (15.0%)
Grades 1 - 2	18	14 (87.0%)	2 (11.1%)
CO 1 - Grade 1	11	7 (63.6%)	1 (9.0%)
Below CO 1	0	0	0
<b>TOTAL</b>	<b>84</b>	<b>49 (58.3%)</b>	<b>15 (17.9%)</b>

**Table 6: Representation of EEO Target Groups by Level 1991/92**

<b>Grade</b>	<b>Total Staff</b>	<b>Women</b>	<b>NESB</b>
Above Grade 12	18	4 (22.2%)	7 (38.9%)
Grades 10 - 12	11	2 (18.2%)	0
Grades 6 - 9	13	6 (46.2%)	6 (46.2%)
Grades 3 - 5	25	10 (40.0%)	6 (24.0%)
Grades 1 - 2	20	14 (70.0%)	4 (20.0%)
CO 1 - Grade 1	12	8 (66.7%)	1 (8.3%)
Below CO 1	0	0	0
<b>TOTAL</b>	<b>99</b>	<b>44 (44.4%)</b>	<b>24 (24.2%)</b>

SES

- 5.30 Of the two SES staff employed at the Commission, one is a woman and the other is from a non-English speaking background.

Disability Plan

- 5.31 The Commission's draft Disability Plan has been prepared and forwarded to the Social Policy Directorate for comment. The plan will be reviewed as part of the EEO annual reporting cycle and will be sent to the Director of Equal Opportunity in Public Employment in 1994/95.

Culturally Diverse Society Policy

- 5.32 The Commission has prepared its Statement of Intent to Implement the Charter of Principles for a Culturally Diverse Society, and forwarded the document to the Department of Ethnic Affairs.

Staff Handbook

- 5.33 The Commission's revised staff handbook has been reviewed and is in draft form. It is expected that the handbook will be settled and distributed to all staff in 1994/95.

### **Industrial Relations Policies and Practices**

- 5.34 The industrial dispute, reported in last year's annual report and originally arising in 1992/93, concerned the dismissal of an officer whom the Commission alleged had had unlawful access to confidential Commission material. The matter concluded in 1993/94 with the Industrial Commission handing down a judgement in the Commission's favour. An appeal was lodged by the officer, but was withdrawn prior to it being heard.

### **Enterprise Agreement**

- 5.35 Information sessions were provided by the Public Employment Industrial Relations Service (PEIRS) to the staff of the Commission concerning enterprise agreements and the bargaining process. The staff held meetings for the purpose of deciding who will negotiate on their behalf. A secret ballot was held in April 1994 and the result was that the unions will represent the staff during negotiations. The relevant unions, being the Public Service Association (PSA) and the Professional Officers' Association (POA), were contacted and informed of the Commission's willingness to commence negotiations. The unions wished to consult with their members first and the Commission is awaiting the outcome. It is hoped that an agreement will be negotiated by the end of 1994.

### **Overseas Visits**

- 5.36 No overseas visits were undertaken by officers or employees of the Commission during this financial year.

## **MANAGEMENT SYSTEMS / MANAGEMENT IMPROVEMENT**

### **Performance Assessment**

- 5.37 During 1993/94 the Commission continued to monitor its operational activities and administrative support function with a view to being as efficient and effective as possible.
- 5.38 The Commission holds weekly operations meetings to assess the performance of teams for each reference. Written reports are provided for those meetings and minutes are kept. In addition, status reports for each reference and/or major operation are provided to the Management Committee at its meetings (usually held every five to six weeks).
- 5.39 The Commission produced monthly finance reports. The Accountant also provides quarterly reports on expenditure on specific items.

### **Management Improvement Plans**

- 5.40 A number of management projects were implemented in 1993/94.
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Guarantee of Service

- 5.41 The Commission has developed a draft Guarantee of Service and provided it to its main clients, the New South Wales Police Service, for comment. The Guarantee of Service is reproduced in full at Appendix K.

Code of Conduct

- 5.42 The Commission amended its Code of Conduct during the year, to include examples which help to explain principles and make the Code more specific to the Commission. The Commission sought feedback from staff before finalising the Code. The Commission responded to a survey by the Office of Public Management and Independent Commission Against Corruption, whose publications were used in the review of the Commission's code. The new Code is published in this report at Appendix H.

Time Costing

- 5.43 The system of computerised time costing implemented in 1992/93 continues to be used in the Commission.

**Research and Development**

- 5.44 No research and development work (as defined by Australian Accounting Standard AA513) was carried out by the Commission during the year.

**Committees**

- 5.45 During 1993/94 the following Committees operated with membership categories and functions as indicated.

Computer Steering Committee

- 5.46 This Committee was abolished during the year following the installation of the upgraded computer system.

Computer Users Group

- 5.47 *Membership*

Commissioner (Chairman); Director, Confiscation Division; Senior Administrator, ITU; Administrator, ITU; and senior officers drawn from each computer user area.

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*Functions*

Provide user input to, and feedback on, the application of computer resources to the various operational and administrative areas. Provides a customer based focus for measuring ITU performance. The committee meets each month.

Senior Officers Committee

5.48

*Membership*

Commissioners, Directors and senior officers drawn from each functional area.

*Functions*

To communicate Commission policies and exchange views on how goals have been and will be achieved, having regard to resources. The Committee meets each month.

Technological Change Committee

5.49

This Committee was abolished during the 1993/94 year.

Telecommunications Interception Committee

5.50

This Committee was abolished during the 1993/94 year. *Ad-hoc* consultation occurs in relation to applications for telephone interception warrants. This consultation includes a Commissioner, Director, Investigation Division, IT Manager, the lawyer who prepared the application and the case officer.

Training Committee

5.51

This Committee was abolished during the 1993/94 year. A skills data base has been established to monitor training needs.

**Consultants**

5.52

The Commission engages external consultants when specialist knowledge or skills are not available in-house and/or particular services are required over a defined period of time. During this financial year, a total amount of \$8,882.50 was paid to 3 consultants engaged by the Commission. The categories in which consultants were engaged and payments made in respect of these categories, are set out in the following table. No consultant was paid more than \$30,000.

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<b>Consultancy Description</b>	<b>Amount Paid \$</b>
Computer-related	150.00
Accounting	8,732.50
<b>TOTAL</b>	<b>8,882.50</b>

In addition an amount of \$72,447 was paid to 9 counsel retained by the Commission for the purpose of legal proceedings mainly involving confiscation proceedings in the Supreme Court.

## **SERVICES TO THE PUBLIC**

### **Services and Complaints**

5.53 By reason of its statutory aims, objectives, functions and operational activities, the Commission does not provide services direct to the public, although it does operate a "008" telephone system to allow members of the public to provide information. Matters investigated by the Commission are referred by its Management Committee rather than resulting from input from the public.

5.54 As a consequence, the Commission does not usually receive complaints or consumer suggestions. It is not possible therefore, for the Commission to report on services improved or changed as a result of such complaints or suggestions as required by the Annual Reports legislation. For the same reasons, the Commission has not developed 'standard times' for providing services with the exception of payment of accounts.

### **Publications**

5.55 The only Commission publications available to the public are:

- . Annual Reports 1985/86 to 1993/94, inclusive; and
- . Freedom of Information Statement of Affairs and Summary of Affairs (current copies are available from the Accountant, at the address shown in Appendix I.)

### **The Annual Report**

5.56 Six hundred copies of the 1993/94 annual report were printed at a cost of \$3,400 or \$5.67 per copy. This can be compared with a total cost of \$3,324 or \$5.54 per copy for the same number of 1992/93 Reports. A copy of the report is available on floppy disk and will be provided to Parliament in that form.

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**FINANCE****Financial Statements and Position**

5.57 Audited financial statements are to be found in Appendix D of this report.

**Account Payment Performance**

5.58 The total value of accounts paid during 1993/94 was \$12,538,924. Of this amount 92.63% were paid on time. There were no instances where the Commission was forced to pay penalty interest for late payment during 1993/94.

5.59 At 30 June 1994, \$67,708 was outstanding in Accounts Payable to creditors. All of this amount was current.

	<b>Qtr Ended 30 Sep 93</b>	<b>Qtr Ended 31 Dec 93</b>	<b>Qtr Ended 31 Mar 94</b>	<b>Qtr Ended 30 Jun 94</b>
Value of Accounts Paid	7,227,503	1,741,401	1,790,194	1,779,826
Value of Accounts Paid on Time	6,939,616	1,599,234	1,442,562	1,633,325
% of Accounts Paid on Time	96.02	91.83	80.58	91.77
Value of Accounts Payable	-	-	25,155 All Current	67,708 All Current

No problems or complaints were encountered during 1993/94 with account payments and no interest was paid in respect of late payments.

**Value of Long Service Leave and Recreation Leave**

5.60 At 30 June 1994 the Commission had a total liability of \$464,000 in respect of long service leave (\$347,000 in 1993) and \$224,000 in respect of recreation leave (\$211,000 in 1993).

With respect to long service leave, this liability has been assumed by the State and the Commission's financial statements reflect this.

## Major Assets

### New Premises

5.61 During 1993/94 the Commission purchased premises at 453 Kent Street, Sydney. The costs involved in the acquisition were:

.	Cost of land and building	\$5,531,000
.	Cost of relocation	176,000
		<u>\$5,707,000</u>

5.62 This acquisition was funded by a capital allocation of \$6 million from the NSW Treasury with the Commission to reduce its recurrent allocation over time to effect offsetting savings.

5.63 The Commission agreed to reduce its allocation by \$1.5 million in perpetuity. This, together with the budget surplus for 1993/94, cash at bank and projected budget surplus in 1994/95, effectively means that the building will be paid off in terms of overall savings to the government by the middle of the 1994/95 financial year. The recurrent savings will continue to be realised in perpetuity.

5.64 In addition, the building currently earns income which exceeds total outgoings by more than \$80,000 pa and this figure is expected to increase with the lease of further floor space and the renegotiation of advertising space.

5.65 The market value of the building now significantly exceeds its acquisition cost.

### Other Assets

5.66 Other major assets purchased in 1993/94 are:

- . Computer network
- . Digitised telephone interception system
- . Building security system
- . One motor vehicle
- . Furniture and fixtures acquired with the new premises.

## Risk Management and Insurance

5.67 The Commission insures against a range of risks, including workers' compensation, motor vehicles, property damage and public liability through the New South Wales Treasury Managed Funds. In 1993/94 the Commission made 6 claims (6 in 1992/93). Of these claims 3 related to workers' compensation (2 in 1992/93) and 3 related to motor vehicles (4 in 1992/93). The Commission's share of the funds surplus in 1993/94 was \$375.00, as compared with \$7,117.96 in 1992/93.

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### **Grants to Community Organisations**

- 5.68 In accordance with its statutory charter, the Commission did not provide any grants to community organisations in 1993/94.

### **INTERNAL AUDIT**

- 5.69 In 1993/94 the Commission engaged the services of the Auditor-General's Office to perform an internal audit. The areas covered included purchases, disbursements, payroll (including SES), fixed assets, income, show money, cash at bank and on hand, management reports, computer password and security, and accrual accounting.
- 5.70 Generally the results of the audit were considered to be satisfactory and recommendations of the internal auditor have been implemented.

### **FREEDOM OF INFORMATION**

- 5.71 The Commission received no requests under the Freedom of Information Act during the reporting year. The Commission's Statement of Affairs appears at Appendix I.

### **INFORMATION PROCESSING TECHNOLOGY**

- 5.72 Over previous years, the Commission had prepared a new Information Technology Strategic Plan that provided a framework for systems development and acquisition over the four years commencing 1993/94. The new plan had been prepared in consideration of financial and staffing constraints with particular emphasis on reducing high recurrent costs.
- 5.73 The main strategy in the Information Technology Strategic Plan was to replace the five year old Fuji Xerox computer network. This network provided full office automation, access to the Commission's in-house databases, and access to several remote mainframes and databases. The preferred option for the new network was to standardise on MS-DOS personal computers, Microsoft software products and the Novell network operating system. It was anticipated that the new network would be in place by the end of 1993. The savings over 2.5 years in recurrent costs from this strategy would be equivalent to the capital outlay on the new equipment.
- 5.74 The new network was, in fact, in place by December 1993. It essentially comprises Compaq personal computers, Microsoft Office and a Novell network system. The old Fuji Xerox continued to be run partly in parallel until May 1994. As a result of the change to the new network the staffing in the IT Unit was reviewed. That review resulted in all three positions in the Unit being abolished and two new positions being created. Two of the three staff elected to take voluntary redundancy while the remaining staff member successfully applied for the position of Senior IT Administrator. The second position of IT Administrator was subsequently filled.
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- 5.75 The Information Technology Strategic Plan also recommended retaining the existing database systems for intelligence, personnel, finance, registry and time-costing. It was intended that the Commission's intelligence system (POIROT) would continue to be upgraded periodically by taking a copy of the ABCI's Australian Criminal Intelligence Database (ACID) system. Although this process limits development opportunities, it would maintain compatibility between the two systems and eliminate the high cost of developing enhancements in-house.
- 5.76 The point has now been reached, however, where the costs of upgrading the Commission's POIROT system to stay ahead of hardware/software upgrades and upgrade to ACID is such that the feasibility of retaining the Commission's existing database on a separate system needs to be reviewed. That review is now in progress.
- 5.77 As a consequence of the network changes, information technology security policy and procedures have been reviewed and draft policies and procedures are in place. It is anticipated that the policies and procedures will be finalised by December 1994.
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## **NEW SOUTH WALES CRIME COMMISSION PROGRAM OBJECTIVES AND DESCRIPTION**

Program Objective: To combat illegal drug trafficking and organised and other crime in New South Wales.

Program Description: The targeting of high-level drug traffickers and persons involved in organised crime.

The obtaining of evidence for the prosecution of those persons and/or the confiscation of their assets.

The furnishing of reports relating to illegal drug trafficking and organised crime.

The dissemination of information and intelligence; and investigatory, technological and analytical expertise.

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**NEW SOUTH WALES CRIME COMMISSION  
SENIOR STAFF DURING 1993/94**

**Director, Investigation Division**

Deborah Sweeney, BA LLB (July 1993)

**Director, Confiscation Division**

Mark Buscombe, BA LLB (Hons) (until November 1993)

John Giorgiutti (January 1991)

**Assistant Director (Litigation), Confiscation Division**

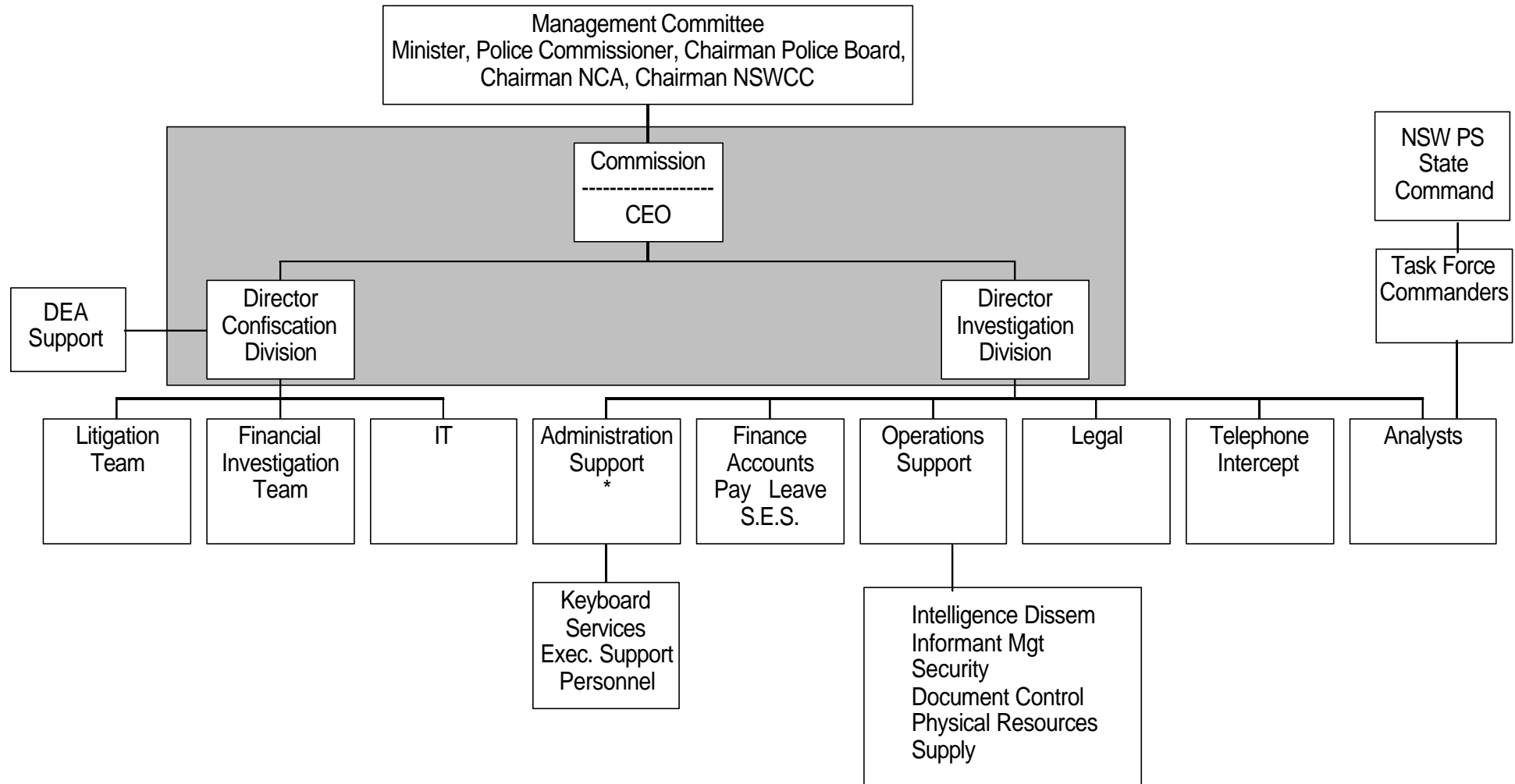
Robyn Gray, BA LLB (Hons) (June 1991)

**Chief Financial Analyst**

Michael Lulan ACA (June 1986)

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## NEW SOUTH WALES CRIME COMMISSION ORGANISATION CHART



Commission Management Team

\* This represents arrangements proposed at the end of the year and implemented on a trial basis

**NEW SOUTH WALES  
CRIME COMMISSION**

**FINANCIAL STATEMENTS  
FOR YEAR ENDED 30 JUNE 1994**

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**New South Wales Crime Commission**

**Financial Statements for the  
Year Ended 30 June 1994**

**STATEMENT BY CHAIRMAN**

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

- (a) the accompanying financial statements have been prepared in accordance with the provisions of the Public Finance and Audit Act 1983, the Financial Reporting Code under Accrual Accounting for Inner Budget Sector Entities, the concept, and applicable clauses of the Public Finance and Audit (Departments) Regulation 1986, the Treasurer's Directions, the Statement of Accounting Concepts and applicable Australian Accounting Standards;
- (b) the statements present a true and fair view of the financial positions and transactions of the Commission; and
- (c) there are no circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.

P A Bradley  
Chairman

L Giles  
Accountant

Dated: 16 September 1994

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Auditor-General's page

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**NEW SOUTH WALES CRIME COMMISSION**  
**Operating Statement**  
**For the Year Ended 30 June 1994**

	Notes	Actual 1994 \$'000	Budget 1994 \$'000	Actual 1993 \$'000
<b>Expenses</b>				
Operating Expenses				
Employee Related	2 & 5	4,503	5,208	4,915
Other Operating Expenses	6	1,987	3,537	3,517
Maintenance	7	59	12	20
Depreciation	2 & 8	572	586	487
Other Services	9	0	17	17
<b>Total Expenses</b>		<b>7,121</b>	<b>9,360</b>	<b>8,956</b>
<b>Revenues</b>				
User Charges	10	237	240	403
Other	11	212	0	26
Interest	12	24	0	0
<b>Total Revenues</b>		<b>473</b>	<b>240</b>	<b>429</b>
<b>Net (gain)/loss on sale of property, plant and equipment</b>	14	<b>505</b>	<b>0</b>	<b>(52)</b>
<b>NET COST OF SERVICES</b>	4	<b>7,153</b>	<b>9,120</b>	<b>8,475</b>
<b>Government Contributions</b>				
Consolidated Fund recurrent appropriation		6,169	7,916	8,477
Consolidated Fund capital appropriation		6,269	6,269	227
Acceptance by the State of the Commission's liabilities	5	436	411	372
Surplus/(deficit) for the year		5,721	5,476	601
Accumulated surplus/(deficit) at the beginning of the year		2,601	2,601	2,000
<b>Accumulated surplus/(deficit) at the end of the year</b>		<b>8,322</b>	<b>8,077</b>	<b>2,601</b>

The accompanying notes form part of these statements.

**NEW SOUTH WALES CRIME COMMISSION**  
**Statement of Financial Position**  
**As at 30 June 1994**

	Notes	Actual 1994 \$'000	Budget 1994 \$'000	Actual 1993 \$'000
<b>Current Assets</b>				
Cash	20	1,269	159	847
Receivables	13	140	0	0
Total Current Assets		<u>1,409</u>	<u>159</u>	<u>847</u>
<b>Non-Current Assets</b>				
Property, Plant and Equipment	14	7,338	8,129	1,965
Total Non-Current Assets		<u>7,338</u>	<u>8,129</u>	<u>1,965</u>
<b>TOTAL ASSETS</b>		<u>8,747</u>	<u>8,288</u>	<u>2,812</u>
<b>Current Liabilities</b>				
Creditors and Provisions	15	425	211	211
Total Current Liabilities		<u>425</u>	<u>211</u>	<u>211</u>
<b>TOTAL LIABILITIES</b>		<u>425</u>	<u>211</u>	<u>211</u>
<b>NET ASSETS</b>		<u>8,322</u>	<u>8,077</u>	<u>2,601</u>
<b>EQUITY</b>				
Accumulated Surplus		8,322	8,077	2,601
<b>TOTAL EQUITY</b>		<u>8,322</u>	<u>8,077</u>	<u>2,601</u>

The accompanying notes form part of these statements.

**NEW SOUTH WALES CRIME COMMISSION**  
**Cash Flow Statement**  
**For the Year Ended 30 June 1994**

	Notes	Actual 1994 \$'000	Budget 1994 \$'000	Actual 1993 \$'000
<b>Cash Flow from Operating Activities</b>				
Payments				
Employee Related		(4,011)	(4,797)	(4,568)
Other Operating Expenses		(1,866)	(3,537)	(3,530)
Maintenance		(59)	(12)	(20)
Other Services		0	(17)	(17)
		<u>(5,936)</u>	<u>(8,363)</u>	<u>(8,135)</u>
Revenues				
User charges		228	240	403
Other		128	0	26
Interest		14	0	0
		<u>370</u>	<u>240</u>	<u>429</u>
Total Net Cash Outflow on Operating Activities	20	<u>(5,566)</u>	<u>(8,123)</u>	<u>(7,706)</u>
<b>Cash Flow from Investing Activities</b>				
Purchase of property, plant and equipment	14	(6,501)	(6,750)	(227)
Proceeds from the sale of property, plant and equipment		51	0	52
		<u>(6,450)</u>	<u>(6,750)</u>	<u>(175)</u>
Total Net Cash Outflow on Investing Activities		<u>(6,450)</u>	<u>(6,750)</u>	<u>(175)</u>
<b>Net Cash Outflow on Operating and Investing Activities</b>		<u>(12,016)</u>	<u>(14,873)</u>	<u>(7,881)</u>
<b>Government Funding Activities</b>				
Consolidated Fund recurrent appropriation		6,169	7,916	8,477
Consolidated Fund capital appropriation		6,269	6,269	227
		<u>12,438</u>	<u>14,185</u>	<u>8,704</u>
Total Net Cash provided by the Government		<u>12,438</u>	<u>14,185</u>	<u>8,704</u>
Net Increase in Cash		422	(688)	823
Opening Cash Balance		847	847	24
<b>CLOSING CASH BALANCE</b>		<u>1,269</u>	<u>159</u>	<u>847</u>

The accompanying notes form part of these statements.

**NEW SOUTH WALES CRIME COMMISSION**  
**Notes accompanying, and forming part of, the Financial Statements**  
**For the year ended 30 June 1994**

**Note 1: The Commission's Reporting Entity**

The New South Wales Crime Commission comprises all the activities and entities under the control of the Commission.

All transactions and balances between funds and entities comprising the Commission have been eliminated in the process of preparing the financial statements.

**Note 2: Summary of Significant Accounting Policies**

2.1 Basis of Accounting

The Commission's financial statements have been prepared in accordance with the Statement of Accounting Concepts, applicable Australian Accounting Standards, the requirements of the Public Finance and Audit Act 1983 and Regulations, the Treasurer's Directions and the Financial Reporting Directives published in the Financial Reporting Code for Inner Budget Sector Entities.

Except where otherwise stated, the Operating Statement and Statement of Financial Position are prepared on an accrual accounting basis. The Cash Flow Statement is prepared on a cash basis using the "direct" method.

The Financial Statements are prepared in accordance with the historical cost convention. All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency.

2.2 Employee Related Expenses

Employee related expenses include salaries and wages, long service leave for employees with five or more years' service, recreation leave, superannuation entitlements and other related costs. Amounts expected to be paid to employees for their pro-rata entitlements to recreation leave are accrued annually at current pay rates.

As the Commission's liabilities for long service leave and superannuation are accepted by the State, the Commission accounts for the liability as having been extinguished resulting in

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non-monetary revenue described as "Acceptance by the State of Department Liabilities".

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2.3 Government Allocations

Monetary and non-monetary resources which are allocated to the Commission by the Government and which are controlled by the Commission are recognised as revenues of the financial period in which they are received. Non-monetary allocations are recognised at fair value.

2.4 Acquisition of Assets

The cost method of accounting is used for all acquisitions of assets regardless of whether assets are acquired separately or as part of an interest in another entity. Cost is determined as being the fair value of the assets given up at the date of acquisition plus costs incidental to the acquisition.

2.5 Depreciation

Depreciation is provided for on a straight line basis against all depreciable assets so as to write off the depreciable amount of each depreciable asset as it is consumed over its useful life. The rate of depreciation applied to relevant categories of assets is set out in the following table.

<b>Depreciation Category</b>	<b>Rate %</b>
Computer equipment and software	33.3
Office Equipment: Mechanical/Electronic	10.0
Office Equipment: Furniture/Fittings	7.5
Motor Vehicles	15.0
Building	3.3

2.6 Leases

Leasing transactions involve operating leases for a building for part of the financial year and motor vehicles. Lease payments are treated as expenses over the term of the lease.

**Note 3: Change in Accounting Policy**

Depreciation on new computer equipment and software was changed from 20% to 33.3% to better reflect the useful life of this equipment. This resulted in additional depreciation charges of \$14,000 in 1993/94.

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**Note 4: Budget Review**

The actual net cost of services was less than the budget allocation by \$1,967,000. This favourable result was due to a reduction in operating expenses coupled with increases in revenues. The lower than anticipated expenditure was caused by reductions in staff numbers and general operational expenses (eg rent and maintenance) while the increase revenue arose from leasing of advertising and office space.

**Note 5: Employee Related Expenses**

	<b>1993/94</b>	<b>1992/93</b>
	<b>\$'000</b>	<b>\$'000</b>
Salaries and Wages	3,246	3,648
Superannuation entitlements	332	266
Payroll and Fringe Benefits Tax	310	411
Recreation Leave	276	194
Long Service Leave	104	106
Workers Compensation Insurance	15	20
Other	220	270
<b>TOTAL</b>	<b>4,503</b>	<b>4,915</b>

The Commission charges the full cost of long service leave and the current service cost of superannuation to operations. However, as the Commission's liability for long service leave and superannuation entitlements is assumed by the State, the Commission accounts for the liability as having been extinguished. This results in a non-monetary revenue described as "Acceptance by the State of Departmental Liabilities" (Refer Note 2.2).

**Note 6: Other Operating Expenses**

	<b>1993/94</b>	<b>1992/93</b>
	<b>\$'000</b>	<b>\$'000</b>
Office Maintenance	672	1,140
Office Relocation Expenses	176	0
Office Supplies	426	435
Computer Services	170	380
Travel Expenses	19	29
Motor Vehicle Expenses	62	126
Service Fees	132	255
Internal Audit Fees	12	0
External Audit Fees	10	13
Consultants	81	70
Other	227	1,069
<b>TOTAL</b>	<b>1,987</b>	<b>3,517</b>

**Note 7: Maintenance**

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This is a new expenditure category requested by Treasury in 1993/94 so that differentiation could be made between maintenance expenditure that was capital in nature and that which was routine and part of the normal ongoing process of conducting business. Expenditure shown here falls under the latter criteria and consists of:

	<b>1993/94</b>	<b>1992/93</b>
	<b>\$'000</b>	<b>\$'000</b>
Building	35	11
Office Equipment	24	9
<b>TOTAL</b>	<b>59</b>	<b>20</b>

**Note 8: Depreciation**

	<b>1993/94</b>	<b>1992/93</b>
	<b>\$'000</b>	<b>\$'000</b>
Computer Equipment	396	409
General Plan and Equipment	59	75
Motor Vehicles	25	3
Building	92	0
<b>TOTAL</b>	<b>572</b>	<b>487</b>

**Note 9 Other Services**

	<b>1993/94</b>	<b>1992/93</b>
	<b>\$'000</b>	<b>\$'000</b>
Witness Protection Expenses	0	17
<b>TOTAL</b>	<b>0</b>	<b>17</b>

**Note 10: User Charge Revenue**

	<b>1993/94</b>	<b>1992/93</b>
	<b>\$'000</b>	<b>\$'000</b>
NSW Police Service - Recoup Special Investigators	237	403
<b>TOTAL</b>	<b>237</b>	<b>403</b>

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**Note 11: Other Revenue**

	<b>1993/94</b>	<b>1992/93</b>
	<b>\$'000</b>	<b>\$'000</b>
Lease of signage space on building	111	0
Rental on office space - Auditor General's Department	84	0
Miscellaneous	17	26
<b>TOTAL</b>	<b>212</b>	<b>26</b>

**Note 12: Interest Revenue**

	<b>1993/94</b>	<b>1992/93</b>
	<b>\$'000</b>	<b>\$'000</b>
Interest on Commission Funds	24	0
<b>TOTAL</b>	<b>24</b>	<b>0</b>

**Note 13: Receivables**

13.1 Accounts Receivable

	<b>1993/94</b>	<b>1992/93</b>
	<b>\$'000</b>	<b>\$'000</b>
NSW Treasury (Interest on Commission Funds)	10	0
NSW Police Service - Recoup Special Investigators	9	0
Auditor-General's Office - Rental	84	0
Other	5	0
<b>TOTAL</b>	<b>108</b>	<b>0</b>

13.2 Prepayments

	<b>1993/94</b>	<b>1992/93</b>
	<b>\$'000</b>	<b>\$'000</b>
Prepayments	32	0
<b>TOTAL</b>	<b>32</b>	<b>0</b>

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**Note 14: Non-Current Assets - Property, Plant and Equipment**

	Computer Equipment \$'000	General Equipment \$'000	Motor Vehicles \$'000	Building \$'000	Land \$'000	Total 1993/94 \$'000	Total 1992/93 \$'000
<b>At Cost or Valuation:</b>							
Balance at 1 July 1993	2,043	707	166	0	0	2,916	2,689
Additions	772	169	29	3,731	1,800	6,501	227
Disposals	655	287	18	0	0	960	0
Balance at 30 June 1994	2,160	589	177	3,731	1,800	8,457	2,916
<b>Accumulated Depreciation:</b>							
Balance at 1 July 1993	787	161	3	0	0	951	464
Depreciation for Year	396	59	25	92	0	572	487
Write Back on Disposal	354	48	2	0	0	404	0
Balance at 30 June 1994	829	172	26	92	0	1,119	951
<b>Written Down Value:</b>							
As at 1 July 1993	1,256	546	163	0	0	1,965	2,225
As at 30 June 1994	1,331	417	151	3,639	1,800	7,338	1,965

**Note 15: Creditors and Provisions**

15.1 Accounts Payable

	1993/94 \$'000	1992/93 \$'000
Trade Creditors	68	0
<b>TOTAL</b>	<b>68</b>	<b>0</b>

15.2 Accrued Expenditure

	1993/94 \$'000	1992/93 \$'000
Employee Related Expenses	48	0
Other Operating Expenses	85	0
<b>TOTAL</b>	<b>133</b>	<b>0</b>

15.3 Provisions for Recreation Leave

	<b>1994 \$'000</b>	<b>1993 \$'000</b>
Balance at 1 July 1993	211	238
Increase/Decrease in Provision	13	(27)
Balance at 30 June 1994	224	211

**Note 16: Monies Held in Excess of Two Years**

No unclaimed amounts have been held in the accounts of the NSW Crime Commission for a period in excess of two years. All amounts unclaimed are forwarded to the NSW Treasury as unclaimed monies: these unclaimed amounts are available for refund for a period of twenty years.

**Note 17: Commitments**

17.1 Recurrent Commitments

Recurrent commitments as at 30 June 1994 for goods and services totalled \$24,694. (1992/93 \$nil)

17.2 Capital Commitments

Capital commitments contracted for as at 30 June 1994 totalled \$nil. (1992/93 \$nil)

17.3 Operating Lease Commitments

	<b>1993/94 \$'000</b>	<b>1992/93 \$'000</b>
Cancellable Operating Leases	1	47
Non-Cancellable Operating Leases	0	395
	1	442

Operating Lease Commitments Repayment Schedule	Cancellable Operating Leases		Non-Cancellable Operating Leases	
	<b>1994 \$'000</b>	<b>1993 \$'000</b>	<b>1994 \$'000</b>	<b>1993 \$'000</b>
Less than 1 year	1	42	0	395
Between 1 and 2 years	0	5	0	0
Between 2 and 5 years	0	0	0	0
Greater than 5 years	0	0	0	0
<b>Total</b>	1	47	0	395

**Note 18: Contingent Liabilities**

There are no known contingent liabilities other than those specifically disclosed. (1992/93 \$nil)

**Note 19: Bad Debts Written Off**

No amounts were written off during 1993/94. (1992/93 \$nil)

**Note 20: Note to Cash Flow Statement**

(a) For the purpose of its Cash Flow Statement, the Commission has included in "cash" both cash on hand and in the Commission's operating bank account. Cash at the end of the reporting period, as shown in the Cash Flow Statement, is reconciled to the related items in the Statement of Financial Position. A dissection of the amount shown in the Statement of Financial Position follows:

	<b>1993/94</b>	<b>1992/93</b>
	<b>\$'000</b>	<b>\$'000</b>
Cash on Hand	66	4
Cash at the Bank	1,203	843
	<u>1,269</u>	<u>847</u>

(b) Reconciliation of "Net Cost of Services" and the "Net Cash Used on Operating Activities":

	<b>1993/94</b>	<b>1992/93</b>
	<b>\$'000</b>	<b>\$'000</b>
Net Cost of Services	(7,153)	(8,475)
Depreciation	572	487
Increase/(Decrease) in Recreation Leave	13	(27)
Acceptance by the State of the Commission's Liabilities	436	372
Decrease/(Increase) in Prepayments	(32)	2
Increase/(Decrease) in Accounts Payable	68	(13)
Increase/(Decrease) in Accruals	133	0
(Increase)/Decrease in Accounts Receivable	(108)	0
(Gain)/Loss on Disposal of Plant and Equipment	505	(52)
Net Cash Used on Operating Activities	<u>(5,566)</u>	<u>(7,706)</u>

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**Note 21: Material Assistance Provided by Other Parties**

No material assistance was received by the NSW Crime Commission free of charge during 1993/94 from any other organisation.

**Note 22: Program Information**

The program number of the New South Wales Crime Commission is 50.1.1. The Commission comprises only one program.

Program Objectives: To combat illegal drug trafficking and organised crime in New South Wales.

Program Description: The targeting of high level drug traffickers and persons involved in organised crime, the obtaining of evidence for prosecution of those persons and/or civil forfeiture of their assets, the furnishing of reports relating to illegal drug trafficking and organised crime and the dissemination of intelligence, and investigatory, technological and analytical expertise.

All the details of the one program are shown in the Operating Statement, Statement of Financial Position and the Cash Flow Statement.

**END OF AUDITED STATEMENTS**

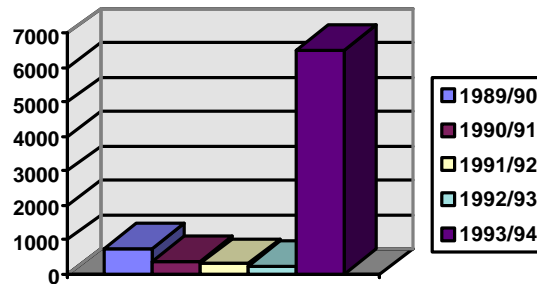
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## NEW SOUTH WALES CRIME COMMISSION FINANCIAL COMPARISONS WITH PREVIOUS YEARS

### Capital Expenditure

YEAR	\$'000
1989/90	728
1990/91	355
1991/92	290
1992/93	227
1993/94	6,501

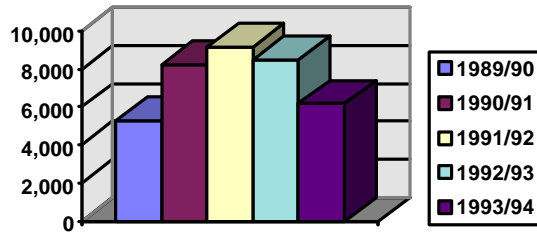
**Capital Expenditure**



### Recurrent Cost to Government

YEAR	\$'000	Description
1989/90	5,287	Program exp. less capital works
1990/91	8,221	Program exp. less capital works
1991/92	9,163	Recurrent allocation exp.
1992/93	8,477	Recurrent allocation exp.
1993/94	6,169	Recurrent allocation exp.

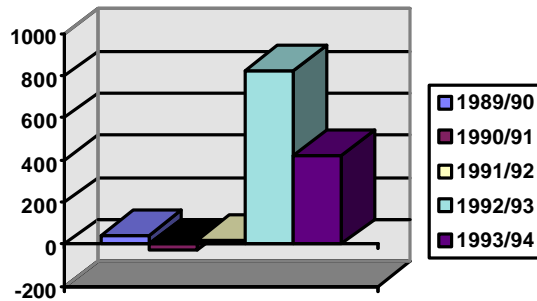
**Recurrent Cost to Government**



**Surplus**

YEAR	\$'000	
1989/90	44	(\$6,059 - \$6,015)
1990/91	-27	(Total Estimate - Total Exp)
1991/92	20	(\$8,549 - \$8,576)
1992/93	823	
1993/94	422	

**Surplus**

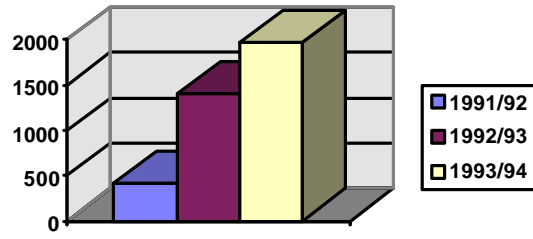


**Surplus (On Accrual Basis)**

YEAR	\$'000
1991/92	414
1992/93	1,405
1993/94	1,967

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Surplus (On Accrual Basis)



## NEW SOUTH WALES CRIME COMMISSION OUTLINE OF 1994/95 BUDGET

The proposed operating budget for the NSW Crime Commission for the 1994/95 financial year is:

	<b>\$'000</b>	<b>\$'000</b>
<u>Expenses</u>		
Employee-related expenses	4,994	
Other operating expenses	3,206	
Maintenance	70	
Depreciation	732	
Other Services	17	9,019
 <u>Revenue</u>		
User charges revenue	310	
Other departmental revenue	20	330
 <u>Net Cost of Services</u>		 <b>\$8,689</b>
 <u>Less: Non-Funded Expenses</u>		
Depreciation	732	
Acceptance by State of Commission liabilities	431	
Decrease in Commission cash balances	213	1,376
 <u>Consolidated Fund Recurrent Appropriation</u>		 <b><u>\$7,313</u></b>

The proposed capital budget for the Commission for the 1994/95 financial year is:

Acquisition of property, plant and equipment:	\$401,000
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**NEW SOUTH WALES CRIME COMMISSION  
PARTICULARS**

**ADDRESS:** 453 - 463 Kent Street  
Sydney NSW 2000

**POSTAL:** PO Box A216  
Sydney South NSW 2000

**DX:** DX 13018 Market Street Sydney

**TELEPHONE:** (02) 269 3888  
(008) 02 3143

**FACSIMILE:** (02) 269 3809

**BUSINESS HOURS:** Reception: 7:00am to 7:00pm, Monday to Friday  
All Operations: 8:30am to 5:30pm, Monday to Friday

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## SELECTED PROSECUTIONS RESULTING FROM COMMISSION INVESTIGATIONS

NAME	CHARGES	SENTENCE	REFERENCE
AOUAD Moustapha	Supply large commercial quantity of heroin	Minimum term 2 yrs 6 mths; Additional term 10 mths	Gecko / White
BEATTIE Fie	Supply commercial quantity heroin	Minimum term 2 yrs; Additional term 8 mths	Gecko / Flight
BELL Deborah	Supply heroin Knowingly take part in supply of cannabis oil	Fixed term 3 yrs	Azure / Carrier
BELL Malcolm Robert	Knowingly concerned in the importation of heroin	Minimum term 7 yrs; Additional term 3 yrs	Azure / Carrier
CHEN David	Supply larger commercial quantity of heroin	Minimum term 2 yrs 6 mths; Additional term 10 mths	Gecko / White
CHEN Jin Hui	Supply commercial quantity of heroin (2)	Minimum term 8 yrs; Additional term 2 yrs 8 mths	Gecko / Combo
CHENG He	Supply commercial quantity of heroin	Minimum term 4 yrs; Additional term `16 mths	Bianco / Victor
DAVEY Terrence	Knowingly take part in supply of heroin	Minimum term 5 yrs 6 mths	Gecko / Sign 2
DENT Anthony	Supply heroin (2)	Minimum term 2 yrs 6 mths; Additional term 2 yrs	Gecko / Nova
DI Wu	Supply heroin (2)	(1) Fixed term 3 yrs (2) Minimum term 3 yrs 6 mths; Additional term 1 year 2 mths	Gecko / Doctor
FARRUGIA Belynda	Supply cannabis resin Conspiracy to supply cannabis resin Possess cannabis resin	Minimum term 2 yrs; Additional term 2 yrs	Gecko / Prince
GAILIJEVS Paul	Supply heroin (7)	Minimum term 2 1/2 yrs; Additional term 18 mths	Azure / Sweet
GHERLEA Dorel	Supply heroin	Minimum term 7 yrs; Additional term 2 yrs 4 mths	Gecko / Sign 2
HAGOPIAN Vatche	Supply amphetamine(2)	Minimum term 2 yrs; Additional term 1 year	Gecko / Rack
HALLWOOD Brian	Supply cannabis oil (2) Possess traffickable quantity of cannabis oil	Fixed term 2 yrs  Minimum term 3 yrs; Additional term 1 year 4 mths	Azure / Carrier
HENDERSON Kelvin	Supply heroin (2)	On each charge : Minimum term 2 yrs; Additional term 8 mths	Azure / Sweet
HOSSEINI Mostafa	Supply amphetamine Supply commercial quantity amphetamine Supply large commercial quantity amphetamine	Minimum term 2 yrs; Additional term 12 mths	Gecko / Quick

**Appendix G: Selected Prosecutions**

<b>NAME</b>	<b>CHARGES</b>	<b>SENTENCE</b>	<b>REFERENCE</b>
HUSSEINI Ali	Supply heroin (2)	Minimum term 2 yrs 9 mths; Additional term 11 mths	Gecko / Sign
HUYNH Minh Tuyen	Supply heroin	Minimum term 2 yrs, 6 mths; Additional term 10 mths	Gecko / White
ISMUN Anita	Supply commercial quantity of heroin	Minimum term 2 yrs 3 mths; Additional term 9 mths	Gecko / Flight
ISSA Jalal	Supply heroin	Minimum term 2 yrs	Gecko / Easy
JOCIC Vladimir	Supply heroin	Minimum term 3 yrs 5 moths; Additional term 14 mths	Bianco / Late
KOVALCIK Juraj	Supply heroin Possess heroin	Minimum term 2 1/2 yrs; Additional term 10 mths	Gecko / Popeye
LE Van Hiep	Supply commercial quantity heroin Possess heroin	Minimum term 4 1/2 yrs; Additional term 2 1/2 yrs	Azure / Snap
LE Vinh Khang	Knowingly concerned in supply of large commercial quantity of heroin	Minimum term 2 yrs 6 mths; Additional term 10 mths	Gecko / White
LEFTER Dumitru	Supply heroin	Minimum term 2 yrs 9 mths; Additional term 1 year	Bianco / Marx
LUU Hoai Tam	Supply heroin (2)	(1) Fixed term 1 1/2 yrs (2) Minimum term 2 yrs; Additional term 3 yrs	Gecko / Changeover
LUU Kenny Muc Kien	Supply heroin (2)	(1) Minimum term 3 yrs; Additional term 12 mths (2) Fixed term 1 year 9 mths	Gecko / Petal
MIJAKOVAC Branislav	Supply heroin	Minimum term 3 yrs; Additional term 1 year	Gecko / Mirror
MILLER Nancy	Supply cannabis resin	Minimum term 2 1/2 yrs; Additional term 10 mths	Gecko / Red Label
NEDA Viorel	Supply heroin	Minimum term 3 yrs; Additional term 12 mths	Bianco / Batman
NGUYEN Thanh Tien	Knowingly take part in supply of heroin Possess heroin	Fixed term of 3 yrs on each count	Gecko / Swift
NYITRAI Blaga	Supply heroin	Minimum term 3 yrs	Gecko / Beaver
OMAYOGLU Yusuf	Supply heroin Supply commercial quantity heroin	Fixed term 4 yrs Minimum term 6 yrs; Additional term 2 yrs	Azure / Rissolle
PESIC Nenad	Supply heroin Possess heroin	Minimum term 3 yrs 9 mths; Additional term 1 year 3 mths	Azure / Port
PHAM Quoc Ky	Supply heroin (2)	Minimum term 3 yrs; Additional term 2 yrs	Gecko / Swift
POPOVIC Radenko	Supply heroin (2)	Minimum term 3 yrs; Additional term 1 year	Gecko / Tie
RITTER Ioan Neru	Supply heroin Possess heroin	Minimum term 2 yrs 6 mths; Additional term 10 mths	Bianco / Batman
ROMANELLI Guiseppe	Supply cannabis leaf Cultivate cannabis leaf	Minimum term 2 yrs; Additional term 8 mths	Bianco / Apple

**Appendix G: Selected Prosecutions**

<b>NAME</b>	<b>CHARGES</b>	<b>SENTENCE</b>	<b>REFERENCE</b>
SAM Wai Man	Supply commercial quantity heroin	Minimum term 6 yrs; Additional term 2 yrs	Bianco / Victor
SHAABAN Ziad	Knowingly concerned in supply of large commercial quantity of heroin	Minimum term 3 yrs 6 mths; Additional term 14 mths	Gecko / White
TANG Trevor Kin Peng	Agree to supply heroin	Minimum term 8 yrs; Additional term 2 yrs	Gecko / Panther
TANNOUS Joseph Elisam	Conspiracy to supply heroin	Minimum term 3 yrs 9 mths Additional term 18 mths	Azure / Scout
TRAN Danny Van Minh	Knowingly take part in supply of heroin	Minimum term 2 yrs; Additional term 2 yrs	Gecko / Changeover
TRAN Tao Van	Supply heroin	Minimum term 2 yrs 3 mths; Additional term 1 year	Bianco / Marx
UNTANU Vasile	Supply heroin Possess heroin	Minimum term 2 yrs; Additional term 8 mths	Bianco Signature
VIERU Marin	Supply heroin (2)	Minimum term 4 yrs; Additional term 2 yrs	Bianco / Penny
YAVUZ Halil	Supply heroin (2)	(1) Minimum term 6 yrs; Additional term 2 yrs (2) Fixed term 6 mths	Azure / Enterprise
ZAHABE Rame	Knowingly concerned in supply of heroin	Minimum term 2 yrs, 6 mths; Additional term 10 mths	Gecko / White
ZAHARIA Rica	Supply heroin (3)	Minimum term 2 yrs; Additional term 8 mths	Bianco / Carey
ZHOU Jin Wen	Supply heroin (2)	Minimum term 3 yrs; Additional term 1 year	Gecko / Murk

## CODE OF CONDUCT

### INTRODUCTION

The New South Wales Crime Commission (NSWCC) is constituted under the New South Wales Crime Commission Act 1985. The Commission has powers which can have a significant impact on individuals, and handles confidential and sensitive information.

A Code of Conduct establishes standards of behaviour expected of public servants and is a guide to solving ethical issues. A Code provides the framework for appropriate conduct in a variety of contexts, including the exercise of powers and the handling of information referred to above.

### OTHER RELEVANT MATERIAL

This Code of Conduct is supplemented by other information contained within the Commission's Operational and Administrative Manuals and by obligations arising under various statutes.

The main legislation which is relevant to officers of the NSWCC is:

- \* Public Sector Management Act 1988;
  - \* NSW Crime Commission Act 1985 (NSWCC Act);
  - \* Drug Trafficking (Civil Proceedings) Act 1990;
  - \* Crimes Act 1900;
  - \* Anti-Discrimination Act 1977;
  - \* Occupational Health and Safety Act 1983;
  - \* Public Finance and Audit Act 1983;
  - \* Freedom of Information Act 1989;
  - \* Independent Commission Against Corruption Act 1988 (ICAC Act);
  - \* Oaths Act 1900;
  - \* Telecommunications (Interception) (NSW) Act 1987;
  - \* Telecommunications (Interception) Act 1979 (Cth);
  - \* Listening Devices Act 1984; and
  - \* Search Warrants Act 1985.
-

## **APPLICATION**

The Code applies to every individual employed as an officer of the Commission, including the Chairman and Commissioners, a member of staff of the Commission or a person engaged to provide the Commission with services, information or advice. These persons are referred to herein as “Officers”.

## **EVOLUTION**

The Commission regards its Code as an evolving document which will be modified substantially, based on the experience of the Commission and other agencies including the Independent Commission Against Corruption (ICAC). In order to adequately communicate to all personnel the high standard of conduct expected in a law enforcement environment, the Commission has included in this Code examples of circumstances which might confront Commission staff and the conduct which is expected in such circumstances. Examples given should not be regarded as exhaustive.

## **VALUES UNDERLYING THE CODE**

The Code of Conduct assumes that Officers behave with:

- \* integrity;
- \* honesty;
- \* property regard to the public interest;
- \* fairness;
- \* conscientiousness; and
- \* compassion.

## **PRINCIPLES**

- \* The public has a right to expect the highest standards of integrity and competence from Officers.
  - \* The Government of the day is entitled to expect Officers to provide impartial and accurate advice and to implement its policies promptly, efficiently and impartially.
  - \* Officers must carry out investigative work without fear or favour.
  - \* Officers must meet high standards of ethical behaviour and accountability.
  - \* The powers of the Commission must be used with restraint, and with due regard for their potential effect on individuals and organisations.
-

- \* You must never use the powers of the Commission as a threat, or the fact that you work at the Commission as a threat or in an attempt to gain a personal advantage, for example, attempting to prevent a speeding ticket being issued.
- \* Officers should establish and maintain effective relations with individuals and organisations outside the Commission giving due recognition to their rights.
- \* The security of information and the protection of persons working with or dealing with the Commission must be assured.
- \* Partiality and discrimination must be avoided.
- \* The work of the Commission must not be compromised or affected by the personal interest of any Officer or other person.
- \* Public resources must be managed effectively and used efficiently.

## **DISCLOSURE OF PRIVATE PARTICULARS AND OTHER INTERESTS**

- \* All Officers must make a disclosure of their personal particulars and/or financial interests and those of their spouses/partners. The purpose of this is to identify interests that could influence, or might be seen to influence, the performance of an Officer's duties. An example is if your spouse runs or works for a company which has commercial dealings with the Commission.
- \* Any significant changes in personal details and financial interests of Officers or their spouses/partners must be submitted in writing to the Commission. For example, acquisition of assets, such as a holiday house or improvements to your home, may have an innocent explanation, such as a family gift or inheritance, or an improper one. Your early disclosure of the innocent reason will help to rebut any allegations of improper conduct which might be made.

## **CONFLICTS OF INTEREST**

- \* Officers should avoid any financial or other interest or undertaking that could directly or indirectly compromise the performance of their duties. The onus is on Officers to notify their supervisors of a potential or actual conflict of interest.
  - \* Examples of conflict of interest situations are:
    - . directing Commission business to a company owned by you, a family member or a friend;
    - . giving paid work, such as legal briefs or consultancies, to spouses, friends or relatives;
-

- . taking advantage of the Commission's dealings with a contractor to obtain something for your private use; for example, getting a computer cheaply for your home use or private consulting business by adding one to the Commission's contract;
  - . providing information to a friend about a Commission investigation concerning him or someone he knows.
- \* If, in the course of duties, an Officer encounters information which involves persons, organisations or activities in or with which the Officer (or another Officer) has or had a personal interest or association, a written disclosure must be submitted to the Commission.
- \* Examples are:
- . if a person known to you (such as a friend or former client) is the subject of an investigation;
  - . if a business in which you, a relative or a friend has an interest, tenders for a contract and you are to assess the tenders or are responsible for organising supplies;
  - . if a friend applies for a job at the Commission and you are on the selection committee.

To disclose the relationship is the important thing in order to avoid compromise, real or perceived; whether or not you will be removed from the process or asked to relinquish the interest or discontinue the relationship will depend on the circumstances.

## **ACCEPTANCE OF GIFTS OR BRIBES**

- \* Acceptance of bribes by Officers and the offering of bribes to Officers is an offence. If an Officer believes he/she has been offered a bribe or knows of a colleague who has been offered a bribe, a detailed written report must be provided to the Commission.
- \* No Officer shall accept any gratuity offered in connection with the performance of his/her duties without the approval of the Commission. It may be seen as likely to improperly influence the officer's performance of his/her job. What is acceptable in private business takes on a different complexion when a public sector officer is involved.
- \* The solicitation of money, gift or benefit, travel or hospitality is an offence and could seriously damage the Commission's position. It is vital that the appearance not be created that any person or body is securing or attempting to secure the influence or favour of the Commission or any of its Officers.
-

- \* Examples are:
  - . If you accept a gift or lunch from a contractor or supplier, that person may put pressure on you not to tell the Commission if he fails to provide goods or services, or provides deficient goods or services.
  - . If you accept a gift or lunch from a potential supplier, it may create pressure, an expectation or a perception that that person will obtain a contract from the Commission.
  - . If a person who has obtained work from the Commission offers to take you to the football in his company's corporate box, that may be an attempt to obtain further work; others may perceive that the Commission treats that company more favourably even if the contract is unrelated to the benefit you receive.
  - . If you have lunch with someone who is being investigated by the Commission, people may assume you are providing confidential information or will attempt to influence the investigation.
  - . If you are offered a small gift, for example for speaking at a conference, and it would be rude to refuse it, you should tell your supervisor about the gift. The potential for compromise or embarrassment is less if you are open about the receipt of gifts or hospitality.
  - . It should be understood that Officers' spouses/partners are also bound by these requirements.

## **PERSONAL AND PROFESSIONAL CONDUCT**

- \* Officers are expected to perform any duties associated with their positions diligently, honestly, impartially and conscientiously, to the best of their ability.
  - \* Officers are expected to abide by the strict secrecy requirements imposed by the NSWCC Act and the policy and directions of the Commission.
  - \* Officers are expected to make full and open disclosures of financial interests and personal details to the Commission when required.
  - \* Officers are expected to give full support to the Government of the day regardless of which political party is in office. When implementing policies, Officers' own values should not take precedence over Government policy. If a conflict exists between the policy and the Officer's view which might affect the implementation of that policy, the matter should be discussed with the Officer's supervisor.
  - \* Officers should not harass or discriminate or act in any way which is discriminatory or may be regarded as discriminatory in dealing with colleagues and members of the public.
-

- \* Officers have a duty to report to a senior Officer any unethical behaviour or wrongdoing by any other Officer, and persons to whom such behaviour or wrongdoing is reported have a duty to act on that report.

Officers should:

- . comply with all relevant legislative, industrial or administrative requirements, and ensure that decisions made are within their power or authority to make;
- . be aware of and comply with Commission procedural requirements; and
- . maintain adequate and accurate documentation to support any decisions made, or to record action taken or work carried out;

so that auditors can be informed and satisfied that the Commission's work is conducted properly.

- \* In the performance of their duties, Officers should:

- . keep up to date with advances and changes in their area of expertise;
- . treat members of the public and other staff members with courtesy and sensitivity to their rights - for example, disagreements between staff members should be discussed in private, not in the hearing of other staff;
- . provide all necessary and appropriate assistance to members of the public;
- . strive to obtain value for public money spent and ensure efficiency in the use of public resources;
- . not to obtain, or seek, access to information other than in the course of official duties; and
- . not use for improper advantage any official information gained in the course of employment;

- \* All Officers are responsible for their own acts and omissions and, within reason, that of supervised staff.

- \* Supervisors have the responsibility to ensure that Officers under their leadership understand:

- . their job and what their duties are;
  - . how they are expected to do their job; and
  - . what results are expected.
-

## **FAIRNESS AND EQUITY**

- \* Issues or cases being considered by Officers should be dealt with consistently, promptly and fairly. This involves dealing with matters in accordance with approved procedures, quickly and without discrimination on any grounds.

## **PUBLIC COMMENT**

- \* Officers must not make any official comment on matters relating to the Commission unless authorised by the Commission.
- \* Officers must act in accordance with section 29 of the NSWCC Act which precludes any discussion of the Commission's work or investigations except for authorised official comment and information and material in the public domain.
- \* It is important to remember that personal views attributed to an officer in public speaking engagements, on radio or television, in letters to newspapers or professional journals, or at social functions, may be construed as official comment.
- \* Officers should be familiar with, and comply with, the Commission's media policy.

## **USE OF INFORMATION**

- \* Officers must not disseminate information except in compliance with section 7 of the NSWCC Act, and the associated procedures of the Commission.
  - \* Caution and sound judgement should be exercised in discussing sensitive information with other Commission Officers. Such discussions should normally be confined to those who require access to the information in order to conduct their duties or for the purpose of obtaining assistance.
  - \* The Commission is entrusted by other agencies with information to assist in its work. Officers must not access this information or use it for any purpose other than the Commission's work or for any purpose which is inconsistent with the requirements of the agency providing the information, unless prior approval is obtained from the Commission.
  - \* You should not provide "inside" information to tenderers or applicants for employment with the Commission, to give them an advantage in gaining the contract or job, particularly if they are your friends.
  - \* Conversations about important or sensitive matters should be recorded in writing and reported to an appropriate senior officer.
-

## **CORRUPT CONDUCT**

- \* Under the ICAC Act, it is the responsibility of the Chairman to report any corrupt conduct that is revealed in the course of investigation work and any corrupt conduct of an Officer.
- \* The Commission also has an established procedure with the Police Service whereby allegations of suspicions of corrupt conduct by Police Officers is reported directly to the Assistant Commission, Professional Responsibility, who in turn reports these matters to the Ombudsman and ICAC.
- \* It is the duty of an Officer to report to the Commission any corrupt conduct which is encountered.

## **USE OF OFFICIAL FACILITIES AND EQUIPMENT**

- \* It is expected that Officers will be efficient and economical in the use and management of public resources and be scrupulous in the use of public property and services and not permit their abuse by others.
- \* Examples of misuse of public resources are: using public money (including credit cards, Cabcharge dockets) or Commission staff for private purposes; making false or inflated travel or overtime claims; attending conferences, at Commission expense, which are not relevant to your work; travelling to a course at a distant location to visit family when the same course is being offered at a closer location; misusing equipment such as phones and photocopiers for private use.
- \* Commission resources may be used for private purposes (such as using a Commission computer to prepare a university essay) only with prior approval. Approval will only be given if the equipment is used in an Officer's personal time; the equipment is secured and properly cared for; the ability of the Officer and other Officers to fulfil their duties is not impeded by the use of the equipment and all consumables are provided by the Officer.
- \* Telephones at work may be used for personal calls only if they are local, short, infrequent and do not interfere with your work.
- \* Commission vehicles may be used only for official business which may include overnight garaging at the Officer's home address.

## **OUTSIDE EMPLOYMENT**

- \* Prior approval of the Commission is required before Officers may engage in any form of employment outside their official duties.
  - \* Commission employment is to be given first consideration where outside employment is contemplated, to avoid situations which give rise to, or create the appearance of, a conflict of interest.
-

## **POLITICAL PARTICIPATION**

- \* Officers need to ensure that their participation in political matters does not bring them into conflict with their primary duty as Officers of the Commission to serve the Government of the day in a politically neutral manner.

## **POST SEPARATION EMPLOYMENT**

- \* Any person formerly employed by the Commission is still bound by the secrecy provisions contained in section 29 of the NSWCC Act and therefore, may not make public or otherwise use any knowledge or information gained as a consequence of employment with the Commission without prior permission from the Commission.
- \* Any Commission property must be returned at the conclusion of employment.
- \* Former Officers should ensure that they do not accept employment or engage in activities which may cast doubt on their own integrity or that of the Commission or which would give rise to a perception that confidential information obtained during the course of employment with the Commission may be disclosed.
- \* Examples: If you work on a project or prepare a tender specification at the Commission, then leave and start up a business and tender for that work; or if you accept employment with a firm which obtained a contract from the Commission, on your recommendation, or which was investigated by the Commission. In the first case, there will be room for the perception that you used confidential information, or even tailored the specification, to give you an advantage. In the second, people will assume a relationship between your recommending work for the company and them employing you. In the third, the perception will be that you may have compromised the investigation to gain a personal advantage.

## **SECURITY**

- \* All Officers must ensure that they are familiar with security procedures in respect of Commission premises and in relation to the acquisition, handling and disposal of information and documents, and the access of Officers and visitors to Commission premises.

## **SANCTIONS**

- \* Supervisors must report any breaches of the Code of Conduct to the Commission.
  - \* Sanctions may be applied if an Officer becomes involved in:
    - . unacceptable behaviour, either in the course of duties or in private life;
    - . unsatisfactory performance of duties;
-

- . breaches of security;
- . breaches of the Code of Conduct;
- . breaches of terms and conditions of employment; or
- . actions contrary to the NSWCC Act and other relevant legislation.

\* The sanctions to be applied will depend on how serious breaches are considered to be and whether or not they have occurred on more than one occasion. They may include:

- . counselling by supervisors, senior management or, in extreme cases, by the Commission;
  - . a record of behaviour being documented and placed on file;
  - . a salary increment being deferred;
  - . a further term of employment not being recommended;
  - . reporting to the ICAC;
  - . suspension;
  - . termination of contract;
  - . dismissal; or
  - . prosecution.
-

**STATEMENT OF AFFAIRS  
PURSUANT TO S.14(2) OF THE  
FREEDOM OF INFORMATION ACT 1989  
AS AT 30 JUNE 1994**

**1. STRUCTURE AND FUNCTIONS OF THE COMMISSION**

**1.1 Background/Legislation**

The Commission was established in January 1986 as an independent statutory authority under the then State Drug Crime Commission Act 1985, (now known as the New South Wales Crime Commission Act 1985).

The Commission is also responsible for the administration of the Drug Trafficking (Civil Proceedings) Act 1990, which relates to the civil forfeiture of the assets and proceeds of drug traffickers.

**1.2 Commission Membership**

Under existing legislative provisions, the Commission consists of two or more members, one of whom should be appointed as a full-time member and Chairperson of the Commission and must have special legal qualifications. The other one or more member/s can be appointed as full-time or part-time members.

**1.3 Charter**

The Commission's charter is to combat illegal drug trafficking and organised and other crime in New South Wales with a view to:

- . having offenders dealt with according to law;
- . deterring and suppressing the distribution of illicit drugs in the community;
- . minimising the harmful effects of illicit drugs in the community.

**1.4 Aims and Objectives**

The objectives of the Commission are to reduce the incidence of illegal drug trafficking and organised crime. These objectives are determined for the Commission by section 3A of the New South Wales Crime Commission Act 1985. The Act requires the Commission to give priority to matters involving drug trafficking. In order to fulfil its objectives the Commission:

- . investigates relevant criminal activity referred to the Commission by its Management Committee with a view to the prosecution of offenders and the making of applications for orders under civil forfeiture and other proceeds of crime legislation;
  - . assembles admissible evidence and furnishes it to the Director of Public Prosecutions (DPP) for use in the prosecution of persons allegedly engaged in relevant criminal activities;
  - . makes applications for the restraint and confiscation of property under the Drug Trafficking (Civil Proceedings) Act 1990;
  - . reviews police inquiries referred by the Management Committee and provides recommendations to the Management Committee for further action;
-

- . with the approval of the Management Committee, disseminates intelligence and information to, and cooperates and consults with, such persons or bodies as the Commission thinks appropriate;
- . furnishes reports relating to illegal drug trafficking and organised crime including, where appropriate, recommendations for changes in the laws of the State;
- . disseminates investigatory, technological and analytical expertise to such persons or bodies as the Commission thinks fit;
- . manages its resources effectively, efficiently and economically.

### **1.5 Responsible Minister**

The Minister for Police and Emergency Services has responsibility for administration of the New South Wales Crime Commission Act and the Drug Trafficking (Civil Proceedings) Act and is Chairman of the Commission's Management Committee.

### **1.6 Management Committee Membership**

The Commission's Management Committee comprises the Minister for Police and Emergency Services (Chairman), the Commissioner of Police, the Chairman of the National Crime Authority, or another nominated Member of the National Crime Authority, the Chairman of the Police Board of NSW and the Chairman of the Commission.

### **1.7 Functions of the Management Committee**

The principal functions of the Management Committee are to:

- . refer (by written notice) relevant criminal activities to the Commission for investigation;
- . refer (by written notice) to the Commission, for review, police inquiries into matters relating to any criminal activities;
- . arrange for police task forces to assist the Commission to carry out investigations into matters relating to relevant criminal activities;
- . give directions and furnish guidelines for the purpose of coordinating any such investigation;
- . review and monitor generally the work of the Commission; and
- . coordinate (by giving of approvals) the interaction of the Commission with other bodies.

### **1.8 Structure and Organisation**

**1.8.1** The Commission consists of two Divisions, the Investigation Division and the Confiscation Division, which report to the Commission.

**1.8.2** The Investigation Division comprises staff who provide support and services to police teams who investigate References given to the Commission by the Management Committee. The purpose of the investigations is to assemble admissible evidence of serious criminal offences and to furnish that evidence to the Director of Public Prosecutions. All police task forces assisting the Commission remain subject to the control and direction of the Commissioner of Police.

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1.8.3 The Confiscation Division comprises teams of lawyers, analysts, and financial investigators whose tasks are to identify the assets of those engaged in serious drug offences and the proceeds of those offences, and to take proceedings under the DTCP Act for the restraint and confiscation of those assets and proceeds. The teams are assisted by police officers attached to the DEA Task Forces and Regional Drug Units of the NSWPS. All police officers remain subject to the Commissioner's control.

2. **EFFECTS OF AGENCY'S FUNCTIONS ON MEMBERS OF THE PUBLIC**

The Commission is responsible for investigating drug trafficking and organised and other crime in NSW and for the administration of the DTCP Act. It does not provide normal 'services' to the public. However, its activities have implications for members of the public under investigation or involved in investigations (eg witnesses), and for members of the public who are the subject of investigation or litigation under the DTCP Act. In addition, the Commission's performance of its functions is beneficial to the community, in that it reduces the level of major criminal activity, particularly drug trafficking.

3. **ARRANGEMENTS FOR PUBLIC PARTICIPATION IN POLICY FORMULATION**

The Commission invites members of the public to bring to its attention any incidences or suspicion of drug trafficking or organised crime. The following toll free telephone number is available for this purpose: (008) 023143. Members of the public can write to the Commission at the address shown below in paragraph 5.3.

4. **DESCRIPTION OF KINDS OF DOCUMENTS HELD**

4.1 The Commission is primarily an investigatory and litigating body. As a result, the majority of the documents held by the Commission relate to past or ongoing investigations, or to past or current litigation under the DTCP Act. It is most unlikely that any of this material would be made available for inspection unless all prosecution action and all civil litigation relating to the material has been finalised and the documents have been archived.

4.2 The Commission also holds administrative files, most of which would be available for inspection at normal FOI rates. As some of these files also relate to operational activity, they may not be accessible.

4.3 No documents are available for purchase from the Commission. Copies of most of the Commission's Annual Reports are available free of charge (some earlier Reports are only available for inspection).

5. **ACCESS ARRANGEMENT, PROCEDURES AND POINTS OF CONTACT**

5.1 As outlined above, it is unlikely that documents about the 'personal affairs' of persons of interest to the Commission would be available for inspection. Of course, staff or former staff of the Commission do not need to use FOI to access their personnel files. Such requests should be directed to the Coordinator, Human Resources.

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- 5.2 Requests under the FOI Act for access to documents in the possession of the Commission should be directed in writing to:

**The Chairman  
New South Wales Crime Commission  
PO Box A216  
SYDNEY SOUTH 2000**

- 5.3 Inquiries concerning fees and procedures for inspecting or obtaining Commission documents, including Statements of Affairs or Summaries of Affairs, should be made at the Commission's office at the address shown below between the hours of 9.00am and 5.00pm:

**453-463 Kent Street  
SYDNEY NSW 2000**

**Contact: Manager, Operations Support  
(02) 269-3888**

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## **NEW SOUTH WALES CRIME COMMISSION CORPORATE PLAN**

### **INTRODUCTION**

The New South Wales Crime Commission (“the Commission”) is a statutory corporation established by the New South Wales Crime Commission Act, which gives the Commission its functions and powers.

The Commission’s principal functions are to investigate illegal drug trafficking and organised crime, and provide admissible evidence to the Director of Public Prosecutions, and to take action to restrain and confiscate the property of persons engaged in drug related activities.

The Commission is responsible to the Minister for Police and Emergency Services.

The matters which the Commission investigates are referred to it by a Management Committee, which monitors and reviews the Commission’s work.

The Commission has reviewed its Corporate Plan to ensure that it reflects the Commission’s current priorities.

Since the Commission’s last Corporate Plan, the Commission has consciously become a more efficient and more productive organisation. It has identified its core functions and focused on productive activity in those areas. The Commission has increased its drug trafficking investigation work, extended the use of its coercive powers to other areas of criminal activity and achieved significant results in its new asset confiscation function.

The Commission has a new structure and is about to extend its investigative work into major fraud, whilst maintaining its commitment to drug investigation work.

The Commission’s focus for the future is continued effective corporate management, improved productivity of people and other resources and a client service focus, to achieve its corporate objectives.

Phillip Bradley  
Chairman

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## **MISSION**

The Commission's mission is to combat and reduce the incidence of illegal drug trafficking and organised crime in New South Wales, by conducting investigations with a view to prosecution of offenders and confiscation of their assets.

## **CORPORATE VALUES**

Our key corporate values are:

- Integrity.
- Accountability.
- Commitment to providing a quality service.
- Responsible exercise of powers.
- Efficient and economical use of public resources.
- Innovation.
- Recognition of the contribution of and commitment of individuals.
- Commitment to a safe, healthy and discrimination free workplace.

## **CLIENTS AND STAKEHOLDERS**

The Commission's main clients are the New South Wales Police Service, principally the Drug Enforcement Agency, the Fraud Enforcement Agency and other task forces. To these, the Commission provides investigatory, technological and analytical expertise and resources as well as statutory powers to compel the production of evidence and documents.

Key stakeholders, who have an interest in, and can have an impact upon, the Commission's work are:

- The community - to whom the Commission is ultimately accountable for the performance of its functions and achievement of its objectives.
  - The Government, which expects the Commission to meet its statutory objectives, and to whom the Commission is accountable for the efficient and effective use of its resources.
-

- The Management Committee, which oversees the Commission's work and refers matters to the Commission for investigation.
- The Office of the Director of Public Prosecutions (DPP) to whom the Commission provides evidence for prosecutions.
- Other agencies with related functions - cooperative relationships lead to sharing of information, avoiding duplication and working cooperatively to achieve shared objectives.
- The Commission's staff, whose working conditions are affected by the Commission's decisions and policies.

## **CORE CORPORATE OBJECTIVES**

To fulfil its mission the Commission will:

- Investigate criminal activity such as drug trafficking, major fraud and other organised crime, and contribute to the effective prosecution of those involved in such activity.
- Take action for the restraint and confiscation of the property of persons engaged in drug related activity, to reduce the profitability and incidence of drug crime.
- Exchange information, intelligence and investigative expertise with other law enforcement organisations.
- Recommend law reforms and contribute to policy development relevant to the more effective investigation of criminal activity or confiscation of the profits of criminal activity.
- Ensure efficient, effective, economical and accountable management of its resources.
- Focus on core activities which can be carried out effectively and efficiently.
- Focus on client satisfaction.
- Provide an equitable, safe and satisfying working environment for committed, professional staff.

### **OBJECTIVE 1**

**Investigate relevant criminal activity and contribute to the effective prosecution of persons involved in such activity.**

#### **Strategies**

Collect and analyse intelligence about relevant criminal activity.

Use appropriate and effective investigation methods and tools, including suitable technology.

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Use the Commission's statutory powers to obtain evidence and documents.  
Cooperate and liaise with other law enforcement and investigative agencies.

Maintain an appropriate and effective working relationship with the Office of the Director of Public Prosecutions and other prosecuting authorities.

Maintain procedures to ensure high quality and timely preparation of briefs of evidence.

### **Performance Indicators**

Level and quality of Commission responses to requests for operational resources or services.

Significance and number of persons arrested and convicted.

Quantity and value of drugs seized.

Intelligence indicating investigative resources are allocated to appropriate subjects.

Other agencies seeking Commission's knowledge, expertise or assistance.

Briefs being submitted on time and meeting all evidentiary requirements.

Client satisfaction.

### **OBJECTIVE 2**

**Take action for the restraint and confiscation of the property of persons engaged in drug related activity, to reduce the profitability of drug related crime.**

### **Strategies**

Investigate the financial affairs and assets of people convicted or suspected of drug related activity.

Commence, pursue and complete litigation to restrain and forfeit the proceeds of drug related activity.

Target confiscation action strategically, to maximise recovery of proceeds and deterrence of organised drug related crime.

Form cooperative relationships with revenue agencies.

Contribute to the evaluation and reform of laws dealing with the identification, tracing, seizure and laundering of profits of drug related crime.

### **Performance Indicators**

Value of property identified, forfeited and recovered compared with cost of investigation and litigation work to achieve those results.

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Degree of achievement of developments in, and reform of, confiscation related laws proposed by Commission.

Incidence of coordinated efforts by revenue interested agencies.

Information indicating deterrent effect of confiscation activity.

Client satisfaction.

### **OBJECTIVE 3**

**Exchange information, intelligence and investigative expertise with other law enforcement organisations.**

#### **Strategies**

Establish and maintain appropriate and effective working relationships with State and Commonwealth agencies with common interests, including by representation on inter agency bodies.

Develop expert knowledge about appropriate areas of criminal activity.

Maintain procedures for the exchange of intelligence and information, with appropriate security.

Research innovations in investigative techniques and technologies, and share information about technology, systems and procedures with other agencies.

Participate in seminars and courses of instruction.

#### **Performance Indicators**

Incidence of successful cooperative or joint activities with other agencies.

Number of agencies with which the Commission has liaison arrangements and exchanges information.

Timely and useful provision of information.

Other agencies recognise and seek the Commission's knowledge, expertise and assistance.

Investigative methods and technologies remain ahead of techniques and technologies used by criminal offenders.

Number of seminars, courses or working parties to which the Commission is asked to contribute and does contribute.

Client satisfaction.

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#### **OBJECTIVE 4**

**Recommend law reforms and contribute to policy development relevant to trends in criminal activity, more effective investigation of criminal activity or confiscation of the profits of criminal activity.**

##### **Strategies**

Maintain appropriate mechanisms for reporting to the Minister and Management Committee and liaising with the Attorney General's Department and Cabinet Office, in relation to proposals for law or policy reform.

Develop proposals for law or policy reform, arising from the Commission's work generally or specific research projects.

Establish and maintain arrangements for the exchange of information and views with agencies concerned with research or law reform dealing with crime and related investigation or confiscation action.

Participate in conferences, seminars or working groups dealing with relevant issues.

##### **Performance Indicators**

Degree of implementation of, or positive response to, Commission proposals.

Cooperative relationships for exchange of information.

Increase in the body of knowledge about relevant subjects.

Number of conferences, seminars or working parties in which the Commission is requested to participate.

Client satisfaction.

#### **OBJECTIVE 5**

**Ensure efficient, effective, economical and accountable management of the Commission and its resources.**

##### **Strategies**

Maintain appropriate and effective working relationships with central agencies.

Maintain effective systems for management of the Commission's finances and assets.

Maintain effective procedures for the security of Commission staff, property and information.

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Ensure compliance with legislative and government requirements and Commission procedures, through effective management and reporting systems and accountable managers.

Provide regular reports on investigations and other activities to the Management Committee.

Ensure, through recruitment and training, that the Commission has an appropriate combination of staff and skills to achieve its objectives.

Achieve improvements in work practices through enterprise bargaining.

### **Performance Indicators**

Commission meets objectives and performs functions within budget.

The financial cost to government of achieving objectives.

Audits result in unqualified statements.

Compliance with internal and external procedures, requirements and standards.

High quality and timeliness of management reports.

Improvements in productivity.

### **OBJECTIVE 6**

**Provide an equitable, safe and satisfying work environment for committed professional staff.**

### **Strategies**

Ensure application of EEO principles, in recruitment, training and generally.

Develop a policy on flexible work options.

Ensure an equitable enterprise agreement.

Develop a formal internal grievance resolution system.

Provide staff development and training appropriate to the Commission's needs and to individuals' needs, abilities and aspirations.

Implement and review a performance management system.

Maintain and review procedures for the safety and security of Commission staff and premises.

Provide necessary training, information or modifications to the work place for employees with disabilities.

### **Performance Indicators**

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Commitment, loyalty and well being of staff are indicated by levels of staff turnover, sick leave, and workers compensation claims.

High degree of representation of EEO target groups in Commission staff.

Number and nature of reported grievances, or complaints about EEO or OHS, and success in resolution.

Performance management system implemented, receives positive response and is found useful.

Training opportunities are equitable, appropriate and useful and staff have appropriate skills for the jobs they do or aspire to.

Safety and security mechanisms objectively judged as appropriate.

Staff express satisfaction.

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## **NEW SOUTH WALES CRIME COMMISSION GUARANTEE OF SERVICE**

### **The Commission's Role**

The Commission's principal roles are to investigate illegal drug trafficking and organised crime, as referred by the Management Committee, and provide admissible evidence to the Director of Public Prosecutions (DPP); and take action for the restraint and confiscation of property of persons engaged in drug related activities.

### **The Commission's Clients**

The Commission's main clients are the New South Wales Police Service Drug Enforcement Agency (DEA) Task Forces and other Police Task Forces and investigative agencies, to whom the Commission provides investigation related services.

The other main client is the DPP, as the Commission's main product is "prosecutable briefs" in relation to criminal conduct.

Others who may be considered as clients are the Management Committee, the Minister, and agencies with related functions, to whom the Commission provides information and sometimes resources, for cooperative or joint operations.

The Commission also deals with the courts, the legal profession and other public sector agencies in the course of performing its work.

The Commission works on behalf of the public and in the public interest, but does not have direct client contact with, or directly deliver services to, the public.

### **How the Commission works with its Clients**

The Commission provides to investigative Task Forces a range of services, investigative tools and specialised personnel, including analysts, financial investigators and lawyers, electronic surveillance, financial support for operations, administrative support services, including transcription and registry services, and statutory powers to conduct hearings and obtain documents.

The Commission also takes action, consequent upon persons being charged with serious drug offences, to conduct investigations and commence litigation designed to restrain and confiscate the assets of those persons.

The Commission provides information to investigative agencies, on the basis of the most appropriate agency for each piece of information.

The Commission participates in committees dealing with investigative, legal and technological issues relevant to its work, and makes recommendations for changes to laws arising out of its experience.

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The Commission responds to requests by the Minister's Office for information and advice.

The Commission also responds to requests from the DPP relating to prosecutions arising out of Commission investigations.

### **The Commission's Commitment to Quality Service**

The Commission's staff are committed to providing a quality service in a timely manner. They will work professionally, conscientiously and in the public interest.

### **Standards of Service Delivery**

- . Requests for information, advice or services will be responded to promptly. Information and advice provided will be accurate, well researched and up to date.
- . Staff will be accessible during ordinary office hours. The Commission will provide after hours facilities for operational needs, and relevant staff who are needed to assist with operational requirements out of ordinary working hours will respond to call-ins or appropriate prior notice.
- . Procedures Manuals will be kept up to date and followed by staff to ensure consistent and professional performance of duties.
- . Only authorised persons will exercise the Commission's statutory powers, and they will do so in a fair, impartial and consistent manner.
- . Staff will handle sensitive material and perform investigative related services with proper consideration of their impact on individuals.
- . Witnesses at hearings will have their rights and obligations explained.
- . The Commission will pursue its litigation in the courts diligently, with a view to disposition of matters in a timely and fair manner.
- . The Commission will seek to develop and maintain cooperative relationships with agencies with related business.
- . The Commission will develop and maintain an open and effective working relationship with the DPP, by means of regular meetings and individual officer contact, and will respond to all reasonable requests by DPP officers in a timely manner.

Service standards will be monitored regularly by way of client feedback.

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## **Complaints Procedures**

Comments, criticisms or complaints about the provision of services can be made to the Director of the relevant Division or the Chairman.

## **Contact Directory**

Street address: 453 Kent Street (Corner Druitt Street) Sydney  
Postal address: PO Box A216, Sydney South, 2000  
Telephone: 269 3888  
Facsimile: 269 3809, 269 3864, 269 9733  
Business Hours: 8.30am to 5.00pm Monday to Friday  
(Commission staff can be available outside these hours when required).

## **Confiscation Matters**

Legal Advice - John Giorgiutti, Director, Confiscation Division

Financial Analysis - Mike Lulan, Chief Financial Investigator/Analyst

## **Investigation Matters**

Legal Advice, Statutory Powers (particularly Hearings) - Deborah Sweeney, Director, Investigation Division

### Analysts' Services

Co-ordinating Analysts - Leonie O'Brien, Task Force 1  
Lionel Radom, Task Force 3  
Vince Lombardo, Task Forces 2 and 4

Warrants - Tim Lowe, Deborah Sweeney

Telecommunications Interception - Coleen Gambetta, Manager, TI Unit

Registry - Daria Harnett, Registry Manager

Financial - Len Giles, Finance Manager

Transcription Services - Alison Brook, Executive Assistant

Physical Resources - Maureen Kennedy, Manager, Operations Support

Security - Maureen Kennedy, Manager, Operations Support

Intelligence Liaison - Maureen Kennedy, Manager, Operations Support

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**PERFORMANCE STATEMENT FOR THE  
CHAIRMAN OF THE NEW SOUTH WALES CRIME COMMISSION  
FOR THE YEAR ENDED 30 JUNE 1994**

The following statement was signed by the Minister for Police and Emergency Services, Mr Gary West, MP.

The performance of Mr Bradley as Chairman of the Commission against the following key accountabilities is as indicated:

**Reform**

*Law Reform*

Recommendations for legal change have been appropriate and timely.

*Administrative Reform*

Reforms to the structure and conduct of the Crime Commission have been significant and justifiable on the basis of efficiency and quality of output.

**EEO**

The Commission has an unsurpassed record of employment policies and practices, particularly with regard to the employment and promotion of women and persons of non-English speaking backgrounds.

**Financial Management**

The Commission has achieved recurrent savings which represent a very large proportion of budget allocation and acquired an improved capital asset on terms very favourable to the State. This has been achieved against a background of increasing productivity.

**Operational Effectiveness**

The Commission has made a substantial impact on target criminal groups through the combined processes of criminal investigation and confiscation. The number of successful prosecutions is but one indication of this. The Commission has also conducted inquiries and provided information and reports to Government on a number of important matters. The quality and timeliness of these outcomes have been more than satisfactory.

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**Relationships**

The Commission has established appropriate working relationships with State and Commonwealth agencies in its field of operation. Those agencies identified as “clients” of the Commission have expressed a high level of satisfaction with the effectiveness of relationships.

**Anti-Corruption**

The Commission has in place appropriate anti-corruption strategies.

**The Chairman’s performance is assessed as satisfactory.**

**Garry West, MP  
Minister for Police and Emergency Services**

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