

**Forward to the Minister**

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NSW Crime Commission  
453 Kent Street  
SYDNEY 2000

30 October 1998

The Hon P F P Whelan, MP  
Minister for Police  
Parliament House  
SYDNEY 2000

Dear Minister,

I am pleased to submit to you the Commission's Annual Report and Financial Statements for the year ended 30 June 1998 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*.

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

Yours sincerely,

.....  
P A Bradley  
Commissioner

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**COMMENT ON THE 1997/98 ANNUAL REPORT BY THE  
NEW SOUTH WALES CRIME COMMISSION  
MANAGEMENT COMMITTEE**

The Committee notes that the twelfth full year of operation of the Crime Commission has been marked by significant growth in output, especially in the area of confiscation of assets, while maintaining very low levels of consumption of public resources. The increased investment of resources during the course of the year is an indication of a commitment to the Commission's future, particularly in the area of technology-based investigations.

The impact of the Commission's work on organised crime has been substantial, both through criminal investigations and confiscation.

.....  
P F P Whelan

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P J Ryan

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J H Broome

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P A Bradley

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**LIST OF ABBREVIATIONS**

ABCI	Australian Bureau of Criminal Intelligence
ACA	Association of Chartered Accountants
AFP	Australian Federal Police
ATO	Australian Taxation Office
AUSTRAC	Australian Transaction Reports and Analysis Centre
CAR Act	Criminal Assets Recovery Act 1990
Cth	Commonwealth
DPP	Director of Public Prosecutions
DTCP Act	Drug Trafficking (Civil Proceedings) Act 1990
DX	Document Exchange
EEO	Equal Employment Opportunity
EPA	Environment Protection Authority
FOI	Freedom of Information
ICAC	Independent Commission Against Corruption
IT	Information Technology
JACG	Joint Asian Crime Group
LLB	Bachelor of Laws
LRC	Law Reform Commission
MOU	Memorandum of Understanding
MP	Member of Parliament
NCA	National Crime Authority
NESB	Non-English Speaking Background
NSWCC	New South Wales Crime Commission
NSWPS	New South Wales Police Service
OMCG	Outlaw Motorcycle Gang
OSR	Office of State Revenue
PIC	Police Integrity Commission
PSM Act	Public Sector Management Act
QPM	Queen's Police Medal
SCOC CI	Standing Committee on Organised Crime and Criminal Intelligence
SES	Senior Executive Service

**COMMISSION MEMBERSHIP**

Amendments to the New South Wales Crime Commission Act were proclaimed on 6 December 1996. Section 5 of the Act provides for one Commissioner and, if necessary, one or more Assistant Commissioners.

During 1997/98 Mr Phillip Bradley was the Commissioner of the New South Wales Crime Commission.

From 7 to 12 October 1997, Mr John Giorgiutti, Solicitor to the Commission, was appointed Acting Commissioner during the absence of Mr Bradley on leave.

## OVERVIEW OF 1997/98

The performance of the Commission in organised crime investigations during the year continued at a similar level as previous years, though the structure of those investigations has continued to evolve.

The most significant deviation from previous years related to financial matters. The cost of the Commission increased substantially due to the acquisition of enhanced technical expertise and hardware.

The Commission now has an Assistant Director solely responsible for technical matters. He has overseen the acquisition of equipment and communications systems which have substantially increased the Commission's capacity in technical surveillance and information management. This has come at a financial cost but the benefits are considered to be worth it.

The Commission had a low level equipment replacement program for several years. Equipment and systems were overdue for modernisation. This was commenced during the year and will continue for at least another five years. The funding for this in the past year was provided by carrying forward the Commission's previous surplus and from a payment from the Confiscated Proceeds Account.

The Commission has, for the first time, recovered costs in litigation conducted under the Criminal Assets Recovery Act, and applied this to revenue.

Revenue was down due to termination of leases over Commission premises.

It is expected that with the present staffing levels and activity, the Commission's cost to the Government will continue to be at around \$9 million for some time. This should be compared with less than \$7 million in the recent past.

On the other side of the ledger there was a substantial increase in recovery of the proceeds of crime. The Commission recovered more than \$11 million (including costs), which is substantially more than in any previous year (\$4 million in 1996/97). The Commission made a concerted effort to reduce the number of cases before the Supreme Court. From a peak of 245 cases in February, the number was reduced to 170 by June 1998.

Figures such as those appearing in the report relating to arrests and charges can be a misleading indication of output. However, the Commission's level of activity in the investigation of drug trafficking and organised crime remained high. More matters were initiated internally and a wider variety of joint operations occurred than in previous years.

The Commission remains committed to fostering joint arrangements with other agencies in the field and during the year conducted operations with the NSW Police Service (including Internal Affairs), the Australian Federal Police, the National Crime Authority, the Police Integrity Commission and other Government agencies in New South Wales and elsewhere.

The structural changes introduced more than two years ago continue to bear fruit in terms of individual productivity and level of impact on serious crime.

**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:**

Targeting high-level drug traffickers and persons involved in organised crime.

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

Furnishing reports relating to illegal drug trafficking and organised crime.

Dissemination of information and intelligence; and investigatory, technological and analytical expertise.

Restraining and confiscating property under the Criminal Assets Recovery Act 1990;

**NEW SOUTH WALES CRIME COMMISSION  
SENIOR STAFF DURING 1997/98**

**Director and Solicitor to the Commission**

John Giorgiutti (June 1990)

**Assistant Director, Financial Investigations**

Michael Lulan ACA (June 1986)

**Assistant Director, Investigations**

Tim O'Connor (October 1996)

**Assistant Director, Investigations**

Mark Standen (March 1996)

**Assistant Director, Technical**

Nick Dowling (July 1997)

**Assistant Director, Operations Support**

Alison Brook (October 1993)

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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. As at the end of the reporting period, the Commission was constituted by one full-time Commissioner, who has “special legal qualifications” and is appointed by the Governor, as set out in the Act.

#### LEGISLATION GOVERNING THE COMMISSION

- 1.2 The Commission is constituted under the New South Wales Crime Commission Act 1985 (as amended).
- 1.3 On 3 August 1990 the Drug Trafficking (Civil Proceedings) Act 1990 was proclaimed. The legislation was amended during the reporting year, and was renamed the Criminal Assets Recovery Act 1990. It provides for the confiscation of the assets of those involved in serious crime-related activity through civil proceedings in the Supreme Court. The Commission is responsible for the administration of this legislation.

#### 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:
- investigate matters relating to “relevant criminal activity”;

assemble admissible evidence for submission to the Director of Public Prosecutions; review police inquiries; furnish reports relating to illegal drug trafficking and organised crime; disseminate investigatory, technological and analytical expertise; and make applications for the restraint and confiscation of property under the Criminal Assets Recovery Act 1990.

#### MEETINGS OF THE COMMISSION

- 1.7 Prior to 6 December 1996, when there was more than one Commissioner, the Commission met formally to decide policy matters and transact significant business. All meetings were minuted. Meetings were scheduled regularly and *ad-hoc* meetings were called when required.
- 1.8 As noted above the Commission now consists of a sole Commissioner. Commission meetings have now been replaced by meetings between the Commissioner, the Director and Assistant Directors.

#### RESPONSIBLE MINISTER

- 1.9 The Minister for Police has responsibility for the administration of the New South Wales Crime Commission Act and the Criminal Assets Recovery Act and is Chairman of the Commission’s Management Committee. The Hon P F P Whelan MP was the Minister for Police during the reporting year.

#### MANAGEMENT COMMITTEE

- 1.10 During 1997/98 the Management Committee comprised the Minister for Police, the Hon P F P Whelan MP (Chairman); the Commissioner of Police, Mr P J Ryan, QPM, the Chairman of the National Crime Authority, Mr J H Broome; and Mr P A Bradley, the Commissioner of the Commission.
- 1.11 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.
- 1.12 The Management Committee met on seven occasions during the year.
- 1.13 The meetings are minuted in accordance with the Commission's Act.
- 1.14 The Commissioner reports to the Committee in terms of its functions at each meeting.
- 1.15 Between meetings, on an *ad hoc* basis, the Commissioner informs the Minister and members of significant events.
- 1.16 The Commission reports on its operations annually in accordance with section 31 of the NSW Crime Commission Act. That report is incorporated in this annual report and is transmitted through the Committee to the Minister. Under section 31, the Minister may give directions as to the manner and time of preparation, but not the content of the report. The Minister is required to lay a copy of the report before each House of Parliament.
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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 The Commission may also review a police inquiry pursuant to a Management Committee reference, and may exercise functions under the Criminal Assets Recovery Act 1990.
- 2.3 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.'
- 2.4 'Relevant offence' is also defined in section 3 of the Act. It includes:
- . a serious drug offence;
  - . a serious offence that involves a serious fraud; or
  - . any other offence for which the Management Committee is satisfied that the use of the Commission's functions to investigate the offence is in the public interest, and the use of the Commission's functions may be necessary for the investigation.
- 2.5 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 and produce documents;

- . the power to compel the production of documents and things relevant to an investigation by the Commission; and
- . the power to apply for special search warrants.

- 2.6 The services of NSW Police task forces are made available to assist the Commission, pursuant to section 27A of the Act. Members of these task forces have the usual police powers. Personnel from other State or Commonwealth agencies often join Commission operations bringing additional powers and skills to the process.

**MANAGEMENT OF INVESTIGATIONS**

- 2.7 Investigation of matters referred to the Commission are usually conducted by teams consisting of members of the NSW Police Service and Commission staff.
- 2.8 During 1997/98, much of the Commission's investigative work related to drug trafficking, under several ongoing References. This work was carried out by task forces of NSW Police officers and Commission staff. A number of other task forces were established to deal with *ad-hoc* References on subjects such as murder, fraud and corruption.
- 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. Police in task forces report through, and are supervised within, the NSW Police Service command structure.
- 2.10 With few exceptions, the results of criminal investigations work is the outcome of joint operations with other agencies, mainly the NSW Police Service. The Commission's contribution to these operations varies from case to case.
- 2.11 The arrangements with Police task forces are embodied in the Directions and Guidelines issued by the Management Committee. These arrangements between the Management Committee and the Police Commissioner under section 27A of the Act. They were revised during the course of

the year and will be issued early in the new financial year.

- 2.12 The revision takes account of changes in practices and structural changes within Crime Agencies Command of the NSW Police Service. Under those changes Task Forces which were specifically dedicated to the subject matter of Commission References have been subsumed by the Strike Force Program under which groups of investigators are formed and dissolved to meet changing demands. This gives greater flexibility in the allocation of resources.
- 2.13 The subject matter of interest to the Commission remains current and the Commissioner, as a member of the Crime Agencies Management Committee, is able to monitor the application of police resources to those matters. Some dedicated Task Forces formed outside the Crime Agencies Command have continued to work on Commission References.
- 2.14 Central to the arrangement is the maintenance of the command structure within the Police Service. Section 27(A)(2) specifically 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.
- 2.15 Selection, assignment and discipline of police working in task forces is carried out within the Police Service.

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

- 2.16 During the year under review, the Commission was given 2 new References. Investigations ceased in respect of the *Hexham*, *Farley* and *Dorrigio* References.
- 2.17 The arrests which resulted from Commission References during the year are summarised later in this chapter.
- 2.18 For reasons of security and the requirements of the Act that individuals not be named, details of operational activities are not provided. 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 1997/98.

- 2.19 Some of the longer standing References, such as *Azure* and *Bianco* have been given less attention during the year. This has been due, in part, to the dissolution of standing task forces within the Police Service. The Commission has devoted more of its resources to References such as *Gymea*, which is continuing, and *Farley*, which is no longer active.

#### **ACTIVE REFERENCES**

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

- 2.20 On 7 December 1987 the Management Committee referred the Azure Reference to the Commission to investigate drug trafficking by persons in the Australian / Lebanese community. 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 Investigations under this Reference have been less productive during 1997/98 with several targets being apprehended under other References.

##### **Reference "Bianco II", referred on 10 September 1992**

- 2.22 The Bianco Reference, which investigated drug trafficking by persons in the Australian / Romanian communities, was superseded on 10 September 1992 by the granting of the Bianco II Reference. The Bianco II Reference investigates serious drug offences, larceny, money laundering, corruption and associated violence in the Australian/Romanian community.
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2.23 Due to restructuring of Crime Agencies Command of the NSW Police Service, there was no Police Task Force specifically assigned to this subject and field activity was therefore negligible. No arrests were made during the year. However, the Commission disseminated intelligence to other agencies and channelled resources into confiscation proceedings against various Bianco targets.

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

2.24 This Reference was granted to investigate criminal activity within Australian / South East Asian communities in Sydney and elsewhere in NSW.

2.25 Success as measured by arrests is variable in this area due to the long term nature of the projects and difficulties in detection.

2.26 Additionally, the Commission has focussed attention on major drug importations through the new Joint Asian Crime Group (JACG) and other joint activities with the Australian Federal Police, the National Crime Authority and the Australian Customs Service. The statistics arising from this operation are included in the general Gecko statistics.

2.27 Statistical Data for 1997/98

Arrests	93
Charges Laid	173
Drugs Seized	
. Heroin	81,248g
. Indian Hemp	5g

**Reference “Vacy”, referred on 2 November 1993**

2.28 The Vacy Reference relates to the growing problem of the manufacture and supply of amphetamines, and associated money laundering offences. Work under the Reference continues to be active.

2.29 Statistical Data for 1997/98

Arrests	13
Charges Laid	44
Drugs Seized	
. Amphetamine HCl	8,900g
. Amphetamine (“Ice”)	5.5g
. Methylamphetamine (liquid)	27 litres
. Methylamphetamine HCl	3,821g
. Phenyl-2-Propanone (P2P)	12 litres
. LSD	3,000 tablets
. Ecstasy (tablets)	4,100 tablets
. Ecstasy	41.4g
. Cannabis leaf	11,282g
. Cannabis resin	20g
. Cannabis plants	529 plants
. Pseudoephedrine HCl	195g

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

2.30 This Reference was established to investigate the supply of prohibited drugs, particularly cocaine. It also investigates money laundering associated with the trafficking of cocaine.

2.31 Statistical Data for 1997/98

Arrests	10
Charges Laid	14
Drugs Seized	
. Amphetamine	3g
. Cannabis Leaf	13g
. Cannabis Resin	2g

**Reference “Zetland”, referred on 27 September 1994**

2.32 The Zetland Reference was granted to the Commission to investigate the illegal activities of outlaw motorcycle gangs (OMCG’s). The Commission and a NSW Police Task Force working on this Reference also work closely with other law enforcement agencies, especially the ABCI, the NCA and the AFP, and regional drug units. The NCA coordinates “Panzer”, a national Reference into OMCG’s.

2.33 The results of Commission investigations since the Reference was granted in September 1994 have been very successful, though there has been a lower level of activity recently due to the reasons stated above.

2.34 Statistical Data for 1997/98

Arrests	4
Charges Laid	5

Additionally, a quantity of cannabis and steroids and an illegal firearm were seized as a result of operations under the Zetland Reference during the year.

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

2.35 This Reference was granted to investigate the theft of Commission funds, and associated money laundering, arising from an Azure undercover operation in 1992. A number of persons have been committed and sentenced in relation to theft and money laundering. Substantial assets have been restrained. A number of Commission hearings have taken place and further evidence is being collected with a view to additional charges.

**Reference “Coogee”, referred on 11 September 1995**

2.36 This Reference concerns an investigation, conducted jointly with the NSW Police Service, into the circumstances surrounding the death of John Newman, former State Member for the seat of Cabramatta.

2.37 Mr Newman died as a result of gunshot wounds to his chest from a .32 calibre weapon, fired by an unidentified assailant outside Mr Newman’s house on 5 September 1994.

2.38 On 5 December 1996 the Commission provided the Director of Public Prosecutions with a brief of evidence, recommending that charges be laid against certain people.

2.39 A coronial inquest into the murder of John Newman commenced on 2 February 1998. At the conclusion of the inquest advice was

received from the DPP. Following this advice, police charged three persons with the murder of John Newman. The committal proceedings are due to commence at Central Local Court in August 1998.

**References “Dorrigo”, referred on 1 December 1995, “Dorrigo II”, referred on 19 June 1997 and “Dorrigo III”, referred on 10 February 1997**

2.40 The Dorrigo References were granted to investigate fraudulent evasion of tobacco licence fees payable to the Office of State Revenue, NSW Treasury (“OSR”) under the Business Franchise Licences (Tobacco) Act 1987 and the laundering of the proceeds. The investigation gathered evidence that OSR was underpaid of in excess of \$27 million in the period of 1 December 1995 to 31 October 1996. 20 persons were charged with “conspiracy to defraud”, “money laundering” and other fraud related offences. In addition \$2.9 million in cash and a large quantity of cigarettes was seized.

2.41 In the year following those arrests State and Commonwealth tobacco revenues were reported to have increased by \$200 million.

2.42 On 5 August 1997 the High Court of Australia decided by a 4-3 majority that tobacco licence fees were duties of excise and retrospectively invalidated parts of the Business Franchise Licences (Tobacco) Act 1987 and the Director of Public Prosecutions withdrew the abovementioned charges. As a flow on from the Court’s decision which impacted on tobacco, petroleum and liquor, the Commonwealth increased Excise Duties and introduced legislation to protect revenues previously collected by the States.

2.43 The Commission disseminated information from its investigations to the Australian Taxation Office and income tax assessments in excess of \$20 million were raised. Cash seized in the course of the investigation has been remitted to the ATO in response to notices issued under section 218 of the Income Tax Assessment Act 1936.

2.44 Litigation has been commenced against the DPP, the Commission, the Australian

Taxation Office and the State of NSW in relation to action taken during the investigation. Most of the litigation remains current.

**Reference “Eden”, referred on 21 March 1996**

2.45 On 21 March 1996 the Commission’s Management Committee granted Reference Eden for the investigation of criminal activity centred on Kings Cross. A Task Force from the South Region Special Investigations Unit was established to assist in the investigation.

2.46 Following an investigation by the NSW Police Service Internal Affairs Branch and the Police Integrity Commission, the Task Force, which was known as “Bax”, was disbanded in October 1997. Strike forces established by Crime Agencies now investigate matters under the Eden Reference.

2.47 Statistical Data for 1997/98

Arrests	13
Charges Laid	25
Drugs Seized	
. Cocaine	250g
. Heroin	348g

**Reference “Farley”, referred on 4 March 1996**

2.48 The Farley Reference was granted to the Commission on 4 March 1996 to investigate a series of drug-related murders and other associated crimes.

2.49 Investigations have now ceased, and a report of the Task Force was produced in March 1998.

2.50 During the course of this investigation a total of 206 charges have been laid, including eleven murder charges.

**Reference “Gynea”, referred on 12 September 1996**

2.51 The Gynea Reference was granted to the Commission on 12 September 1996 to investigate organised crime; drug importation, manufacture and distribution; theft; fraud; gaming; and associated money laundering of nominated criminals in groups operating in and around Sydney.

2.52 Statistical Data for 1997/98

Arrests	89
Charges Laid	207
Cash Seized	\$111,927.55
Drugs Seized	
. Cannabis leaf	17,782g
. Cannabis plants	97 plants
. Cannabis resin	71g
. Amphetamine	17,800g
. Heroin	3,171g
. Cocaine	383g
. Ecstasy tablets	2
. Dynabol	1 vial
. Stanozol	1 vial

In addition, large amounts of Testosterone and precursor chemicals used in the manufacture of amphetamines were seized.

**References “Hexham”, “Hexham II”, and “Hexham III” referred on 8 October 1996 and 10 December 1996**

2.53 The Hexham Reference was granted to the Commission on 8 October 1996 to review the Police inquiries into the assault and murder of Leigh Leigh at Stockton on 3 November 1989.

2.54 On 10 December 1996, following amendments to the NSW Crime Commission Act, the review of the police investigation became Crime Commission References, named “Hexham II” and “Hexham III”.

2.55 The Commission concluded its investigations in early 1998, and submitted two reports to the Management Committee on 16 March 1998. A public version of the first report was tabled in Parliament in March, and the second report, dealing with the original police investigation, was referred to the Police Integrity Commission by the Police Minister on 26 March 1998.

**Reference “Iluka”, referred on 10 February 1997**

2.56 The Iluka Reference was granted to the Commission on 10 February 1997 to investigate an alleged substantial theft.

2.57 The Commission has reviewed the original police investigation and has gathered substantial additional intelligence on the matter. The Commission, with the approval of the Management Committee, has not carried out intensive investigative work on this Reference due to other priorities.

**Reference “Jesmond”, referred on 10 November 1997**

2.58 The Jesmond Reference was granted to the Commission on 10 November 1997 to investigate organised paedophile activity.

2.59 The Management Committee has directed that the Commission work with the Child Protection Enforcement Agency in relation to matters specifically identified as needing special powers of investigation. Commission efforts have been hampered by an inability to obtain Police Royal Commission holdings relating to the investigation. The Police Integrity Commission Act was recently amended to permit it to disseminate Police Royal Commission material relating to paedophile matters to this Commission and other law enforcement agencies.

**Reference “Kingsvale”, referred on 16 March 1998**

2.60 The Kingsvale Reference was granted on 16 March 1998 to investigate money laundering offences.

2.61 The Reference is of broad application but it is being used to investigate targets who have come to notice in other criminal investigations when it is believed that they have laundered some or all of the proceeds of their criminal activity. It is also being used to investigate persons suspected of laundering the proceeds of crime on behalf of other individuals or groups.

**INVESTIGATIVE TOOLS**

2.62 The Commission has a number of investigative tools. In particular special powers are available under the New South Wales Crime Commission Act and powers under the Criminal Assets Recovery Act 1990, the Listening Devices Act 1984, the Search Warrants Act 1985, the Telecommunications (Interception) Act 1979, and, since February 1998, the Law Enforcement (Controlled Operations) Act.. Some statistical details are listed below.

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

	Total
Section 16 - Summons to Appear	172
Section 17 - Notices to Produce	665

**2.64 Production Orders under the Criminal Assets Recovery Act 1990**

	Total
Production Orders	340

**2.65 Listening Devices Act 1984 (includes renewals of warrants - max 21 days)**

	Total
Warrants	331

**2.66 Telecommunications (Interception) Act 1979 (includes renewals of warrants - max 90 days)**

	Total
Warrants	84

**Search Warrants Act 1985**

2.67 A large number of search warrants under this Act were sought and executed by strike force Police working on Crime Commission References.

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**DISSEMINATION**

- 2.68 In addition to normal exchange of information with agencies working with the Commission, information is formally passed to other law enforcement agencies and relevant bodies. During 1997/98 the Commission, with the approval of the Management Committee, disseminated material to other organisations on 185 occasions relating to suspected criminal activity, revenue evasion and misconduct within the administrative responsibility of those organisations.
- 2.69 Law enforcement agencies receiving disseminated material included the NSW Police Service, ICAC, AFP, NCA, PIC, PIB Casino Control Authority, Crime Agencies, NSW Police strike forces, Dutch National Police Force, Queensland, Victorian and South Australian Police Forces.
- 2.70 Other bodies receiving disseminated material included the ATO, the Australian Customs Service, AUSTRAC, the Department of Gaming and Racing, the NSW Treasury, the Attorney-General's Department, the Ombudsman's Office and the Crown Solicitor's Office.

**PROSECUTIONS**

- 2.71 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. The report must not identify persons suspected of having committed offences or persons who have committed offences, unless those persons have been convicted.
- 2.72 During the year, Police task forces assigned to Commission References arrested 232 persons and laid 488 charges. These figures can be compared with 270 arrests and 697 charges in 1996/97.
- 2.73 Charges laid in 1997/98 and previous years of the Commission's operations are at various stages in the prosecution process.
- 2.74 The following table summarises arrests made and charges laid in connection with Commission References in 1997/98\*.

REF	TOTAL ARRESTS	CHARGES
Azure II	1	1
Gecko	93	173
Vacy	13	44
Waratah	10	14
Zetland	4	5
Eden	13	25
Farley	9	19
Gymea	89	207
<b>TOTAL</b>	<b>232</b>	<b>488</b>

\* Numbers of prosecutions are not necessarily indicative of productivity as some lengthy investigations into high level criminal targets may consume large quantities of resources but result in only a small number of (important) arrests.

**WARRANTS**

- 2.75 No warrants were issued by the Commission pursuant to section 18AA of the Act.

**COURT PROCEEDINGS AND APPLICATIONS**

- 2.76 During the year the Commission was a party to a number of instances of litigation. Apart from the litigation commenced by the Commission under the CAR Act (reported in Chapter 4) the Commission also made a number of applications in relation to subpoena documents served on the Commission requiring the production of documents in court.
- 2.77 Frequently these subpoena documents are so broad as to amount to an abuse of process, seek information which cannot be disclosed consistently with the public interest or are otherwise objectionable. In such cases the Commission usually instructs the Crown Solicitor to make an application to set aside or limit the subpoena and such applications are usually successful.
- 2.78 In addition the Commission is a defendant in five cases arising out of the Dorrigo Reference.
- 2.79 One application was made under section 19 of the Act to review a decision of the Commission in relation to a requirement

## Chapter Two: Investigations

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that a witness answer questions at a \_\_\_\_\_  
Commission hearing.

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**NATURE AND EXTENT OF ORGANISED AND OTHER CRIME**

- 2.80 The Commission is required to report on drug trafficking and organised and other crime. The Commission is also required to recommend, where appropriate, changes to laws of the State.
- 2.81 The Commission reports, approximately monthly, to its Management Committee. These reports contain details of operations in which the Commission has been involved. The Commission also makes formal recommendations for law reform and has done so in relation to the principal Acts under which the Commission operates as well as other legislation such as the *Listening Devices Act 1984*, the *Search Warrants Act 1985* as well as Commonwealth legislation.
- 2.82 In the past, this section of the report has been concerned with trends and responses. Our capacity to report in a global sense is limited by the narrowness of the Commission's activities and the focus of its information collection processes. The Commission has tended to rely on larger agencies with a more general responsibility for the bigger picture. The New South Wales Police Service, the Australian Federal Police and the Australian Bureau of Criminal Intelligence are principal among these agencies. The National Crime Authority, the Office of Strategic Crime Assessment and other specialist agencies have also been a source of knowledge to the Commission.
- 2.83 The breadth of activity and experience of the Commission in the investigation of organised crime and the formal involvement of the Commission with the other agencies mentioned above, is now such that the Commission cannot continue to disclaim general knowledge of the subject. Its size and focus continue to limit its capacity to operate in most cases other than as a contributor to larger projects.
- 2.84 In the past year there has been important work in developing a general understanding of the environment in which the Commission works. An example is the Criminal Environment National Assessment commenced by the Standing Committee on Organised Crime and Criminal Intelligence, of which the Commissioner is an *ex officio* member.
- 2.85 This is an important beginning, not just because it seeks a consensus or general understanding of the environment in which the SCOCCI constituents work, but also because it is the product of joint work.
- 2.86 As reported previously, there have been attempts at work in this area which have not concluded in comprehensive reporting. This was largely due to a lack of cooperative will in this area. The most recent effort was not so affected. It did, however, reveal some significant limitations, mainly in the area of data collection and compatibility of recording systems. It forms a foundation upon which advice can be tendered on the important issue of allocating resources to crime prevention and public safety. Similar work on the crime environment has been commenced by the State Intelligence Group of the NSW Police Service.
- 2.87 Simultaneously there has been important work on the establishment of a single repository for intelligence at the ABCI. The re-engineered Australian Criminal Intelligence Database promises to be a much more useable medium for storing and retrieving information and work is being done on rendering disparate systems compatible. At the time of writing the project is a long way from reaching its potential but there is more commitment among contributors than previously.
- 2.88 In New South Wales there have been other important initiatives. The most significant of these is the Joint Asian Crime Group (JACG) established by the heads of the main law enforcement agencies operating in the State: the New South Wales Police Service, the Australian Federal Police, the National Crime Authority, the Australian Customs Service and the Commission. Each has contributed personnel and other resources which has enabled the establishment of a peak group targeting the upper stratum of criminals in the area. Replication of effort has been reduced and return on the taxpayer investment has increased. Within the group there is no longer a focus exclusively on Commonwealth or State interests, on importing or trafficking or on local or
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- overseas suppliers. The success of this group may be translated into efficient responses in other areas of common interest to the partners.
- 2.89 Arising from a seminar in December 1997 initiated by the AFP, a NSW Operational Coordination Group consisting of the same agencies which formed JACG has been formed and is working towards establishing cooperative arrangements to enhance effectiveness of each agency and minimise overlap in operations.
- 2.90 The importance of this cannot be overstated in the context of NSW. The State has more organised crime than any other jurisdiction. Many incidents of organised crime in other States are controlled or influenced by individuals in Sydney. Major drug importations to locations such as Perth and Darwin are often controlled from Sydney and much of the product is delivered to and distributed from Sydney. Thus the main agencies have concentrated much of their resources in Sydney.
- 2.91 If cooperative arrangements between these agencies continue to develop as they have during the year, there is likely to be greater impact in intelligence gathering, operations and technology. The greater efficiency flowing from this will ensure that the increasing demand for peak investigational resources will be substantially met.
- 2.92 In the Commission's main areas of activity there is unlikely to be an abatement of crime and the opportunities for investigation using the Commission's methodology and powers are likely to expand.
- 2.93 In the area of drug trafficking there is likely to be a steady increase in the supply of imported drugs, particularly heroin. Domestically produced drugs, especially synthetically manufactured drugs such as amphetamines, pose a substantial problem because of the strong demand, the spread of production technology and the availability of precursors. During the past year there have been several incidents of a critical ingredient, pseudoephedrine, falling into the hands of criminals, usually through theft. The substance is generally imported in 25kg drums which can realise up to \$300,000 on the black market. There is a high level of criminal organisation being applied to the theft and manufacture of amphetamines using pseudoephedrine.
- 2.94 Some of the more significant arrests and confiscation actions have been in the area of locally produced drugs.
- 2.95 Estimates of money laundering in Australia exceed \$3.5 billion per year, yet confiscation of the proceeds of crime is in the tens of millions each year and prosecutions for money laundering are negligible. Most money laundering is in the area of fraud, especially revenue fraud, and in the proceeds of drug trafficking. The opportunities for detection and recovery are limited, though better in Australia than in most overseas jurisdictions. The transportation of cash proceeds overseas remains a significant problem. The limitations on recovery through mutual assistance and the proliferation of *havens* are prominent among the reasons why so little is recovered from overseas.
- 2.96 The Commission has some 170 confiscation cases on foot at the time of writing, with an average potential of a little more than \$100,000. Very few matters have exceeded \$1 million since the introduction of the CAR Act in 1990. There is clearly scope for more to be done in this area. Firstly, more persons involved in serious crime need to be apprehended and more proceeds of crime need to be recovered, especially from overseas.
- 2.97 The Commission has been increasing its rate of recovery. In 1997/98 it had a record level of confiscation, both locally and overseas, but the amount represents a small proportion of the total wealth generated by criminals. The Commission has redoubled its efforts by focussing on the *successful* offenders and applying the latest technology to the process.
- 2.98 Law enforcement efforts will never result in the apprehension of all offenders or the recovery of all proceeds of crime. If the risks of incarceration and loss of profit are sufficiently real, many of those who would offend for profit will be discouraged.
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## ROLE OF THE ABCI

2.99 A critical role should be played by the ABCI which is the national repository of criminal intelligence in key areas. The Commission has written at length in previous annual reports and elsewhere of the need for law enforcement agencies to act in a way which will enable the ABCI to reach its undoubted potential as a national intelligence clearing house and an adviser to governments on the allocation of resources for crime prevention and detection.

Commission is working with other partners and contractors to produce the most efficient solutions which will be available to other law enforcement agencies.

2.106 A major part of the Commission's technical work, accounting for most of the increase in the cost of operations, has been the upgrade of internal cabling and communications, much of which was more than ten years old.

2.107 The Commission is progressing with operational and technical aspects of the Government's Year 2000 Compliance Project to assess and minimise the risks of a problem arising on the critical dates.

## INFORMATION TECHNOLOGY

### Telephone Interception

2.100 84 warrants were granted to the Commission during the 1997/98 financial year. A total of 97 arrests were made as a result of operations involving interception.

2.101 Detailed reports of activity in this area are made to the Attorneys General for the State and Commonwealth.

2.102 The Commission's compliance with the Telecommunications Interception Acts (Cth and State) is monitored by the NSW Ombudsman, whose reports are provided to the Attorneys General.

2.103 During the year the Commission required and developed new equipment for the recording and processing of interception product.

### Information Processing

2.104 The Commission now has an enhanced technical capacity in a range of areas. The divisions between Information Technology, Telephone Interception and other Electronic Intelligence gathering has now disappeared. The new structure of the Commission incorporates all of these functions in a single Technical Group which has the capacity to design and build new hardware and software solutions for limited applications.

2.105 However, the emphasis is on a policy of *buy-not-build* because of the economic advantages of *off the shelf* solutions. The

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**CHAPTER THREE**

**LEGAL CHANGE**

**CRIMINAL ASSETS RECOVERY ACT 1990**

- 3.1 In previous years the Commission has reported no progress in seeking amendments to the Drug Trafficking (Civil Proceedings) Act 1990 (“the DTCP Act”). On 25 July 1997 amendments to the DTCP Act were proclaimed.
- 3.2 Civil confiscation proceedings have been extended from “drug related activity” to “serious crime-related activity” which, in addition to drug related offences, includes offences punishable by imprisonment for five years or more and which involve theft, fraud, obtaining a financial benefit from the crime of another, money laundering, extortion, violence, bribery, corruption, harbouring criminals, blackmail, obtaining or offering a secret commission, perverting the course of justice, tax or revenue evasion, illegal gambling, forgery and homicide.
- 3.3 To reflect the broader application of the DTCP Act its name has been changed to the Criminal Assets Recovery Act 1990 (“CAR Act”).
- 3.4 The amendments to the Act have expanded the basis on which the Court makes a proceeds assessment order. Where the Court has determined that a person has engaged in serious criminal activity it can make an assessment based on the person’s assets and expenditure over a six year period (sections 27 and 28).
- 3.5 The changes also clarify the position relating to recovery of proceeds in a “controlled buy” where drugs have been purchased by an undercover investigator. A person purchasing drugs as part of such an operation will be held accountable for the full amount of moneys received regardless of claims that some or all of it was passed on to another party (section 28(4)).
- 3.6 The Act enables the Court to release from restrained property funds for reasonable legal expenses to defend an application for a forfeiture order or to defend criminal

charges. There has been considerable litigation since the introduction of the Act as to what constitutes “reasonable legal expenses”. The amendments introduce to the Act (at section 16A) some preconditions to release of funds for legal expenses. These preconditions reflect decisions of the Court in matters dealt with to date. The effect of the preconditions is that:

- . unrestrained property must be used first for legal expenses;
- . property that is clearly illegally acquired shall not be released for legal expenses;
- . a person seeking release must first lodge a statement of affairs disclosing all assets and liabilities;
- . the person must have taken all reasonable steps to bring their property within the jurisdiction of the Court.

**NEW SOUTH WALES CRIME COMMISSION ACT 1985**

- 3.7 There have been no amendments to the NSW Crime Commission Act since December 1996. Those amendments were reported in the last annual report.

**OTHER LEGISLATIVE CHANGE**

- 3.8 The Commission has been recommending changes to the Listening Devices Act 1984 for many years. Some minor amendments have been made in that period.
- 3.9 In February 1997 further amendments to the Act came into force, pursuant to which warrants are granted by “eligible Judges”.
- 3.10 The substantive issues were referred to the Law Reform Commission (LRC) on 2 July 1996.
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- 3.11 Following consultation with the Crime Commission and other agencies, the LRC produced an issues paper in May 1997 which has addressed the issues raised by the Crime Commission. The Commission, with the ICAC and the Police Integrity Commission, has produced a joint submission to the LRC in response to the discussion paper. There has been no final report of the LRC.
  - 3.12 The Crimes Amendment (Detention After Arrest) Act 1997 came into effect in July 1997. The amendments relate to persons being detained for investigative purposes. The Regulations specifically govern custody management at the Commission.
  - 3.13 The Law Enforcement (Controlled Operations) Act was assented to in December 1997. It provides for the authorisation, conduct and monitoring of operations by law enforcement officers which would, but for the Act, involve illegal activity. The Commissioner has authorised the conduct of undercover operations on a number of occasions during the course of the year. The legislation is to be reviewed after twelve months of operation.
  - 3.14 A minor amendment was made during the course of the year to permit an application for an authority to be transmitted by facsimile.
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## CHAPTER FOUR

### CONFISCATION

#### BACKGROUND

- 4.1 The Commission administers the Criminal Assets Recovery Act 1990 (“the CAR Act”), previously called the Drug Trafficking (Civil Proceedings) Act 1990, (DTCP Act). Amendments to the DTCP Act were proclaimed on 25 July 1997 which changed its name to the CAR Act and extended civil confiscation proceedings from “drug-related activity” to “serious crime-related activity”.
- 4.2 The principal objects of the CAR 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 serious criminal activities;
  - . to enable the proceeds of serious crime-related activities to be recovered as a debt due to the Crown; and
  - . to enable law enforcement authorities to effectively identify and recover property.
- 4.3 A serious crime-related activity is a serious drug offence under the Drug Misuse and Trafficking Act 1985 and/or offences punishable by imprisonment for five years or more and which involve theft, fraud, obtaining financial benefit from the crime of another, money laundering, extortion, violence, bribery, corruption, harbouring criminals, blackmail, obtaining or offering a secret commission, perverting the course of justice, tax or revenue evasion, illegal gambling, forgery or homicide.
- 4.4 The CAR 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 serious crime-related

activity or of persons whose interests in property are reasonably suspected of being property derived from serious criminal activity within the meaning of section 9 of the CAR 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 serious crime-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.

- 4.5 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 serious criminal activity was the basis of the restraining order did, in fact, engage in a serious criminal activity within a six year period prior to the making of the Commission’s application.

#### STAFF

- 4.6 The confiscation litigation is conducted by a small team consisting of lawyers, financial investigators, financial analysts and support staff.

#### RESTRAINING ORDERS

- 4.7 During 1997/98, 166 restraining orders were obtained by the Commission under the CAR Act. Of those, some orders were obtained on the basis that the persons, who in some instances included corporate entities, were reasonably suspected of having property that was derived from the serious criminal activities of another person, and the balance were obtained on the basis that the persons whose properties were restrained were reasonably suspected of having engaged in a serious crime-related activity. In all cases in which the

Commission obtained restraining orders, the Commission filed a summons seeking either an assets forfeiture order or a proceeds assessment order, or both, within the forty-eight hour period provided in section 10(9) of the CAR Act.

- 4.8 The number of restraining orders obtained under the DTCP Act since 3 August 1990 was 663, made up as follows:

Year	Number
1990/91	57
1991/92	59
1992/93	24
1993/94	44
1994/95	73
1995/96	95
1996/97	145
1997/98	166
<b>TOTAL</b>	<b>663</b>

- 4.9 Potential targets of confiscation proceedings are now well aware of the impact of the CAR Act and other proceeds of crime legislation, and are devoting greater effort and resources to the laundering of serious crime 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 the 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 increase in the number of restraining orders obtained in 1997/98 over the previous years reflects, in part, an increased level of awareness on the part of police, increased experience and specialist skills gained over the last eight years by the Commission and the further allocation of resources by the Commission to financial investigation work.

attaches to so much of a person's property as cannot be shown to have been lawfully acquired.

- 4.12 During 1997/98, 128 applications for assets forfeiture orders were completed by the Commission usually by way of negotiated settlement without proceeding to a hearing. Orders were obtained that property having an approximate value of \$7,500,712 be forfeited to the Crown. The property forfeited included motor vehicles, jewellery, real property, cash and funds held in bank accounts.

- 4.13 During 1997/98, 46 applications for proceeds assessment orders were completed by way of negotiated settlement, resulting in orders that \$2,651,580 be paid to the Treasurer.

- 4.14 The following tables enable a comparison between the results quoted above to the those quoted in the last seven annual reports.

Year	Assets Forfeiture Orders	Proceeds Assessment Orders	Total Confiscation Orders
1990/91	4	1	5
1991/92	18	1	19
1992/93	26	10	36
1993/94	16	2	18
1994/95	33	5	38
1995/96	57	24	81
1996/97	50	17	67
1997/98	128	46	174
<b>TOTAL</b>	<b>332</b>	<b>106</b>	<b>438</b>

**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 serious criminal activity, whereas an assets forfeiture order

Year	Assets Forfeiture Orders	Proceeds Assessment Orders (Realisable Amount)	Total Realisable Confiscation Orders
90/91	\$118,515	Nil	\$118,515
91/92	\$650,000	\$500	\$650,500
92/93	\$2,673,528	\$450,000	\$3,123,528

## Chapter Four: Confiscation

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93/94	\$1,298,000	\$230,000	\$1,528,000
94/95	\$3,031,739	\$344,900	\$3,376,639
95/96	\$3,567,890	\$1,537,118	\$5,105,008
96/97	\$3,193,943	\$789,402	\$3,983,345
97/98	\$7,500,712	\$2,651,580	\$10,152,292
Total	\$22,034,327	\$6,003,500	\$28,037,827

- 4.15 It is useful to compare the results from the commencement of the DT(CP) Act on 3 August 1990 to date with the cost to Government of the confiscation litigation function.

4.16 The following table makes the comparison.

<b>Year</b>	<b>Realisable Confiscation Orders (including legal costs recovered)</b>	<b>Cost of Confiscation Litigation Function</b>
1990/91	\$118,515	\$1,630,000
1991/92	\$650,500	\$2,320,000
1992/93	\$3,123,528	\$2,694,000
1993/94	\$1,528,000	\$2,081,000
1994/95	\$3,376,639	\$1,641,404
1995/96	\$5,196,108	\$1,697,727
1996/97	\$4,000,345	\$1,175,802
1997/98	11,025,605	\$1,613,330
<b>TOTAL</b>	<b>\$29,019,240</b>	<b>\$14,853,263</b>

4.17 Applications to exclude property from Asset Forfeiture Orders are outstanding. They were lodged in respect of property valued in the vicinity of \$1.8 million. \$1.05 million of this relates to Asset Forfeiture Orders made during the current year and the remainder relate to prior years. 18 Applications are outstanding.

4.18 Potential exists in respect of nine Asset Forfeiture Orders for application of exclusion orders to be made within six months of the date that the Asset Forfeiture Orders were made. The value of assets in respect of these nine Asset Forfeiture Orders is in the vicinity of \$1 million.

4.19 The cost of the confiscation litigation function includes all capital costs and employee-related expenses, but does not include general overheads borne by the Commission prior to the introduction of the confiscation function.

4.20 There was a 37.21% increase in the cost of the confiscation litigation function in 1997/98 over 1996/97 which followed a 30.74% decrease in the cost of the same function in 1996/97 over the previous year. The budget for confiscation litigation for 1998/99 is \$1,680,000 with the monetary value of confiscation orders projected to be not less than \$10,000,000.

4.21 The confiscation litigation function has been revenue positive since July 1994 and is expected to remain revenue positive.

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**PRODUCTION ORDERS**

- 4.22 Section 33(1) of the CAR Act provides that an authorised officer who 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.
- 4.23 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. During 1997/98 the Commission applied for and obtained 340 production orders.

**SEARCH WARRANTS**

- 4.24 An authorised officer of the Commission which includes 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 CAR 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 1997/98 no search warrants were issued pursuant to these provisions.
- 4.25 Pursuant to sections 44 and 45 of the CAR Act, an authorised officer of the Commission which includes a member of the NSWPS may apply to the Supreme Court for a warrant authorising the search of premises for property tracking documents.
- 4.26 During the 1997/98 year, the Commission successfully applied for the issue of 49 warrants under these provisions.
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**MONITORING ORDERS**

4.27 Section 48 of the CAR 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 the Commission financial information obtained by the institution about transactions conducted by a particular person with the institution.

4.28 In 1997/98 no monitoring orders were applied for pursuant to these provisions. 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 CAR Act which enables financial institutions to provide information to the Commission upon request (see 4.37).

4.33 During 1997/98 no restraining orders were obtained under the COPOC Act.

**THE DPP OFFICES**

4.29 The Offices of the State and Commonwealth Directors of Public Prosecution 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), the Customs Act 1901 (Cth) and the Proceeds of Crime Act 1987 (Cth).

4.30 The Commission has continued its links with both agencies and liaises with them in respect of operational and policy matters.

**THE COPOC ACT**

4.31 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 minimise overlap in functions between the NSW DPP and the Commission in respect of the forfeiture of the property of persons involved in drug crime.

4.32 Each matter referred to the Commission for assessment of confiscation action under the CAR Act is also assessed for confiscation action under the COPOC Act.

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**THE AUSTRALIAN TAXATION OFFICE**

- 4.34 Previous annual reports have recorded the dispute between the Australian Taxation Office (ATO) and the Commission over the competing interests of the Commonwealth tax revenue and the confiscation of profits of crime.
- 4.35 During 1995/96 the Commission and the ATO entered into a Memorandum of Understanding which set guidelines for dealing in matters of conflict. The Commission maintains good working relations with the ATO.

**FINANCIAL INSTITUTIONS**

- 4.36 As a result of the large numbers of production orders obtained under the CAR Act and notices issued under section 17 of the Commission's Act, the Commission has established close liaison with the State's major banks and building societies.
- 4.37 Section 51 of the CAR Act provides:-
- “(1) If a financial institution has reasonable grounds for believing that information it has about a transaction with the institution:
- (a) might be relevant to an investigation of a serious criminal 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.”
- 4.38 The Commission has obtained information on a number of occasions pursuant to section 51.
- 4.39 The assistance provided by both banking and other financial institutions has been essential to the confiscation function.
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**INTERNATIONAL AND INTERSTATE INQUIRIES**

- 4.40 In an increasing number of matters investigated by the Commission, there has been evidence to suggest the removal of funds offshore and the acquisition of property in foreign jurisdictions. In such cases the Commission 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 has been that little is achieved and long delays are involved, however liaison is ongoing with the Commonwealth Attorney-General's Department in an attempt to prevent delays.
- 4.41 The Commission's continuing experience of the difficulties associated with detecting assets of offenders in Australia, suggests that law enforcement agencies generally will need to concentrate more of their efforts on the tracing of assets into foreign jurisdictions.

**SUPREME COURT AND DISTRICT COURT**

- 4.42 The work generated by the confiscation function 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.

**NSW POLICE SERVICE CRIME AGENCIES AND OTHER POLICE**

- 4.43 The contribution of the Crime Agencies, Regional Units and a number of other police to the litigation commenced by the Commission has been substantial.
- 4.44 During 1997/98 a total of 381 matters were referred to the Commission for assessment of confiscation action under the CAR Act and/or COPOC Act.

- 4.45 The following table sets out the number of matters referred to the Commission since 3 August 1990:

Year	Number
1990/91	346
1991/92	637
1992/93	828
1993/94	898
1994/95	832
1995/96	674
1996/97	432
1997/98	381

- 4.46 The number of restraining orders obtained (relative to the large number of matters referred to the Commission) is due partly to the fact that police arrest large numbers of persons who habitually deal in indictable quantities of illicit drugs without acquiring substantial assets which are discoverable by the Commission.
- 4.47 A number of seminars were conducted in 1997/98 to further inform police as to the role of the Commission in the confiscation function and the operation of the CAR Act. Assistance was also provided to police by the dissemination of financial reports or information concerning persons allegedly involved in drug trafficking.

**THE PUBLIC TRUSTEE**

- 4.48 The Public Trustee has two significant roles under the CAR Act. The first is the management of property placed in its control pursuant to orders obtained under sections 10 and 12. The second is the realisation of property subject to forfeiture or proceeds assessment orders under the CAR 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 forfeited is promptly recovered.

**THE CONFISCATED PROCEEDS ACCOUNT**

4.49 Monies realised from the sale of property forfeited under the CAR Act and monies received by the Treasurer pursuant to proceeds assessment orders are credited to an account administered by the Treasurer called the Confiscated Proceeds Account. The proceeds of that account may be applied to administering the Act, victims compensation, law enforcement, drug rehabilitation or drug education.

4.50 To date the monies paid into the Account have largely been paid to the Treasury to recoup the costs of administering the CAR Act although since the end of the financial year monies have been made available as follows:

\$750,000	Knives legislation promotion
\$2,250,000	Telecommunications Interception Contract
\$600,000	Salvation Army Bridge program
\$400,000	Rural Crime Prevention initiatives

**TRAINING**

4.51 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 eight years. 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 persons involved in criminal investigations.

**CHAPTER FIVE  
ADMINISTRATION**

**INTRODUCTION**

- 5.1 Mr P Bradley is the Commissioner and the sole Member of the Commission. He is also the Chief Executive Officer.
- 5.2 The Commission is divided into two Divisions: Operations and Operations Support. The Operations Division is headed by a Director and comprises several operational teams, each headed by an Assistant Director. The Operations Support Division is headed by an Assistant Director.
- 5.3 An organisation chart current at the end of the year is shown at Appendix H.

**ADMINISTRATIVE OFFICE**

- 5.4 The address, telephone, facsimile and DX numbers, as well as the business hours of the Commission's head office are shown on the inside front cover.

**STRUCTURE**

**Management Team**

- 5.5 The Commissioner, Director and Assistant Directors constitute the Management Team, which is responsible for the Commission's strategic planning and for the achievement of its aims and objectives.

**Organisation**

- 5.6 The Operations Division undertook all core work of the Commission. It comprised two Investigation Teams, one Financial Investigation Team and a Technical Team, each headed by an Assistant Director.
- 5.7 The Operations Support Division, also headed by an Assistant Director, provided various types of operational activity and support to enable the operational work to be undertaken effectively. This included teams responsible for Finance, Human Resources,

Registry, Building Services, Security and Evidence Preparation.

**HUMAN RESOURCES**

**Staff Establishment**

- 5.8 In 1997/98 the establishment comprised positions under the Public Sector Management Act (PSM Act), and staff employed directly by the Commission pursuant to the NSW Crime Commission Act.
- 5.9 At the end of the reporting year, the number of staff employed by the Commission was 92 (88.6 equivalent full-time). The categories of staff comprising the establishment are tabulated below. A comparison with the staffing levels of the previous four years is included.

	97/9	96/9	95/9	94/9	93/9
	8	7	6	5	4
Statutory Officers	1	1	2	2	2
SES	0	0	1	2	2
PSM Act	20	23	26	35	46
Direct Employees	71	62	46	36	23
<b>TOTAL</b>	<b>*92</b>	<b>86</b>	<b>74</b>	<b>75</b>	<b>73</b>

\*88.6 Equivalent Full-Time

**SES Positions**

- 5.10 The composition of SES positions held by Commission staff during 1997/98 and the previous three years is set out in the following table.

Level	SES 97/98	SES 96/97	SES 95/96	SES 94/95	SES 93/94
2	0	0	1	2	2
1	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>2</b>

**Female SES Officers**

- 5.11 There were no SES officers on Commission staff during the reporting period.

**Staffing Changes**

- 5.12 There was an increase in the number of staff employed by the Commission during the reporting year.



**Personnel Policies and Practices**

Training

- 5.13 During the reporting year the Commission arranged a two day workshop for all staff in which training needs were discussed. As part of that workshop seminars were conducted on various operational topics, as well as general topics such as conflict resolution and internal communications.
- 5.14 There was an extensive program of information sessions during the second half of the year, available voluntarily to all staff, in which topics of operational interest were presented and discussed.
- 5.15 Late in the year all staff were required to attend courses conducted by an external provider on equal employment opportunity and occupational health and safety.
- 5.16 Two members of staff attended the National Strategic Intelligence Course during the year, and other staff attended various external training programs.

Equal Employment Opportunity

- 5.17 The Commission's Equal Employment Opportunity (EEO) Annual Report 1996/97 was completed and submitted to the Director of Equal Opportunity in Public Employment.
- 5.18 The Commission conforms with the requirements of the Office of the Director of Equal Opportunity in Public Employment and has had the Director's approval of its strategies and outcomes following the annual review by that Office. The Commission takes the view that its EEO outcomes, as reflected in the statistics below, demonstrate that its strategies have been successful, particularly for an agency working in the area of law enforcement.
- 5.19 In the reporting period, 20 new members of staff were recruited. Of these, 10 were women (50%) and 3 were people from non-English speaking backgrounds (NESB) (15%).
- 5.20 The following tables contain EEO statistics for 1997/98, 1996/97, 1995/96 and 1993/94.

**5.21 Representation and Recruitment of Target Groups (Aboriginals, People with Physical Disability (Disab), People of non-English Speaking Backgrounds (NESB), and Women)**

	<b>Total Staff</b>	<b>Aboriginals</b>	<b>Disab</b>	<b>NESB</b>	<b>Women</b>
<b>1997/98</b>					
Total Employees	92	0	4 (4%)	22 (24%)	52 (56%)
Recruited 1997/98	20	0	0	3 (15%)	10 (50%)

	<b>Total Staff</b>	<b>Aboriginals</b>	<b>Disab</b>	<b>NESB</b>	<b>Women</b>
<b>1996/97</b>					
Total Employees	86	0	0	20 (23%)	48 (56%)
Recruited 1996/97	23	0	1 (4%)	6 (26%)	12 (52%)

	<b>Total Staff</b>	<b>Aboriginals</b>	<b>Disab</b>	<b>NESB</b>	<b>Women</b>
<b>1995/96</b>					
Total Employees	74	0	0	22 (30%)	45 (61%)
Recruited 1995/96	18	0	0	3 (17%)	8 (44%)

	<b>Total Staff</b>	<b>Aboriginals</b>	<b>Disab</b>	<b>NESB</b>	<b>Women</b>
<b>1994/95</b>					
Total Employees	74	0	0	27 (37%)	49 (66%)
Recruited 1994/95	15	0	0	5 (33%)	12 (80%)

	<b>Total Staff</b>	<b>Aboriginals</b>	<b>Disab</b>	<b>NESB</b>	<b>Women</b>
<b>1993/94</b>					
Total Employees	73	0	*	16 (21%)	44 (60%)
Recruited 1993/94	15	0	*	2 (13%)	9 (60%)

**5.22 Representation of EEO Target Groups by Level 1997/98**

Grade	Total Staff	Women	NESB
Above Grade 12	15	2 (13%)	2 (13%)
Grades 10 - 12	10	1 (10%)	3 (30%)
Grades 6 - 9	20	14 (70%)	3 (15%)
Grades 3 - 5	22	15 (68%)	5 (23%)
Grades 1 - 2	8	7 (87%)	3 (38%)
CO 1 - Grade 1	17	13 (76%)	6 (35%)
Below CO 1	0	0	0
<b>TOTAL</b>	<b>92</b>	<b>52 (56%)</b>	<b>22 (24%)</b>

**5.23 Representation of EEO Target Groups by Level 1996/97**

Grade	Total Staff	Women	NESB
Above Grade 12	12	3 (25%)	2 (16%)
Grades 10 - 12	14	3 (21%)	3 (21%)
Grades 6 - 9	13	12 (85%)	3 (23%)
Grades 3 - 5	23	11 (47%)	5 (21%)
Grades 1 - 2	14	12 (86%)	3 (21%)
CO 1 - Grade 1	10	7 (70%)	4 (40%)
Below CO 1	0	0	0
<b>TOTAL</b>	<b>86</b>	<b>48 (56%)</b>	<b>20 (23%)</b>

**5.24 Representation of EEO Target Groups by Level 1995/96**

Grade	Total Staff	Women	NESB
Above Grade 12	13	3 (23%)	2 (15%)
Grades 10 - 12	10	2 (20%)	3 (30%)
Grades 6 - 9	15	12 (80%)	6 (40%)
Grades 3 - 5	14	11 (78%)	3 (21%)
Grades 1 - 2	15	13 (87%)	5 (33%)
CO 1 - Grade 1	7	4 (57%)	3 (43%)
Below CO 1	0	0	0
<b>TOTAL</b>	<b>74</b>	<b>45 (61%)</b>	<b>22 (30%)</b>

**5.25 Representation of EEO Target Groups by Level 1994/95**

Grade	Total Staff	Women	NESB
Above Grade 12	13	3 (23%)	2 (15%)
Grades 10 - 12	5	3 (60%)	1 (20%)
Grades 6 - 9	15	9 (60%)	7 (46%)
Grades 3 - 5	18	13 (72%)	8 (44%)
Grades 1 - 2	16	16 (100%)	6 (37%)
CO 1 - Grade 1	7	5 (71%)	3 (42%)
Below CO 1	0	0	0
<b>TOTAL</b>	<b>74</b>	<b>49 (66%)</b>	<b>27 (36%)</b>

**5.26 Representation of EEO Target Groups by Level 1993/94**

Grade	Total Staff	Women	NESB
Above Grade 12	12	4 (33%)	2 (16%)
Grades 10 - 12	5	3 (60%)	2 (40%)
Grades 6 - 9	17	9 (52%)	5 (29%)
Grades 3 - 5	17	11 (64%)	3 (17%)
Grades 1 - 2	16	13 (81%)	3 (18%)
CO 1 - Grade 1	6	4 (66%)	1 (16%)
Below CO 1	0	0	0
<b>TOTAL</b>	<b>73</b>	<b>44 (60%)</b>	<b>16 (21%)</b>

**5.27 Representation of Women by Level as a Total of Staff who are Women 1997/98**

Grade	Women
Above Grade 12	2 (4%)
Grades 10 - 12	1 (2%)
Grades 6 - 9	14 (27%)
Grades 3 - 5	15 (29%)
Grades 1 - 2	7 (13%)
CO 1 - Grade 1	13 (25%)
Below CO 1	0
<b>TOTAL</b>	<b>52</b>

**5.28 Representation of Women by Level as a Total of Staff who are Women 1996/97**

Grade	Women
Above Grade 12	3 (6%)
Grades 10 - 12	2 (4%)
Grades 6 - 9	9 (20%)
Grades 3 - 5	15 (33%)
Grades 1 - 2	12 (26%)
CO 1 - Grade 1	7 (15%)
Below CO 1	0
<b>TOTAL</b>	<b>45</b>

**5.29 Representation of Women by Level as a Total of Staff who are Women 1995/96**

Grade	Women
Above Grade 12	3 (7%)
Grades 10 - 12	2 (4%)
Grades 6 - 9	12 (27%)
Grades 3 - 5	11 (24%)
Grades 1 - 2	13 (29%)
CO 1 - Grade 1	4 (9%)
Below CO 1	0
<b>TOTAL</b>	<b>45</b>

**5.30 Representation of NESB by Level as a Total of Staff who are NESB 1997/98**

Grade	NESB
Above Grade 12	2 (9%)
Grades 10 - 12	3 (14%)
Grades 6 - 9	3 (14%)
Grades 3 - 5	5 (23%)
Grades 1 - 2	3 (14%)
CO 1 - Grade 1	6 (27%)
Below CO 1	0
<b>TOTAL</b>	<b>22</b>

**5.31 Representation of NESB by Level as a Total of Staff who are NESB 1996/97**

Grade	NESB
Above Grade 12	2 (10%)
Grades 10 - 12	2 (10%)
Grades 6 - 9	4 (20%)
Grades 3 - 5	5 (25%)
Grades 1 - 2	3 (15%)
CO 1 - Grade 1	4 (20%)
Below CO 1	0
<b>TOTAL</b>	<b>20</b>

**5.32 Representation of NESB by Level as a Total of Staff who are NESB 1995/96**

Grade	NESB
Above Grade 12	2 (9%)
Grades 10 - 12	3 (14%)
Grades 6 - 9	6 (27%)
Grades 3 - 5	3 (14%)
Grades 1 - 2	5 (23%)
CO 1 - Grade 1	3 (14%)
Below CO 1	0
<b>TOTAL</b>	<b>22</b>

Staff Handbook

5.33 The staff handbook includes personnel policies, payroll and finance procedures and an information guide about EEO, discrimination, harassment, grievance procedures, corruption prevention and the Protected Disclosures Act.

5.34 All staff have access to the Handbook through the Commission's Intranet or in hard copy.

Overseas Visits

5.35 There were no overseas visits made during 1997/98 by staff of the Commission.

**CORRUPTION PREVENTION**

5.36 The Commission's corruption prevention plan is regularly reviewed. All staff are reminded frequently through the medium of the internal newsletter about the importance of corruption prevention. All staff have hard copy and electronic access to the Commission's Code of Conduct and the Staff Handbook.

5.37 Additionally, staff are regularly advised about their rights under the Protected Disclosures Act, and are encouraged to report instances of corruption and administrative malpractice.

5.38 A Code of Conduct for senior executives was adopted during the year, and all members of the Management Team are aware of their responsibilities under the Code.

## MANAGEMENT SYSTEMS / MANAGEMENT IMPROVEMENT

### Performance Assessment

- 5.39 In addition to individual staff appraisals, the Commission continued to monitor its overall operational activities and support functions with a view to being as efficient and effective as possible.
- 5.40 The Commission held weekly operations meetings to assess the performance of teams for each Reference. Written reports were provided for those meetings and minutes were kept. In addition, status reports for each Reference and/or major operation were provided to the Management Committee at its meetings (usually held every six to eight weeks).
- 5.41 The Commission produced monthly financial performance reports.

## THE ENVIRONMENT

- 5.42 The Commission continues to employ conservation methods such as water conserving shower heads, infra-red flushing systems and dual flush cisterns. There are energy saving devices on all new office machines and timers on air conditioning units, basement carpark lights and hot water urns. Signs are posted on all light switches reminding staff to conserve electricity.
- 5.43 This year the Commission signed an electricity supply contract with Integral Energy. The minimum percentage of greenpower which must be purchased by NSW Government agencies is 5%. The Crime Commission has elected to purchase 83% greenpower.
- 5.44 The Commission is formalising a waste management plan with the EPA. This plan will expand on the Commission's established recycling program. Photocopy paper used at the Commission is made from recycled paper waste. The Commission uses rechargeable batteries and recycles used toner cartridges, paper, cardboard, glass and aluminium.

## RESEARCH AND DEVELOPMENT

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

## DISABILITY PLAN

- 5.46 In 1995 the Commission submitted its 1995/98 Disability Plan to the Directorate on Disability. The Plan will be reviewed in the coming year for the next triennium.
- 5.47 The Commission has met all its objectives contained in the Plan during the year.

## CONSULTANTS

- 5.48 No consultants were engaged during 1997/98.

## SERVICES TO THE PUBLIC

### Services and Complaints

- 5.49 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. Investigations are sometimes launched on the basis of such information.
- 5.50 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.
- 5.51 The Commission has a documented formal system for registering and dealing with complaints.

**Publications**

- 5.52 The only Commission publications available to the public are:
- . Annual Reports 1985/86 to 1997/98 inclusive; and
  - . Freedom of Information Statements of Affairs and Summaries of Affairs (current copies are available from the Assistant Director, Operations Support, at the address shown at Appendix D).

**ETHNIC AFFAIRS PRIORITIES REPORT**

- 5.53 During 1996/97 the Commission developed its Ethnic Affairs Priorities Statement.
- 5.54 During 1997/98, the Commission met the aims set out in the Statement, and in particular, offered in-house and externally-provided interpreting services to witnesses involved in Commission hearings and interviews. The Commission dealt with all witnesses, having proper regard to, and respect for, their ethnic origin, culture, religion and language.
- 5.55 The Commission conducted asset confiscation litigation throughout the year in a way which did not discriminate against any group or individual on the basis of race, gender, culture, religion, language or ethnic origin.
- 5.56 Further, the Commission maintained its commitment to equal employment principles and ensured that all staff were trained during the year in the principles of EEO. The profile of the NSW population is reflected in the Commission's workforce (see statistics in this chapter).

**FINANCE**

**Financial Statements and Position**

- 5.57 Audited financial statements can be found in Appendix A of this report.

**Account Payment Performance**

- 5.58 The total value of accounts paid during 1997/98 was \$8,818,643. Of this amount 94.48% was paid on time (94.48% in 1996/97). There were no instances where the Commission was forced to pay penalty interest for late payment during 1997/98.
- 5.59 As at 30 June 1998, \$63,215.04 was outstanding in accounts payable to creditors. All of this amount was current.

	<b>Qtr Ended 30 Sep 97</b>	<b>Qtr Ended 31 Dec 97</b>
Value of Accounts Paid	\$1,544,713	\$2,762,009
Value of Accounts Paid on Time	\$1,464,454	\$2,519,064
% of Accounts Paid on Time	94.80	91.20
Value of Accounts Payable	\$46,821	\$41,099

	<b>Qtr Ended 31 Mar 98</b>	<b>Qtr Ended 30 Jun 98</b>
Value of Accounts Paid	\$1,744,075	2,767,846
Value of Accounts Paid on Time	\$1,646,342	\$2,630,046
% of Accounts Paid on Time	94.40	95.02
Value of Accounts Payable	\$164,852	\$63,215

### Stores and Equipment

5.60 The following table shows expenditure on general stores, IT equipment, furniture and office equipment by month for the 1997/98 financial year.

Month	Expenditure
July	\$19,807
August	\$11,174
September	\$33,734
October	\$32,955
November	\$69,565
December	\$16,532
January	\$23,981
February	\$58,364
March	\$50,255
April	\$20,181
May	\$24,279
June	\$124,537

### Value of Long Service Leave and Recreation Leave

5.61 The value of accrued annual leave, including applicable leave loadings, and extended leave at 30 June 1998 was \$385,018.93 and \$657,644.69 respectively. Both of these amounts were calculated in accordance with AAS30 "Accounting for Employee Leave Entitlements" with the nominal method used for extended leave.

### Major Assets Purchased in 1997/98

5.62 Assets acquired by the Commission during 1997/98 were:

- . Motor vehicles  
\$162,576
  - . Data and other associated cabling work  
\$104,845
  - . Airconditioning in computer room  
\$23,265
  - . Personal computers  
\$151,990
  - . Laser Printers  
\$13,658
  - . File Servers  
\$106,804
  - . Central Routing Switches  
\$72,626
  - . Other equipment  
\$1,076,831
-

**Real Estate**

5.63 In 1993/94 the Commission acquired its main capital asset, being its premises at 453 Kent Street, Sydney for \$5.7 million. During 1997/98 the Commission revalued this to \$7,125,000.

**Risk Management and Insurance**

5.64 The Commission insures against a range of risks, including worker's compensation, motor vehicles, property damage and public liability through the New South Wales Treasury Managed Funds. In 1997/98 the Commission made 6 claims (8 in 1996/97). Of these claims, 2 related to workers compensation (4 in 1996/97) and 4 related to motor vehicles (4 in 1996/97).

**Grants to Community Organisations**

5.65 In accordance with its statutory charter, the Commission did not provide any grants to community organisations in 1997/98.

**INTERNAL AUDIT**

5.66 In 1997/98 the Commission engaged the services of the Audit Office to perform an extended audit in substitution for an internal audit. The areas covered included payroll, property, plant and equipment and other operating expenses.

5.67 The Commission has received the report of the Audit Office on the 1997/98 audit, which found no concerns with the areas examined, with the exception that motor vehicle fuel invoices needed minor attention.

**FREEDOM OF INFORMATION**

5.68 The Commission received one request under the Freedom of Information Act during the year. The Commission's Statement of Affairs appears at Appendix D.

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**CONTRACTING AND MARKET TESTING**

5.69 The Commission has formed the view that the functions market-tested by it in previous years could be more efficiently and cost-effectively performed by Commission staff. A significant factor in these decisions was the need to preserve security.

**NEW SOUTH WALES  
CRIME COMMISSION**

**FINANCIAL STATEMENTS  
FOR YEAR ENDED 30 JUNE 1998**

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**New South Wales Crime Commission**

**Financial Statements for the  
Year Ended 30 June 1998**

**STATEMENT BY COMMISSIONER**

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 for Budget Dependant Agencies, the Public Finance and Audit (General) Regulation 1995, the Treasurer's Directions, 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: 3 December 1998

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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 1998**

	Notes	Actual 1998 \$'000	Budget 1998 \$'000	Actual 1997 \$'000
<b>Expenses</b>				
Operating expenses				
Employee Related	2(a)	5,477	5,521	4,624
Other Operating Expenses	2(b)	2,324	1,843	1,957
Maintenance	2(c)	84	160	153
Depreciation	2(d)	531	690	536
Other Expenses		0	18	0
<b>Total Expenses</b>		<b>8,416</b>	<b>8,232</b>	<b>7,270</b>
Less:				
<b>Retained Revenue</b>				
Investment Income	3(a)	45	50	96
Other Revenue	3(b)	613	247	469
<b>Total Retained Revenue</b>		<b>658</b>	<b>297</b>	<b>565</b>
<b>(Loss) on sale of non-current assets</b>	4	<b>(2)</b>	<b>0</b>	<b>(35)</b>
<b>NET COST OF SERVICES</b>	17(a)	<b>7,760</b>	<b>7,935</b>	<b>6,740</b>
<b>Government Contributions</b>				
Recurrent appropriation		6698	6,666	5,367
Capital appropriation		1800	1800	387
Acceptance by the Crown Transactions Entity of employee entitlements and other liabilities	5	479	579	447
<b>Total Government Contributions</b>		<b>8,977</b>	<b>9,045</b>	<b>6,201</b>
<b>SURPLUS/(DEFICIT) FOR THE YEAR</b>		<b>1,217</b>	<b>1,110</b>	<b>(539)</b>

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**NEW SOUTH WALES CRIME COMMISSION**  
**Statement of Financial Position as at 30 June 1998**

	Notes	Actual 1998 \$'000	Budget 1998 \$'000	Actual 1997 \$'000
<b>ASSETS</b>				
<b>Current Assets</b>				
Cash	18	1,318	1,217	1,217
Receivables	7	87	93	93
<b>Total Current Assets</b>	17(b)	<u>1,405</u>	<u>1,310</u>	<u>1,310</u>
<b>Non-Current Assets</b>				
Land and Buildings	8	7,125	4,941	5,066
Plant and Equipment	8	2,157	2,207	972
<b>Total Non-Current Assets</b>	17(b)	<u>9,282</u>	<u>7,148</u>	<u>6,038</u>
<b>Total Assets</b>		<u>10,687</u>	<u>8,458</u>	<u>7,348</u>
<b>LIABILITIES</b>				
<b>Current Liabilities</b>				
Accounts payable	9	163	388	388
Employee entitlements	10	481	317	317
<b>Total Liabilities</b>	17(b)	<u>644</u>	<u>705</u>	<u>705</u>
<b>Net Assets</b>		<u>10,043</u>	<u>7,753</u>	<u>6,643</u>
<b>EQUITY</b>				
Reserves	11	2,183	0	0
Accumulated funds		7,860	7,753	6,643
<b>TOTAL EQUITY</b>		<u>10,043</u>	<u>7,753</u>	<u>6,643</u>

**NEW SOUTH WALES CRIME COMMISSION**  
**Statement of Cash Flows for the Year Ended 30 June 1998**

	Notes	Actual 1998 \$'000	Budget 1998 \$'000	Actual 1997 \$'000
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>				
<b>Payments</b>				
Employee Related		(5,112)	(4,942)	(4,315)
Other		(2,548)	(2,021)	(1,952)
<b>Total Payments</b>		<u>(7,660)</u>	<u>(6,963)</u>	<u>(6,267)</u>
<b>Receipts</b>				
Other		623	247	471
Interest		68	50	124
<b>Total Receipts</b>		<u>691</u>	<u>297</u>	<u>595</u>
<b>Cash Flows From Government</b>				
Recurrent appropriation		6,698	6,666	5,367
Capital appropriation		1,800	1,800	387
Cash reimbursements from the Crown Transactions Entity		271	0	215
<b>Net Cash Flows From Government</b>		<u>8,769</u>	<u>8,466</u>	<u>5,969</u>
<b>NET CASH FLOWS FROM OPERATING ACTIVITIES</b>	19	<u>1,800</u>	<u>1,800</u>	<u>297</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>				
Proceeds from the sale of property, plant and equipment		101	0	81
Purchase of property, plant and equipment		(1,800)	(1,800)	(387)
<b>NET CASH FLOWS FROM INVESTING ACTIVITIES</b>	17(c)	<u>(1,699)</u>	<u>(1,800)</u>	<u>(306)</u>
<b>NET INCREASE/(DECREASE) IN CASH</b>				
Opening Cash and cash equivalents		101	0	(9)
		1,217	1,217	1,226
<b>CLOSING CASH AND CASH EQUIVALENTS</b>	18	<u>1,318</u>	<u>1,217</u>	<u>1,217</u>

**NEW SOUTH WALES CRIME COMMISSION**  
**Summary of Compliance with Financial Directives for the Year Ended 30 June 1998**

	Actual Appropriations		Estimated	Actual Appropriations		Estimated
	Original	Revised	Expenditure	Original	Revised	Expenditure
	1998	1998	1998	1997	1997	1997
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Recurrent appropriations</b>						
Program 1 *	6,666	6,698	6,698	6,773	6,773	5,367
	<u>6,666</u>	<u>6,698</u>	<u>6,698</u>	<u>6,773</u>	<u>6,773</u>	<u>5,367</u>
<b>Capital appropriations</b>						
Program 1 *	1,800	1,800	1,800	387	387	387
	<u>1,800</u>	<u>1,800</u>	<u>1,800</u>	<u>387</u>	<u>387</u>	<u>387</u>
<b>Total appropriations</b>	<u>8,466</u>	<u>8,498</u>	<u>8,498</u>	<u>7,160</u>	<u>7,160</u>	<u>5,754</u>

\* The name and purpose of Program 1 is summarised in Note 6.

	<b>1998</b>	<b>1997</b>
	<b>\$'000</b>	<b>\$'000</b>
Recurrent Appropriation in Budget Papers	6,666	6,773
Original Appropriation	<u>6,666</u>	<u>6,773</u>
Capital Appropriation in Budget Papers	300	387
Additional Appropriation:		
- Appropriation (1997-98 Budget Variations) Act 1998	1,500	0
Original Appropriation	<u>1,800</u>	<u>387</u>

The Commission received an additional capital allocation in 1997/98 to undertake an extensive upgrading of its technological capabilities.

**NEW SOUTH WALES CRIME COMMISSION**  
**Notes accompanying, and forming part of, the Financial Statements**  
**For the year ended 30 June 1998**

**NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**(a) Reporting Entity**

The New South Wales Crime Commission is a reporting entity comprising all the activities under the control of the Commission.

**(b) Basis of Accounting**

The Commission's financial statements is a general purpose financial report and has been prepared on an accrual basis and in accordance with applicable Australian Accounting Standards and the Urgent Issues Group Consensus Views, the requirements of the Public Finance and Audit Act 1983 and Regulations and the Financial Reporting Directions published in the Financial Reporting Code for Budget Dependant Agencies or issued by the Treasurer under section 9(2)(n) of the Act.

Where there are inconsistencies between the above requirements, the legislative provisions have prevailed.

Statements of Accounting Concepts are used for guidance in the absence of applicable Accounting Standards, Urgent Issues Group Consensus Views and legislative requirements.

The Financial Statements are prepared in accordance with the historical cost convention with the exception of land and building which are valued at market value. All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency. The accounting policies adopted are consistent with those of the previous year.

**(c) Parliamentary Appropriations and Contributions from Other Bodies**

Parliamentary appropriations are recognised as revenues when the Commission obtains control over the assets comprising the appropriations/contributions. Control over appropriations and contributions is normally obtained upon receipt of cash.

**(d) Employee Entitlements**

**(i) Wages and Salaries, Annual Leave, Sick Leave and On-Costs**

Liabilities for wages and salaries, annual leave and vesting sick leave are recognised and measured as the amount unpaid at the reporting date at current pay rates in respect of employees' services up to that date.

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

The outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax, which are consequential to employment, are recognised as liabilities and expenses where employee entitlements to which they relate have been recognised.

(ii) Long Service Leave and Superannuation

The Commission's liabilities for long service leave and superannuation are assumed by the Crown Transactions Entity. The Commission accounts for the liability as having been extinguished resulting in the amount assumed being shown as part of the non-monetary revenue item described as "Acceptance by the Crown Transactions Entity of Employee Entitlements and other Liabilities".

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

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

**(e) Insurance**

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

**(f) Acquisition of Assets**

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by the Commission. Cost is determined as the fair value of the assets given as consideration plus costs incidental to the acquisition.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and revenues at their fair value at the date of acquisition.

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Fair value means the amount for which an asset could be exchanged between a knowledgeable, willing buyer and a knowledgeable, willing seller in an arm's length transaction.

**(g) Plant and Equipment**

Plant and equipment costing \$5000 and above individually are capitalised.

**(h) Revaluation of Physical Non Current Assets**

Buildings and improvements (excluding land) are valued at market value using the capitalisation of the expected net rental returns that the property would achieve. Land is valued on an existing use basis.

Due to the size and nature of the agency's assets revaluation is conducted over a 5 year cycle. The last such revaluation was completed on 30 June 1998. (refer Note 8)

Where assets are revalued upward or downward as a result of a revaluation of a class of non current physical assets, the Commission restates separately the gross amount and the related accumulated depreciation of that class of assets.

The recoverable amount test has not been applied as the Commission is a not-for-profit entity whose service potential is not related to the ability to generate net cash inflows.

**(i) Depreciation of Non Current Physical Assets**

Depreciation is provided for on a straight line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the entity. Land is not a depreciable asset. The rates of depreciation applied to relevant categories of assets are set out in the following table and are consistent with those used in 1996/97.

<b>Depreciation Asset Category</b>	<b>Rate %</b>
Computer equipment and software	33.30
Office Equipment: Mechanical/Electronic	10.00
Office Equipment: Furniture/Fittings	7.50
Motor Vehicles	15.00
Building	3.33

**(j) Leased Assets**

Operating lease payments are charged to the Operating Statement in the periods in which they are incurred.

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**NOTE 2: EXPENSES**

**(a) Employee Related Expenses**

	<b>1998</b>	<b>1997</b>
	<b>\$'000</b>	<b>\$'000</b>
Salaries and Wages (including recreation leave)	4,421	3,777
Superannuation	297	253
Long service leave	162	177
Workers compensation insurance	21	16
Payroll tax and fringe benefits tax	334	286
Other	242	115
	<u>5,477</u>	<u>4,624</u>

**(b) Other Operating Expenses**

	<b>1998</b>	<b>1997</b>
	<b>\$'000</b>	<b>\$'000</b>
Auditor's remuneration*	17	19
Insurance	24	25
Office Utilities	109	108
Office supplies	768	753
Computer Services	421	218
Travel Expenses	33	29
Motor Vehicle Expenses	(7)	(2)
Service Fees	702	388
Other	257	419
	<u>2,324</u>	<u>1,957</u>
*Includes Internal Audit Fee	2	4

**(c) Maintenance**

	<b>1998</b>	<b>1997</b>
	<b>\$'000</b>	<b>\$'000</b>
Repairs and routine maintenance	84	153
	<u>84</u>	<u>153</u>

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**(d) Depreciation**

	<b>1998</b>	<b>1997</b>
	<b>\$'000</b>	<b>\$'000</b>
Building	124	125
Plant and Equipment	52	54
Computer Equipment	307	331
Motor Vehicles	48	26
	<hr/> 531	<hr/> 536

**NOTE 3: REVENUES**

**(a) Investment Income**

	<b>1998</b>	<b>1997</b>
	<b>\$'000</b>	<b>\$'000</b>
Interest	45	96
	<hr/> 45	<hr/> 96

**(b) Other Revenue**

	<b>1998</b>	<b>1997</b>
	<b>\$'000</b>	<b>\$'000</b>
Lease of Advertising signage	49	117
Rental of office space	75	301
Professional costs recovered	486	0
Miscellaneous	3	51
	<hr/> 613	<hr/> 469

**NOTE 4: GAIN / (LOSS) ON SALE OF NON-CURRENT ASSETS**

	<b>1998</b>	<b>1997</b>
	<b>\$'000</b>	<b>\$'000</b>
	<hr/>	<hr/>

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Appendix A: Financial Statements

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Proceeds from sale	120	81
Written down value of assets sold	(122)	(116)
Net gain/ (loss) on disposal of non-current assets	(2)	(35)

**NOTE 5: ACCEPTANCE BY THE CROWN TRANSACTIONS ENTITY OF EMPLOYEE ENTITLEMENTS AND OTHER LIABILITIES**

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

	1998 \$'000	1997 \$'000
Superannuation	297	253
Long service leave	162	177
Payroll tax	20	17
	479	447

**NOTE 6: PROGRAMS/ ACTIVITIES OF THE COMMISSION**

The program number of the New South Wales Crime Commission is 60.1.1. The Commission comprises only one program.

Program Objective(s): 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.

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**NOTE 7: CURRENT ASSETS-RECEIVABLES**

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

	<b>1998</b>	<b>1997</b>
	<b>\$'000</b>	<b>\$'000</b>
Interest receivable	24	47
Operational expenses to be recouped	18	4
Prepayments	25	30
Other Debtors	20	12
Less: Provision for doubtful debts	0	0
	<u>87</u>	<u>93</u>

**NOTE 8: NON CURRENT ASSETS- PROPERTY, PLANT AND EQUIPMENT**

	<b>Computer Equipment \$'000</b>	<b>General Equipment \$'000</b>	<b>Motor Vehicles \$'000</b>	<b>Building \$'000</b>	<b>Land \$'000</b>	<b>Total 1998 \$'000</b>	<b>Total 1997 \$'000</b>
<b>At Cost or Valuation:</b>							
Balance at 1 July 1997	1,178	575	262	3,731	1,800	7,546	7,355
Additions	1,505	45	163	0	0	1,713	462
Revaluation adjustment	0	0	0	19	1,575	1,594	0
Disposals	(4)	(0)	(140)	(0)	(0)	(144)	(271)
Balance at 30 June 1998	<u>2,679</u>	<u>620</u>	<u>285</u>	<u>3,750</u>	<u>3,375</u>	<u>10,709</u>	<u>7,546</u>
<b>Accumulated Depreciation:</b>							
Balance at 1 July 1997	890	130	23	465	0	1,508	1,127
Depreciation for Year	307	52	48	124	0	531	536
Revaluation adjustment	0	0	0	(589)	0	(589)	0
Write Back on Disposal	(3)	(0)	(20)	(0)	(0)	(23)	(1,235)
Balance at 30 June 1998	<u>1,194</u>	<u>182</u>	<u>51</u>	<u>0</u>	<u>0</u>	<u>1,427</u>	<u>1,508</u>
<b>Written Down Value:</b>							
As at 1 July 1997	288	445	239	3,266	1,800	6,038	6,228

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As at 30 June 1998	1,485	438	234	3,750	3,375	9,282	6,038
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In accordance with Government policy the Commission revalued its assets on a five year cycle. This is the first time under this policy that the Commission has been required to revalue any of its assets.

During 1997/98 the Commission revalued its Land and Building. This valuation was current at 30 June 1998. The valuation was performed using the capitalisation of the expected net rental returns that the Commission's property would achieve. A secondary, or check-method of valuation, undertakes an analysis on a rate per square metre of building from comparable commercial sales.

As a result of this valuation the Commission's Land and Building were valued collectively at \$7,125,000. Following discussions with the valuer the Commission has determined that the appropriate value for the building portion of the property was \$3,750,000.

The Commission purchased these assets in 1993 at a total cost of \$5,531,000 and had depreciated the building by \$589,000 at 30 June 1998. This valuation means that the value of these assets has increased by \$1,594,000 (in cost terms) over the 5 year period.

The valuation was performed by Mr D Hill AVLE (Val) Registered Valuer No. 3102 of the State Valuation Office.

The Commission continues to derive service potential and economic benefit from \$759,000 worth of assets which have been fully depreciated. The majority of these assets are computer equipment valued at \$753,000.

**NOTE 9: CURRENT LIABILITIES- ACCOUNTS PAYABLE**

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in Treasurer's Direction 219.01. If trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. Treasurer's Direction 219.01 allows the Minister to award interest for late payment. No such payments were made during 1997/98.

	<b>1998</b>	<b>1997</b>
	<b>\$'000</b>	<b>\$'000</b>
Creditors	63	99
Accrued Other Operating Expenses	75	217
Accrued Capital expenses	25	72
	<hr/> 163	<hr/> 388

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**NOTE 10: CURRENT LIABILITIES- EMPLOYEE ENTITLEMENTS**

	<b>1998</b>	<b>1997</b>
	<b>\$'000</b>	<b>\$'000</b>
Recreation leave	385	317
Accrued salaries and wages	53	0
Accrued fringe benefits tax	43	0
	<hr/> 481	<hr/> 317

**NOTE 11: CHANGES IN EQUITY**

	<b>Accumulated</b>		<b>Asset</b>		<b>Total</b>	
	<b>Funds</b>		<b>Revaluation</b>		<b>Equity</b>	
	<b>1998</b>	<b>1997</b>	<b>1998</b>	<b>1997</b>	<b>1998</b>	<b>1997</b>
	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
Balance at the beginning of the financial year	6,643	7,182	0	0	6,643	7,182
Surplus/(deficit) for the year	1,217	(539)	0	0	1,217	(539)
Increment on revaluation of:						
Land	0	0	1,575	0	1,575	0
Building	0	0	608	0	608	0
Balance at the end of the financial year:	<hr/> 7,860	<hr/> 6,643	<hr/> 2,183	<hr/> 0	<hr/> 10,043	<hr/> 6,643

**NOTE 12: 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.

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**NOTE 13: COMMITMENTS FOR EXPENDITURE**

13.1 Capital Commitment

	<b>1998</b>	<b>1997</b>
	<b>\$'000</b>	<b>\$'000</b>
Aggregate other expenditure contracted for at balance date and not provided for:		
Less than 1 year	0	18
Total	0	18

13.2 Other Expenditure Commitments

	<b>1998</b>	<b>1997</b>
	<b>\$'000</b>	<b>\$'000</b>
Aggregate other expenditure contracted for at balance date and not provided for:		
Less than 1 year	43	64
Between 1-2 years	9	0
Total	52	64

**NOTE 14: CONTINGENT LIABILITIES**

A claim totalling \$192,812 has been forwarded to the Commission by the Property Services Group in respect of a make-good payment on Crown Lease, Level 3, Stage 2, 175 Liverpool Street, Sydney (the site of the Commission's previous premises). This claim is disputed by the Commission.

**NOTE 15: BAD DEBTS WRITTEN OFF**

No amounts were written off in 1997/98 as bad debts. (1996/97 \$0)

**NOTE 16: MATERIAL ASSISTANCE PROVIDED BY OTHER PARTIES**

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No material assistance was received by the NSW Crime Commission free of charge during 1997/98 from any other organisation.

## **NOTE 17: BUDGET REVIEW**

### **(a) Net cost of services**

The actual net cost of services was less than the budget allocation by \$175,000. This favourable result was due to significant increases in revenue partially offset by increases in operating expenses.

The increase in revenue is solely attributable to a new revenue item for the recovery of professional costs in matters litigated under the Criminal Assets Recovery Act, 1990 (CAR Act). The Commission received approval from the Treasurer in 1997/98 to seek and retain legal costs in matters successfully litigated under CAR Act.

The increases in operating expenditure are predominantly in the area of Other Operating Expenses. This is because during 1997/98 there was a considerable increase in expenditure incurred by the Commission on legal expenses to litigate confiscation matters. This was mainly due to a significant backlog of cases which is expected to be at a lower level in 1998/99.

### **(b) Assets and Liabilities**

#### **- Current Assets**

The actual level of current assets held by the Commission at 30 June 1998 was \$95,000 higher than the budgeted amount. This was caused by an increase in the level of cash held by the Commission at 30 June 1998 over that at 30 June 1997.

The level of cash held by the Commission increased primarily due to the proceeds received from asset sales throughout 1997/98.

#### **- Current Liabilities**

The level of current liabilities was \$61,000 lower than the budgeted amount at 30 June 1998. This was caused by a decrease in the level of accrued expenditure which was partially offset by an increase in the annual leave provision held for employees' leave entitlements.

The decrease in the level of creditors at 30 June 1998 was predominantly due to one supplier. At 30 June 1997 payments totalling \$161,000 for work on supplying and installing a new computer application were due. This work was not completed to the Commission's satisfaction at 30 June 1997 so payment was withheld. The

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work has now been satisfactorily completed and payment made. This situation was not repeated at 30 June 1998.

The increase in the annual leave provision of \$68,000 resulted from increases in the level of staff during the year and salary increases received by staff during the year.

- **Non Current Assets**

The total non current assets was \$2,134,000 higher than the budgeted amount for the period. This was predominantly due to the revaluation of the Commission's land and building which occurred during 1997/98. This revaluation increased the value of these classes of assets by \$2,183,000.

**(c) Cash Flows.**

- **Net Cash Flows from Investing Activities**

The actual level of net cash flows from investing activities for 1997/98 was \$101,000 lower than the budgeted amount for the period. This decrease was due to proceeds from asset sales of \$100,000 received by the Commission during 1997/98.

**NOTE 18: CASH AND CASH EQUIVALENTS**

For the purpose of the Cash Flow Statement "cash" comprised cash on hand and bank balances within the Treasury banking system. Interest is earned on daily bank balances at the monthly average NSW Treasury Corp (Tcorp) 11am unofficial cash rate adjusted for a management fee to Treasury. The weighted average interest rate received by the Commission on its daily bank balances for 1997/98 was 4.03%.

Cash at the end of the reporting period, as shown in the Cash Flow Statement, was reconciled to the related items in the Statement of Financial Position as follows:

	<b>1998</b>	<b>1997</b>
	<b>\$'000</b>	<b>\$'000</b>
Cash on hand	22	230
Cash at the bank	1,296	987
Closing Cash and Cash Equivalents (per Cash Flow Statement)	1,318	1,217

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**NOTE 19: RECONCILIATION OF NET CASH FLOWS FROM OPERATING ACTIVITIES TO NET COST OF SERVICES**

	<b>1998</b>	<b>1997</b>
	<b>\$'000</b>	<b>\$'000</b>
Net Cash From Operating Activities	1,800	297
Depreciation	(531)	(536)
Decrease/(Increase) in provisions	(68)	(47)
Acceptance by the Crown Transactions Entity of employee entitlements and other liabilities	(479)	(447)
Decrease in prepayments and other assets	(24)	(77)
(Increase)/decrease in accounts payable	42	(141)
Recurrent appropriation	(6,698)	(5,367)
Capital appropriation	(1,800)	(387)
Net (loss) on sale of plant and equipment	(2)	(35)
Net cost of services	<u>(7,760)</u>	<u>(6,740)</u>

**NOTE 20: TRUST FUNDS - JOINT OPERATION WITH OFFICE OF STATE REVENUE**

During 1995/96 the Commission was granted a reference which involved the Office of State Revenue (OSR). For the convenience of Office of State Revenue staff who were located at the Commission, funds were deposited into the Crime Commission's bank account. These funds remained directly under the control of OSR. The operation has now concluded and the unexpended balance has been returned to OSR.

As the Commission performed only a custodial role in respect of the trust monies they are not brought to account in the financial statements, but are shown in the notes for information purposes.

The amount of funding provided and spent by the Office of State Revenue in relation to this joint operation during 1996/97 is shown below:

Appendix A: Financial Statements

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	<b>1998</b>	<b>1997</b>
	<b>\$'000</b>	<b>\$'000</b>
Cash balance at the beginning of the financial year	24	62
Add: Receipts	0	0
Less: Balance returned to OSR	24	38
Cash balance at the end of the reporting period	0	24

**NOTE 21: ADMINISTERED ASSETS AND LIABILITIES**

The Commission has no administered assets or liabilities as at 30 June 1998 (30/6/97-\$0)

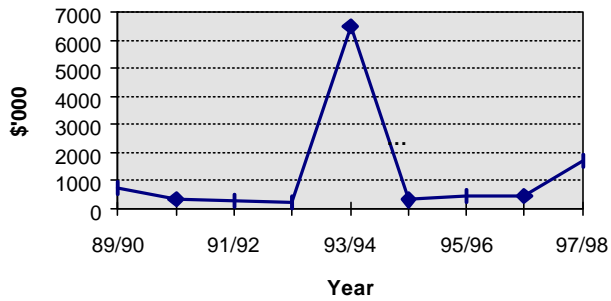
**END OF AUDITED STATEMENTS**

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

### Capital Expenditure

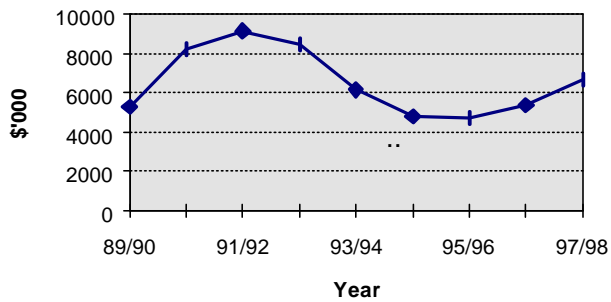
Capital Expenditure



Note: The Commission purchased its Kent Street premises in 1993/94.

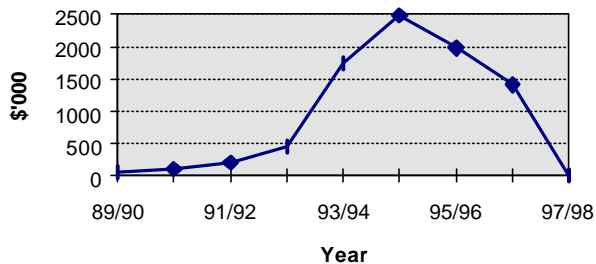
### Recurrent Cost to Government

Recurrent Cost to Government



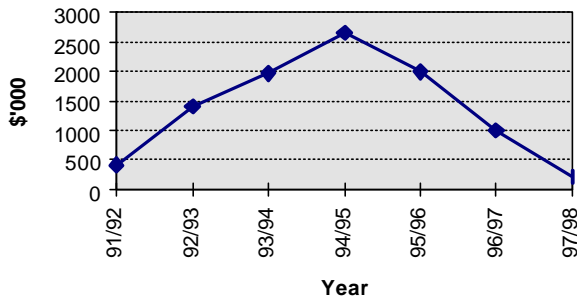
### Surplus Achieved Against Recurrent Budget Allocation

Surplus Achieved Against Recurrent Budget Allocation



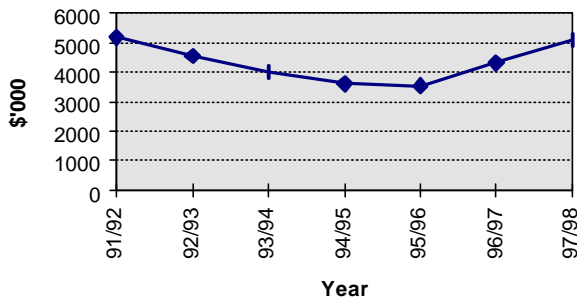
**Surplus (On Accrual Basis)**

**Surplus (Accrual Basis)**



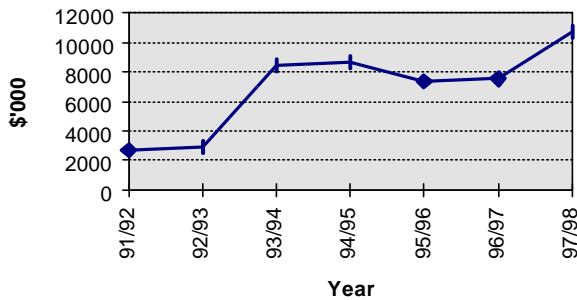
**Net Cash Used on Employee Related Payments**

**Net Cash on Employee Related Payments**



**Gross Value of Commission Non-Current Assets**

**Gross Value of Non-Current Assets**



Note: The Commission's Kent Street premises were revalued in 1997/98.

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**Appendix B: Financial Comparisons with Previous Years**

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## NEW SOUTH WALES CRIME COMMISSION OUTLINE OF 1998/99 BUDGET

The proposed operating budget for the NSW Crime Commission for the 1998/99 financial year is:

	<b>\$'000</b>	<b>\$'000</b>
<u>Expenses</u>		
Employee-related expenses	6,121	
Other operating expenses	2,104	
Maintenance	120	
Depreciation	1,181	
Other Services	18	9,544
<u>Revenue</u>		
User charges revenue	505	
Other departmental revenue	50	(555)
(Loss) on sale of non current assets		(10)
<u>Net Cost of Services</u>		<b>\$8,979</b>

The proposed capital budget for the Commission for the 1998/99 financial year is:

Acquisition of property, plant and equipment:	<u>\$1,300,000</u>
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**STATEMENT OF AFFAIRS  
PURSUANT TO s14(2) OF THE  
FREEDOM OF INFORMATION ACT 1989  
AS AT 30 JUNE 1998**

**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 Criminal Assets Recovery Act 1990 (previously known as the Drug Trafficking (Civil Proceedings) Act), which relates to the confiscation of the assets of serious criminals.

**1.2 Commission Membership**

The Commission may consist of one or more members, one of whom is appointed as a full-time Commissioner of the Commission and must have special legal qualifications. Other members may be appointed as Assistant Commissioners.

**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 as set out in 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 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;
- . 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 has responsibility for administration of the New South Wales Crime Commission Act and the Criminal Assets Recovery 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 (Chairman), the Commissioner of the NSW Police Service, the Chairman of the National Crime Authority, or another nominated Member of the National Crime Authority, and the Commissioner of the Commission.

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### 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 Operations and Operations Support Divisions.

**1.8.2** The Operations Division comprises staff who conduct the core investigation and confiscation work of the Commission. The Division comprises multi-disciplinary teams, with all team leaders reporting to the Director.

**1.8.3** The Operations Support Division comprises staff who support the core work of the Commission. Functions include Security, Finance, Registry, Building Services, Human Resources and Evidence Preparation.

## 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 Criminal Assets

Recovery Act. It does not provide 'services' directly 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 confiscation litigation. In addition, the Commission's performance of its functions is beneficial to the community, by combating 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, or the Commission's main number on (02) 9269 3888. 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. 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.

**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.

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

**The Commissioner  
New South Wales Crime Commission  
PO Box Q566  
QVB Post Office  
SYDNEY 1230**

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: Assistant Director, Operations  
Support  
(02) 9269-3888**

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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 serious criminal activities.

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

The Commission's main clients are its Management Committee, New South Wales Police Service Crime Agencies strike forces and other Police task forces and investigative agencies, to whom the Commission provides investigation 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 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's investigations are conducted by multi-disciplinary teams, including Police task force officers. Investigative tools and specialised team personnel include intelligence analysts, financial investigators and lawyers, electronic surveillance, financial support for operations, administrative support services, including evidence preparation and registry services, and statutory powers to conduct hearings and obtain documents.

The Commission also takes action, consequent upon persons being charged with serious criminal 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.

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.
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## Appendix E: Guarantee of Service

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- . 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.

### **Complaints Procedures**

Comments, criticisms or complaints about the provision of services can be made to the Director or the Commissioner. The Commission has a formal complaints handling mechanism.

### **Contact Details**

**Street Address:** 453 Kent Street  
(Corner Druitt Street)  
Sydney

**Postal Address:** PO Box Q566  
QVB Post Office  
Sydney 1230

**Telephone:** (02) 9269 3888

**Facsimile:** (02) 9269 3809

**Business Hours:** 8.30am to 5.00pm  
Monday to Friday  
(Commission staff can be available outside these hours when required).

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## 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 contract staff, and police officers inducted as members of staff of the Commission, 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);
- \* Criminal Assets Recovery Act 1990;
- \* Crimes Act 1900;
- \* Anti-Discrimination Act 1977;
- \* Protected Disclosures Act 1994;
- \* 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.
- \* Law Enforcement (Controlled Operations) Act 1997

### APPLICATION

The Code applies to every individual employed as an officer of the Commission, including the Commissioner and other members, a member of staff of the Commission including NSW police officers conducting investigations under Commission References, 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 periodically, 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;
- \* proper regard to the public interest;
- \* fairness;

- \* conscientiousness; and
- \* compassion.

**Examples** are found in the corruption prevention policy.

**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.
  - \* The powers of the Commission must never be used as a threat.
  - \* The fact that an officer works at the Commission should not be used to gain a personal advantage, other than the usual emoluments.
  - \* 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. **Example:** a spouse of an officer 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. **Example:** acquisition of assets, such as a holiday house or improvements to a home. Early disclosure of the reason for change in financial position will help to rebut any allegations of impropriety.

## 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 personal use or receiving gifts or other benefits from a successful tenderer;
  - . providing information to a friend about a Commission investigation

concerning that person or someone they know.

- \* 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 in accordance with the Complaints Procedure.
- \* **Examples:**
  - . if a person known to you (such as a friend, relative 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 report must be provided in accordance with the Complaints Procedure.
- \* 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 may not be acceptable in the public sector. Token gifts of nominal value may be accepted where a refusal would cause unnecessary

## Appendix F: Code of Conduct

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embarrassment. Any such gift must be disclosed to the Commission.

- \* 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.
- \* Officers' spouses/partners should also be alive to these perceptions.

### Examples:

- . If you accept a gift or lunch from a contractor or supplier, that person may put pressure on you not to strictly enforce the contract. The cost of meals consumed by an officer should be paid for by the officer, as doing otherwise may give rise to an expectation or a perception that that person will obtain a contract from the Commission.
- . Token refreshments such as coffee or tea may be accepted without the need for the officer to meet the cost or report it.
- . 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 regarded by some as 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 meet with someone who is being investigated by the Commission, people may assume you are providing confidential information or will attempt to influence the investigation. Disclosure or recording is therefore important.
- . 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.

- \* 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 section 29 of 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 or the law. 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, unfairly 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 providing such information will be offered protection from harassment and discrimination arising out of such reporting.

### Example:

- . an officer might feel that government policy and the law on drug decriminalisation is wrong. The officer must nevertheless uphold the current law and support current policy.
- . an officer who is aware of persistent personal use of a Commission computer or other equipment by another officer must report it.

## Appendix F: Code of Conduct

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- . 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 -  
**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 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 or any official position;
- \* All officers are responsible for their own acts and omissions and, within reason, those 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

- \* The Commission is governed by statutory secrecy provisions and privacy obligations. Public comment may be contrary to these obligations and may prejudice opportunities for a fair trial of a defendant.
- \* Officers must not make any official comment on matters relating to the Commission unless authorised by the Commission.
- \* It is important to remember that personal views attributed to an officer in public speaking engagements, on radio or television, in letters to or professional journals, or at social functions, may be construed as official comment.

### 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 be normally 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 a 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 Commissioner 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 or suspicions of corrupt conduct by Police Officers are reported directly to the Commander, Internal Affairs and the Police Integrity Commission.
- \* It is the duty of an officer to report to the Commission any corrupt conduct which is encountered.
- \* Officers who report matters of corruption will be offered protection from reprisals that might otherwise be inflicted on them because of those disclosures, as outlined in the Protected Disclosures Act 1994 and the Commission's associated policy.

### **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:** using public money (including credit cards, Cabcharge dockets) for private purposes; making false or inflated travel or overtime claims; attending conferences at Commission expense which are not relevant to the officer's work or professional advancement; travelling to a course at a distant location to visit family when the same course is being offered at a closer location; using equipment such as
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## Appendix F: Code of Conduct

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photocopiers and computers for private use, or making excessive private telephone calls.

- \* Commission resources may be used for private purposes (such as using the Commission's stand-alone personal use computer to prepare a job application). Such work must be conducted in an officer's personal time. Officers must ensure that the equipment is properly cared for, and must ensure that the ability of the officer and other officers to fulfil their duties is not impeded by the use of the equipment.
- \* Telephones at work may be used for personal calls only if they are local, short, infrequent and do not interfere with the officer's work. Personal STD calls may be made if kept to a minimum and booked through Security as a personal call.
- \* Unless otherwise specified in the officer's employment contract, 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 to the Commission 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 their offer of employment to 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 in order to maximise their safety and that of all Commission staff, records and property.

### SANCTIONS

- \* Supervisors must report any breaches of the Code of Conduct to the Commission.
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## Appendix F: Code of Conduct

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\* 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 the seriousness of the breach and whether or not it has occurred on more than one occasion. Sanctions 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
  - . criminal prosecution.
-

**STATEMENT OF COMPLIANCE BY THE  
COMMISSIONER**

The Chief Executive Officer is required to report on various issues in the annual report.

1. Internal Audit

The Commission has ongoing program of internal audit, which includes review of the Commission's operations, procedures and policies by both Commission staff and by external auditors. During 1997/98 the Commission's payroll, property, plant and equipment and other operating functions were audited by the NSW Audit Office. The results of that audit indicated no problems other than the need for minor alteration to motor vehicle fuel purchase procedures. The Commission has rectified this matter.

The Commission is committed to the internal audit process, which it sees as critical to its effective operations. The size of the Commission makes it difficult to dedicate staff to the process in the way that larger corporations do. A small agency can justify a less formal process.

2. Risk Management

The Commission insures against a range of risks, including workers compensation, motor vehicles and property damage through the NSW Treasury Managed Funds.

The major areas of risk associated with the Commission's activities are the loss of money in undercover operations, misappropriation of funds, loss of exhibits including valuable seizures, undertakings as to damages in confiscation matters, and leakage of confidential information, including that required to be kept secret by various statutes. There are a number of other areas where the level of risk has been judged to be low by risk management assessment.

The Commission feels that it has adequate measures in place to manage these risks. These include computer access controls, internal controls, occupational health and safety measures, and a corruption prevention program.

3. Compliance with Annual Reporting Requirements

This report complies with statutory requirements and is an accurate reflection of the Commission's activities during the reporting year.

P Bradley  
Commissioner

ORGANISATION CHART PAGE

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