

Forward to the Minister

NSW Crime Commission
453 Kent Street
SYDNEY 2000

30 October 1999

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 1999 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*. Its contents comply with the requirements of those Acts and Government policy.

Yours sincerely,

.....
P A Bradley
Commissioner

**COMMENT ON THE 1998/99 ANNUAL REPORT BY THE
NEW SOUTH WALES CRIME COMMISSION
MANAGEMENT COMMITTEE**

The Committee notes that the thirteenth full year of operation of the Crime Commission has been marked by continued growth in output, especially in the area of confiscation of assets, while maintaining very low levels of consumption of public resources. The increased investment in capital 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.

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P F P Whelan

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P J Ryan

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G Crooke QC, for J H Broome

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P A Bradley

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SERVICES TO THE PUBLIC		LLB	Bachelor of Laws
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		PIC	Police Integrity Commission
		QPM	Queen's Police Medal

LIST OF ABBREVIATIONS

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SCOCCI	Standing Committee on Organised Crime and Criminal Intelligence	SES	Senior Executive Service
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COMMISSION MEMBERSHIP

Section 5 of the NSW Crime Commission Act provides for one Commissioner and, if necessary, one or more Assistant Commissioners.

During 1998/99 Mr Phillip Bradley was the Commissioner of the New South Wales Crime Commission.

There were no Assistant Commissioners appointed during the reporting period.

SENIOR STAFF DURING 1998/99

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 (June 1999)

Assistant Director, Investigations
Mark Standen (March 1996)

Assistant Director, Technical
Nick Dowling (July 1997)

Assistant Director, Operations Support
Alison Brook (October 1993)

**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.

Disseminating information and intelligence; and investigatory, technological and analytical expertise.

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

THIS REPORT

The NSW Crime Commission is often described as a secret organisation. This description is often used by journalists who are frustrated by the lack of opportunity to observe what we do. Hearings, it is often said, should be open to the public, as is the case with the ICAC and Royal Commissions.

There is some truth in the assertion that the Commission is secretive. The Commission is involved in the criminal investigation process, which is not, and should not be, conducted in a way that permits each step in the process to be reported upon. It is not valid to compare our investigative activities to those of the ICAC or a Royal Commission, which are involved in *revelation* through the hearing process. Even in these bodies, many investigative activities are conducted in secret before the results are revealed.

The Commission's results are usually revealed in the criminal prosecution process where there are well-established rules about what can and cannot be published.

Court proceedings, whether criminal prosecutions or civil recovery actions, reveal something of what the Commission does and how it does it, but within the specific boundaries of specific cases.

The Annual Report of the Commission is one of the few documents which reveals what we do in a general way. Documents can be obtained by subpoena, but this process is limited to specific cases and by rules about forensic purposes and public interest. The Freedom of Information Act also allows limited access to documents but, because the Commission's activities are investigative, most operational documents are exempt from disclosure. The Annual Report contains limited information about what we do and how we do it. It reveals the subject matters, which we have investigated, and provides statistical information on confiscation action. There is usually no reference to individual cases because of statutory restrictions, and not much is published about methodology because that would not be in the public interest.

The Commission can and does say things about its effectiveness and the administrative and legislative arrangements that affect it. This has been done on many occasions. But even in this area there are limitations on what can be said about weaknesses in the system as these might be exploited by others.

Essentially the reader, whether a Member of Parliament or a member of the public, is concerned to know how much it costs to do what we do and whether the expense is worth it. A summary of the costs appears below:

Cost:

Overall cost to Government:	\$9,496,000
Cash allocated:	\$8,451,000
Capital:	\$1,205,000

The capital cost is high relative to average expenditure over the past ten years. This is because technical intelligence gathering and internal distribution systems were the subject of minimal funding over an extended period of time. The Commission launched a refit and embraced the problems associated with deregulation of the telecommunications industry and the entry of new telecommunications carriers. This has been an expensive undertaking by Commission standards and the levels of expenditure are likely to be sustained due to new technical changes and the short productive life of new equipment. (The accepted life of PC's for depreciation purposes is three years and at the top level they become obsolete even more quickly due largely to software changes and demands for higher speed performance.)

Annual recurrent expenditure remains stable due to the Commission's deliberate policy of restricting growth and concentrating small numbers of specialised resources on particular activities. The biggest component is employee costs with a total payroll of 93 persons at an average cost of \$65,989, including on-costs. The average salary is \$56,080.

Output

Whether or not the Commission's performance represents value for money will ultimately be a subjective assessment. However, the Commission takes seriously the injunction from the Public Accounts Committee and the Auditor-General to say something meaningful about its performance.

The Commission was called upon to do this in a limited way during the Budget process in 1998, though that process was not repeated in the following year. The process involved benchmarking the Commission's outputs against comparable agencies. In the main, the Commission found that it had to resort to limited

statistical data such as the number of hearings, warrants, notices, court cases and costs incurred by the Commission.

The main problem with this approach is that it gives no indication of quality of output nor outcomes and a limited indication of true quantity of output. There was also difficulty in finding comparable agencies. There are none which divide their resources between investigation and confiscation litigation.

A further problem in assessing the Commission's output is that almost all of the work which it does depends in part on the performance of its partners. The Commission does very little of its work alone. Even confiscation litigation depends, to a great extent, on the standard of evidence collected by others. Criminal investigation work depends on task force members and the prosecution results are largely a matter for the DPP. Results pertaining to the use of the Commission's special investigative powers are found elsewhere in this report. They may be summarised as follows:

. Criminal Investigations:

- 668 notices under s17 of the NSW Crime Commission Act;
- 195 summonses under s16 of the NSW Crime Commission Act;
- 609 warrants under the Listening Devices Act; and
- 173 warrants under the Telecommunications (Interception) Act.

. Criminal Assets Recovery Act:

- 101 restraining orders obtained;
- 122 confiscation orders obtained;
- \$10,039,970 recovered; including
- \$653,931 legal costs.

These figures compare favourably with other agencies where comparison is possible. Their validity as an indicator of performance is another matter.

In the Commission's view, an external assessment would be valuable, but there is substantial difficulty in finding appropriate things to measure. Only a

survey of the persons who are in a position to make a qualitative judgement could give a result, which could be regarded as valid. The Commission attempted this in the past and the results, though favourable, have not been regarded as reliable. This is because the respondents were partners or stakeholders who, for reasons of comity, would not wish to be critical.

In 1997 the Commission conducted feedback sessions with staff. This disclosed the need for improvement in internal communication, staff appraisal and feedback. The lessons learned from that process have been implemented and it is intended to repeat the process in late 1999.

A more subjective assessment of the Commission's performance might draw attention to the number of matters referred to the Commission and the results achieved in terms of the total amount of crime. It is not possible to measure the total number of crimes committed which would fall within the terms of a *Reference*. It is possible to say that the number detected is very small. The national figure for money laundering is estimated to be more than \$3 billion per annum. Most of this would occur in New South Wales. The Commission confiscates around \$10 million per annum, mainly from drug traffickers. Benchmarking in this area is possible but unreliable. The results of such an exercise are superficially favourable, but the variations between the environments obtaining in Australian jurisdictions account for much of the difference.

OVERVIEW OF 1998/99

During the course of the year, the Commission has continued to direct its resources to the two main areas of activity with improving results. The structure of the Commission has been further adjusted to optimise efficiency in these areas. The increases in outputs have been marginal compared to previous years. However, there have been some more substantial changes in focus.

The main source of non-Government revenue has been costs recovered in confiscation legislation, which this year amounted to \$653,931. The total value of realisable confiscation orders for the year was \$9,386,039.

The Commission is continuing to work towards the reduction of matters before the Supreme Court by bringing litigation to an early conclusion. At the close of the year the total number of current matters in the Supreme Court was 101 compared with a peak of 245 in 1998.

During the period the Commission was issued three new *References* to investigate murders, organised crime and instances of paedophile activity. An increased amount of the resources deployed under other *References*, such as *Azure* and *Eden*, have been used to investigate crimes of violence, particularly murders. Based on what we have learned during the course of the year, there will be an even greater focus on murders and murder weapons during the coming year.

CHAPTER ONE

ESTABLISHMENT AND FUNCTIONS

ESTABLISHMENT

1.1 The Commission was established in January 1986 as a statutory corporation. 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 in 1997, 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 has primary responsibility 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. Those meetings are minuted and are generally held weekly.

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.

MANAGEMENT COMMITTEE

1.10 During 1998/99 the Management Committee comprised the Minister for Police, the Hon P F P Whelan LLB 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 ten 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.

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 is usually conducted by teams consisting of members of the NSW Police Service and Commission staff.
- 2.8 During 1998/99, 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 and 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 are embodied in the Directions and Guidelines issued by the Management Committee. These arrangements are between the Management Committee and the Police Commissioner under section 27A of the Act. Revised

Directions and Guidelines were issued in _____
the reporting year.

- 2.12 The revision reflected changes in practices and structure within the 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 Commissioner, as a member of the Crime Agencies Management Committee, is able to monitor the application of police resources to matters of interest to the Commission. 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 are carried out within the Police Service.

MATTERS REFERRED TO THE COMMISSION

- 2.16 During the year under review, the Commission was granted 3 new References, and a number of existing References were revised and reissued.
- 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 investigations conducted under References, which were current in 1998/99.

- 2.19 Some of the longer standing References, such as *Bianco*, have been given less attention during the year. Other References, such as *Eden* and *Azure*, have assumed greater prominence than in previous years. As in 1997/98, the Commission has devoted significant resources to References such as *Gymea* and *Mascot*.

ACTIVE REFERENCES

Reference "*Azure III*", referred on 30 November 1998

- 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 On 30 November 1998, the *Azure II* Reference was superseded by the *Azure III* Reference. The Reference was revised to enable the Commission to investigate serious drug offences, money laundering and offences involving violence, including serious assault, robbery and murder committed by members of the Australian/Lebanese community in NSW. A number of *Azure III* targets also fall under the *Eden II* Reference and are covered in that report.

2.22 Statistical Data for 1998/99

Arrests	4
Charges Laid	21

Note: The above results include data for *Azure II* for the period 1 July 1998 to 30 November 1998.

Reference "*Bianco III*", referred on 30 November 1998

- 2.23 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 investigated serious drug offences, larceny, money laundering, corruption and associated violence in the Australian/Romanian community. *Bianco II* was superseded on 30 November 1998 by the *Bianco III* Reference.

2.24 During the reporting year no arrests were made nor drugs seized under the Bianco Reference. A number of Australian/Romanians were arrested in NSW and interstate by other law enforcement agencies. Some of those cases were referred to the Commission for confiscation action. The results of these referrals resulted in more than \$850,000 in asset forfeiture.

Reference “Gecko II”, referred on 1 December 1998

2.25 On 3 May 1991, the Management Committee referred the *Gecko* Reference to the Commission to investigate drug trafficking, money laundering and other relevant criminal activity within Australian/South East Asian communities. On 1 December 1998, the *Gecko* Reference was superseded by the *Gecko II* Reference. The Commission worked closely with Crime Agencies, Organised Crime (South East Asian), NSW Police Service and the Joint Asian Crime Group.

2.26 The Commission, along with the NSW Police Service, the Australian Federal Police, Australian Customs Service and the National Crime Authority, established the Joint Asian Crime Group in August 1997. The collaborative arrangement has resulted in many successful operations during the reporting year.

2.27 Statistical Data for 1998/99

Arrests	72
Charges Laid	131
Drugs Seized	
. Heroin	24,250g
. Cocaine	1,675g
. Cannabis Leaf	3,668g
. Ecstasy	4g

Reference “Vacy IP”, referred on 30 November 1998

- 2.28 The Management Committee granted the *Vacy* Reference to the Commission on 2 November 1993. This was superseded by the *Vacy II* Reference which was granted on 30 November 1998.
- 2.29 The *Vacy II* Reference relates to the manufacture and supply of amphetamines and psychotropic drugs, and associated money laundering offences.

2.30 Statistical Data for 1998/99

Arrests	91
Charges Laid	194
Drugs Seized	
. Ecstasy	6,018 tablets
. Amphetamine	5,137.4g
. Other designer drugs.	19,800 tablets
. Cocaine	242g
. Cannabis	20g

Note: The above results include data for *Vacy I* for the period 1 July 1998 to 30 November 1998.

Reference “Waratah IP”, referred on 30 November 1998

- 2.31 The Management Committee granted the *Waratah* Reference to the Commission on 2 November 1993. The Reference was revised and the *Waratah II* Reference was granted on 30 November 1998.
- 2.32 This Reference was established to investigate the supply of prohibited drugs, particularly cocaine. Under this Reference the Commission also investigates money laundering associated with the trafficking of cocaine.

2.33 Statistical Data for 1998/99

Arrests	7
Charges Laid	23
Drugs and Weapons Seized	
. Amphetamine	2g
. Compressed Cannabis	3.7 kilograms
. .38 S & W Pistol	2
. Butterfly knives	2

Reference “Zetland IP”, referred on 30 November 1998

- 2.34 The *Zetland* Reference was granted to the Commission on 27 September 1994 to investigate the illegal activities of outlaw motorcycle gangs (OMCG's). The Reference was amended, and the *Zetland II* Reference was granted on 30 November 1998.
- 2.35 The Commission continues to work with officers from the NSW Police Service Crime Agencies, local area commands, the NCA and other law enforcement agencies.

2.36 Statistical Data for 1998/99

Arrests	9
Charges Laid	27
Drugs and Weapons Seized	
. Amphetamine	528 g
. Cannabis	30g
. .38 S & W Pistol	1
. 9mm Ruger semi-auto	1
	\$5,950
Cash	

Note: The above results include data for *Zetland I* for the period 1 July 1998 to 30 November 1998.

Reference “Coogee”, referred on 11 September 1995

- 2.37 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.
- 2.38 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.
- 2.39 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.
- 2.40 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 prosecution proceedings are continuing.

Reference “Eden IP”, referred on 30 November 1998

2.41 On 21 March 1996 the Commission’s Management Committee granted Reference *Eden* for the investigation of criminal activity centred on Kings Cross. On 1 December 1998, the Reference was superseded by the *Eden II* Reference. A number of *Eden II* targets also fall under the *Azure III* Reference.

2.42 Statistical Data for 1998/99

Arrests	11
Charges Laid	14
Cash Seized	\$17,005
Drugs Seized	
. Cocaine	27g
. Cannabis	53g

Note: The above results include data for *Eden I* for the period 1 July 1998 to 30 November 1998.

Reference “Gynea IP”, referred on 30 November 1998

2.43 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. The Reference was amended, and the *Gynea II* Reference was granted on 30 November 1998.

2.44 Statistical Data for 1998/99

Arrests	26
Charges Laid	54
Cash Seized	\$2,000
Drugs Seized	
. Compressed cannabis	10,000g
. Cocaine	114.2g
. Cannabis plants	2

. Amphetamine tablets	1,976g
. Heroin	693g
. Methylamphetamine	3,819g
. Cannabis leaf	474g
. Magnesium sulphate	1,945g
. Hydriodic acid	3,000 litres
. Tuluol	20 litres
. Pseudoephedrine hydrochloride	200,039g
. Pistols/other weapons	12

Note: The above results include data for *Gynea I* for the period 1 July 1998 to 30 November 1998.

Reference “Jesmond IP” referred on 10 November 1997

2.45 The *Jesmond* Reference was granted to the Commission on 10 November 1997 to investigate paedophile activity committed by serial offenders, networks of paedophiles or persons who produce child pornography. *Jesmond II* was granted on 8 June 1999, expanding the offences specified in the original Reference.

2.46 The Commission works with the Child Protection Enforcement Agency in relation to matters specifically identified as needing special powers of investigation.

2.47 Statistical Data for 1998/99

Arrests	1
Charges Laid	17

Reference “Kingsvale”, referred on 16 March 1998

2.48 On 16 March 1998 the Management Committee referred the *Kingsvale* Reference to the Commission for investigation of persons who are engaged in money laundering activities which involve the commission of the offence created by section 73 of the Confiscation of Proceeds of Crime Act 1989. This Reference is often applied in conjunction with other matters.

2.49 The value of assets seized under this Reference during the year was not large, but there have been a number of matters

commenced during this period which will be finalised in the next financial year.

2.50 Statistical Data for 1998/99

Value of Assets Seized	\$145,000
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Reference “Leura” referred on 14 December 1998

2.51 The *Leura* Reference was granted to the Commission on 14 December 1998 to investigate the murder of Pauline Gillard and a conspiracy to murder Maria Gioia.

2.52 Statistical Data for 1998/99

Arrests	1
Charges Laid	1

Reference “Mascot” referred on 9 February 1999

2.53 The *Mascot* Reference was granted to the Commission on 9 February 1999 to investigate serious drug offences, money laundering and conspiracies to pervert the course of justice committed by nominated persons.

2.54 Investigations are proceeding, and it is expected that serious criminal charges will be laid in the coming year.

Reference “Nowra” referred on 8 June 1999

2.55 The *Nowra* Reference was granted to the Commission on 8 June 1999 to investigate alleged child sex offences against certain children, and the abduction and murder of Samantha Knight.

2.56 During the course of the investigations, several witnesses have been interviewed and statements taken.

2.57 Investigations are continuing.

2.58 Statistical Data for 1998/99

Arrests	1
Charges Laid	13

INVESTIGATIVE TOOLS

38 search warrants were obtained under the Criminal Assets Recovery Act.

2.59 The Commission has a number of investigative tools at its disposal. 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 the Law Enforcement (Controlled Operations) Act. Some statistical details are listed below.

2.60 New South Wales Crime Commission Act 1985

	Total
Section 16 - Summons to Appear	195
Section 17 - Notices to Produce	668

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

609 warrants, including renewals (maximum 21 days) were granted during the year.

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

173 warrants were granted to the Commission during the 1998/99 reporting year, resulting in 94 arrests.

2.63 Controlled Operations Act 1988

A total of 26 controlled operations were approved during the reporting year.

2.64 Search Warrants

No search warrants were issued under the NSW Crime Commission Act.

A large number of warrants issued under the Search Warrants Act were executed by Police working on Crime Commission References.

2.65 Arrest Warrants under section 18AA of the NSWCC Act

No warrants were issued during the reporting year.

DISSEMINATION

2.66 In addition to normal exchange of information between agencies working with the Commission, information is formally passed to other law enforcement agencies and relevant bodies. During 1998/99 the Commission, with the approval of the Management Committee, disseminated material to other organisations on 162 occasions relating to suspected criminal activity, revenue evasion and misconduct.

2.67 Law enforcement agencies receiving disseminated material included the NSW Police Service, ICAC, NCA, PIC, ATO, NSW Ombudsman, NSW DPP, Commonwealth DPP, Queensland Crime Commission, WA, Queensland, Victorian and NT Police, Crown Solicitor's Office, Health Care Complaints Commission, Department of Immigration and Multicultural Affairs, Office of State Revenue and Australian Customs.

PROSECUTIONS

2.68 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.

2.69 During the year, Police assigned to Commission References arrested 222 persons and laid 495 charges. These figures can be compared with 232 arrests and 488 charges in 1997/98.

2.70 Charges laid in 1998/99 and previous years of the Commission's operations are at various stages in the prosecution process.

2.71 The following table summarises arrests made and charges laid in connection with Commission References in 1998/99*.

REF	TOTAL ARRESTS	CHARGES
Azure III	4	21
Gecko II	60	114
JACG	12	17
Vacy II	91	194
Waratah II	7	23
Zetland II	9	27
Eden II	11	14
Gymea II	26	54
Jesmond	1	17
Leura	1	1
Nowra	1	13
TOTAL	223	495

* 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.

COURT PROCEEDINGS AND APPLICATIONS

2.72 On 24 March 1998 a summons was issued requiring a person to appear before the Commission to give evidence at a hearing. At the hearing Counsel sought, and was granted, an adjournment for the purpose of testing in the Supreme Court whether or not it was appropriate for the hearing to continue, having regard to certain applications made by Counsel.

2.73 On 9 April 1998 the plaintiff commenced proceedings in the Administrative Law Division of the Supreme Court. The summons sought relief on the basis that the plaintiff was entitled to refuse to answer questions as the answering of questions may prejudice him in any trial, and the plaintiff was fearful that the questions would cause him to disclose his defence which would preclude him from receiving a fair trial.

2.74 The plaintiff did not prosecute the action and ultimately withdrew it on 27 October 1998. Costs were awarded to the Commission. Prosecution and confiscation action against the person is continuing.

NATURE AND EXTENT OF ORGANISED AND OTHER CRIME

- 2.75 Under section 31(2)(b) of its Act, the Commission is required to provide a description of any patterns or trends, and the nature and scope of drug trafficking and organised and other crime that have come to the attention of the Commission during the year.
- 2.76 In the past, the Commission has made reports based on its limited exposure to criminal activity through narrowly cast *References*. At its inception, the Commission had two *References* based on drug trafficking by members of two ethnically based groups. Over time, the breadth of the Commission's experience has changed through more *References* with varied subject matters, through an extension of the Commission's charter beyond drug trafficking and the confiscation function through which the Commission now pursues the proceeds of a wide range of crimes.
- 2.77 The initial *References* were issued on the basis of advice from the ABCI. Many subsequent *References*, apart from those that were directed at specific events, were based on advice that the Commission tendered to the Management Committee. The older issues remain and the Commission is still required to target some ethnically based crime groups.
- 2.78 However, the landscape has changed in the past 14 years and there are now many more agencies in the field with interests similar to those of the Commission. The Commission has worked with each of these, especially those located in NSW, and has gained from the experience and perceptions of those agencies. There is also more work being done nationally and internationally to determine the nature and scope of the criminal environment and trends occurring within it. It is through joint work and exploitation of the knowledge and expertise of others that agencies such as the Commission can continue to develop knowledge and skills. Indeed, almost all of the Commission's work in the criminal investigation area is done through cooperative arrangements with other agencies. This significantly influences the way in which the Commission allocates its resources.
- 2.79 In June 1999, the Queensland Crime Commission (QCC) produced a report known as *Project Krystal*, which challenges some of the received notions about associations of criminal groups. Although based on the Queensland environment, the report examines the traditional identification of organised crime groups based on ethnicity and ethos. This is particularly relevant to a number of agencies, like this Commission, which have specifically targeted criminals based on ethnic association or ethos.
- 2.80 Most law enforcement agencies in Australia subscribe to National Task Forces which have been formed around criminals identified within ethnic groups or with a common ethos. South East Asian organised crime groups and outlaw motorcycle gangs are examples. In the Commission's view, this is best seen as a targeting methodology aimed at maximising impact rather than an insular approach to the dynamics of illicit markets. The existence of such group-based targeting arrangements does not exclude general structural arrangements aimed at reducing criminal success in areas of crime based on commodities, activities or even groupings unrelated to ethnicity or codes. Thus we have targeting of cocaine markets, amphetamine laboratories, gangs involved in armed hold-ups and money laundering. *Project Krystal* documents the crossover between traditional groupings based on opportunities for illicit commerce, which parallels the integration of business activity in legitimate markets.
- 2.81 In its more general *References* such as *Gynea*, the Commission has observed long-standing relationships based on profit, regardless of commodity, methodology or business type. Specialists such as money launderers, amphetamine cooks, financiers, importers and facilitators pay little regard to social bonds. However, in arriving at methods of targeting for maximum effect, law enforcement cannot ignore that some traditional groupings persist and are vulnerable for that reason. They should be targeted because of the threat that they pose. Through specialised targeting, a degree of investigation expertise and efficiency can be achieved.
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- 2.82 Despite the image that they publicly project, outlaw motorcycle gangs continue to commit serious crimes. While some of these are the acts of individual members rather than concerted action, some are not. There is a significant amount of corporate action in drug manufacture and supply and in the concealment of crimes of violence.
- 2.83 The Commission, through its Reference *Gecko* and its successors, has had an interest with other Commonwealth and State agencies in the Joint Asian Crime Group. Through it, the Commission has gained a wider perspective than it may otherwise have done. There, the ethnic-based targeting approach is manifestly appropriate. A high degree of investigative expertise has been developed on this subject and there is an opportunity to observe trends that may not have been discernible without such a focus. For example, there is a noticeable increase in involvement in heroin trafficking by persons from the People's Republic of China. That country is also displacing Thailand as a route from the Golden Triangle.
- 2.84 East European groups are becoming dominant in the heroin distribution chain, purchasing directly from Chinese importers and wholesalers. Organisation continues to be controlled from overseas with many domestic participants having little knowledge of the bigger picture. Funds are repatriated, mainly to Hong Kong, using electronic transfers largely unimpeded by law enforcement.
- 2.85 The patterns of behaviour vary between groups and enterprises. Heroin trafficking, mainly by Chinese importers/wholesalers and local distributors, has been identified as the primary subject for proactive law enforcement nationally. However, other criminal activities which represent a significant threat, cannot be neglected. As reported previously, the market for amphetamine type substances (ATS) is buoyant, with a high demand for locally manufactured synthetics such as ecstasy and a ready availability of precursors. The United Nations estimates that world-wide abuse of ATS has grown more than any other illicit substance during the 1990s and that there are more users of ATS than there are for heroin or cocaine. In Australia it is second to cannabis. Over the past year the Commission has had an opportunity to assess the recent history of ATS production, based on operational activity and the debriefing of arrested persons and informers associated with Sydney production laboratories.
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- 2.86 The groups associated with these laboratories were not stable. However, the change in participation and associations were often due to lack of trust, *rip-offs* and failed operations. The sole motivation was profit and association based on expertise or other resources. There were core people in this broad business activity. One dominant figure was an expert in technology, another manufactured precursors, others acquired glassware, premises and specific chemicals, others conducted the *cook*, while some provided security at the laboratory and removed evidence at the conclusion of the operation. The participants took a share of the product rather than selling it in bulk to a wholesaler. Over the course of a decade, the manufacturing method changed from the Leuckardt (phenylacetic acid) method to the higher yielding pseudoephedrine production method due mainly to increasing availability of this ingredient. Mostly it was obtained from large-scale thefts in the early 1990's and smaller scale thefts later in the period. A recent trend has been the diversion of licit drugs, in particular *Sudafed*, which is used to manufacture amphetamine after chemical extraction of pseudoephedrine.
- 2.87 In the past four years the national demand for lawfully imported pseudoephedrine has increased by 100%. It is suspected that this is not due to an increased demand for therapeutic use. The diversion of large quantities of *Sudafed* is achieved by structured retail purchasing, theft and corruption of retailers.
- 2.88 Measures have been introduced to securely store and transport ingredients. These have met with some success. The measures are likely to be revitalised with the establishment of a chemical diversion program within Crime Agencies of the NSW Police Service. Manufacturers have implemented a blocking agent used in the production of a form of *Sudafed* which is less amenable to diversion. These measures may be countered by predicted increase in importation of ATS and precursors. There is also a trend towards the manufacture of more exotic drugs such as Fentanyl (synthetic heroin) and new processes for the manufacture of drugs such as MDMA (ecstasy).
- 2.89 As with heroin trafficking, there is a need to dispose of the funds generated by the manufacturing activity. However, as most of the players are within Australia, the funds tend to stay within the jurisdiction. They also tend to be expended on lifestyle, including drugs and gambling, and the acquisition of assets. The latter makes confiscation viable, though the amounts are often relatively low, due to dissipation locally on expenses, lifestyle and the large numbers of stakeholders in each undertaking. With tighter controls on the availability of ingredients, there has been a corresponding increase in the costs. A standard 25kg drum of pseudoephedrine has a landed value of just a few thousand dollars. On the black market it can yield more than \$300,000. In the past, security measures have tended to reflect the wholesale value in licit markets rather than the black market value, where the value exceeds that of gold.
- 2.90 Patterns of activity reported previously in relation to the subjects of *Bianco* and *Azure* References have remained as previously reported, though there has been less work by the Commission on drug trafficking by Australian Romanian criminals due to other priorities. It has been noted that they have developed closer associations with the upper end of the heroin supply chain.
- 2.91 Under *Azure*, the Commission's resources have been applied to the investigation of violent crimes associated with drug trafficking and car rebirthing by a group dominated by persons of Lebanese extraction. Members of this group have been responsible for a number of murders and shootings.
- 2.92 There is also significant evidence of arms trafficking which the Commission proposes to address in its next year of operation. The ready availability of handguns and the willingness to use them to protect drug businesses is a worrying trend, especially when they are directed not just against competitors, but against police and police establishments. Recently there has been an increase in the importation of handguns though it is suspected that illegal importation accounts for significantly more weapons entering Australia.
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2.93 Records relating to importation, registration, seizure, use and disposal of firearms do not permit cross-matching. In the coming year, the Australian Customs Service, the Australian Federal Police, the NSW Police Service and the Commission will jointly address problems such as this and specifically target the use and trafficking in handguns.

ROLE OF THE ABCI

2.94 Each year in this Report the Commission makes reference to the Australian Bureau of Criminal Intelligence. This is not just because the ABCI is the principal repository of criminal intelligence gathered by the Commission, but also because this Commission takes the view that a body such as it is necessary to ensure an appropriate pooling of knowledge by the various law enforcement agencies in order to provide better advice on the criminal environment and the allocation of resources in key areas.

2.95 These things have been said before. They are repeated in the interests of improving the prospect that the ABCI will continue to progress towards its full potential.

CHAPTER THREE

LEGAL CHANGE

CRIME COMMISSION LEGISLATION

3.1 There were no changes to the *Criminal Assets Recovery Act* 1990, or to the *NSW Crime Commission Act* 1985 during the course of the year. The Commission proposes to recommend minor amendments to both Acts during the course of next year. A review of the *Criminal Assets Recovery Act* will occur as a consequence of resolutions of the *Drug Summit* taken in May 1999.

OTHER LEGISLATION

3.2 There have been no major amendments to the legislation under which the Commission works. During the course of the year the Commission contributed to a review of the *Controlled Operations Act* conducted by former Supreme Court Justice Mervyn Finlay. The Commission has made further recommendations regarding amendment.

3.3 The Commission has, for many years, been recommending changes to Search Warrants and Electronic Surveillance legislation in NSW. The *NSW Drug Summit* resolved to seek urgent action in relation to these matters. The Commission is hopeful that the deficiencies in this area will be finally rectified.

MONEY LAUNDERING

3.4 Australia has a highly developed scheme to reduce money laundering. Under the *Proceeds of Crime Act* (Cth) and various State Acts, there are severe penalties for money laundering (usually a maximum of 20 years imprisonment). There are also legislative schemes in most jurisdictions to confiscate the proceeds of crime.

3.5 AUSTRAC operates a sophisticated system for monitoring cash transactions, suspect transactions and international funds transfers. It is through these and other mechanisms that we gain knowledge of the extent of money laundering. Nationally it is

measured in the billions. Yet only a small proportion is confiscated and far less is the subject of criminal prosecutions.

3.6 During the year the Commission was aware of many millions of dollars being transferred overseas through the banking system. All of the above legislative arrangements produced little more than an awareness of it. There was very little capacity to stop it, seize it or prosecute for it. Once it was transferred overseas, it was quickly dissipated and opportunities for action were lost. In many cases the Commission was not aware of it until after the event.

3.7 The scheme which operated prior to the introduction of the *Cash Transactions Reports Act* 1998 was more effective in this respect. By a combination of the *Banking (Foreign Exchange) Regulations* and the *Taxation Administration Act*, persons wishing to remit large sums of cash offshore required clearance from the Australian Taxation Office. It is recommended that some form of clearance arrangements be introduced to prevent the laundering of illicit cash by transferring it offshore. It cannot be said that this would seriously inhibit legitimate business activity, as few businesses have a need to send hundreds of thousands of dollars in cash to offshore destinations.

CHAPTER FOUR
CONFISCATION

BACKGROUND

4.1 The Commission administers the Criminal Assets Recovery Act 1990 (“the CAR Act”).

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 1998/99, 101 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 CAR Act since 3 August 1990 was 764, made up as follows:

Year	Restraining Orders
1990/91	57
1991/92	59
1992/93	24
1993/94	44
1994/95	73
1995/96	95
1996/97	145
1997/98	166
1998/99	101
TOTAL	764

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 There has been a decrease in the number of restraining orders obtained in 1998/99 over the previous two years. The Commission has taken steps to address the reduction in referrals.

4.11 The restraining orders obtained during 1998/99 followed referrals from the sources set out below:

Agency	Orders	Estimated Value
NSW Police Service	58	\$6,798,111
NCA	27	2,879,097
NCA/NSW Police Joint Task Force	5	698,520
Joint Asian Crime Group (AFP/NSWPS/ACS/NCA/NSWCC)	1	532,000
PIC	1	737,975
AFP	1	97,000
Others	8	201,736
Total	101	\$11,944,439

ASSET FORFEITURE ORDERS AND PROCEEDS ASSESSMENT ORDERS

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

4.13 During 1998/99, 82 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 \$4,681,108 be forfeited to the Crown. The property forfeited included motor vehicles, jewellery, real property, cash and funds held in bank accounts.

4.14 During 1998/99, 40 applications for proceeds assessment orders were completed by way of negotiated settlement, resulting in orders that \$6,114,571 be paid to the Treasurer. Note that of this amount it is estimated that only \$4,704,931 will be recoverable.

4.15 The following tables enable a comparison between the results quoted above to those quoted in the last eight 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
1998/99	82	40	122

Chapter Four: Confiscation

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TOTAL	414	146	560

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
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
98/99	\$4,681,108	\$4,704,931	\$9,386,039
Total	\$26,715,435	\$10,708,431	\$37,423,866

4.16 It is useful to compare the results from the commencement of the Act on 3 August 1990 to date with the cost to Government of the confiscation litigation function.

4.17 The following table makes the comparison.

Year	Realisable Confiscation Orders (including legal costs recovered)	Cost of Confiscation Litigation Function
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
1998/99	\$10,039,970	\$2,243,000
TOTAL	\$39,059,210	\$17,096,263

4.18 During the year ten exclusion orders were made which reduced the amount of asset forfeiture orders of previous years as follows:

Year	Number of Orders	Value
1994/95	1	\$141,000
1995/96	1	92,872
1997/98	8	955,000
Total	10	\$1,188,872

4.19 Ten applications to exclude property from Asset Forfeiture Orders are outstanding. They were lodged in respect of property valued in the vicinity of \$1.39 million. \$210,000 of this relates to Asset Forfeiture Orders made during the current year and the remainder relates to prior years.

4.20 Potential exists as at 30 June 1999 in respect of eighteen Asset Forfeiture Orders for application to be made within six months of the date that the Asset Forfeiture Orders were made. The value of assets in respect of these eighteen Asset Forfeiture Orders is in the vicinity of \$1.67 million.

4.21 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.

4.22 There was a 39% increase in the cost of the confiscation litigation function in 1998/99 over 1997/98 which reflects a change in accounting for the cost of the confiscation function, to include the cost of financial investigations relating to that function, in addition to litigation costs. The budget for confiscation litigation for 1999/00 is \$2,212,000 with the monetary value of confiscation orders projected to be not less than \$10,000,000.

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

PRODUCTION ORDERS

4.24 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.

4.25 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 1998/99 the Commission applied for and obtained 426 production orders.

SEARCH WARRANTS

4.26 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 1998/99 no search warrants were issued pursuant to these provisions.

4.27 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.

4.28 During the 1998/99 year, the Commission successfully applied for the issue of 38 warrants under these provisions.

MONITORING ORDERS

4.29 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.

4.30 In 1998/99 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).

THE DPP OFFICES

4.31 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).

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

THE COPOC ACT

4.33 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.

4.34 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.

4.35 During 1998/99 no restraining orders were obtained under the COPOC Act.

THE AUSTRALIAN TAXATION OFFICE

4.36 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

4.37 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.

4.38 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.”

4.39 The Commission has obtained information on numerous occasions pursuant to section 51.

4.40 The assistance provided by both banking and other financial institutions has been essential to the confiscation function.

INTERNATIONAL AND INTERSTATE INQUIRIES

4.41 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.

4.42 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 (see Chapter 2).

SUPREME COURT AND DISTRICT COURT

4.43 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.

4.44 The Commission attempted to reduce the number of matters before the Supreme Court. At the end of the year, the number was down to 101 from a peak of 245 in 1998.

NSW POLICE SERVICE CRIME AGENCIES AND OTHER POLICE

4.45 The contribution of the NSW Police Service and the National Crime Authority to the litigation commenced by the Commission has been substantial.

4.46 During 1998/99 a total of 566 matters were referred to the Commission for assessment of confiscation action under the CAR Act and/or COPOC Act.

4.47 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
1998/99	566

4.48 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.

THE PUBLIC TRUSTEE

4.49 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 Public Trustee has been established to ensure that, in those matters where property has been placed in the Trustee's control, property forfeited is promptly recovered.

THE CONFISCATED PROCEEDS ACCOUNT

4.50 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, victim's compensation, law enforcement, drug rehabilitation or drug education.

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

GENERAL MANAGEMENT

- 5.1 Mr P Bradley is the Commissioner and the sole Member of the Commission. He is also the Chief Executive Officer.
- 5.2 Mr J Giorgiutti is the Director of the Commission as well as Solicitor to the Commission.
- 5.3 The Commission is divided into two Divisions: Operations and Operations Support. The Operations Division comprises several operational teams, each headed by an Assistant Director. The Operations Support function is also headed by an Assistant Director.
- 5.4 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.
- 5.5 An organisation chart current at the end of the year is shown at Appendix H.

ADMINISTRATIVE OFFICE

- 5.6 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.

HUMAN RESOURCES

Staff Establishment

- 5.7 In 1998/99 the establishment comprised positions under the Public Sector Management Act, and staff employed directly by the Commission pursuant to the NSW Crime Commission Act.
- 5.8 At the end of the reporting year, the number of permanent staff employed by the Commission was 93 (87.8 equivalent full-time). The categories of staff comprising the establishment are tabulated below. A comparison with the staffing levels of the previous three years is included.

	98/9	97/9	96/9	95/9
	9	8	7	6
Statutory Officers	1	1	1	2
SES	0	0	0	1
PSM Act	16	20	23	26
Direct Employees	76	71	62	46
TOTAL	*93	92	86	74

*87.8 Equivalent Full-Time

SES Positions

- 5.9 During the reporting year there were no officers employed as Senior Executives under the Public Sector Management Act.

Equal Employment Opportunity

- 5.10 The Commission's Equal Employment Opportunity (EEO) statistics for 1998/99 have been completed and submitted to the Director of Equal Opportunity in Public Employment.
- 5.11 The Commission works with the Office of the Director of Equal Opportunity in Public Employment to develop strategies to enhance employment equity. The Commission takes the view that its EEO profile, as reflected in the following statistics, demonstrates that its strategies have been successful, particularly for an agency working in the area of law enforcement.

- 5.12 In the reporting period, 13 new members of staff were recruited. Of these, 8 were women (61%) and 2 were people from non-English speaking backgrounds (NESB) (15%).

- 5.13 The following tables contain EEO statistics for 1998/99. Comparative data from past years can be found in previous annual reports of the Commission.

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

	All	Aborig- ginals	Dis- able	NESB	Women
1998/99					

Chapter Five: General Management

Total	93	1	4	20	54
Staff		(1%)	(4%)	(21%)	(58%)
Recruited	13	1	0	2	8
1998/99		(7%)		(15%)	(61%)

5.15 Representation of EEO Target Groups by Level 1998/99

Grade	Total Staff	Women	NESB
Above Grade 12	15	2 (13%)	2 (13%)
Grades 10 - 12	8	0	2 (25%)
Grades 6 - 9	23	16 (69%)	5 (21%)
Grades 3 - 5	25	17 (68%)	4 (16%)
Grades 1 - 2	9	9 (100%)	5 (55%)
CO 1 - Grade 1	13	10 (76%)	2 (15%)
Below CO 1	0	0	0
TOTAL	93	54 (58%)	20 (21%)

Training

5.16 The Commission continued its program of information seminars for staff during the year. These sessions are available for all staff on a voluntary basis, and cover a wide variety of topics related to law enforcement. The sessions were attended by a large proportion of staff.

5.17 The Commission is participating in the development of a range of post graduate courses in Intelligence to be offered by Charles Sturt University.

Code of Conduct/Corruption Prevention

5.18 The Commission has a code of conduct for all staff and an additional code for senior officers. All staff have signed undertakings to comply with all aspects of the Code.

5.19 The text of the general Code of Conduct was published in full in last year's annual report.

5.20 Additionally, staff are reminded through the medium of the internal newsletter and the staff handbook about their rights and responsibilities under the Protected Disclosures Act.

Overseas Visits

5.21 There were two overseas visits made during 1998/99 by staff of the Commission. Both trips were made by technical staff to enable them to be trained on specialised communications equipment.

5.22 The trips were to England and Hong Kong and total costs were \$4,344 and \$967 respectively.

5.23 No additional leave was added to either visit.

Occupational Health and Safety

5.24 The Commission is concerned to ensure the safety and well being of all its staff. During the year, training in occupational health and safety was provided to all staff and management.

5.25 Statistical data on workers' compensation insurance is provided later in this chapter.

THE ENVIRONMENT

5.26 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, hot water urns and water coolers. Signs are posted on all light switches reminding staff to conserve electricity.

5.27 This year the Commission signed an electricity supply contract with Energy Australia. The minimum percentage of greenpower which must be purchased by NSW Government agencies is 6%. The Crime Commission has elected to purchase 100% greenpower for the term of the contract.

5.28 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.

5.29 Additionally, the Commission reuses stationery such as lever arch files and other binders.

5.30 The Commission is presently upgrading its office lighting. Triphosphor tubes are replacing standard fluorescent tubes. Triphosphor tubes increase the lighting output by 20% and have a lifespan twice as long as conventional tubes. The Commission has been advised that the upgrade will result in a reduction of 50 tonnes of CO2 emissions each year.

INFORMATION MANAGEMENT

5.31 The Commission's strategy of using COTS (commercial off-the-shelf) products has continued to work successfully in reducing initial and ongoing upgrade and maintenance costs. However, the Commission is confronted by technical problems requiring novel solutions, which have been made by minor works both in-house and outsourced. Some joint development work has been carried out with other agencies.

5.32 During 1998/99 the work on the Commission's network wiring and the conversion of the transmission equipment from 10Mbps to 100Mbps was completed. The Commission replaced its Intranet and this has speeded up internal communications. Additional connections have been put in place between the Commission and external agencies which has improved efficiency and reduced the transfer of physical documents between agencies.

5.33 The Commission continues with its policy to provide data to ABCI. This assists in inter-agency cooperation. In the financial year 1998/99 the capacity of the link to ABCI was increased and encryption equipment upgraded to provide security for the traffic.

5.34 The Commission has expanded its capacity for the recording and processing of electronic intelligence during the year.

Year 2000 Project

5.35 Considerable time and resources have gone into the technical aspects of the Government's Year 2000 project. This project is currently on schedule and

monthly reports on progress are forwarded to the Office of Information Technology. Unless any unforeseen problems occur, the Commission is scheduled to complete the rectification work and testing by 15 October 1999. The Y2K issue will continue to be reviewed during the remainder of the current year and into the early part of 2000. Contingency plans have been prepared and are regularly reviewed.

5.36 The work has been carried out by existing Commission staff, and the costs absorbed internally, which has reduced the capacity available for other projects.

RESEARCH AND DEVELOPMENT

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

CONSULTANTS

5.38 No consultants were retained during the reporting year.

SERVICES TO THE PUBLIC

Services and Complaints

5.39 By reason of its statutory aims, objectives, functions and operational activities, the Commission does not provide services direct to the public, although members of the public often call the Commission direct to provide information. Investigations are sometimes launched on the basis of such information.

5.40 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.

5.41 The Commission has a documented formal system for registering and dealing with complaints.

Freedom of Information

5.42 The Commission received one request under the Freedom of Information Act during the year.

5.43 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

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

Assistant Director, Operations Support
453-463 Kent Street
SYDNEY NSW 2000
(02) 9269-3888

Publications

5.45 Commission publications available to the public are:

- . Annual Reports 1985/86 to 1998/99 inclusive; and
- . Freedom of Information Statements of Affairs

DISABILITY PLAN

5.46 The Commission has developed a draft set of performance measures and a draft disability action plan for the next triennium. Stakeholders' views are presently being sought. The plan will be finalised and submitted to the NSW Ageing and Disability Department by 31 December 1999.

ETHNIC AFFAIRS PRIORITIES REPORT

5.47 During 1996/97 the Commission developed its Ethnic Affairs Priorities Statement, which remains unchanged from previous years.

5.48 The Commission does not discriminate against any group or individual on the basis of race, gender, culture, religion, language or ethnic origin.

5.49 The Commission maintained its commitment to equal employment principles.

FINANCIAL MANAGEMENT

Financial Statements and Position

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

Account Payment Performance

5.51 The total value of accounts paid during 1998/99 was \$8,506,174. Of this amount 91.52% was paid on time (94.48% in 1997/98). There were no instances where the Commission was forced to pay penalty interest for late payment during 1998/99.

5.52 As at 30 June 1999, \$150,077.64 was outstanding in accounts payable to creditors. All of this amount was current.

	Qtr Ended 30 Sep 97	Qtr Ended 31 Dec 97
Value of Accounts Paid	\$2,016,667	\$2,139,921
Value of Accounts Paid on Time	\$1,845,968	\$2,083,994
% of Accounts Paid on Time	91.54	97.39
Value of Accounts Payable	\$177,217	\$11,000

	Qtr Ended 31 Mar 98	Qtr Ended 30 Jun 98
Value of Accounts Paid	\$1,771,123	\$2,578,462

Chapter Five: General Management

Value of Accounts Paid on Time	\$1,624,479	\$2,230,158
% of Accounts Paid on Time	91.72	86.49
Value of Accounts Payable	\$180,396	\$150,078

Stores and Equipment

5.53 The following table shows expenditure on general stores, IT equipment, furniture and office equipment by month for the 1998/99 financial year.

Month	Expenditure
July	\$8,390
August	\$29,407
September	\$19,692
October	\$31,356
November	\$23,040
December	\$27,576
January	\$35,307
February	\$37,433
March	\$65,446
April	\$26,389
May	\$28,505
June	\$27,377
Total	\$359,918

Value of Long Service Leave and Recreation Leave

5.54 The value of accrued annual leave, including applicable leave loadings, and extended leave at 30 June 1999 was \$446,144.80 and \$832,250.42 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 1998/99

5.55 Assets acquired by the Commission during 1998/99 were:

Motor Vehicles	\$54,865
Upgrade Security System	\$41,414
Upgrade PABX	\$27,430
Office Renovations	\$22,430
Airconditioning Unit	\$10,740
PC's and Printers	\$327,311
Communications	
Collection and Analysis	\$474,197
IT Equipment	\$134,814
Test Equipment	\$45,081
Other Equipment	\$137,738

Real Estate

5.56 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.

Insurance

5.57 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 1998/99 the Commission made 10 claims (6 in 1997/98). Of these claims, 5 related to workers compensation (2 in 1997/98) and 5 related to motor vehicles (4 in 1997/98).

Grants to Community Organisations

5.58 The Commission did not provide any grants to community organisations in 1998/99.

Contracting and Market Testing

5.59 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.

Risk Management

5.60 The Commission takes the view that risk management should occur at all levels, though the primary responsibility for it rests with management. Communication of risk is fundamental to developing a consciousness among all staff. This is achieved through a Risk Management Statement, which is communicated to all staff and advertised in prominent places throughout the workplace. It identifies most of the obvious things such as insurable risk and risk of loss or injury. It is in the nature of such statements that they are, or through reputation become, platitudinous. The Commission endeavours to be active in monitoring risk through regular (at least

weekly) contact between all staff and the CEO, usually in a formal environment.

- 5.61 The Commission differs from most other public sector agencies in that there are many in the community who would hope that the Commission does not meet its goals and achieve its statutory objects. This represents a risk or threat to the Commission. The Commission is therefore careful not to publicise its areas of possible vulnerability. In the well-known areas of risk, the Commission's performance is at a high level based on results. Insurable risks are adequately covered and premiums paid on a performance basis. Physical security, which is at a high level, has not been breached, which is also the case with information security, so far as is known.
- 5.62 Financial performance is audited by the Audit Office, which also conducts an extended audit to test specific subjects. The Audit Office also monitors the Commission's compliance with Year 2000 requirements of the Government. The Management Committee has decided that, due to its size, the Commission should not have an Internal Audit Committee. However, the Commission has, in the past, appointed specific staff to conduct internal audits of particular functions.
- 5.63 In 1998/99, as in previous years, 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 and other expenditure.
- 5.64 The Commission has received a report from the Audit Office for 1998/99 which found no significant areas of concern.

Cost of Annual Report

- 5.65 500 copies of the 1998/99 Annual Report have been printed at a cost of \$3,400, or \$6.80 per copy. This can be compared with a total cost of \$3,524 or \$7.05 for 500 copies of the 1997/98 Annual Report. A copy of the Report is available on disk and will be provided to Parliament in that form.
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**NEW SOUTH WALES
CRIME COMMISSION**

**FINANCIAL STATEMENTS
FOR YEAR ENDED 30 JUNE 1999**

New South Wales Crime Commission

**Financial Statements for the
Year Ended 30 June 1999**

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 and applicable Australian Accounting Standards;
- (b) the statements present a true and fair view of the financial position as at 30 June 1999 and transactions of the Commission for the year then ended; 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: 15 October 1999

Auditor-General's page

NEW SOUTH WALES CRIME COMMISSION
Operating Statement for the Year Ended 30 June 1999

	Notes	Actual 1999 \$'000	Budget 1999 \$'000	Actual 1998 \$'000
Expenses				
Operating expenses				
Employee Related	2(a)	6,137	6,121	5,477
Other Operating Expenses	2(b)	2,266	2,104	2,324
Maintenance	2(c)	98	120	84
Depreciation	2(d)	931	1,181	531
Other Expenses		0	18	0
Total Expenses		9,432	9,544	8,416
Less:				
Retained Revenue				
Investment Income	3(a)	64	50	45
Other Revenue	3(b)&5	1,079	505	613
Total Retained Revenue		1,143	555	658
(Gain)/Loss on sale of non-current assets	4	2	(10)	2
NET COST OF SERVICES	18(a)	8,291	8,979	7,760
Government Contributions				
Recurrent appropriation		6,890	7,240	6,698
Capital appropriation		1,263	1,300	1,800
Acceptance by the Crown Entity of employee entitlements and other liabilities	6	616	572	479
Total Government Contributions		8,769	9,112	8,977
SURPLUS/(DEFICIT) FOR THE YEAR		478	133	1,217

The accompanying notes form part of these statements.

NEW SOUTH WALES CRIME COMMISSION
Statement of Financial Position as at 30 June 1999

	Notes	Actual 1999 \$'000	Budget 1999 \$'000	Actual 1998 \$'000
ASSETS				
Current Assets				
Cash	19	1,457	579	1,318
Receivables	8	320	45	87
Total Current Assets	18(b)	<u>1,777</u>	<u>624</u>	<u>1,405</u>
Non-Current Assets				
Land and Buildings	9	7,000	7,000	7,125
Plant and Equipment	9	2,571	599	2,157
Total Non-Current Assets	18(b)	<u>9,571</u>	<u>7,599</u>	<u>9,282</u>
Total Assets		<u>11,348</u>	<u>8,223</u>	<u>10,687</u>
LIABILITIES				
Current Liabilities				
Accounts payable	10	304	180	163
Employee entitlements	11	523	420	481
Total Liabilities	18(b)	<u>827</u>	<u>600</u>	<u>644</u>
Net Assets		<u>10,521</u>	<u>7,623</u>	<u>10,043</u>
EQUITY				
Reserves	12	2,183	0	2,183
Accumulated funds		8,338	7,623	7,860
TOTAL EQUITY		<u>10,521</u>	<u>7,623</u>	<u>10,043</u>

The accompanying notes form part of these statements.

NEW SOUTH WALES CRIME COMMISSION
Statement of Cash Flows for the Year Ended 30 June 1999

	Notes	Actual 1999 \$'000	Budget 1999 \$'000	Actual 1998 \$'000
CASH FLOWS FROM OPERATING ACTIVITIES				
Payments				
Employee Related		(5,789)	(5,774)	(5,112)
Other		(2,286)	(2,242)	(2,548)
Total Payments		<u>(8,075)</u>	<u>(8,016)</u>	<u>(7,660)</u>
Receipts				
Interest		56	50	68
Other		840	510	623
Total Receipts		<u>896</u>	<u>560</u>	<u>691</u>
Cash Flows From Government				
Recurrent appropriation		6,890	7,240	6,698
Capital appropriation		1,263	1,300	1,800
Cash reimbursements from the Crown Entity		298	245	271
Net Cash Flows From Government		<u>8,451</u>	<u>8,785</u>	<u>8,769</u>
NET CASH FLOWS FROM OPERATING ACTIVITIES	20	<u>1,272</u>	<u>1,329</u>	<u>1,800</u>
CASH FLOWS FROM INVESTING ACTIVITIES				
Proceeds from the sale of property, plant and equipment		72	80	101
Purchase of property, plant and equipment		(1,205)	(1,300)	(1,800)
NET CASH FLOWS FROM INVESTING ACTIVITIES		<u>(1,133)</u>	<u>(1,220)</u>	<u>(1,699)</u>
NET INCREASE/(DECREASE) IN CASH		139	109	101
Opening Cash and cash equivalents		1,318	470	1,217
CLOSING CASH AND CASH EQUIVALENTS	19	<u>1,457</u>	<u>579</u>	<u>1,318</u>

The accompanying notes form part of these statements.

NEW SOUTH WALES CRIME COMMISSION
Summary of Compliance with Financial Directives for the Year Ended 30 June 1999

	1999			
	RECURRENT APPROPRIATION	EXPENDITURE	CAPITAL APPROPRIATION	EXPENDITURE
	\$000	\$000	\$000	\$000
ORIGINAL BUDGET APPROPRIATION/ EXPENDITURE				
* Appropriation Act	7,240	6,890	1,300	1,205
	7,240	6,890	1,300	1,205
OTHER APPROPRIATIONS/ EXPENDITURE				
	0	0	0	0
Total Appropriation/ Expenditure	7,240	6,890	1,300	1,205
Drawdowns from Treasury		6,890		1,263
Total Unspent Appropriation		0		58
	1998			
	RECURRENT APPROPRIATION	EXPENDITURE	CAPITAL APPROPRIATION	EXPENDITURE
	\$000	\$000	\$000	\$000
ORIGINAL BUDGET APPROPRIATION/ EXPENDITURE				
* Appropriation Act	6,666	6,666	300	300
Appropriation (1997-98 Budget Variations) Act 1998	32	32	1,500	1,500
	6,698	6,698	1,800	1,800
OTHER APPROPRIATIONS/ EXPENDITURE				
	0	0	0	0
Total Appropriation/ Expenditure	6,698	6,698	1,800	1,800
Drawdowns from Treasury		6,698		1,800
Total Unspent Appropriation		0		0

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 1999**

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 statement is a general purpose financial report which has been prepared on an accrual basis and in accordance with applicable Australian Accounting Standards and other mandatory professional reporting requirements, the requirements of the Public Finance and Audit Act and Regulations, and the Financial Reporting Directions published in the Financial Reporting Code for Budget Dependent General Government Sector 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.

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

Except for land and buildings which are recorded at valuation, the financial statements are prepared in accordance with the historical cost convention. All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency. The accounting policies adopted are consistent with those of the previous year.

(c) Parliamentary Appropriations and Contributions from Other Bodies

Parliamentary appropriations and contributions from other bodies 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.

With effect from the financial year ended 30 June 1999, appropriations are received on an agency basis. Prior to 1998/99, agencies received appropriations on a program basis. This change has resulted in a change to the Summary of Compliance with Financial Directives as program information is no longer required in the Summary of Compliance.

(d) Retained Revenue

Revenue is recognised to the extent that it is probable that the economic benefits will flow to the entity and the revenue can be reliably measured. The following specific recognition criteria must be met before revenue is recognised.

Professional Costs Recovered - control of a right to recover the costs has been received through the granting of an order.

Interest - control of a right to receive consideration for the provision of, or investment in, assets has been attained.

(e) Employee Entitlements

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

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

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

The outstanding amounts of payroll tax, 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 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 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 employees' 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.

(f) 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.

(g) 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.

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.

(h) Plant and Equipment

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

(i) 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.

(j) 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 1997/98.

Depreciation Asset Category	Rate %
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

(k) Leased Assets

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

NOTE 2: EXPENSES

(a) Employee Related Expenses

	1999	1998
	\$'000	\$'000
Salaries and Wages (including recreation leave)	5,033	4,421
Superannuation	368	297
Long service leave	223	162
Workers compensation insurance	30	21
Payroll tax and fringe benefits tax	388	334
Other	95	242
	<u>6,137</u>	<u>5,477</u>

(b) Other Operating Expenses

	1999	1998
	\$'000	\$'000
Auditor's remuneration*	17	17
Bad and doubtful debts	66	0
Insurance	25	24
Office Utilities	144	109
Office Supplies	847	768
Computer Services	396	421
Travel Expenses	30	33
Motor Vehicle Expenses	(4)	(7)
Service Fees	601	702
Other	144	257
	<u>2,266</u>	<u>2,324</u>

Appendix A: Financial Statements

	2	2
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(c) Maintenance

	1999 \$'000	1998 \$'000
Repairs and routine maintenance	98	84
	98	84

(d) Depreciation

	1999 \$'000	1998 \$'000
Building	125	124
Plant and Equipment	58	52
Computer Equipment	711	307
Motor Vehicles	37	48
	931	531

NOTE 3: REVENUES

(a) Investment Income

	1999 \$'000	1998 \$'000
Interest	64	45
	64	45

(b) Other Revenue

	1999 \$'000	1998 \$'000
Lease of Advertising signage	0	49
Rental of office space	25	75
Professional costs recovered	1,051	486
Miscellaneous	3	3
	1,079	613

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

	1999 \$'000	1998 \$'000
Proceeds from sale	54	120
Written down value of assets sold	(56)	(122)
Net (loss) on disposal of non-current assets	(2)	(2)

NOTE 5: ABNORMAL ITEMS

	1999 \$'000	1998 \$'000
Other Revenue	372	0
Total Abnormal Items	372	0

Other revenue is considered to be abnormally high this year due to recognition of professional costs recovered which were awarded in previous financial years.

1997/98 was the first financial year in which the Commission retained professional costs to any significant level. Accordingly, there was no history to allow for any informed decision to be made concerning the likelihood of collecting awards made by the Courts to the Commission for professional costs. For this reason it was determined to account for costs only when they were received.

It is now evident given the period of operation for this practice to estimate the professional costs awarded to the Commission. They can therefore be recognised at the time they are awarded by the Court in accordance with usual accrual accounting practice.

Costs in 1998/99 therefore reflect awards in 1995/96 of \$10,000, 1996/97 of \$10,000 and 1997/98 of \$352,000.

NOTE 6: 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	1997
	\$'000	\$'000
Superannuation	368	297
Long service leave	223	162
Payroll tax	25	20
	<hr/>	<hr/>
	616	479

NOTE 7: PROGRAMS/ ACTIVITIES OF THE COMMISSION

The program number of the New South Wales Crime Commission is 62.1.1. The Commission comprises only one program.

Program Objective: 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.

NOTE 8: 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.

	1999	1998
	\$'000	\$'000
Interest receivable	32	24
Operational expenses to be recouped	7	18
Professional costs recovered	233	2
Prepayments	41	25
Other debtors	65	18
Less: Provision for doubtful debts	(58)	(0)
	<u>320</u>	<u>87</u>

NOTE 9: NON CURRENT ASSETS- PROPERTY, PLANT AND EQUIPMENT

	Computer Equipment (1) \$'000	General Equipment (1) \$'000	Motor Vehicles (1) \$'000	Building (2) \$'000	Land (2) \$'000	Total 1999 \$'000	Total 1998 \$'000
At Cost or Valuation:							
Balance at 1 July 1998	2,679	620	285	3,750	3,375	10,709	7,546
Additions	1,119	102	55	0	0	1,276	1,713
Revaluation adjustment	0	0	0	0	0	0	1,594
Disposals	(95)	(0)	(78)	(0)	(0)	(173)	(144)
Balance at 30 June 1999	<u>3,703</u>	<u>722</u>	<u>262</u>	<u>3,750</u>	<u>3,375</u>	<u>11,812</u>	<u>10,709</u>
Accumulated Depreciation:							
Balance at 1 July 1998	1,194	182	51	0	0	1,427	1,508
Depreciation for Year	711	58	37	125	0	931	531
Revaluation adjustment	0	0	0	0	0	0	(589)
Write Back on Disposal	(95)	(0)	(22)	(0)	(0)	(117)	(23)
Balance at 30 June 1999	<u>1,810</u>	<u>240</u>	<u>66</u>	<u>125</u>	<u>0</u>	<u>2,241</u>	<u>1,427</u>
Written Down Value:							
As at 1 July 1998	<u>1,485</u>	<u>438</u>	<u>234</u>	<u>3,750</u>	<u>3,375</u>	<u>9,282</u>	<u>6,038</u>
As at 30 June 1999	<u>1,893</u>	<u>482</u>	<u>196</u>	<u>3,625</u>	<u>3,375</u>	<u>9,571</u>	<u>9,282</u>

- (1) Assets at cost
(2) Assets at valuation

The Commission continues to derive service potential and economic benefit from \$921,635 worth of assets which have been fully depreciated. The majority of these assets are computer equipment with an original cost of \$915,935.

NOTE 10: 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 1998/99.

	1999	1998
	\$'000	\$'000
Creditors	150	63
Accrued Other Operating Expenses	127	75
Accrued Capital Expenses	27	25
	<hr/> 304	<hr/> 163

NOTE 11: CURRENT LIABILITIES - EMPLOYEE ENTITLEMENTS

	1999	1998
	\$'000	\$'000
Recreation leave	446	385
Accrued salaries and wages	77	53
Accrued fringe benefits tax	0	43
	<hr/> 523	<hr/> 481

NOTE 12: CHANGES IN EQUITY

	Accumulated Funds		Asset Revaluation		Total Equity	
	1999 \$'000	1998 \$'000	1999 \$'000	1998 \$'000	1999 \$'000	1998 \$'000
Balance at the beginning of the financial year	7,860	6,643	2,183	0	10,043	6,643
Surplus/(deficit) for the year	478	1,217	0	0	478	1,217
Increment on revaluation of:						
Land	0	0	0	1,575	0	1,575
Building	0	0	0	608	0	608
Balance at the end of the financial year:	8,338	7,860	2,183	2,183	10,521	10,043

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.

NOTE 14: COMMITMENTS FOR EXPENDITURE14.1 Capital Commitment

	1999 \$'000	1998 \$'000
Aggregate other expenditure contracted for at balance date and not provided for:		
Less than 1 year	23	18
Total	23	18

14.2 Other Expenditure Commitments

	1999 \$'000	1998 \$'000
Aggregate other expenditure contracted for at balance date and not provided for:		
Less than 1 year	68	43
Between 1-2 years	0	9
Total	68	52

14.3 Operating Lease Commitments

	1999 \$'000	1998 \$'000
Aggregate other expenditure contracted for at balance date and not provided for:		
Less than 1 year	17	0
Between 1-2 years	4	0
Total	<u>21</u>	<u>0</u>

These operating lease commitments are not recognised in the financial statements as liabilities.

NOTE 15: 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 16: BAD DEBTS WRITTEN OFF

An amount of \$7,463 was written off in 1998/99 as bad debts. These amounts were in the area of professional costs where the assets of the person involved were insufficient to meet all of the costs required (1997/98 \$Nil).

NOTE 17: MATERIAL ASSISTANCE PROVIDED BY OTHER PARTIES

No material assistance was received by the NSW Crime Commission free of charge during 1998/99 from any other organisation.

NOTE 18: BUDGET REVIEW

(a) Net cost of services

The actual net cost of services was less than the budget allocation by \$688,000. This favourable result was due to significant increases in revenue and decreases in operating expenses.

The increase in revenue is predominantly attributable to revenue from the recovery of professional costs in matters litigated under the Criminal Assets Recovery Act 1990 (CARA). The Commission in 1998/99 was successful in several large matters and as a result recovered more costs than anticipated.

The decreases in operating expenditure are predominantly in the area of depreciation expense. In 1998/99 the Commission received an allocation of

\$1.3 million to acquire assets. The forecast depreciation expense was based on these acquisitions occurring regularly over the whole financial year.

However, the actual acquisitions occurred largely late in the financial year. This later purchase time reduced the period over which depreciation occurred.

(b) Assets and Liabilities

- Current Assets

The actual level of current assets held by the Commission at 30 June 1999 was \$1,153,000 higher than the budgeted amount. This was due to increases in the level of cash at the bank and in debtors and prepayments.

The main reason for the significant increase in the level of cash over the budgeted amount was due to the level shown for the budgeted opening cash balance as at 1 July 1998.

The amount appearing in the budget for the opening cash balance was \$470,000 when the actual opening cash balance at 1 July 1998 was \$1,318,000. This was due to an error in the budgeting process. This has been rectified in the 1999/2000 budget process.

The level of debtors increased in 1998/99 due mainly to funds of \$233,000 owed to the Commission in professional costs to be recovered. This was supplemented by \$65,000 owed by the NSW Police Service in respect of joint operations and a \$15,000 increase in the level of prepayments.

- Current Liabilities

The level of current liabilities was \$227,000 higher than the budgeted amount at 30 June 1999. This was caused by increases in the level of accounts payable and in the annual leave provision held for employees' leave entitlements.

The increase in the level of creditors at 30 June 1999 was predominantly due to purchases of equipment made during June 1999. A large amount of equipment was purchased in June 1999 which under the suppliers terms of payments were not due to be paid until some time in July 1999.

Further increases were attributable to an increase in the level of accrued other operating expenses at 30 June 1999 caused by an increase in the level of accrued counsel fees and in costs associated with operating the Technical Group.

The increase in the annual leave provision of \$61,000 resulted from increases in salary received by staff during the year.

- **Non Current Assets**

The total of non-current assets was \$1,972,000, higher than the budgeted amount for the period. This was predominantly due to the revaluation of the Commission's land and building which occurred late in 1997/98. This revaluation increased the value of these classes of assets by \$2,183,000 which was not reflected in the budget estimates which were prepared at an earlier time.

NOTE 19: 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 1998/99 was 3.85%.

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:

	1999 \$'000	1998 \$'000
Cash on hand	22	22
Cash at the bank	1,435	1,296
Closing Cash and Cash Equivalents (per Cash Flow Statement)	<u>1,457</u>	<u>1,318</u>

NOTE 20: RECONCILIATION OF NET CASH FLOWS FROM OPERATING ACTIVITIES TO NET COST OF SERVICES

	1999	1998
	\$'000	\$'000
Net Cash From Operating Activities	1,272	1,800
Depreciation	(931)	(531)
Decrease/(Increase) in provisions	(61)	(68)
Acceptance by the Crown Entity of employee entitlements and other liabilities	(616)	(479)
Increase/(Decrease) in prepayments and other assets	251	(24)
(Increase)/Decrease in accounts payable	(51)	42
Recurrent appropriation	(6,890)	(6,698)
Capital appropriation	(1,263)	(1,800)
Net (loss) on sale of plant and equipment	(2)	(2)
Net cost of services	<u>(8,291)</u>	<u>(7,760)</u>

NOTE 21: 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 concluded in 1997/98 and the unexpended balance was returned to OSR.

NOTE 22: ADMINISTERED ASSETS AND LIABILITIES

The Commission has no administered assets or liabilities as at 30 June 1999 (30/6/98 - \$Nil)

END OF AUDITED STATEMENTS

OUTLINE OF 1999/2000 BUDGET

Operating Budget

The proposed operating budget for the NSW Crime Commission for the 1999/2000 financial year is:

	\$'000	\$'000
<u>Expenses</u>		
Employee-related expenses	6,200	
Other operating expenses	2,142	
Maintenance	120	
Depreciation	1,331	
Other services	18	9,811
<u>Revenue</u>		
User charges revenue	515	
Other departmental revenue	50	(565)
(Loss) on sale of non-current assets		0
<u>Net Cost of Services</u>		<u>\$9,246</u>

Capital Budget

The proposed capital budget for the Commission for the 1999/2000 financial year is:

Acquisition of property, plant and equipment	\$1,500,000
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**PERFORMANCE STATEMENT FOR THE
COMMISSIONER OF THE NEW SOUTH
WALES CRIME COMMISSION
FOR THE YEAR ENDED 30 JUNE 1999**

**The following statement was signed by the
Minister for Police, Mr Paul Whelan MP.**

The Annual Reports (Departments) Act 1985 requires that officers at or above the level of SES 5 be the subject of a performance statement.

The Commissioner of the NSW Crime Commission is not part of the CES and has accountability and responsibilities that differ from other chief executive officers.

However, it is appropriate that I record my satisfaction with the Commissioner's performance against the specific criteria mentioned in previous reports, and I do so.

Paul Whelan LLB MP
Minister for Police

ORGANISATION CHART PAGE

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