

**Forward to the Minister**

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NSW Crime Commission  
453 Kent Street  
SYDNEY 2000

30 October 1997

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 1997 for tabling in Parliament. The Report and Financial Statements have been prepared in accordance with the provisions of the New South Wales Crime Commission Act 1985, the Annual Reports (Departments) Act 1985 and the Public Finance and Audit Act 1985.

Yours sincerely,

.....  
P A Bradley  
Commissioner

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**COMMENT ON THE 1996/97 ANNUAL REPORT BY THE  
NEW SOUTH WALES CRIME COMMISSION  
MANAGEMENT COMMITTEE**

The Committee notes that the 11th full year of operation of the Crime Commission has been marked by continued growth in output and diversity while maintaining very low levels of consumption of public resources.

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

.....  
P F P Whelan

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P J Ryan

.....  
J H Broome

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P A Bradley

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**LIST OF ABBREVIATIONS**

|           |  |
|-----------|--|
| ABCI      | Australian Bureau of Criminal Intelligence                         |
| ACA       | Association of Chartered Accountants                               |
| ACS       | Australian Customs Service   |
| AFP       | Australian Federal Police  |
| ALEIN     | Australian Law Enforcement Intelligence<br>Network                 |
| ASC       | Australian Securities Commission                                   |
| ATO       | Australian Taxation Office   |
| AUSTRAC   | Australian Transaction Reports and Analysis<br>Centre              |
| CARA      | Criminal Assets Recovery Act 1990                                  |
| CES       | Chief Executive Service  |
| CJC       | Criminal Justice Commission  |
| COPOC Act | Confiscation of Proceeds of Crime Act 1989                         |
| COTS      | Commercial off-the-shelf   |
| Cth       | Commonwealth   |
| DEA       | Drug Enforcement Agency  |
| DPP       | Director of Public Prosecutions                                    |
| DTCP Act  | Drug Trafficking (Civil Proceedings) Act<br>1990                   |
| DX        | Document Exchange  |
| EEO       | Equal Employment Opportunity                                       |
| FEA       | Fraud Enforcement Agency   |
| FOI       | Freedom of Information   |
| ICAC      | Independent Commission Against Corruption                          |
| IGC       | Inter-Governmental Committee                                       |
| IT        | Information Technology   |
| ITTU      | Information Technology and<br>Telecommunications Unit              |
| LLB       | Bachelor of Laws   |
| LRC       | Law Reform Commission  |
| MOU       | Memorandum of Understanding  |
| MP        | Member of Parliament   |
| NCA       | National Crime Authority   |
| NESB      | Non-English Speaking Background                                    |
| NSWCC     | New South Wales Crime Commission                                   |
| NSWPS     | New South Wales Police Service                                     |
| OMCG      | Outlaw Motorcycle Gang   |
| QPM       | Queen's Police Medal   |
| RTA       | Roads and Traffic Authority  |
| SCOCCI    | Standing Committee on Organised Crime and<br>Criminal Intelligence |
| SES       | Senior Executive Service   |

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## COMMISSION MEMBERSHIP

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

During the first quarter of the reporting period, prior to the amendments being passed, there were two Commissioners, one of whom was also the Chairman. Commissioner Clarence Brieser retired on 16 October 1996, following six years' service as a Commissioner. Between 16 October 1996 and 6 December 1996, Mr John Giorgiutti, Solicitor to the Commission, was made an acting part-time member of the Commission.

Upon proclamation of the amendments, the Chairman of the Commission, Mr Phillip Bradley, became the sole Commissioner.

During the period 2 June 1996 to 6 June 1996, Mr Terrence Griffin was appointed Assistant Commissioner.

## OVERVIEW OF 1996/97

This year the Commission continued to increase productivity, reduce costs and expand its areas of activity.

In particular, the Commission declared a further surplus of \$1.406 million, or 20.76% in recurrent cost to Government. Over the past five years the Commission has reduced its recurrent cost to Government from \$8.48 million to \$5.37 million or 36.67%.

The Commission maintained this low level of cost throughout the year. In the same period new task forces were established to work on a series of new matters.

The Commission also further decreased the resources applied to its confiscation function and realised \$4 million in assets recovered.

The Commission has also built up its investigation capacity by the employment of further financial investigators and specialist organised crime investigators. Electronic surveillance and information technology capacities were upgraded during the year.

Following several years of inactivity significant progress was made on a number of law reform issues, including major amendments passed to the NSW Crime Commission Act in December 1996. Amendments to the Drug Trafficking (Civil Proceedings) Act are due to be passed early in the next reporting period.

The Commission continues to work with the Council on the Cost of Government to establish a common set of performance indicators under which the Commission and all other agencies working in the area of law, order and justice can be measured. Once these indicators are settled, the Commission will enter into a process of internal measurement and improvement, as well as benchmarking against other agencies. The Council on the Cost of Government is using the SEAS (Service Efforts and Accomplishments) methodology to establish the common indicators. The Commission has embarked upon self-assessment using the Total Quality Management system promoted by the Government and some pleasing outcomes were achieved by the beginning of the new year.

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**NEW SOUTH WALES CRIME COMMISSION  
PROGRAM OBJECTIVES AND  
DESCRIPTION**

**Program Objective:**

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

**Program Description:**

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

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

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

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

Restraining and confiscating property under the Drug Trafficking (Civil Proceedings) Act 1990;

**NEW SOUTH WALES CRIME COMMISSION  
SENIOR STAFF DURING 1996/97**

**Director and Solicitor to the Commission**

John Giorgiutti (June 1990)

**Assistant Director, Financial Investigations**

Michael Lulan ACA (June 1986)

**Assistant Director, Operations Support**

Alison Brook (October 1993)

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## CHAPTER ONE

### ESTABLISHMENT AND FUNCTIONS

#### ESTABLISHMENT

- 1.1 The Commission was established in January 1986 as an independent statutory authority under the then State Drug Crime Commission Act 1985. As at the end of the reporting period, the Commission was constituted by one full-time Commissioner, who has “special legal qualifications” and is appointed by the Governor, as set out in the Act.

#### LEGISLATION GOVERNING THE COMMISSION

- 1.2 The Commission is constituted under the New South Wales Crime Commission Act 1985 (as amended). The Act was amended during the reporting period, and the amended Act was proclaimed on 6 December 1996.
- 1.3 On 3 August 1990 the Drug Trafficking (Civil Proceedings) Act 1990 was proclaimed. It provides for the confiscation of the assets of drug traffickers and the recovery of proceeds of drug offences through civil proceedings in the Supreme Court. The Commission is responsible for the administration of this legislation. Details of activities under this legislation are set out in Chapter Four of this report.
- 1.4 During July 1997 (after the reporting period) the Drug Trafficking (Civil Proceedings) Act 1990 was amended and renamed the Criminal Assets Recovery Act 1990, widening the range of serious criminal offences covered by the Act.

#### CHARTER

- 1.5 The Commission’s charter is to combat illegal drug trafficking and organised and other crime in New South Wales.
- 1.6 The Commission’s functions are referred to in Chapter 2.

## FUNCTIONS AND OBJECTIVES

- 1.7 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.
- 1.8 The principal functions of the Commission are to:
- investigate matters relating to a “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; make applications for the restraint and confiscation of property under the Drug Trafficking (Civil Proceedings) Act 1990.

#### MEETINGS OF THE COMMISSION

- 1.9 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. The latter were held when the Commission was required to transact urgent business related to operational or administrative matters which justified consideration by the Commission in a formal meeting.
- 1.10 As outlined above the Commission has consisted of a sole Commissioner during most of the reporting year. Commission meetings have now been displaced by meetings which the Commissioner has with the Director and Assistant Directors.

#### RESPONSIBLE MINISTER

- 1.11 The Minister for Police has responsibility for administration of the New South Wales Crime Commission Act and the Drug Trafficking (Civil Proceedings) Act and is Chairman of the Commission’s Management Committee. The Hon P F P

Whelan MP was the Minister for Police during the reporting year.

**MANAGEMENT COMMITTEE**

1.12 During 1996/97 the Management Committee comprised the Minister for Police, the Hon P F P Whelan MP (Chairman); the Acting Commissioner of Police, Mr N Taylor, (until September 1996), the Commissioner of Police, Mr P J Ryan, QPM, (from September 1996), the Chairman of the National Crime Authority, Mr J H Broome; Mr D Mackay, Chairman of the Police Board of NSW (until December 1996, when the NSW Crime Commission Act was amended), and Mr P A Bradley, the Commissioner of the Commission.

1.13 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.

1.14 The Management Committee met on 10 occasions during the year.

1.15 The meetings are minuted in accordance with the Commission's Act.

1.16 The Commissioner reports to the Committee in terms of its functions at each meeting.

1.17 Between meetings, on an *ad hoc* basis, the Commissioner informs the Minister and members of significant events.

- 1.18 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 Drug Trafficking (Civil Proceedings) 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 of the Commission; and
- . the power to apply for special search warrants.

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

#### MANAGEMENT OF INVESTIGATIONS

- 2.7 Investigation of matters referred to the Commission are usually conducted by teams consisting of members of the NSW Police Service and Commission staff.
- 2.8 During 1996/97, much of the Commission's investigative work related to drug trafficking, under six ongoing references (Azure, Bianco, Gecko, Vacy and Waratah and Zetland). This work was carried out by teams of DEA task force police officers and Commission staff.
- A number of other task forces were established to deal with *ad-hoc* references on subjects such as murder, fraud and corruption.
- 2.9 The teams of task force police officers and Commission staff have day to day carriage of investigations but report to the Commission through weekly operations meetings. Police in task forces report through, and are supervised within, the NSW Police Service command structure.

#### THE DRUG ENFORCEMENT AGENCY

- 2.10 Most of the results in criminal investigation and most of the confiscation work is the result of the Commission's successful partnership with the NSW Police Service.
- 2.11 The task forces are assigned to assist the Commission, pursuant to an arrangement made by the Management Committee with the Police Commissioner under section

27A of the Act. The arrangement is embodied in Directions and Guidelines issued by the Management Committee. Central to this arrangement is the maintenance of the command structure within the Police Service. Section 27(A)(2) provides that the police task forces are 'under the direction and control of the Commissioner of Police', and subject to the Directions and Guidelines of the Management Committee. Selection, assignment and disciplinary matters in respect of police working in task forces is carried out within the Police Service and the Commission usually plays no part in those matters.

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

2.12 During the year under review, the Commission was given 7 new References. Active investigations ceased in respect of the Bega, Umina and Riverwood references.

2.13 The arrests which resulted from Commission references during the year are summarised later in this chapter.

2.14 For reasons of security and the requirements of the Act that individuals not be named, details of activities under all references are not provided. The Management Committee is provided with detailed monthly reports on the progress being made in each Reference. The following information relates to references which were current in 1996/97.

### **ACTIVE REFERENCES**

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

2.15 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.

2.16 This Reference continues to be productive, although several of the Azure II targets have become targets of the Eden Reference, and are covered statistically under that report. The results achieved in the 1996/97 year are listed below:

#### **2.17 Statistical Data for 1996/97**

|                   |                       |
|-------------------|-----------------------|
| Arrests           | 5                     |
| Charges Laid      | 11                    |
| Cash Seized       | \$123,910             |
| Drugs Seized      |                       |
| . Cannabis plants | 68                    |
| . Cannabis        | 19,703g               |
| . Cocaine         | 2 caps plus<br>3,505g |
| . Heroin          | 14,710g               |
| . Amphetamine     | 2,295g                |
| . Procaine        | 28.4g                 |
| . Hashish         | 1,860g                |
| . Ecstasy         | 1.5g plus<br>18 caps  |

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

2.18 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 new Reference investigates serious drug offences, larceny, money laundering, corruption and associated violence in the Australian/Romanian community.

#### **2.19 Statistical Data for 1996/97**

|              |      |
|--------------|------|
| Arrests      | 2    |
| Charges Laid | 2    |
| Drugs Seized |      |
| . Cannabis   | 8.9g |
| . Heroin     | .5g  |

#### **Reference codenamed "Gecko", referred on 5 May 1991**

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

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

2.22 Additionally, the Commission has focussed attention on Cabramatta in a joint operation with NSW Police and the Australian Federal Police. The statistics arising from this operation are included in the general Gecko statistics. They included the largest heroin seizure recorded in NSW.

particularly cocaine, by specific persons and their associates. It also investigates money laundering associated with the trafficking of cocaine.

2.23 Statistical Data for 1996/97

|               |                         |
|---------------|-------------------------|
| Arrests       | 93                      |
| Charges Laid  | 173                     |
| Cash Seized   | \$184,580<br>\$2,610 HK |
| Drugs Seized  |                         |
| . Heroin      | 81,248g                 |
| . Indian Hemp | 5g                      |

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

2.24 The Vacy Reference relates to the growing problem of the manufacture and supply of amphetamines, and associated money laundering offences. The Reference continues to be very productive.

2.25 Statistical Data for 1996/97

|                        |               |
|------------------------|---------------|
| Arrests                | 36            |
| Charges Laid           | 77            |
| Cash Seized            | \$208,885     |
| Gold Seized            | 1,871g (18ct) |
| Drugs Seized           |               |
| . Amphetamine (powder) | 2,764g        |
| . Methylamphetamine    | 500g          |
| . LSD                  | 51 tablets    |
| . Ephedrine            | 7,000g        |
| . Herbal Ecstasy       | 900g          |
| . Mormon Tea           | 600g          |
| . Steroids             | 100ml         |
| . Cannabis             | 4,704g        |
| . Cannabis plants      | 48 plants     |
| . Phenyl-2-Propanane   | 37 litres     |

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

2.26 This Reference was established to investigate the supply of prohibited drugs,

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**2.27 Statistical Data for 1996/97**

|                   |            |
|-------------------|------------|
| Arrests           | 22         |
| Charges Laid      | 83         |
| Cash Seized       | \$120,550  |
| Jewellery Seized  | \$100,000  |
| Drugs Seized      |            |
| . Cocaine         | 1,358g     |
| . Heroin          | 317g       |
| . Cannabis        | 7,428g     |
| . Cannabis plants | 242 plants |
| Guns seized       | 2          |

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

2.28 The Zetland Reference was granted to the Commission to investigate the illegal activities of outlaw motorcycle gangs (OMCG's). The Commission and a DEA Task Force working on this Reference also work closely with other law enforcement agencies, especially the ABCI, the NCA and the AFP, and regional drug units. The NCA coordinates a national Reference into this subject known as Panzer.

2.29 The results of Commission investigations since the Reference was granted in September 1994 have been very successful.

**2.30 Statistical Data for 1996/97**

|               |            |
|---------------|------------|
| Arrests       | 8          |
| Charges Laid  | 9          |
| Cash Seized   | \$950      |
| Drugs Seized  |            |
| . Amphetamine | 15,071g    |
| . Cannabis    | 3,856g     |
| . Ecstasy     | 18 tablets |

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

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

**Reference codenamed “Bega”, referred on 24 August 1995**

2.32 This Reference concerns an investigation into the explosion which occurred at the Blue Mountains City Council Chambers at Katoomba on 3 March 1992 when a pipe bomb detonated at the main front entrance to the Council Chambers.

2.33 The general purpose of the investigation is to determine whether relevant offences have been committed, to identify the offender(s) responsible for causing the explosion and to furnish evidence of those matters to the Director of Public Prosecutions. The Commission's investigation was preceded by two police investigations.

2.34 The Commission was unable to advance the matter due to the unavailability of witnesses who could give credible evidence of the events. In April 1997 the Commission reported to the Management Committee and recommended that the Reference cease.

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

2.35 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.

2.36 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.

2.37 In 1996 the Commission supplied a brief of evidence in relation to the matter to the Director of Public Prosecutions. In August 1997 after the end of the reporting period the Director of Public Prosecutions determined that his Office would not proceed with the prosecution. A Coroner's Inquest will be held into Mr Newman's death in February 1998.

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

2.38 The Dorrigo References were granted to investigate fraudulent evasion of tobacco licence fees payable to the Office of State Revenue under the Business Franchise Licences (Tobacco) Act 1987 and the laundering of those funds. The Commission has investigated the matter jointly with staff from the Office of State Revenue, officers from the Fraud Enforcement Agency, NSW Police Service and the Australian Customs Service.

2.39 Statistical Data for 1996/97

|                                |                 |
|--------------------------------|-----------------|
| Arrests                        | 9               |
| Charges Laid                   | 17              |
| Cash Seized                    | \$1,191,694     |
| Other Seizures<br>· Cigarettes | \$327,500 value |

2.40 Since arrests were made in this matter there has been a substantial change in the level of compliance which has resulted in gains to Commonwealth and State revenue exceeding \$200 million.

2.41 On 5 August 1997 the High Court decided in Walter Hammond and Associates Pty Limited and ors v. The State of New South Wales and ors, that the Business Franchise Licences (Tobacco) Act 1987 was invalid. It was revenue collected under this Act which the Commission alleges was being evaded and upon which prosecutions and confiscation action taken by the DPP depended. As a consequence of the High Court decision these actions have been discontinued. Several of the defendants have commenced actions against the DPP, the Commission and the State in relation to action taken by those agencies relying on the validity of the legislation.

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

2.42 On 21 March 1996 the Commission’s Management Committee granted Reference Eden for the investigation of criminal activity centred on Kings Cross with the South Region Special Investigations Unit.

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**2.43 Statistical Data for 1996/97**

|               |        |
|---------------|--------|
| Arrests       | 52     |
| Charges Laid  | 184    |
| Drugs Seized  |        |
| . Cocaine     | 600g   |
| . Heroin      | 289g   |
| . Cannabis    | 5,115g |
| . Ecstasy     | 19g    |
| . Amphetamine | 28g    |

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

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

2.45 The Commission works with NSW Police Service Task Force Yandee.

**2.46 Statistical Data for 1996/97**

|                   |            |
|-------------------|------------|
| Arrests           | 38         |
| Charges Laid      | 125        |
| Drugs Seized      |            |
| . Cannabis plants | 244 plants |
| . Cannabis leaf   | 19,958g    |

**Reference codenamed “Gymea”, referred on 12 September 1996**

2.47 The Gymea Reference was granted to the Commission on 12 September 1996 to investigate drug-related crimes and other offences, including armed robbery, larceny and money laundering by a specified group of persons. The Commission works with a NSW police task force on this matter.

**2.48 Statistical Data for 1996/97**

|                   |            |
|-------------------|------------|
| Arrests           | 5          |
| Charges Laid      | 14         |
| Cash Seized       | \$7,876    |
| Drugs Seized      |            |
| . Cannabis        | 9,233g     |
| . Cannabis plants | 619 plants |

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

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

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

2.51 The investigations are likely to conclude in early 1998.

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

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

2.53 The investigations are continuing.

**INVESTIGATIVE TOOLS**

2.54 The Commission has a number of investigative tools, in particular coercive powers under the New South Wales Crime Commission Act and powers under the Drug Trafficking (Civil Proceedings) Act 1990, the Listening Devices Act 1984, the Search Warrants Act 1985 and the Telecommunications (Interception) Act 1979. Details of usage of these powers is listed below:

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

|                                 | Total |
|---------------------------------|-------|
| Section 16 - Summons to Appear  | 329   |
| Section 17 - Notices to Produce | 605   |
| Section 11 - Search Warrants    | 7     |

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**2.56 Production Orders under the Drug Trafficking (Civil Proceedings) Act 1990**

|                   | Total |
|-------------------|-------|
| Production Orders | 302   |

**2.57 Listening Devices Act 1984**

|          | Total |
|----------|-------|
| Warrants | 360   |

**2.58 Telecommunications (Interception) Act 1979**

|          | Total |
|----------|-------|
| Warrants | 117   |

**Search Warrants Act 1985**

- 2.59 A large number of search warrants under this Act were also sought and executed by task force police working on Crime Commission References.

**INTER-AGENCY COOPERATION****Liaison**

- 2.60 The Commission is committed to cooperation with law enforcement agencies and other bodies at the State and Federal levels in both an advisory and operational capacity. The NSW Police Commissioner and the Chairman of the National Crime Authority (NCA) are members of the Commission's Management Committee. This facilitates liaison and cooperation between the three agencies.
- 2.61 As in previous years the Commission cooperated with a number of agencies. Principal among these is the NSW Police Service which provides most of the human resources for field investigations in relation to Commission references. In addition, a number of State and Commonwealth agencies have provided formal and informal assistance through a number of mechanisms. These include memoranda of understanding with agencies such as: the Australian Federal Police (AFP), the

Australian Taxation Office (ATO), the Australian Transaction Reports and Analysis Centre (AUSTRAC), the Queensland Criminal Justice Commission (CJC), Victoria Police (Vicpol), the Australian Bureau of Criminal Intelligence (ABCI), the Australian Customs Service (ACS), the Australian Securities Commission (ASC), the National Crime Authority (NCA), the NSW Roads and Traffic Authority (RTA) and the NSW Casino Control Authority. The Commission also worked in cooperation with the Royal Commission into the NSW Police Service, the Office of State Revenue and other State agencies.

- 2.62 As reported last year there have been initiatives in closer working relationships between law enforcement agencies with overlapping or complementary responsibility. The NCA has embraced an inter-jurisdictional coordinating role in respect of a number of subject matters. There have been federal contributions to State based task forces such as Coltsfoot (which investigated drug trafficking in Cabramatta) and more recently the Blade Joint Operation (which investigates South-East Asian Organised Crime). The advantage of these arrangements is that individual agencies can be part of a more effective joint response without giving up resources or spending more. The approach taken by the Commissioners for the NSW Police Service and Australian Federal Police has been a key factor in achieving these examples of cooperative law enforcement which have been needed for a very long time.
- 2.63 At the national level the Standing Committee on Organised Crime and Criminal Intelligence (SCOCCI) has replaced the body which previously advised the Inter-Governmental Committee of the NCA. SCOCCI has a specific charter, to:
- (a) advise the Inter-Governmental Committee (IGC) on the priorities and resources to be applied to national projects, particularly those of the NCA;
  - (b) advise the IGC on NCA joint task force operations, including post operational analyses, and to provide appropriate reports;

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- (c) advise the IGC on the coordination of the criminal intelligence system in order to ensure the full exchange of intelligence on projects of current or potential interest to the IGC; and
- (d) support the ABCI to ensure that it reaches its potential and has the capacity to respond to the requests of the IGC and SCOCCL.

- 2.64 The Committee, which consists of the heads of law enforcement agencies throughout Australia has good prospects of progressing these issues which are so important to achieving a coordinated and effective response to organised crime.
- 2.65 Frameworks alone are not sufficient to achieve the desired outcomes. Much work needs to be done to break down the barriers to cooperation and information sharing.

### Role of the ABCI

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

### Dissemination

- 2.67 The Commission frequently provides information to other law enforcement agencies and relevant bodies. During 1996/97 the Commission, with the approval of the Management Committee, disseminated intelligence material to other organisations on 298 occasions. Organisations receiving disseminated material included the AFP, NCA, CJC, ABCI, the Royal Commission into the NSW Police Service, sections of the NSWPS, other State Police Forces, and bodies such as the ATO, Australian Customs, Department of Immigration, Department of Gaming and Racing, the Department of Social Security, the Australian Taxation Office (ATO), the New Zealand Police

Service, NSW Independent Commission Against Corruption, NSW Treasury, NSW Public Trustee, Department of Corrective Services, AUSTRAC, Casino Control Authority, State Coroner's Office and the Commonwealth and State Directors of Public Prosecution.

### 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. By virtue of section 31(3), the report must not identify persons suspected of having committed offences or persons who have committed offences, unless those persons have been convicted.
- 2.69 During the year, police task forces assigned to Commission references arrested 270 persons and laid 697 charges. These figures can be compared with 467 arrests and 1034 charges in 1995/96.
- 2.70 Charges laid in 1996/97 and previous years of the Commission's operations are at various stages in the prosecution process.
- 2.71 The table below summarises arrests made and charges laid in connection with Commission/DEA and FEA task force operations in 1996/97\*.

| REF          | TOTAL ARRESTS | CHARGES    |
|--------------|---------------|------------|
| Azure II     | 5             | 11         |
| Bianco II    | 2             | 2          |
| Gecko        | 93            | 175        |
| Vacy         | 36            | 77         |
| Waratah      | 22            | 83         |
| Zetland      | 8             | 9          |
| Dorrigo      | 9             | 17         |
| Eden         | 52            | 184        |
| Farley       | 38            | 125        |
| Gymea        | 5             | 14         |
| <b>TOTAL</b> | <b>270</b>    | <b>697</b> |

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

**COURT PROCEEDINGS AND APPLICATIONS**

**NSW Crime Commission v Pham**

2.72 On 6 September 1996 the Commission commenced proceedings under the DTCP Act in relation to the interests in property of Hao Phu Pham and Ha Thi Pham. Mr and Mrs Pham then sought a declaration that the substantive provisions of the Act were invalid. The applicants submitted, in effect, that the Act was relevantly similar to the Community Protection Act 1994, and that the decision in *Kable v Director of Public Prosecutions (NSW)* (1996) 70 ALJR 814 should be applied.

2.73 On 16 September 1997 her Honour Justice Simpson of the Supreme Court dismissed the application with costs. In the judgment, her Honour stated that:

“... I do not consider that the [Drug Trafficking (Civil Proceedings) Act 1990] approximates the Community Protection Act in any relevant respect. Nor can it, in my view, bear the general description of legislation that undermines public confidence in the courts or the judiciary, or that constitutes the courts the mouthpiece of the Parliament or of the executive.

*Kable* is, in my view, a unique case, concerned with virtually unique legislation. Those features which made the legislation unique, and untenable, do not appear, when the [Drug Trafficking (Civil Proceedings) Act 1990] is properly examined, in that legislation. There is no warrant to conclude that it is invalid as conferring on this Court powers incompatible with its role as a Chapter III Court.”

**Matters arising out of Reference “Dorrigio”**

2.74 A number of persons who were the subject of investigations under Reference Dorrigio have instituted proceedings against the Commission, the Police Service and others in the Equity and Administrative Divisions of the Supreme Court. These proceedings

concern various matters, including the validity of the Reference and the search warrants issued in connection with the Reference, and the Commission’s powers to retain documents and goods seized pursuant to search warrants. At the time of writing these matters were before the Court.

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

2.75 One of the explicit functions of the Commission is to *furnish in accordance with the Act reports relating to illegal drug trafficking and organised and other crime, which include, where appropriate, recommendations for changes in the laws of the State.*

2.76 The Commission does, in the course of Management Committee meetings and through other informal mechanisms, report on its knowledge of the crime environment and more formally makes recommendations in relation to law reform.

2.77 The Commission’s capacity to do this is necessarily limited by its exposure to the crimes referred to. One limitation is that the Commission, in most of its investigations, is driven by references which limit the subject matters in which the Commission becomes involved. Notwithstanding the general powers contained in section 6, the Commission is largely consumed by the demands of references and rarely becomes involved in inquiries beyond that scope. There have been some notable exceptions to this where the Commission has become involved in inquiries for the purposes of determining whether references are necessary, or where the subject matter has been so important that it should warrant the attention of the Commission. In most cases, the Commission has been introduced to those matters by other agencies.

2.78 It follows that the Commission’s capacity to report comprehensively on crime is limited. The Commission has eschewed a function of collecting, analysing and reporting upon criminal intelligence generally, preferring to support and contribute to other agencies which have that express function, in the interests of

efficiency and the general benefit which flows to the community. Thus we have not sought to establish a bureau of criminal intelligence but rather to establish particular intelligence expertise to be applied to narrow subject matters determined usually by the terms of references.

2.79 Notwithstanding these limitations, the Commission has widened the window through which it sees criminal activity, partly because of the diversity of references which no longer exclusively refer to drug crime and partly through the confiscation practice which is no longer limited to drug-related crime. In addition, the experience of the Royal Commission has given a better understanding of the processes of organised criminal activity and has also created an environment which is more conducive to achieving results in investigations. As part of its commitment to ensuring that knowledge and understanding of the crime environment is improved, the Commission has been encouraging cooperative relationships towards joint investigations and intelligence sharing and mechanisms by which knowledge can be accumulated and analysed in a comprehensive way. The most obvious example of this is the ABCI. The Commissioner of the Crime Commission is also a member of the Standing Committee on Organised Crime and Criminal Intelligence which was established by the Australian Governments in November 1995 to replace a body which previously advised the Inter-Governmental Committee of the National Crime Authority. The express charter of that body is referred to at paragraph 2.63.

2.80 In furtherance of these goals two of the agencies represented on SCOCCI, in combination with the ABCI, have embarked on a project to assess the crime environment. There have been a number of attempts at this in the past. None have been satisfactorily completed. A credible report on the crime environment will be essential to governments in making critical decisions about the allocation of resources to achieve maximum effect in the fight against organised crime.

2.81 If a credible document is produced, agencies such as the Crime Commission, the NCA and organised crime groups within

other jurisdictions will for the first time, be driven by priorities based on a disciplined approach to the subject.

2.82 Presently the priorities are set on the basis of limited intelligence and intuition. There will always be scope for intuitive decisions about assignment of priorities, but judgments would be greatly improved if they are supported by reports based on comprehensive information.

2.83 In the meantime, the Commission has continued to assign priorities on the basis of information gathered by it and intelligence gleaned from other sources. That intelligence has justified the attention being given to organised crime groups. The work conducted under the GyMEA reference has demonstrated patterns of behaviour which we referred to in last year's report. In addition to the matters referred to last year, there is stronger evidence of opportunism on the part of these groups to participate in crimes based essentially on the profit motive without much regard to type. Drugs continue to dominate because of the profit margins involved, the ready market for the ease with which crimes can be committed and the low likelihood of detection due to the lack of complainants.

### **INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS UNIT**

#### **Telephone Interception**

2.84 117 warrants were granted to the Commission during the 1996/97 financial year. A total of 81 arrests were effected as a result of operations involving interception.

2.85 The use of investigation personnel to monitor interceptions continues to prove to be effective and efficient operationally. The ease of use of the system installed by the Commission has meant that monitors can be rapidly trained, providing additional resource flexibility.

#### **Information Processing**

2.86 The Commission's strategy of using COTS (commercial off-the-shelf) products has



continued to work successfully. The COTS  
system has reduced initial and ongoing  
upgrade and maintenance costs.

- 2.87 During 1996/97 the Commission's in-house operating systems were upgraded to Windows 95 and most PCs are now Pentium-based.
- 2.88 Intranet technology was introduced via the Commission's Intranet Web Server. All Commission-related manuals and training tutorials are published and viewed by users on the Web Server.
- 2.89 Data transmission of the Commission's operations to the ABCI with the aim of fostering inter-agency cooperation is continuing successfully. The introduction of ALEIN in conjunction with Intranet browsing technology has improved data retrieval and made the system easier to use.
- 2.90 The Commission is examining New Technology network operating systems with a view to integrating both Novel and Windows NT to achieve the best possible network support.
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## CHAPTER THREE

### LEGAL CHANGE

#### CRIMINAL ASSETS RECOVERY ACT 1990

- 3.1 In previous years the Commission had reported no progress in seeking amendments to the Drug Trafficking (Civil Proceedings) Act 1990 (“the DTCP Act”). However, on 25 July 1997, after the close of the reporting period, amendments the DTCP Act were proclaimed.
- 3.2 Civil confiscation proceedings have been extended from “drug related activity” to “serious criminal activity” which, in addition to drug related offences, includes offences punishable by imprisonment for five years or more and which involve theft, fraud, obtaining a financial benefit from the crime of another, money laundering, extortion, violence, bribery, corruption, harbouring criminals, blackmail, obtaining or offering a secret commission, perverting the course of justice, tax or revenue evasion, illegal gambling, forgery and homicide.
- 3.3 To reflect the broader application of the DTCP Act its name has been changed to the Criminal Assets Recovery Act 1990 (“CARA”).
- 3.4 The amendments to the Act have expanded the basis on which the Court makes a proceeds assessment order. Where the Court has determined that a person has engaged in serious criminal activity it can assess the person’s assets and expenditure over a six year period. It will be presumed that expenditure and increases in assets are derived from proceeds except where it can be shown they are not sourced from illegal activities (sections 27 and 28).
- 3.5 The changes also clarify the provisions relating to requiring a person to account for proceeds in a “controlled buy” from an undercover investigator. A person purchasing drugs as part of such an operation will be held accountable for the full amount of moneys received regardless of claims that some or all of it was passed on to another party (section 28(4)).

- 3.6 The Act enables the Court to release from restrained property funds for reasonable legal expenses to defend an application for a forfeiture order or to defend criminal charges. There has been considerable litigation since the introduction of the Act as to what constitutes “reasonable legal expenses”. The amendments introduce to the Act (at section 16A) some preconditions to release of funds for legal expenses. These preconditions reflect decisions of the Court in matters dealt with to date. The effect of the preconditions is that:

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

#### NEW SOUTH WALES CRIME COMMISSION ACT 1985

- 3.7 Amendments to the NSW Crime Commission Act were proclaimed on 6 December 1996. The main changes to the Act include the following:-
- . The structure of the Commission and the Management Committee has changed. The Chairman is now described as the Commissioner, and there is power to appoint Assistant Commissioners if the need arises. Currently the Commissioner is the only member of the Commission.
  - . The Commission now has the power to investigate almost all serious criminal offences which the Management Committee thinks appropriate, and coercive powers can be used in connection with reviews of police investigations.

The Commission can issue arrest warrants in certain circumstances to compel attendance of witnesses; and can refuse particular legal representation of witnesses in certain circumstances. The right to refuse to answer questions on the basis of self-incrimination has been removed.

enter into a memorandum of understanding and agree to comply with certain conditions.

- 3.14 The Witness Protection Act 1994 (Cth) has established a national witness protection program giving protection and assistance to witnesses. The Commonwealth Act is a complementary witness protection law for the purposes of the NSW Act, and provision is made to facilitate the protection in NSW of a person covered by a federal program.

## OTHER LEGISLATIVE CHANGE

- 3.8 The Commission has been recommending changes to the Listening Devices Act 1984 for many years. Some minor amendments have been made in that period.
- 3.9 In February 1997 further amendments to the Act came into force, pursuant to which warrants are granted by “eligible Judges” rather than by the Court.
- 3.10 The substantive issues were referred to the Law Reform Commission (LRC) on 2 July 1996.
- 3.11 Following consultation with the Crime Commission and other agencies, the LRC produced an issues paper in May 1997 which has addressed the issues raised by the Crime Commission. The Commission, with the ICAC and the Police Integrity Commission, has produced a joint submission to the LRC.
- 3.12 The Crimes Amendment (Detention After Arrest) Act 1997 passed through Parliament earlier this year, and it is expected to commence in late 1997. The amendments relate to persons being detained for investigative purposes.
- 3.13 The Witness Protection Act 1995 (NSW) commenced on 18 April 1996, and provides for the Commissioner of Police to establish and maintain a witness protection program for the safety and welfare of witnesses. Witness protection may include arrangements for the provision of a new identity or assumed name, transport, accommodation and financial assistance as required. The Act sets out the matters which the Commissioner is to consider in deciding whether to admit a witness to the program, and provides that the witness must

## CHAPTER FOUR

### CONFISCATION

#### BACKGROUND

- 4.1 The Commission administers the Drug Trafficking (Civil Proceedings) Act 1990 (“the DTCP Act”) which was proclaimed on 3 August 1990.
- 4.2 On 25 July 1997 - after the close of the reporting period - amendments to DTCP Act were proclaimed. The name of the Act was changed to the “Criminal Assets Recovery Act 1990” (“CARA”). The amendments have extended civil confiscation proceedings from “drug-related activity” to “serious criminal activity”.
- 4.3 The principal objects of the DTCP Act were:
- . to provide for the confiscation, without requiring a conviction, of property of a person, if the Supreme Court finds it to be more probable than not that the person has engaged in drug-related activities;
  - . to enable the proceeds of drug-related activities to be recovered as a debt due to the Crown; and
  - . to enable law enforcement authorities to effectively identify and recover property.
- 4.4 A serious crime-related activity is defined in CARA to be, in essence, 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 and homicide.
- 4.5 NOTE: The remainder of this Chapter will refer to the DTCP Act which was still in force as at 30 June 1997.

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

- . restraining orders preventing dealings with the property of persons reasonably suspected of having engaged in a drug-related activity or of persons whose interests in property are reasonably suspected of being drug-derived property within the meaning of section 9 of the DTCP Act;
- . asset forfeiture orders for the forfeiture of property subject to a restraining order;
- . proceeds assessment orders assessing the value of proceeds derived by a person from drug-related activities; and
- . search warrants, production orders and monitoring orders to allow property, documents and information to be obtained, so that property and the sources of that property can be located and identified.

- 4.7 Asset forfeiture orders and proceeds assessment orders can only be obtained where the Commission can establish upon the civil onus of proof, that the person whose suspected drug-related activity was the basis of the restraining order did, in fact, engage in a drug-related activity involving an indictable quantity of a prohibited drug or plant within the six year period prior to the making of the Commission’s application. “Indictable quantity” is that quantity of a prohibited drug or plant that is an indictable quantity under the Drug Misuse and Trafficking Act 1985.

#### STAFF

- 4.8 Within the confiscation litigation function are, lawyers, financial investigators and support staff.

**RESTRAINING ORDERS**

- 4.9 During the 1996/97 year, 145 restraining orders were obtained by the Commission under the DTCP 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 drug-related 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 drug-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 DTCP Act.
- 4.10 The number of restraining orders obtained under the DTCP Act since 3 August 1990 was 497, made up as follows:

| <b>Year</b>  | <b>Number</b> |
|--------------|---------------|
| 1990/91      | 57            |
| 1991/92      | 59            |
| 1992/93      | 24            |
| 1993/94      | 44            |
| 1994/95      | 73            |
| 1995/96      | 95            |
| 1996/97      | 145           |
| <b>TOTAL</b> | <b>497</b>    |

- 4.11 Potential targets of confiscation proceedings are now well aware of the impact of the DTCP Act and other proceeds of crime legislation, and are devoting greater effort and resources to the laundering of drug proceeds and the concealment of their assets. Commonly, aliases or the names of other persons are used to conceal the identity of the beneficial owner of assets. All law enforcement agencies, including 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.
- 4.12 The increase in the number of restraining orders obtained in 1996/97 over the previous years reflects, in part, an increased level of awareness on the part of police, increased experience and specialist skills

gained over the last seven years by the Commission in the confiscation area and the further allocation of resources by the Commission to financial investigation work.

**ASSET FORFEITURE ORDERS AND PROCEEDS ASSESSMENT ORDERS**

- 4.13 A proceeds assessment order is directed at recovering monies which can be shown to have been generated by drug-related activity, whereas an assets forfeiture order attaches to so much of a person's property as cannot be shown to have been lawfully acquired.
- 4.14 During 1996/97, 50 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 \$3,193,943 be forfeited to the Crown. The property forfeited included motor vehicles, jewellery, real property, cash and funds held in bank accounts.
- 4.15 During 1996/97, 17 applications for proceeds assessment orders were completed by way of negotiated settlement, resulting in orders that \$7,276,902 be paid to the Treasurer. Of this total, it is estimated that only \$789,402 will be realisable due to there being insufficient property to satisfy two of the orders.
- 4.16 The following tables enable a comparison between the results quoted above the those quoted in the last five annual reports.

| <b>Year</b> | <b>Assets Forfeiture Orders</b> | <b>Proceeds Assessment Orders</b> | <b>Total Confiscation Orders</b> |
|-------------|---------------------------------|-----------------------------------|----------------------------------|
| 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                               |

|       |     |    |     |  |
|-------|-----|----|-----|--|
| 7     |     |    |     |  |
| TOTAL | 204 | 60 | 264 |  |

| Year  | Assets<br>Forfeiture<br>Orders | Proceeds<br>Assessment<br>Orders<br>(Realisable<br>Amount) | Total<br>Realisable<br>Confiscation<br>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                                   |
| Total | \$14,533,615                   | \$3,351,920  | \$17,885,535                                  |

4.17 The DTCP Act has been in force for seven years and it is accordingly useful to compare the results to date with the cost to Government of the confiscation litigation function.

4.18 The following table makes the comparison.

| Year    | Realisable<br>Confiscation<br>Orders<br>(including legal<br>costs recovered) | Cost of<br>Confiscation<br>Litigation<br>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                                       |
| TOTAL   | \$17,993,635   | \$13,239,933                                      |

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

4.20 There was a 30.74% decrease in the cost of the confiscation litigation function in 1996/97 over 1995/96 which followed an 3.43% increase in the cost of the same function in 1995/96 over the previous year. The budget for confiscation litigation function for 1997/98 is \$1,774,000 with the monetary value of confiscation orders projected to be not less than \$6,000,000.

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

## PRODUCTION ORDERS

4.22 Section 33(1) of the DTCP Act provides that an authorised officer, if he has reasonable grounds for suspecting that a person has possession or control of property-tracking documents, may apply, *ex parte*, to the Supreme Court for an order against that person requiring that person to produce to the Commission such documents as are in that person's possession or control, or, in the case of bankers' books, to produce all relevant documents for inspection by the Commission.

4.23 Production orders are the means by which the majority of documents relevant to proceedings commenced by the Commission are obtained, unless the person against whom proceedings have been commenced also falls within the terms of a Commission reference. During 1996/97 the Commission applied for and obtained 246 production orders.

## SEARCH WARRANTS

4.24 A full-time member of the Commission or a member of the New South Wales Police Service (NSWPS) may apply, in certain circumstances, to an authorised justice for the issue of a warrant pursuant to section 38 of the DTCP Act, to search premises for drug-derived property; illegally acquired property; evidence of a drug-related activity; evidence of illegal activity of a person reasonably suspected of having been engaged in drug-related activities; and property which is subject to a restraining order. In 1995/96 no search warrants were applied for pursuant to these provisions.

4.25 Pursuant to sections 44 and 45 of the DTCP Act, a full-time member of the Commission or a member of the NSWPS may apply to the Supreme Court for a warrant authorising the search of premises for property tracking documents.



- 4.26 During the 1996/97 year, the Commission applied for the issue of 40 warrants under these provisions.

#### **MONITORING ORDERS**

- 4.27 Section 48 of the DTCP Act provides that an authorised officer may make an *ex parte* application to the Supreme Court for a monitoring order. Such orders direct financial institutions to give the Commission financial information obtained by the institution about transactions conducted by a particular person with the institution.
- 4.28 In 1996/97 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 DTCP Act which enables financial institutions to provide information to the Commission upon request (see 4.37).

#### **THE DPP OFFICES**

- 4.29 The Offices of the State and Commonwealth Directors of Public Prosecution each have a statutory role to play in the area of forfeiture of criminal assets through the Confiscation of Proceeds of Crime Act 1989 (NSW), the Customs Act 1901 (Cth) and the Proceeds of Crime Act 1987 (Cth).
- 4.30 The Commission has continued its links with both agencies and liaises with them in respect of operational and policy matters.

#### **THE COPOC ACT**

- 4.31 On 22 March 1993, a regulation pursuant to the COPOC Act was gazetted which empowered the Commission to take proceedings for restraint and forfeiture of tainted property in indictable drug matters under the Drug Misuse and Trafficking Act 1985. This regulation was made in order to minimise overlap in functions between the NSW DPP and the Commission in respect of the forfeiture of the property of persons involved in drug crime.
- 4.32 Each matter referred to the Commission for assessment of confiscation action under the

DTCP Act is also assessed for confiscation action under the COPOC Act.

- 4.33 During 1996/97 no restraining orders were obtained under the COPOC Act.

#### **THE AUSTRALIAN TAXATION OFFICE**

- 4.34 Previous annual reports have recorded the dispute between the Australian Taxation Office (ATO) and the Commission over the competing interests of the Commonwealth tax revenue and the confiscation of profits of crime.
- 4.35 During 1995/96 the Commission and the ATO entered into a Memorandum of Understanding which set guidelines for dealing in matters of conflict. In February 1995 a taxation liaison officer was appointed by the ATO to the Commission and that person was designated a member of the staff of the Commission. Following the retirement of the ATO Liaison Officer during the year no replacement has been made. The Commission maintains good working relations at a senior level within the ATO.

#### **FINANCIAL INSTITUTIONS**

- 4.36 As a result of the large numbers of production orders obtained under the DTCP Act and notices issued under section 17 of the Commission's Act, the Commission has established close liaison with the State's major banks and building societies.
- 4.37 Section 51 of the DTCP Act provides:-

“(1) If a financial institution has reasonable grounds for believing that information it has about a transaction with the institution:

- (a) might be relevant to an investigation of a drug-related activity or the making of a confiscation order; or
- (b) might otherwise be of assistance in the enforcement of this Act or the regulations,

the institution may give the information to the Commission.”

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

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

### **INTERNATIONAL AND INTERSTATE INQUIRIES**

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

4.41 Initially, the Commission was hampered by the fact that the DTCP Act was not declared a 'corresponding law' under the Proceeds of Crime Act 1987 (Cth). Because the DTCP Act was not a "corresponding law", orders under the Act did not fall within the terms of the Mutual Assistance in Criminal Matters Act 1987 which is the Commonwealth statute whereby requests for enforcement of Australian proceeds of crime orders are made in foreign jurisdictions. The DTCP Act was ultimately declared a "corresponding law" by the Commonwealth, as a result of a request by the NSW Attorney-General instigated by the Commission.

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.

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.

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

4.44 The contribution of the DEA Task Forces, the Regional Drug Units and a number of other police to the litigation commenced by the Commission has been substantial.

4.45 During 1996/97 a total of 432 matters were referred to the Commission for assessment of confiscation action under the DTCP Act and/or COPOC Act.

4.46 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    |

4.47 The small number of restraining orders obtained (relative to the large number of matters referred to the Commission) is due partly to the fact that police arrest large numbers of persons who habitually deal in indictable quantities of illicit drugs without acquiring substantial assets which are discoverable by the Commission.

4.48 A number of seminars were conducted in 1996/97 to further educate police as to the role of the Commission in the confiscation function and the operation of the DTCP Act. Assistance was also provided to police by the dissemination of financial reports or

### **SUPREME COURT AND DISTRICT COURT**

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information concerning persons allegedly \_\_\_\_\_  
involved in drug trafficking.

## **THE PUBLIC TRUSTEE**

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

## **THE CONFISCATED DRUG PROCEEDS ACCOUNT**

- 4.50 Monies realised from the sale of properties forfeited under the DTCP Act and monies received by the Treasurer pursuant to proceeds assessment orders are credited to an account administered by the Treasurer called the Confiscated Drug Proceeds Account. The proceeds of that account may be applied to administering the Act, victims compensation, law enforcement, drug rehabilitation or drug education.
- 4.51 To date the monies paid into the Account have largely been paid to the Treasury to recoup the costs of administering the DTCP Act.

## **TRAINING**

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

- 5.1 Mr P Bradley is the Commissioner and the sole Member of the Commission. He is also the Chief Executive Officer.
- 5.2 In October 1996 Mr C Briese retired as part-time Commissioner.
- 5.3 The Commission was divided into two Divisions: Operations and Operations Support. The Operations Division was headed by a Director, and the Operations Support Division was headed by an Assistant Director.
- 5.4 An organisation chart current at the end of the year is shown at Appendix F.

**ADMINISTRATIVE OFFICE**

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

**STRUCTURE****Management Team**

- 5.6 The Commissioner, Director and Assistant Director, Operations Support constituted the Management Team. The Management Team is responsible for the Commission's strategic plan and for the achievement of its aims and objectives.
- 5.7 In October 1996 the Commission introduced a new two-Division structure. The structure was based around the concept of teams with a flattened hierarchy. The Commission believes that the new structure has been very effective and anticipates that the fundamental structural approach will continue.

**Organisation**

- 5.8 The Operations Division covered all core work of the Commission. It consisted of three general investigation teams, each headed by an investigation manager. There was one financial investigations team, which investigated the financial positions of persons suspected of involvement in drug trafficking. Other teams included a litigation team (for confiscation action) and an Information Technology and Telecommunications Unit.
- 5.9 The Operations Support Division provided the support infrastructure to enable the operational work to be undertaken effectively, and includes functional teams covering finance, human resources, registry, building services, security and transcription.

**HUMAN RESOURCES****Staff Establishment**

- 5.10 In 1996/97 the establishment comprised positions under the Public Sector Management Act, and staff employed directly by the Commission pursuant to the NSW Crime Commission Act.
- 5.11 At the end of the reporting year, the number of staff employed by the Commission was 86 (81.4 equivalent full-time). The categories of staff comprising the establishment are tabulated below. A comparison with the staffing levels of the previous four years is included.

|                    | 96/9      | 95/9      | 94/9      | 93/9      | 92/9      |
|--------------------|-----------|-----------|-----------|-----------|-----------|
|                    | 7         | 6         | 5         | 4         | 3         |
| Statutory Officers | 1         | 2         | 2         | 2         | 2         |
| SES                | 0         | 1         | 2         | 2         | 2         |
| Public Service     | 23        | 26        | 35        | 46        | 59        |
| Staff              |           |           |           |           |           |
| Contracted         | 62        | 46        | 36        | 23        | 26        |
| Employees          |           |           |           |           |           |
| <b>TOTAL</b>       | <b>86</b> | <b>74</b> | <b>75</b> | <b>73</b> | <b>89</b> |

\*81.4 Equivalent Full-Time

**SES Positions**

- 5.12 The composition of SES positions held by Commission staff during 1996/97 and the

previous three years is set out in the \_\_\_\_\_  
following table.

| Level        | SES 96/97 | SES 95/96 | SES 94/95 | SES 93/94 | SES 92/93 |
|--------------|-----------|-----------|-----------|-----------|-----------|
| 2            | 0         | 1         | 2         | 2         | 2         |
| 1            | 0         | 0         | 0         | 0         | 0         |
| <b>Total</b> | <b>0</b>  | <b>1</b>  | <b>2</b>  | <b>2</b>  | <b>2</b>  |

### Female SES Officers

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

### Staffing Changes

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

### Personnel Policies and Practices

#### Training

- 5.15 During the reporting year members of staff participated in and contributed to training courses and conferences conducted by other agencies, and in-house courses designed for the needs of Commission staff.

#### Equal Employment Opportunity

- 5.16 The Commission's Equal Employment Opportunity (EEO) Annual Report 1995/96 was completed and submitted to the Director of Equal Opportunity in Public Employment.
- 5.17 The Commission conforms with the requirements of the Office of the Director of Equal Opportunity in Public Employment and has had the Director's approval of its strategies and outcomes following the annual review by that Office. The Commission takes the view that its EEO outcomes, as reflected in the statistics below, demonstrate that its strategies have been successful, particularly when assessed in comparison with other law enforcement agencies.

- 5.18 In the reporting period, 23 new members of staff were recruited. Of these, 1 (4%) was disabled, 12 were women (52%) and 6 were

people from non-English speaking backgrounds (NESB) (26%).

- 5.19 The following tables contain EEO statistics for 1996/97, 1995/96, 1993/94, 1992/93 and 1991/92.

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

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

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

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

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

| 1992/93           | Total Staff | Aboriginals | Disab | NESB     | Women    |
|-------------------|-------------|-------------|-------|----------|----------|
| Total Employees   | 82          | 0           | *     | 15 (18%) | 49 (59%) |
| Recruited 1992/93 | 12          | 0           | *     | 4 (33%)  | 8 (66%)  |

### 5.21 Representation of EEO Target Groups by Level 1996/97

| Grade          | Total Staff | Women    | NESB    |
|----------------|-------------|----------|---------|
| Above Grade 12 | 12          | 3 (25%)  | 2 (16%) |
| Grades 10 - 12 | 14          | 3 (21%)  | 3 (21%) |
| Grades 6 - 9   | 13          | 12 (85%) | 3 (23%) |

**Chapter Five: Administration**

|                |           |                     |                     |
|----------------|-----------|---------------------|---------------------|
| Grades 3 - 5   | 23        | 11<br>(47%)         | 5 (21%)             |
| Grades 1 - 2   | 14        | 12<br>(86%)         | 3 (21%)             |
| CO 1 - Grade 1 | 10        | 7 (70%)             | 4 (40%)             |
| Below CO 1     | 0         | 0                   | 0                   |
| <b>TOTAL</b>   | <b>86</b> | <b>48<br/>(56%)</b> | <b>20<br/>(23%)</b> |

|                |           |                     |                     |
|----------------|-----------|---------------------|---------------------|
| CO 1 - Grade 1 | 6         | 4 (66%)             | 1 (16%)             |
| Below CO 1     | 0         | 0                   | 0                   |
| <b>TOTAL</b>   | <b>73</b> | <b>44<br/>(60%)</b> | <b>16<br/>(21%)</b> |

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

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

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

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

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

| <b>Grade</b>   | <b>Total Staff</b> | <b>Women</b> | <b>NESB</b> |
|----------------|--------------------|--------------|-------------|
| Above Grade 12 | 12                 | 4 (33%)      | 2 (16%)     |
| Grades 10 - 12 | 5                  | 3 (60%)      | 2 (40%)     |
| Grades 6 - 9   | 17                 | 9 (52%)      | 5 (29%)     |
| Grades 3 - 5   | 17                 | 11<br>(64%)  | 3 (17%)     |
| Grades 1 - 2   | 16                 | 13<br>(81%)  | 3 (18%)     |



### 5.25 Representation of EEO Target Groups by Level 1992/93

| Grade          | Total Staff | Women           | NESB            |
|----------------|-------------|-----------------|-----------------|
| Above Grade 12 | 15          | 5 (33%)         | 6 (40%)         |
| Grades 10 - 12 | 11          | 3 (27%)         | 1 (9%)          |
| Grades 6 - 9   | 9           | 5 (55%)         | 2 (18%)         |
| Grades 3 - 5   | 20          | 15 (75%)        | 3 (15%)         |
| Grades 1 - 2   | 18          | 14 (87%)        | 2 (11%)         |
| CO 1 - Grade 1 | 11          | 7 (63%)         | 1 (9%)          |
| Below CO 1     | 0           | 0               | 0               |
| <b>TOTAL</b>   | <b>84</b>   | <b>49 (58%)</b> | <b>15 (17%)</b> |

### 5.26 Representation of Women by Level as a Total of Staff who are Women 1996/97

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

### 5.27 Representation of Women by Level as a Total of Staff who are Women 1995/96

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

### 5.28 Representation of NESB by Level as a Total of Staff who are NESB 1996/97

| Grade          | NESB    |
|----------------|---------|
| Above Grade 12 | 2 (10%) |
| Grades 10 - 12 | 2 (10%) |
| Grades 6 - 9   | 4 (20%) |
| Grades 3 - 5   | 5 (25%) |
| Grades 1 - 2   | 3 (15%) |

|                |           |
|----------------|-----------|
| CO 1 - Grade 1 | 4 (20%)   |
| Below CO 1     | 0         |
| <b>TOTAL</b>   | <b>20</b> |

### 5.29 Representation of NESB by Level as a Total of Staff who are NESB 1995/96

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

#### Staff Handbook

- 5.30 The staff handbook has now been settled and all staff have access to it, either electronically or in hard copy.

#### Enterprise Agreement

- 5.31 There has been no progress during the year towards an enterprise agreement. The Commission usually employs staff directly, and public servants comprise only about 25% of all staff.

#### Overseas Visits

- 5.32 Three overseas visits were made during 1996/97 by staff of the Commission.
- 5.33 The Manager, Information Technology and Telecommunications visited Canada in September/October 1996 to attend a Computer Search and Evidence Recovery Training Course, at a total trip cost of \$5,587.
- 5.34 The Assistant Director, Financial Investigations travelled to Wellington, New Zealand in April 1997 at the invitation of the New Zealand Police Service to address the New Zealand Bureau of Criminal Intelligence Seminar. The New Zealand Police Service paid for most travel expenses, with the Commission paying a total of \$120.

- 5.35 The Commissioner visited Hong Kong over 3 days in June 1997 to liaise with officers of the Technical Services Division, and to examine electronic surveillance systems in

Hong Kong. The total cost of the visit was \$2,327.

## **CORRUPTION PREVENTION**

- 5.36 The Commission's corruption prevention plan is regularly reviewed. All staff are reminded frequently through the medium of the internal newsletter of the critical importance of corruption prevention. All staff have hard copy and electronic access to the Commission's code of conduct.
- 5.37 Additionally, all staff have been advised on numerous occasions about their rights under the Protected Disclosures Act, and are encouraged to report instances of corruption and administrative malpractice.

## **MANAGEMENT SYSTEMS / MANAGEMENT IMPROVEMENT**

### **Performance Assessment**

- 5.38 During 1996/97 the Commission continued to monitor its operational activities and administrative support functions with a view to being as efficient and effective as possible.
- 5.39 The Commission held weekly operations meetings to assess the performance of teams for each Reference. Written reports were provided for those meetings and minutes were usually kept. In addition, status reports for each Reference and/or major operation were provided to the Management Committee at its meetings (usually held every five to six weeks).
- 5.40 The Commission produced monthly financial performance reports. The Accountant also provided quarterly reports on expenditure on specific items.

## **COMMITTEES**

### **Computer Users Group**

- 5.41 The Computer User Group was established to provide user input to, and feedback on, the application of computer resources to the various operational and administrative areas. It also provides a customer based focus for measuring ITTU performance. The committee met several times during 1996/97.
-

**Information Technology and  
Telecommunications Unit Briefings**

- 5.42 This committee was formed to discuss issues arising in the work of the ITTU and to monitor TI warrants. The membership included the Commissioner, Director, and the Manager, ITTU. Minutes were kept of each weekly meeting.

**CONSULTANTS**

- 5.43 One consultant was engaged during 1996/97 at a cost of \$2,990, to assist in preparing the Commission's Archives Disposal Schedule of Records.
- 5.44 An amount of \$93,885.50 was paid to 10 counsel retained by the Commission during the year for the purpose of legal proceedings. Under the Public Employment Office's definition, counsel are classified as contractors.

**THE ENVIRONMENT**

- 5.45 The Commission uses energy-efficient devices such as timers on all air-conditioning units, basement carpark lights, hot water urns and photocopiers, as well as water-saving devices such as special shower heads and toilet flushers. Signs requiring conservation of electricity are attached to every light switch.
- 5.46 In the Commission's recycling program, all paper is shredded and recycled, and all cans and bottles are recycled. Photocopy paper is either recycled or made from plantation trees. The Commission uses rechargeable batteries and recycles used toner cartridges from printers and facsimile machines.

**RESEARCH AND DEVELOPMENT**

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

**DISABILITY PLAN**

- 5.48 The Commission has submitted its 1995/98 Disability Plan to the Directorate on Disability.
- 5.49 The Commission has met all its objectives contained in the Plan during the year.

**SERVICES TO THE PUBLIC**

**Services and Complaints**

- 5.50 By reason of its statutory aims, objectives, functions and operational activities, the Commission does not provide services direct to the public, although it does operate a "008" telephone system to allow members of the public to provide information. Investigations are sometimes launched on the basis of such information.
- 5.51 As a consequence the Commission does not usually receive complaints or consumer suggestions. It is not possible therefore, for the Commission to report on services improved or changed as a result of such complaints or suggestions as required by the Annual Reports legislation. For the same reasons, the Commission has not developed 'standard times' for providing services with the exception of payment of accounts.

**Publications**

- 5.52 The only Commission publications available to the public are:
- . Annual Reports 1985/86 to 1996/97 inclusive; and
  - . Freedom of Information Statements of Affairs and Summaries of Affairs (current copies are available from the Assistant Director, Operations Support, at the address shown at Appendix C).

**ETHNIC AFFAIRS PRIORITIES REPORT**

5.53 During 1996/97, in consultation with the Ethnic Affairs Commission, the Crime Commission developed its Ethnic Affairs Priorities Statement, and is required to provide a progress report in this and future annual reports to Parliament. The Commission has not entered into any formal agreement with the NSW Ethnic Affairs Commission.

5.54 During 1996/97, the Commission met the aims set out in its Ethnic Affairs Priorities Statement, and in particular, offered in-house and externally-provided interpreting services to witnesses involved in Commission hearings and interviews. The Commission dealt with all witnesses, having proper regard to, and respect for, their ethnic origin, culture, religion and language.

5.55 The Commission conducted asset confiscation litigation throughout the year in a way which did not discriminate against any group or individual on the basis of race, gender, culture, religion, language or ethnic origin.

5.56 Further, the Commission maintained its commitment to equal employment principles. The profile of the NSW population is reflected in its workforce (see statistics in this chapter).

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

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

**Account Payment Performance**

5.58 The total value of accounts paid during 1996/97 was \$6,217,447.23. Of this amount 94.48% was paid on time (95.51% in 1995/96). There were no instances where the Commission was forced to pay penalty interest for late payment during 1996/97.

5.59 As at 30 June 1997, \$99,389.84 was outstanding in accounts payable to creditors. All of this amount was current.

|                                | <b>Qtr Ended<br/>30 Sep 96</b> | <b>Qtr Ended<br/>31 Dec 96</b> |
|--------------------------------|--------------------------------|--------------------------------|
| Value of Accounts Paid         | \$1,107,459                    | \$1,974,306                    |
| Value of Accounts Paid on Time | \$1,047,815                    | \$1,829,800                    |
| % of Accounts Paid on Time     | 94.61                          | 92.38                          |
| Value of Accounts Payable      | \$42,510                       | \$18,134                       |

|                                | <b>Qtr Ended<br/>31 Mar 97</b> | <b>Qtr Ended<br/>30 Jun 97</b> |
|--------------------------------|--------------------------------|--------------------------------|
| Value of Accounts Paid         | \$1,644,309                    | \$1,491,374                    |
| Value of Accounts Paid on Time | \$1,565,198                    | \$1,409,079                    |
| % of Accounts Paid on Time     | 95.19                          | 94.48                          |
| Value of Accounts Payable      | \$71,042                       | \$99,390                       |

**Stores and Equipment**

5.60 The following table shows expenditure on general stores, IT equipment, furniture and office equipment by month for the 1996/97 financial year.

| <b>Month</b> | <b>Expenditure</b> |
|--------------|--------------------|
| July         | (\$4,285)          |
| August       | \$12,929           |
| September    | \$17,076           |
| October      | \$27,296           |
| November     | \$21,145           |
| December     | \$8,000            |
| January      | \$23,655           |
| February     | \$7,336            |
| March        | \$26,386           |
| April        | \$19,715           |
| May          | \$82,803           |
| June         | \$124,918          |

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

- 5.61 The value of accrued annual leave, including applicable leave loadings, and extended leave at 30 June 1996 was \$317,116.38 and \$537,989.16 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 1996/97**

- 5.62 Assets acquired by the Commission during 1996/97 were:
- . Motor vehicles  
\$217,767
  - . Airconditioning in computer room  
\$29,527
  - . Lift upgrade  
\$21,687
  - . Personal computers  
\$60,561
  - . Laser Printer  
\$3,775
  - . Network scanner  
\$3,555
  - . Software  
\$65,720
  - . Other IT equipment  
\$17,300

### **Real Estate**

- 5.63 In 1993/94 the Commission acquired its main capital asset, being its premises at 453 Kent Street, Sydney for \$5.7 million. During 1995 the Commission received an informed estimate of current resale value of \$9.5 million. The Commission did not receive estimates of resale value during the 1996/97 year.

### **Risk Management and Insurance**

- 5.64 The Commission insures against a range of risks, including worker's compensation, motor vehicles, property damage and public liability through the New South Wales Treasury Managed Funds. In 1996/97 the Commission made 8 claims (2 in 1995/96). Of these claims, 4 related to workers

compensation (1 in 1995/96) and 4 related to motor vehicles (1 in 1995/96).

### **Grants to Community Organisations**

- 5.65 In accordance with its statutory charter, the Commission did not provide any grants to community organisations in 1996/97.

### **INTERNAL AUDIT**

- 5.66 In 1996/97 the Commission engaged the services of the Audit Office to perform an extended external and internal audit. The areas covered included purchases /disbursements, payroll (including SES), fixed assets, disaster recovery plans, payroll tax compliance and prompt payment of accounts.
- 5.67 The Commission has received the report of the Audit Office on the 1996/97 audit, which found no concerns with the areas examined, with the exception that the disaster recovery plans require attention. At the time of writing, the Commission was reviewing those plans.

### **FREEDOM OF INFORMATION**

- 5.68 The Commission received 3 requests under the Freedom of Information Act during the year. The Commission's Statement of Affairs appears at Appendix C.

### **CONTRACTING AND MARKET TESTING**

- 5.69 The Commission has formed the view that the functions market-tested by it could be more efficiently and cost-effectively performed by Commission staff.
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**NEW SOUTH WALES  
CRIME COMMISSION**

**FINANCIAL STATEMENTS  
FOR YEAR ENDED 30 JUNE 1997**

**New South Wales Crime Commission**

**Financial Statements for the  
Year Ended 30 June 1997**

**STATEMENT BY CHAIRMAN**

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

- (a) the accompanying financial statements have been prepared in accordance with the provisions of the Public Finance and Audit Act 1983, the Financial Reporting Code for Budget Dependant Agencies, the Public Finance and Audit (General) Regulation 1995, the Treasurer's Directions, Statement of Accounting Concepts and applicable Australian Accounting Standards;
- (b) the statements present a true and fair view of the financial positions and transactions of the Commission; and
- (c) there are no circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.

P A Bradley  
Commissioner

L Giles  
Accountant

Dated: 14 August 1997

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Auditor-General’s page

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**NEW SOUTH WALES CRIME COMMISSION**  
**Operating Statement**  
**For the Year Ended 30 June 1997**

|   | Notes    | Actual<br>1997<br>\$'000 | Budget<br>1997<br>\$'000 | Actual<br>1996<br>\$'000 |
|---|----------|--------------------------|--------------------------|--------------------------|
| <b>Expenses</b>                                       |          |                          |                          |                          |
| Operating Expenses                                    |          |                          |                          |                          |
| Employee Related                                      | 2(a)     | 4,624                    | 5,211                    | 3,919                    |
| Other Operating Expenses                              | 2(b)     | 1,957                    | 2,110                    | 1,547                    |
| Maintenance   | 2(c)     | 153                      | 280                      | 189                      |
| Depreciation  | 2(d)     | 536                      | 581                      | 513                      |
| Other Expenses  |          | 0                        | 18                       | 0                        |
| <b>Total Expenses</b>                                 |          | <b>7,270</b>             | <b>8,200</b>             | <b>6,168</b>             |
| Less:   |          |                          |                          |                          |
| <b>Retained Revenue</b>                               |          |                          |                          |                          |
| Investment Income                                     | 3(b)     | 96                       | 120                      | 137                      |
| Other Revenue   | 3(c) & 5 | 469                      | 337                      | 393                      |
| <b>Total Retained Revenue</b>                         |          | <b>565</b>               | <b>457</b>               | <b>530</b>               |
| <b>(Loss) on sale of non-current assets</b>           | 4        | <b>(35)</b>              | <b>0</b>                 | <b>(445)</b>             |
| <b>NET COST OF SERVICES</b>                           | 18(a)    | <b>6,740</b>             | <b>7,743</b>             | <b>6,083</b>             |
| <b>Government Contributions</b>                       |          |                          |                          |                          |
| Recurrent appropriation                               |          | 5,367                    | 6,773                    | 4,740                    |
| Capital appropriation                                 |          | 387                      | 387                      | 309                      |
| Acceptance by the Crown Transactions                  |          |                          |                          |                          |
| Entity of Employee entitlements and other liabilities | 6        | 447                      | 389                      | 397                      |
| <b>Total Government Contributions</b>                 |          | <b>6,201</b>             | <b>7,549</b>             | <b>5,446</b>             |
| <b>(Deficit) for the year</b>                         |          | <b>(539)</b>             | <b>(194)</b>             | <b>(637)</b>             |

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**NEW SOUTH WALES CRIME COMMISSION**  
**Statement of Financial Position**  
**As at 30 June 1997**

|                                 | Notes | Actual<br>1997<br>\$'000 | Budget<br>1997<br>\$'000 | Actual<br>1996<br>\$'000 |
|---------------------------------|-------|--------------------------|--------------------------|--------------------------|
| <b>ASSETS</b>                   |       |                          |                          |                          |
| <b>Current Assets</b>           |       |                          |                          |                          |
| Cash                            | 19    | 1,217                    | 1,226                    | 1,226                    |
| Receivables                     | 8     | 93                       | 189                      | 189                      |
| <b>Total Current Assets</b>     | 18(b) | 1,310                    | 1,415                    | 1,415                    |
| <b>Non-Current Assets</b>       |       |                          |                          |                          |
| Property, Plant and Equipment   | 9     | 6,038                    | 6,034                    | 6,228                    |
| <b>Total Non-Current Assets</b> |       | 6,038                    | 6,034                    | 6,228                    |
| <b>TOTAL ASSETS</b>             |       | 7,348                    | 7,449                    | 7,643                    |
| <b>LIABILITIES</b>              |       |                          |                          |                          |
| <b>Current Liabilities</b>      |       |                          |                          |                          |
| Accounts Payable                | 10    | 388                      | 191                      | 191                      |
| Employee Entitlements           | 11    | 317                      | 270                      | 270                      |
| <b>TOTAL LIABILITIES</b>        | 18(b) | 705                      | 461                      | 461                      |
| <b>NET ASSETS</b>               |       | 6,643                    | 6,988                    | 7,182                    |
| <b>EQUITY</b>                   |       |                          |                          |                          |
| Accumulated Funds               | 12    | 6,643                    | 6,988                    | 7,182                    |
| <b>TOTAL EQUITY</b>             |       | 6,643                    | 6,988                    | 7,182                    |

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**NEW SOUTH WALES CRIME COMMISSION**  
**Statement of Cash Flow**  
**For the Year Ended 30 June 1997**

|  | <b>Notes</b> | <b>Actual<br/>1997<br/>\$'000</b> | <b>Budget<br/>1997<br/>\$'000</b> | <b>Actual<br/>1996<br/>\$'000</b> |
|--|--------------|-----------------------------------|-----------------------------------|-----------------------------------|
| <b>Cash Flow from Operating Activities</b>                           |              |                                   |                                   |                                   |
| <b>Payments</b>  |              |                                   |                                   |                                   |
| Employee Related   |              | (4,100)                           | (4,822)                           | (3,540)                           |
| Other  |              | (1,952)                           | (2,408)                           | (1,793)                           |
| <b>Total Payments</b>  |              | <u>(6,052)</u>                    | <u>(7,230)</u>                    | <u>(5,333)</u>                    |
| <b>Receipts</b>  |              |                                   |                                   |                                   |
| Other  |              | 471                               | 337                               | 430                               |
| Interest   |              | 124                               | 120                               | 145                               |
| <b>Total Receipts</b>  |              | <u>595</u>                        | <u>457</u>                        | <u>575</u>                        |
| <b>Net Cash Flows From Operating Activities</b>                      | 20&18(c)     | <u>(5,457)</u>                    | <u>(6,773)</u>                    | <u>(4,758)</u>                    |
| <b>Cash Flows from Investing Activities</b>                          |              |                                   |                                   |                                   |
| Proceeds from the sale of property,<br>plant and equipment           |              | 81                                | 0                                 | 65                                |
| Purchase of property, plant and<br>equipment                         |              | (387)                             | (387)                             | (455)                             |
| <b>Net Cash Flows From Investing Activities</b>                      | 18(c)        | <u>(306)</u>                      | <u>(387)</u>                      | <u>(390)</u>                      |
| <b>Cash Flows from Government</b>                                    |              |                                   |                                   |                                   |
| Recurrent appropriation  |              | 5,367                             | 6,773                             | 4,740                             |
| Capital appropriation  |              | 387                               | 387                               | 309                               |
| <b>Net Cash Flows from Government</b>                                |              | <u>5,754</u>                      | <u>7,160</u>                      | <u>5,049</u>                      |
| Net (Decrease)/Increase in Cash<br>Opening Cash and Cash Equivalents |              | <u>(9)</u><br><u>1,226</u>        | <u>0</u><br><u>1,226</u>          | <u>(99)</u><br><u>1,325</u>       |
| <b>CLOSING CASH AND CASH<br/>EQUIVALENTS</b>                         | 19           | <u>1,217</u>                      | <u>1,226</u>                      | <u>1,226</u>                      |

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**NEW SOUTH WALES CRIME COMMISSION**

**Summary of Compliance with Financial Directives for the Year Ended 30 June 1997**

|                                 | <b>Actual Appropriations</b> |                | <b>Estimated</b>   | <b>Actual Appropriations</b> |                | <b>Estimated</b>   |
|---------------------------------|------------------------------|----------------|--------------------|------------------------------|----------------|--------------------|
|                                 | <b>Original</b>              | <b>Revised</b> | <b>Expenditure</b> | <b>Original</b>              | <b>Revised</b> | <b>Expenditure</b> |
|                                 | <b>1997</b>                  | <b>1997</b>    | <b>1997</b>        | <b>1996</b>                  | <b>1996</b>    | <b>1996</b>        |
|                                 | <b>\$'000</b>                | <b>\$'000</b>  | <b>\$'000</b>      | <b>\$'000</b>                | <b>\$'000</b>  | <b>\$'000</b>      |
| <b>Recurrent appropriations</b> |                              |                |                    |                              |                |                    |
| Program 1*                      | 6,773                        | 6,773          | 5,367              | 6,717                        | 6,717          | 4,740              |
|                                 | 6,773                        | 6,773          | 5,367              | 6,717                        | 6,717          | 4,740              |
| <b>Capital appropriations</b>   |                              |                |                    |                              |                |                    |
| Program 1*                      | 387                          | 387            | 387                | 309                          | 309            | 309                |
|                                 | 387                          | 387            | 387                | 309                          | 309            | 309                |
| <b>Total Appropriations</b>     | 7,160                        | 7,160          | 5,754              | 7,026                        | 7,026          | 5,049              |

\* The name and purpose of Program 1 is summarised in Note 7.

The reasons for the material variance between revised appropriation and estimated expenditure are identical to those given to explain the level of savings in Net Cost of Services (see Note 18(a)).

The result was that the Commission forecasted substantial savings in its recurrent appropriation requirements for 1996/97 which the Treasury took into account in calculating the level of appropriation which the Commission received for 1996/97.

**NEW SOUTH WALES CRIME COMMISSION**

**Notes accompanying, and forming part of, the Financial Statements**

**For the year ended 30 June 1997**

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

**(a) Reporting Entity**

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

**(b) Basis of Accounting**

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

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

The Statement of Accounting Concepts is used as a guide in the absence of Applicable Accounting Standards, Urgent Issues Group Consensus Views and legislative requirements.

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

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

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

**(d) Employee Entitlements**

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

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

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.

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

(ii) Long Service Leave and Superannuation

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

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

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

(e) **Insurance**

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

(f) **Acquisition of Assets**

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

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

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.

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**(g) Plant and Equipment**

Plant and equipment costing \$5,000 and above individually are capitalised.

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

Buildings and improvements, plant and equipment and infrastructure assets (excluding land) are valued based on the estimated written down replacement cost of the most appropriate modern equivalent replacement facility having similar service potential to the existing asset. Land is valued on an existing use basis.

In accordance with Treasury Circular G1991/20 - "Accounting Policies for Revaluation of Non Current Physical Assets" each class of physical non current assets is revalued every 5 years. In line with this policy the first revaluation will be conducted next financial year.

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

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

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

Depreciation is provided for on a straight line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the entity. Land is not a depreciable asset. The rates of depreciation applied to relevant categories of assets are set out in the following table and are consistent with those used in 1995/96.

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

**NOTE 2: EXPENSES**

| <b>(a) Employee Related Expenses</b> |  | <b>1997</b>   | <b>1996</b>   |
|--------------------------------------|--|---------------|---------------|
|                                      |  | <b>\$'000</b> | <b>\$'000</b> |
| Salaries and Wages                   |  | 3,442         | 2,870         |
| Superannuation Entitlements          |  | 253           | 303           |
| Long Service Leave                   |  | 177           | 94            |
| Recreation Leave                     |  | 335           | 248           |
| Workers Compensation Insurance       |  | 16            | 15            |
| Payroll Tax and Fringe Benefits Tax  |  | 286           | 236           |
| Other                                |  | 115           | 153           |
| <b>TOTAL</b>                         |  | <b>4,624</b>  | <b>3,919</b>  |
| <b>(b) Other Operating Expenses</b>  |  | <b>1997</b>   | <b>1996</b>   |
|                                      |  | <b>\$'000</b> | <b>\$'000</b> |
| Auditor's remuneration*              |  | 19            | 20            |
| Insurance                            |  | 25            | 24            |
| Office Utilities                     |  | 108           | 105           |
| Office Supplies                      |  | 753           | 468           |
| Computer Services                    |  | 218           | 138           |
| Travel Expenses                      |  | 29            | 20            |
| Motor Vehicle Expenses               |  | (2)           | (2)           |
| Service Fees                         |  | 388           | 342           |
| Other                                |  | 419           | 432           |
| <b>TOTAL</b>                         |  | <b>1,957</b>  | <b>1,547</b>  |
| *Includes Internal Audit Fee         |  | 4             | 6             |
| <b>(c) Maintenance</b>               |  | <b>1997</b>   | <b>1996</b>   |
|                                      |  | <b>\$'000</b> | <b>\$'000</b> |
| Repairs and routine maintenance      |  | 153           | 189           |
| <b>TOTAL</b>                         |  | <b>153</b>    | <b>189</b>    |
| <b>(d) Depreciation</b>              |  | <b>1997</b>   | <b>1996</b>   |
|                                      |  | <b>\$'000</b> | <b>\$'000</b> |
| Other Property, Plant and Equipment  |  | 536           | 513           |
| <b>TOTAL</b>                         |  | <b>536</b>    | <b>513</b>    |

**NOTE 3: REVENUES**



| (a) Sale of Goods and Services      |  | 1997<br>\$'000 | 1996<br>\$'000 |
|-------------------------------------|--|----------------|----------------|
| Sale of Goods and Services          |  | 0              | 0              |
| TOTAL                               |  | 0              | 0              |
| (b) Investment Income               |  | 1997<br>\$'000 | 1996<br>\$'000 |
| Interest                            |  | 96             | 137            |
| TOTAL                               |  | 96             | 137            |
| (c) Other Revenue                   |  | 1997<br>\$'000 | 1996<br>\$'000 |
| Lease of Advertising signage        |  | 117            | 165            |
| Rental of office space (see Note 5) |  | 301            | 159            |
| Miscellaneous                       |  | 51             | 69             |
| TOTAL                               |  | 469            | 393            |

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

|   | 1997<br>\$'000 | 1996<br>\$'000 |
|---|----------------|----------------|
| Proceeds from sale                                  | 81             | 65             |
| Written Down Value of assets sold                   | (116)          | (510)          |
| Net gain / (loss) on disposal of non-current assets | (35)           | (445)          |

**NOTE 5: ABNORMAL ITEMS**

|                        | 1997<br>\$'000 | 1996<br>\$'000 |
|------------------------|----------------|----------------|
| Rental of office space | 155            | 0              |
|                        | 155            | 0              |

Rental of Office space is considered to be abnormally large this financial year as a result of an agreement between the Commission and the Audit Office to terminate the existing lease. In accordance with this agreement the Audit Office paid the

Commission 50% of the total amount due over the remaining period of the lease (1/7/97 - 31/10/99).

**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:

|                    | <b>1997<br/>\$'000</b> | <b>1996<br/>\$'000</b> |
|--------------------|------------------------|------------------------|
| Superannuation     | 270                    | 303                    |
| Long Service Leave | 177                    | 94                     |
|                    | <b>447</b>             | <b>397</b>             |

**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(s): To combat illegal drug trafficking and organised crime in New South Wales.

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

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

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**NOTE 8: CURRENT ASSETS - RECEIVABLES**

|                                    | <b>1997<br/>\$'000</b> | <b>1996<br/>\$'000</b> |
|------------------------------------|------------------------|------------------------|
| Sale of goods and services         | 0                      | 0                      |
| Other Debtors                      | 93                     | 189                    |
| Less: Provision for doubtful debts | 0                      | 0                      |
| <b>TOTAL</b>                       | <b>93</b>              | <b>189</b>             |

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

|                                  | <b>Computer<br/>Equipment<br/>\$'000</b> | <b>General<br/>Equipment<br/>\$'000</b> | <b>Motor<br/>Vehicles<br/>\$'000</b> | <b>Building<br/>\$'000</b> | <b>Land<br/>\$'000</b> | <b>Total<br/>1997<br/>\$'000</b> | <b>Total<br/>1996<br/>\$'000</b> |
|----------------------------------|--|---|--------------------------------------|----------------------------|------------------------|----------------------------------|----------------------------------|
| <b>At Cost:</b>                  |  |   |                                      |                            |                        |                                  |                                  |
| Balance at 1 July 1996           | 1,141                                    | 562                                     | 121                                  | 3,731                      | 1,800                  | 7,355                            | 8,659                            |
| Additions                        | 151                                      | 93                                      | 218                                  | 0                          | 0                      | 462                              | 442                              |
| Disposals                        | (119)                                    | (75)                                    | (77)                                 | (0)                        | (0)                    | (271)                            | (1,746)                          |
| Transfers                        | 5  | (5)                                     | 0                                    | 0                          | 0                      | 0                                | 0                                |
| Balance at 30 June 1997          | 1,178                                    | 575                                     | 262                                  | 3,731                      | 1,800                  | 7,546                            | 7,355                            |
| <b>Accumulated Depreciation:</b> |  |   |                                      |                            |                        |                                  |                                  |
| Balance at 1 July 1996           | 655                                      | 110                                     | 22                                   | 340                        | 0                      | 1,127                            | 1,849                            |
| Depreciation for Year            | 331                                      | 54                                      | 26                                   | 125                        | 0                      | 536                              | 513                              |
| Write Back on Disposal           | (96)                                     | (34)                                    | (25)                                 | (0)                        | (0)                    | (155)                            | (1,235)                          |
| Balance at 30 June 1997          | 890                                      | 130                                     | 23                                   | 465                        | 0                      | 1,508                            | 1,127                            |
| <b>Written Down Value:</b>       |  |   |                                      |                            |                        |                                  |                                  |
| As at 1 July 1996                | 486                                      | 452                                     | 99                                   | 3,391                      | 1,800                  | 6,228                            | 6,810                            |
| As at 30 June 1997               | 288                                      | 445                                     | 239                                  | 3,266                      | 1,800                  | 6,038                            | 6,228                            |

**NOTE 10: CURRENT LIABILITIES - ACCOUNTS PAYABLE**

|           | <b>1997<br/>\$'000</b> | <b>1996<br/>\$'000</b> |
|-----------|------------------------|------------------------|
| Creditors | 99                     | 32                     |
| Other     | 289                    | 159                    |
|           | <b>388</b>             | <b>191</b>             |

**NOTE 11: CURRENT LIABILITIES - EMPLOYEE ENTITLEMENTS**

|                  | <b>1997<br/>\$'000</b> | <b>1996<br/>\$'000</b> |
|------------------|------------------------|------------------------|
| Recreation Leave | 317                    | 270                    |
|                  | <u>317</u>             | <u>270</u>             |

**NOTE 12: CHANGES IN EQUITY**

| <b>Accumulated Funds</b>                 | <b>1997<br/>\$'000</b> | <b>1996<br/>\$'000</b> |
|--|------------------------|------------------------|
| Balance at beginning of financial year   | 7,182                  | 7,819                  |
| Surplus / (Deficit) for the year         | (539)                  | (637)                  |
| Balance at the end of the financial year | <u>6,643</u>           | <u>7,182</u>           |

**NOTE 13: 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 EXPENDITURE**

| 14.1 | <u>Capital Commitment</u>  | <b>1997<br/>\$'000</b> | <b>1996<br/>\$'000</b> |
|------|--|------------------------|------------------------|
|      | Aggregate other expenditure contracted for at balance date and not provided for: |                        |                        |
|      | Less than 1 year   | 18                     | 0                      |
|      | Total  | <u>18</u>              | <u>0</u>               |

| 14.2 | <u>Other Expenditure Commitments</u>   | <b>1997</b>   | <b>1996</b>   |
|------|--|---------------|---------------|
|      |  | <b>\$'000</b> | <b>\$'000</b> |
|      | Aggregate other expenditure contracted for at balance date and not provided for: |               |               |
|      | Less than 1 year   | 64            | 19            |
|      | Total  | 64            | 19            |

**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**

No amounts were written off in 1996/97 as bad debts. (1995/96 \$NIL)

**NOTE 17: MATERIAL ASSISTANCE PROVIDED BY OTHER PARTIES**

No material assistance was received by the NSW Crime Commission free of charge during 1996/97 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 \$1,003,000. This favourable result was due to a reduction in operating expenses coupled with increases in revenue.

The increase in revenue is solely attributable to a payment of \$155,000 received in June 1997 from the Audit Office in termination of its lease of office premises in the Commission's building (see Note 5).

The savings in operating expenditure are predominantly in the area of Employee Related expenses. This is because over the last 18-24 months the Commission was undergoing a period of internal review to determine the most appropriate organisational arrangements and staffing levels required to allow it to best achieve its objectives. This resulted in a lesser number of staff than originally budgeted for.

This period of review was concluded in late 1996 and in 1997 a strong recruitment program was undertaken to fill positions identified as necessary. The costs

associated with this recruitment drive will not materialise substantially until 1997/98 and the Commission does not forecast to achieve this level of savings in future years.

**(b) Assets and Liabilities**

**- Current Assets**

The actual level of current assets held by the Commission at 30 June 1997 was \$105,000 lower than the budgeted amount. This was caused by a reduction in the level of accounts receivable and prepayments held at 30 June 1997.

The level of accounts receivable declined due to a reduction by \$29,000 in the level of interest received from the Treasury funds held in the Commission's bank account for the period January to June 1997. This was due to a combination of lower levels of cash balances at the bank and a reduction in the interest rate paid.

There was also a reduction in accounts receivable due to one amount held at 30 June 1996 for a specific debtor (Office of State Revenue - \$30,000) which was paid in July 1996 and was not due again as at 30 June 1997.

The level of prepayments declined between 30 June 1996 and 30 June 1997 by \$12,000. This was due to one staff member being paid in advance instalment for a substantial period with no repeat occurrence at the end of 1997.

**- Current Liabilities**

The level of current liabilities was \$244,000 higher than the budgeted amount at 30 June 1997. This was caused by an increase in the level of the annual leave provision held for employees' leave entitlements and in amounts due to creditors.

The increase in the annual leave provision of \$47,000 resulted from increases in the level of staff during the year and salary increases received by staff during the year.

The increase in the level of creditors at 30 June 1997 was predominantly due to payments due to one supplier totalling \$161,000 for work on supplying and installing a new computer application. The equipment for this application was supplied and installation completed prior to 30 June 1997 but as the actual application was not fully operational to the Commission's satisfaction at that time no payment was made. It is envisaged that this application will be at a level acceptable to the Commission in 1997 at which time payment will be made.

**(c) Cash Flows**

**- Net Cash Flows from Operating Activities**

The actual net cash flow from Operating activities for 1996/97 was \$1,316,000 lower than the budgeted amount for this period. The reasons for this level are the same as those which contributed to the Commission's level of savings in Net Cost of Services (see Note 18(a)).

**- Net Cash Flows from Investing Activities**

The actual level of net cash flows from Investing activities for 1996/97 was \$81,000 lower than the budgeted amount for the period. This was due to the Commission receiving and utilising \$81,000 from the proceeds of asset sales in 1996/97 for capital expenditure.

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**NOTE 19: CASH AND CASH EQUIVALENTS**

For the purpose of the Cash Flow Statement “cash” includes cash on hand and in the bank account. Cash at the end of the reporting period, as shown in the Cash Flow Statement, is reconciled to the related items in the Statement of Financial Position as follows:

|  | <b>1997<br/>\$'000</b> | <b>1996<br/>\$'000</b> |
|--|------------------------|------------------------|
| Cash on Hand   | 230                    | 267                    |
| Cash at the Bank   | 987                    | 959                    |
| Closing Cash and Cash Equivalents<br>(per Cash Flow Statement) | 1,217                  | 1,226                  |

In 1996/97 the NSW Treasury conducted a review of cash balances of all agencies to determine if balances were being held in excess of that necessary to fund working capital.

As a result of this review it was determined to reduce the Commission's cash balances by \$415,000. This amount was set off against the Treasury's recurrent allocation to the Commission.

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

|  | <b>1997<br/>\$'000</b> | <b>1996<br/>\$'000</b> |
|--|------------------------|------------------------|
| Net Cash Used on Operating Activities  | (5,457)                | (4,758)                |
| Depreciation   | (536)                  | (513)                  |
| Decrease/(Increase) in Provisions  | (47)                   | 16                     |
| Acceptance by the Crown Transactions Entity of employee entitlements and other liabilities | (447)                  | (397)                  |
| Increase/(Decrease) in prepayments and other assets  | (77)                   | 29                     |
| Increase/(Decrease) in accounts payable  | (141)                  | (15)                   |
| Net (loss)/gain on sale of plant and equipment   | (35)                   | (445)                  |
| Net Cost of Services   | <b>(6,740)</b>         | <b>(6,083)</b>         |

**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 located at the Commission, OSR funds were deposited into the Crime Commission's bank account. These funds remained directly under the control of the Office of State Revenue. At the conclusion of the operation any unexpended balance will be returned to OSR.

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

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

|   | <b>1997<br/>\$'000</b> | <b>1996<br/>\$'000</b> |
|---|------------------------|------------------------|
| Cash balance at the beginning of the financial year | 62                     | 0                      |
| Add: Receipts                                       | 0                      | 165                    |
| Less: Expenditure                                   | 38                     | (103)                  |
| Cash balance at the end of the reporting period     | <b>24</b>              | <b>62</b>              |

**NOTE 22: ADMINISTERED ASSETS AND LIABILITIES**

The Commission has no administered assets or liabilities as at 30 June 1997 (30/6/96 - Nil)



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**END OF AUDITED STATEMENTS**

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**OUTLINE OF 1997/98 BUDGET**

The proposed operating budget for the NSW Crime Commission for the 1997/98 financial year is:

|  | <b>\$'000</b> | <b>\$'000</b>  |
|--|---------------|----------------|
| <u>Expenses</u>                                  |               |                |
| Employee-related expenses                        | 5,521         |                |
| Other operating expenses                         | 1,843         |                |
| Maintenance                                      | 160           |                |
| Depreciation                                     | 690           |                |
| Other Services                                   | 18            | 8,232          |
| <u>Revenue</u>                                   |               |                |
| User charges revenue                             | 247           |                |
| Other departmental revenue                       | 50            | 297            |
| <u>Net Cost of Services</u>                      |               | 7,935          |
| <u>Less: Non-Funded Expenses</u>                 |               |                |
| Depreciation                                     | 690           |                |
| Acceptance by State of Commission liabilities    | 579           | 1,269          |
| <u>Consolidated Fund Recurrent Appropriation</u> |               | <u>\$6,666</u> |

The proposed capital budget for the Commission for the 1996/97 financial year is:

|   |                  |
|---|------------------|
| Acquisition of property, plant and equipment: | \$300,000        |
|   | -----            |
| Consolidated Fund Capital Appropriation       | <u>\$300,000</u> |

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**STATEMENT OF AFFAIRS  
PURSUANT TO s14(2) OF THE  
FREEDOM OF INFORMATION ACT 1989  
AS AT 30 JUNE 1996**

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

**1.1 Background/Legislation**

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

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

**1.2 Commission Membership**

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

**1.3 Charter**

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

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

**1.4 Aims and Objectives**

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

- . investigates relevant criminal activity referred to the Commission by its Management Committee with a view to the prosecution of offenders and the making of applications for orders under proceeds of crime legislation;
- . assembles admissible evidence and furnishes it to the Director of Public Prosecutions (DPP) for use in the prosecution of persons allegedly engaged in relevant criminal activities;
- . reviews police inquiries referred by the Management Committee and provides recommendations to the Management Committee for further action;
- . with the approval of the Management Committee, disseminates intelligence and information to, and cooperates and consults with, such persons or bodies as the Commission thinks appropriate;
- . furnishes reports relating to illegal drug trafficking and organised crime including, where appropriate, recommendations for changes in the laws of the State;
- . disseminates investigatory, technological and analytical expertise to such persons or bodies as the Commission thinks fit;
- . manages its resources effectively, efficiently and economically.

**1.5 Responsible Minister**

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

**1.6 Management Committee Membership**

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

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**1.7 Functions of the Management Committee**

The principal functions of the Management Committee are to:

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

**1.8 Structure and Organisation**

**1.8.1** The Commission consists of two Divisions, the Operations and Operations Support Divisions.

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

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

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

The Commission is responsible for investigating drug trafficking and organised and other crime in NSW and for the

administration of the Drug Trafficking (Civil Proceedings) Act. It does not provide 'services' directly to the public. However, its activities have implications for members of the public under investigation or involved in investigations (eg witnesses), and for members of the public who are the subject of investigation or confiscation litigation. In addition, the Commission's performance of its functions is beneficial to the community, by combating major criminal activity, particularly drug trafficking.

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

The Commission invites members of the public to bring to its attention any incidences or suspicion of drug trafficking or organised crime. The following toll free telephone number is available for this purpose: (008) 023143, or the Commission's main number on (02) 9269 3888. Members of the public can write to the Commission at the address shown below in paragraph 5.3.

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

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

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

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

5. ACCESS ARRANGEMENT,  
PROCEDURES AND POINTS OF  
CONTACT

5.1 As outlined above, it is unlikely that documents about the 'personal affairs' of persons of interest to the Commission would be available for inspection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

offences, to conduct investigations and commence litigation designed to restrain and confiscate the assets of those persons.

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

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

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

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

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

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

### **Standards of Service Delivery**

- . Requests for information, advice or services will be responded to promptly. Information and advice provided will be accurate, well researched and up to date.
- . Staff will be accessible during ordinary office hours. The Commission will provide after hours facilities for operational needs, and relevant staff who are needed to assist with operational requirements out of ordinary working hours will respond to call-ins or appropriate prior notice.
- . Procedures manuals will be kept up to date and followed by staff to ensure consistent and professional performance of duties.
- . Only authorised persons will exercise the Commission's statutory powers, and they will do so in a fair, impartial and consistent manner.
- . Staff will handle sensitive material and perform investigative related services with

## Appendix D: Guarantee of Service

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|  |  |   |
|--|--|---|
| proper consideration of their impact on individuals.   | <u>Legal Advice:</u>                   | John Giorgiutti, Solicitor to the Commission and Director |
| . Witnesses at hearings will have their rights and obligations explained.  | <u>Financial Analysis</u>              | Mike Lulan, Assistant Director (Financial Investigations) |
| . The Commission will pursue its litigation in the courts diligently, with a view to disposition of matters in a timely and fair manner.   | <u>Criminal Investigations</u>         | John Giorgiutti, Solicitor to the Commission and Director |
| . The Commission will seek to develop and maintain cooperative relationships with agencies with related business.  | <u>Warrants</u>                        | John Giorgiutti, Solicitor to the Commission and Director |
| . The Commission will develop and maintain an open and effective working relationship with the DPP, by means of regular meetings and individual officer contact, and will respond to all reasonable requests by DPP officers in a timely manner. | <u>Telecommunications Interception</u> | John Giorgiutti, Solicitor to the Commission and Director |
| Service standards will be monitored regularly by way of client feedback.   | <u>Registry</u>                        | Daria Harnett, Manager, Registry and Building Services    |
| <b><u>Complaints Procedures</u></b>  | <u>Financial</u>                       | Len Giles, Accountant                                     |
| Comments, criticisms or complaints about the provision of services can be made to the Director or the Commissioner. The Commission has a formal complaints handling mechanism.   | <u>Transcription Services</u>          | Lynne Calderon, Manager, Evidence Preparation Unit        |
| <b><u>Contact Directory</u></b>  | <u>Physical Resources</u>              | Daria Harnett, Manager, Registry and Building Services    |
| <u>Street Address:</u> 453 Kent Street<br>(Corner Druitt Street)<br>Sydney   | <u>Security</u>                        | Doug Brown, Security Manager                              |
| <u>Postal Address:</u> PO Box Q566<br>QVB Post Office<br>Sydney 1230   | <u>Intelligence Liaison</u>            | Daria Harnett, Manager, Registry and Building Services    |
| <u>Telephone:</u> (02) 9269 3888   |  |   |
| <u>Facsimile:</u> (02) 9269 3809   |  |   |
| <u>Business Hours:</u> 8.30am to 5.00pm<br>Monday to Friday<br>(Commission staff can be available outside these hours when required).  |  |   |

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## CODE OF CONDUCT

### INTRODUCTION

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

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

### OTHER RELEVANT MATERIAL

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

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

- \* Public Sector Management Act 1988;
- \* NSW Crime Commission Act 1985 (NSWCC Act);
- \* Criminal Assets Recovery Act 1990;
- \* Crimes Act 1900;
- \* Anti-Discrimination Act 1977;
- \* Protected Disclosures Act 1994;
- \* Occupational Health and Safety Act 1983;
- \* Public Finance and Audit Act 1983;
- \* Freedom of Information Act 1989;
- \* Independent Commission Against Corruption Act 1988 (ICAC Act);
- \* Oaths Act 1900;

- \* Telecommunications (Interception) (NSW) Act 1987;
- \* Telecommunications (Interception) Act 1979 (Cth);
- \* Listening Devices Act 1984; and
- \* Search Warrants Act 1985.

### APPLICATION

The Code applies to every individual employed as an officer of the Commission, including the Commissioner and other members, a member of staff of the Commission including NSW police officers conducting investigations under Commission References, or a person engaged to provide the Commission with services, information or advice. These persons are referred to herein as "officers".

### EVOLUTION

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

### VALUES UNDERLYING THE CODE

The Code of Conduct assumes that officers behave with:

- \* integrity;
- \* honesty;
- \* proper regard to the public interest;
- \* fairness;
- \* conscientiousness; and

- \* compassion.

## PRINCIPLES

- \* The public has a right to expect the highest standards of integrity and competence from officers.
- \* The Government of the day is entitled to expect officers to provide impartial and accurate advice and to implement its policies promptly, efficiently and impartially.
- \* Officers must carry out investigative work without fear or favour.
- \* Officers must meet high standards of ethical behaviour and accountability.
- \* The powers of the Commission must be used with restraint, and with due regard for their potential effect on individuals and organisations.
- \* The powers of the Commission must never be used as a threat.
- \* The fact that an officer works at the Commission should not be used to gain a personal advantage, other than the usual emoluments.
- \* Officers should establish and maintain effective relations with individuals and organisations outside the Commission giving due recognition to their rights.
- \* The security of information and the protection of persons working with or dealing with the Commission must be assured.
- \* Partiality and discrimination must be avoided.
- \* The work of the Commission must not be compromised or affected by the personal interest of any officer or other person.
- \* Public resources must be managed effectively and used efficiently.

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

## DISCLOSURE OF PRIVATE PARTICULARS AND OTHER INTERESTS

- \* All officers must make a disclosure of their personal particulars and/or financial interests and those of their spouses/partners. The purpose of this is to identify interests that could influence, or might be seen to influence, the performance of an officer's duties. **Example:** a spouse of an officer runs or works for a company which has commercial dealings with the Commission.
- \* Any significant changes in personal details and financial interests of officers or their spouses/partners must be submitted in writing to the Commission. **Example:** acquisition of assets, such as a holiday house or improvements to a home. Early disclosure of the reason for change in financial position will help to rebut any allegations of impropriety.

## CONFLICTS OF INTEREST

- \* Officers should avoid any financial or other interest or undertaking that could directly or indirectly compromise the performance of their duties. The onus is on officers to notify their supervisors of a potential or actual conflict of interest.
- \* **Examples** of conflict of interest situations are:
  - . directing Commission business to a company owned by you, a family member or a friend;
  - . giving paid work, such as legal briefs or consultancies, to spouses, friends or relatives;
  - . taking advantage of the Commission's dealings with a contractor to obtain something for your private use; for example, getting a computer cheaply for your personal use or receiving gifts or other benefits from a successful tenderer;
  - . providing information to a friend about a Commission investigation

concerning that person or someone they know.

- \* If, in the course of duties, an officer encounters information which involves persons, organisations or activities in or with which the officer (or another officer) has or had a personal interest or association, a written disclosure must be submitted to the Commission in accordance with the Complaints Procedure.

\* **Examples:**

- . if a person known to you (such as a friend, relative or former client) is the subject of an investigation;
- . if a business in which you, a relative or a friend has an interest, tenders for a contract and you are to assess the tenders or are responsible for organising supplies;
- . if a friend applies for a job at the Commission and you are on the selection committee.

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

#### ACCEPTANCE OF GIFTS OR BRIBES

- \* Acceptance of bribes by officers and the offering of bribes to officers is an offence. If an officer believes he/she has been offered a bribe or knows of a colleague who has been offered a bribe, a detailed report must be provided in accordance with the Complaints Procedure.
- \* No officer shall accept any gratuity offered in connection with the performance of his/her duties without the approval of the Commission. It may be seen as likely to improperly influence the officer's performance of his/her job. What is acceptable in private business may not be acceptable in the public sector. Token gifts of nominal value may be accepted where a refusal would cause unnecessary

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

- \* The solicitation of money, gift or benefit, travel or hospitality is an offence and could seriously damage the Commission's position. It is vital that the appearance not be created that any person or body is securing or attempting to secure the influence or favour of the Commission or any of its officers.

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

**Examples:**

- . If you accept a gift or lunch from a contractor or supplier, that person may put pressure on you not to strictly enforce the contract or give rise to. The cost of meals consumed by an officer should be paid for by the officer, an expectation or a perception that that person will obtain a contract from the Commission.
- . Token refreshments such as coffee or tea may be accepted without the need for the officer to meet the cost or report it.
- . If a person who has obtained work from the Commission offers to take you to the football in his company's corporate box, that may be regarded by some as an attempt to obtain further work; others may perceive that the Commission treats that company more favourably even if the contract is unrelated to the benefit you receive.
- . If you meet with someone who is being investigated by the Commission, people may assume you are providing confidential information or will attempt to influence the investigation. Disclosure or recording is therefore important.
- . If you are offered a small gift, for example for speaking at a conference, and it would be rude to refuse it, you should tell your supervisor about the gift. The potential for compromise or embarrassment is less if you are open about the receipt of gifts or hospitality.

- \* Officers are expected to perform any duties associated with their positions diligently, honestly, impartially and conscientiously, to the best of their ability.
  - \* Officers are expected to abide by the strict secrecy requirements imposed by section 29 of the NSWCC Act and the policy and directions of the Commission.
  - \* Officers are expected to make full and open disclosures of financial interests and personal details to the Commission when required.
  - \* Officers are expected to give full support to the Government of the day regardless of which political party is in office. When implementing policies, officers' own values should not take precedence over Government policy or the law. If a conflict exists between the policy and the officer's view which might affect the implementation of that policy, the matter should be discussed with the officer's supervisor.
  - \* Officers should not harass, unfairly discriminate or act in any way which is discriminatory or may be regarded as discriminatory in dealing with colleagues and members of the public.
  - \* Officers have a duty to report to a senior officer any unethical behaviour or wrongdoing by any other officer, and persons to whom such behaviour or wrongdoing is reported have a duty to act on that report. Officers providing such information will be offered protection from harassment and discrimination arising out of such reporting.
- Example:**
- . an officer might feel that government policy and the law on drug decriminalisation is wrong. The officer must nevertheless uphold the current law and support current policy.
  - . an officer who is aware of persistent personal use of a Commission computer or other equipment by another officer must report it.
- Officers should:
- . comply with all relevant legislative, industrial or administrative requirements, and ensure that decisions made are within their power or authority to make;
  - . be aware of and comply with Commission procedural requirements; and
  - . maintain adequate and accurate documentation to support any decisions made, or to record action taken or work carried out;
- so that auditors can be informed and satisfied that the Commission's work is conducted properly.
- \* In the performance of their duties, officers should:
    - . keep up to date with advances and changes in their area of expertise;
    - . treat members of the public and other staff members with courtesy and sensitivity to their rights
- Example:** disagreements between staff members should be discussed in private, not in the hearing of other staff;
- . provide all necessary and appropriate assistance to members of the public;
  - . strive to obtain value for public money spent and ensure efficiency in the use of public resources;
  - . not obtain, or seek, access to information other than in the course of official duties; and
  - . not use for improper advantage any official information gained in the course of employment or any official position;
- \* All officers are responsible for their own acts and omissions and, within reason, those of supervised staff.
  - \* Supervisors have the responsibility to ensure that officers under their leadership understand:

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

work. Officers must not access this information or use it for any purpose other than the Commission's work or for any purpose which is inconsistent with the requirements of the agency providing the information, unless prior approval is obtained from the Commission.

### **FAIRNESS AND EQUITY**

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

### **PUBLIC COMMENT**

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

### **USE OF INFORMATION**

- \* Officers must not disseminate information except in compliance with section 7 of the NSWCC Act, and the associated procedures of the Commission.
  - \* Caution and sound judgement should be exercised in discussing sensitive information with other Commission officers. Such discussions should be normally confined to those who require access to the information in order to conduct their duties or for the purpose of obtaining assistance.
  - \* The Commission is entrusted by other agencies with information to assist in its
-

- \* You should not provide "inside" information to tenderers or applicants for employment with the Commission, to give them an advantage in gaining a contract or job, particularly if they are your friends.
- \* Conversations about important or sensitive matters should be recorded in writing and reported to an appropriate senior officer.

### CORRUPT CONDUCT

- \* Under the ICAC Act, it is the responsibility of the Commissioner to report any corrupt conduct that is revealed in the course of investigation work and any corrupt conduct of an officer.
- \* The Commission also has an established procedure with the Police Service whereby allegations or suspicions of corrupt conduct by Police Officers are reported directly to the Commander, Internal Affairs and the Police Integrity Commission.
- \* It is the duty of an officer to report to the Commission any corrupt conduct which is encountered.
- \* Officers who report matters of corruption will be offered protection from reprisals that might otherwise be inflicted on them because of those disclosures, as outlined in the Protected Disclosures Act 1994 and the Commission's associated policy.

### USE OF OFFICIAL FACILITIES AND EQUIPMENT

- \* It is expected that officers will be efficient and economical in the use and management of public resources and be scrupulous in the use of public property and services and not permit their abuse by others.
- \* **Examples:** using public money (including credit cards, Cabcharge dockets) for private purposes; making false or inflated travel or overtime claims; attending conferences at Commission expense which are not relevant to the officer's work or professional advancement; travelling to a course at a distant location to visit family when the same course is being offered at a closer location; using equipment such as

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

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

### OUTSIDE EMPLOYMENT

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

### POLITICAL PARTICIPATION

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

### POST SEPARATION EMPLOYMENT

- \* Any person formerly employed by the Commission is still bound by the secrecy provisions contained in section 29 of the

- |  |   |
|--|---|
| <p>NSWCC Act and therefore, may not make public or otherwise use any knowledge or information gained as a consequence of employment with the Commission without prior permission from the Commission.</p>  | <p>* Sanctions may be applied if an officer becomes involved in:</p> <ul style="list-style-type: none"><li>. unacceptable behaviour, either in the course of duties or in private life;</li></ul>   |
| <p>* Any Commission property must be returned to the Commission at the conclusion of employment.</p>   | <ul style="list-style-type: none"><li>. unsatisfactory performance of duties;</li></ul>   |
| <p>* Former officers should ensure that they do not accept employment or engage in activities which may cast doubt on their own integrity or that of the Commission or which would give rise to a perception that confidential information obtained during the course of employment with the Commission may be disclosed.</p>  | <ul style="list-style-type: none"><li>. breaches of security;</li><li>. breaches of the Code of Conduct;</li><li>. breaches of terms and conditions of employment; or</li><li>. actions contrary to the NSWCC Act and other relevant legislation.</li></ul>   |
| <p>* <b>Examples:</b> If you work on a project or prepare a tender specification at the Commission, then leave and start up a business and tender for that work; or if you accept employment with a firm which obtained a contract from the Commission, on your recommendation, or which was investigated by the Commission: In the first case, there will be room for the perception that you used confidential information, or even tailored the specification, to give you an advantage. In the second, people will assume a relationship between your recommending work for the company and their offer of employment to you. In the third, the perception will be that you may have compromised the investigation to gain a personal advantage.</p> | <p>* The sanctions to be applied will depend on the seriousness of the breach and whether or not it has occurred on more than one occasion. Sanctions may include:</p> <ul style="list-style-type: none"><li>. counselling by supervisors, senior management or, in extreme cases, by the Commission;</li><li>. a record of behaviour being documented and placed on file;</li><li>. a salary increment being deferred;</li><li>. a further term of employment not being recommended;</li><li>. reporting to the ICAC;</li><li>. suspension;</li><li>. termination of contract;</li><li>. dismissal; or</li><li>. criminal prosecution.</li></ul> |

### SECURITY

- \* All officers must ensure that they are familiar with security procedures in respect of Commission premises and in relation to the acquisition, handling and disposal of information and documents, and the access of officers and visitors to Commission premises in order to maximise their safety and that of all Commission staff, records and property.

### SANCTIONS

- \* Supervisors must report any breaches of the Code of Conduct to the Commission.
-

**PERFORMANCE STATEMENT FOR THE  
COMMISSIONER OF THE NEW SOUTH  
WALES CRIME COMMISSION  
FOR THE YEAR ENDED 30 JUNE 1997**

**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 3 be the subject of a performance statement signed by the Minister. The Commissioner of the NSWCC is not part of the CES and has accountability responsibilities which 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



**STATEMENT OF COMPLIANCE BY THE  
COMMISSIONER**

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

1. Internal Audit

The Commission has ongoing program of internal audit, which includes review of the Commission's operations, procedures and policies by both Commission staff and by external auditors. During 1996/97 the Commission's payroll, accounts, fixed assets and disaster recovery functions were audited by the NSW Audit Office. The results of that audit indicated no problems other than the need for the disaster recovery functions to be reworked. The Commission is undertaking this task at the time of writing.

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

2. Risk Management

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

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

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

3. Compliance with Annual Reporting Requirements

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

P Bradley  
Commissioner

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**NEW SOUTH WALES  
CRIME COMMISSION**

**ANNUAL REPORT**

**1999/2000**

**NEW SOUTH WALES CRIME COMMISSION  
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