

NSW Crime Commission
453 Kent Street
SYDNEY 2000

16 October 1996

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

Dear Minister,

We are pleased to submit to you the Commission's Annual Report and Financial Statements for the year ended 30 June 1996 for tabling in Parliament. The Report and Financial Statements have been prepared in accordance with the provisions of the New South Wales Crime Commission Act 1985, the Annual Reports (Departments) Act 1985 and the Public Finance and Audit Act 1985.

Yours sincerely,

.....
P A Bradley, Chairman

.....
C R Briese, Commissioner

**COMMENT ON THE 1995/96 ANNUAL
REPORT BY THE
NEW SOUTH WALES CRIME COMMISSION
MANAGEMENT COMMITTEE**

.....
P F P Whelan

The Committee notes that the 10th 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.

.....
P Ryan

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

.....
J Broome

The decision of this Committee to grant References into major crimes of violence and serious revenue fraud has been more than justified by the results attained thus far.

.....
D Mackay

.....
P Bradley

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- Major Assets Purchased in 1995/96		30	AFP	Australian Federal Police
- Real Estate		30	APM	Australian Police Medal
- Risk Management and Insurance		30	ASC	Australian Securities Commission
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INTERNAL AUDIT		31	AUSTRAC	Australian Transaction Reports and Analysis Centre
FREEDOM OF INFORMATION		31	BA	Bachelor of Arts
CONTRACTING AND MARKET TESTING		31	BITF	Building Industry Task Force
			CD	Confiscation Division
			CJC	Criminal Justice Commission
			COPOC Act	Confiscation of Proceeds of Crime Act 1989
			Cth	Commonwealth
			DEA	Drug Enforcement Agency
			DPP	Director of Public Prosecutions
			DTCP Act	Drug Trafficking (Civil Proceedings) Act 1990
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INSIDE FRONT COVER:			LLB	Bachelor of Laws
. ACCESS PARTICULARS			MOU	Memorandum of Understanding
. COST OF ANNUAL REPORT			MP	Member of Parliament
INSIDE BACK COVER:			NCA	National Crime Authority
. ORGANISATION CHART			NESB	Non-English Speaking Background
			NSWCC	New South Wales Crime Commission
			NSWPS	New South Wales Police Service
			OMCG	Outlaw Motorcycle Gang
			POA	Professional Officers Association
			PSA	Public Service Association
			PWPD	People With Physical Disabilities
			RTA	Roads and Traffic Authority
			SES	Senior Executive Service
			TI Act	Telecommunications (Interception) Act 1979

COMMISSION MEMBERSHIP

Under section 5 of the New South Wales Crime Commission Act, the Commission must consist of two or more members, one of whom is appointed as a full-time member and Chairman of the Commission, and must have special legal qualifications. The other one or more member(s) can be appointed either as full-time or part-time members. Brief biographies of the Chairman and Commissioner who served in 1995/96 are set out below.

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

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

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

Mr Briese was born in Temora in 1930. During a career in Local Courts as a Clerk of the Court he qualified as a Barrister-at-Law and later in 1966 was appointed a Magistrate. Mr Briese received a Diploma of Criminology from Cambridge University on a Churchill Fellowship in 1977. In 1979 he became Chief Magistrate, a position he held until his retirement from the bench in 1990. In February 1990, Mr Briese took up his present position in a full-time capacity, until October 1994, when he became a part-time Member.

OVERVIEW OF 1995/96

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 \$1.98 million, or 29.43% in recurrent cost to Government (after reducing its initial allocation for 1995/96 by \$1.1 million). Over the past five years the Commission has reduced its recurrent cost to Government from \$9.163 million to \$4.74 million or 48.27%.

The Commission maintained this low level of cost throughout the year. In the same period four new task forces were established to work on a series of new matters including murders and multi-million dollar revenue fraud. The Commission has demonstrated that its specialised powers and resources can be most effective in these areas. The rate of use of the Commission's powers over the period is 11% higher than in 1994/95 and 122% higher than in 1993/94.

The Commission also further decreased the resources applied to its confiscation function and achieved a record amount of assets recovered (\$5.2 million). This figure is significantly higher than the recurrent cost of the operations of the Commission.

The Commission has also built up its investigation capacity by the employment of further financial investigators and specialist organised crime investigators.

During the year the Commission has continued to apply resources to assisting the Royal Commission into the NSW Police Service.

Once again the progress in law reform has been disappointing due to factors beyond the control of the Commission.

The Commission is presently working 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 presently using the SEAS (Service Efforts and Accomplishments) methodology to establish the common indicators.

**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.

**NEW SOUTH WALES CRIME COMMISSION
SENIOR STAFF DURING 1995/96**

Director, Investigation Division

Deborah Sweeney, BA LLB (July 1993)
Resigned in November 1995

Director, Confiscation Division

John Giorgiutti (June 1990)

Assistant Director (Litigation), Confiscation Division

Robyn Gray, BA LLB (Hons) (June 1991)
Resigned in March 1996

Assistant Director (Investigations), Confiscation Division

Michael Lulan ACA (June 1986)

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 30 June 1996, the Commission was constituted by a Chairman and a part-time Member, each of whom has special legal qualifications and is appointed by the Governor.

LEGISLATION GOVERNING THE COMMISSION

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

CHARTER

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

FUNCTIONS AND OBJECTIVES

- 1.5 The principal objective of the Commission is to reduce the incidence of illegal drug trafficking. A second objective is to reduce the incidence of organised and other crime.
- 1.6 The principal functions of the Commission are to:
- assemble admissible evidence and furnish it to the Director of Public

Prosecutions (DPP) for use in the prosecution of persons allegedly engaged in relevant criminal activities;

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

MEETINGS OF THE COMMISSION

- 1.7 The Commission meets formally to decide policy matters and transact significant business. The meetings are minuted. The Commission met on 22 occasions during the year. These meetings consisted of regularly scheduled meetings and *ad-hoc* meetings. The latter were held when the

Commission was required to transact urgent business related to operational or administrative matters which justified consideration by the Commission in a formal meeting.

RESPONSIBLE MINISTER

- 1.8 The Minister for Police 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

- 1.9 During 1995/96 the Management Committee comprised the Minister for Police, the Hon P F P Whelan MP (Chairman); the Commissioner of Police, Mr A R Lauer APM until February 1996, then the Acting Commissioner of Police, Mr N Taylor; the Chairman of the National Crime Authority, Mr T A Sherman until February 1996, then Mr J Broome; Mr D Mackay, Chairman of the Police Board of NSW; and the Chairman of the Commission.

- 1.10 The principal functions of the Management Committee are to:

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

. coordinate (by giving approvals) the operations of the Commission with other bodies.

- 1.11 The Management Committee met on 12 occasions during the year.

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

- 1.13 The Chairman reports to the Committee in terms of its functions at each meeting.

- 1.14 Between meetings the Chairman informs the Minister and members on an *ad hoc* basis of significant events.

- 1.15 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 As defined in section 3 of the Act, 'relevant criminal activity' means 'any circumstances implying, or any allegations, that a relevant offence may have been, or may be being, or may be about to be, committed.'
- 2.3 'Relevant offence' is also defined in section 3 of the Act. It means:
- . a serious drug offence that involves substantial planning and organisation; or
 - . any other offence that involves substantial planning and organisation and that involves, or is of a kind that ordinarily involves, the use of sophisticated methods and techniques.
- 2.4 To perform its function of investigating serious organised crime, the Commission has been given powers that are greater than normal policing powers. These powers include:
- . the power to conduct hearings *in camera* at which witnesses may be compelled to give evidence on oath and produce documents;
 - . the power to compel the production of documents and things relevant to an investigation of the Commission; and
 - . the power to apply for special search warrants.

- 2.5 The services of NSW Police task forces are made available to assist the Commission, pursuant to section 27A of the Act. Members of these task forces have the usual police powers.

MANAGEMENT OF INVESTIGATIONS

- 2.6 Investigation of matters referred to the Commission are conducted by teams generally consisting of members of the NSW Police Service and Commission staff.
- 2.7 During 1995/96, the majority of the Commission's investigative work related to drug trafficking, under six ongoing references (*Azure*, *Bianco*, *Gecko*, *Umina*, *Vacy* and *Waratah*), and one new reference (*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.
- 2.8 The teams of task force police officers and Commission staff have day to day carriage of investigations but report to the Commission through weekly operations meetings. Task force commanders meet with the teams as required.

THE DRUG ENFORCEMENT AGENCY

- 2.9 Almost all of the work within the Investigation Division and most of the work within the Confiscation Division is the result of the Commission's successful partnership with police task forces.
- 2.10 The task forces are assigned to assist the Commission, pursuant to an arrangement made by the Management Committee with the Police Commissioner under section 27A of the Act. The arrangement is embodied in Directions and Guidelines settled by the Management Committee. Central to this arrangement is the maintenance of the command structure within the Police Service. Section 27(A)(2) provides that the police task forces are 'under the direction and control of the Commissioner of Police', and subject to the Directions and Guidelines of the Management Committee. 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

2.11 During the year under review, the Commission was given five new References. Active investigations ceased in respect of References Albury, Riverwood, Seaforth, Yanco, Peshurst II, Umina, Queenscliff I and II, Ironbark, Junee, Moree and Hilltop.

2.12 In May 1992 the Government decided to refer serious criminal matters arising from the Royal Commission into Productivity in the Building Industry in New South Wales to the Commission. During 1995/96 investigations continued on five BITF references. The Task Force was disbanded on 1 July 1995. Existing investigations are being wound up and a number of prosecutions are current.

2.13 A summary of 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 1995/96.

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 and results achieved in the 1995/96 year are listed below:

2.17 Statistical Data for 1995/96

Arrests	15
Charges Laid	42
Drugs Seized	
. Cannabis plants	2
. Cannabis	4,524g
. Cocaine	2 caps
. Heroin	817g
. Methylamphetamine	0.6g

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 1995/96

Arrests	19
Charges Laid	55
Cash Seized	\$162,431 33,000 DM
Drugs Seized	
. Amphetamine	267g
. Cannabis	136.2g
. Cannabis plants	71
. Ecstasy tablets	77
. Heroin	537.7g
. Steroids	8 phials

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 This year saw another increase in the number of operations and the quantities of drugs seized. This has, in part, been attributed to the better understanding of the workings of Asian crime networks, the identification of principals involved and the cultivation of reliable informants who have knowledge of and/or connections with these groups.

2.22 Additionally, the Commission has focussed attention on Cabramatta in a joint operation with NSW Police and the Australian Federal Police.

2.23 Statistical Data for 1995/96

Arrests	247
Charges Laid	362
Cash Seized	\$114,875
Drugs Seized	
. Heroin	32,259g
. Cannabis	841g
. Rohypnol tablets	28 tablets
. Methadone	448ml

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 1995/96

Arrests	59
Charges Laid	156
Cash Seized	\$115,496
Drugs Seized	
. Amphetamine (powder)	27,101g
. Heroin	7,188g
. Cocaine	1,653g
. Cannabis	22,902g
. Cannabis plants	1,283 plants
. Red phosphorous	2,000g
. Phenyl-2-Propanane	10 litres
. Steroids	4 ampoules

Reference codenamed “Waratah”, referred on 2 November 1993

2.26 This Reference was established to investigate the supply of prohibited drugs, particularly cocaine, by specific persons and their associates. It also investigates money laundering associated with the trafficking of cocaine.

2.27 Statistical Data for 1995/96

Arrests	31
Charges Laid	138
Cash Seized	\$61,490
Drugs Seized	
. Cocaine	872.6g
. Heroin	92.6g
. Amphetamine	122.5g
. Ecstasy	4 tabs
. Cannabis	30,552g
. Cannabis plants	7
. Anabolic Steroid	20ml bottle
Guns seized	6

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 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 particularly successful.

2.30 Statistical Data for 1995/96

Arrests	71
Charges Laid	234
Cash Seized	\$114,300
Drugs Seized	
. Amphetamine	5,278g
. Cannabis	37,925g
. Cannabis plants	624 plants
. Ecstasy	5 tablets
. LSD	81 tablets
. Heroin	119.4g
. Caffeine	75kg
. Phenyl-2-propanane	10 litres

. Ephedrine	28.4g
. Precursors (amphetamine)	47,000g
Guns seized	5

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, 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. The Commission has to date been unable to advance the matter due to the unavailability of witnesses who could give credible evidence of the events.

Reference codenamed “Coogee”, referred on 11 September 1995

- 2.34 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.
- 2.35 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.

- 2.36 The investigation, which was initially commenced by police in September 1994, has been significantly advanced since it was referred to the Commission in September 1995, and advice is being sought from the NSW Director of Public Prosecutions as to the sufficiency of the evidence.

Reference codenamed “Dorrigo”, referred on 1 December 1995

- 2.37 The Dorrigo Reference was 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 and officers from the Fraud Enforcement Agency, NSW Police Service.

2.38 Statistical Data for 1995/96

Arrests	11
Charges Laid	26
Cash Seized	\$1,749,990
Other Seizures	
. Cigarettes	\$450,000 value
. Cannabis	54g

- 2.39 Since arrests were made in this matter there has been a substantial change in the level of compliance which has resulted in substantial net gains to revenue.

Reference codenamed “Eden”, referred on 21 March 1996

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

2.41 Statistical Data for 1995/96

Arrests	3
Charges Laid	5
Drugs Seized	
. Cocaine	63g

. Indian Hemp	2,400g
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Reference codenamed “Farley”, referred on 4 March 1996

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

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

2.44 Statistical Data for 1995/96

Arrests	22
Charges Laid	42
Drugs Seized	
. Cannabis plants	197 plants
. Cannabis leaf	4,000g

Reference codenamed “Riverwood” and “Riverwood II”, referred on 12 July 1993 and 20 September 1993, respectively

2.45 This Reference concerns extortion of shipping owners on the waterfront. A lengthy police investigation, prior to the Commission’s involvement, had been frustrated by the refusal of key people to speak to police. In Riverwood II, the Reference was expanded to include several instances of similar conduct which came to notice during the investigation. Hearings were held and documents required to be produced. Advice has been received from the DPP that charges can be laid in this matter.

INVESTIGATIVE TOOLS

2.46 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, and the Telecommunications (Interception) Act 1979. Details of usage of these powers is listed below:

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

	Total
Section 16 - Summons to Appear	260
Section 17 - Notices to Produce	700
Section 11 - Search Warrants	32

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

	Total
Production Orders	215

2.49 **Listening Devices Act 1984**

	Total
Warrants	307

2.50 **Telecommunications (Interception) Act 1979**

	Total
Warrants	112

Search Warrants Act 1985

2.51 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

2.52 The Commission is committed to cooperation with law enforcement agencies and other bodies at the State and Federal level in both an advisory and operational capacity. The NSW Police Commissioner and the Chairman of the National Crime Authority (NCA) are members of the Commission’s Management Committee. This facilitates liaison and cooperation between the three agencies.

2.53 In 1995/96 the Commission, through both its coercive powers and various formal and informal arrangements, received a great deal of cooperation from numerous Government and semi-Government bodies. In many instances this cooperation included the granting of computer access to relevant

- available information held by these agencies.
- 2.54 The Commission has entered into Memoranda of Understanding (MOU's) with a number of agencies. These MOU's relate, *inter alia*, to exchange of intelligence and joint operations. The relevant agencies now include the Australian Federal Police (AFP), the Australian 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.
- 2.55 The Commission has in the past been critical of the slowness of some agencies to forge working relationships which most effectively use the resources of agencies, especially those with overlapping responsibilities. The problems associated with *turfdom* have also been documented by other agencies.
- 2.56 It is pleasing to note that in the federal sphere there have been substantial changes which have potential for a more efficient interjurisdictional response to the problem of organised crime. The NCA continues to operate as a coordinator of national operations involving equal partners drawn from the Commonwealth, the States and the Territories.
- 2.57 The AFP Commissioner has made it a specific corporate priority of the AFP to exploit the opportunities for cooperation with other agencies. This emphasis from the top has realised actual gains in operational activity and results, and has raised the consciousness of all persons operating in the field of organised crime.
- 2.58 However, much remains to be done in NSW to achieve an optimum response through cooperative effort.

Role of the ABCI

- 2.59 Although the Commission is not a party to, or a member of, the ABCI, a close liaison has developed, and a MOU was signed between the two organisations in September 1992. Although the secrecy provisions of the Commission's Act restrict access to the Commission's database, provision was made in 1993/94 to allow the ABCI access to information on the database, subject to the exemption of nominated classes of sensitive information, including that which was obtained using the coercive powers of the Commission. The Commission and the ABCI reached agreement during 1995/96 to use the ABCI as the Commission's repository for its intelligence database. This has given greater access by the ABCI and its clients to Commission data, enhanced the opportunities for advanced IT applications on that data and realised savings in cost. It has also advanced the cause of cooperation between agencies.

Dissemination

- 2.60 The Commission frequently provides information to other law enforcement agencies and relevant bodies. During 1995/96 the Commission, with the approval of the Management Committee, disseminated intelligence material to other organisations on 458 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 and the Australian Taxation Office (ATO).

PROSECUTIONS

- 2.61 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.

- 2.62 During the year, police task forces assigned to Commission references arrested 467 persons and laid 1,034 charges. Of the persons arrested, 359 were charged with serious drug offences, as shown in the following table. These figures can be compared with 309 arrests, 186 for serious drug offences and 900 charges in 1994/95.
- 2.63 Charges laid in 1995/96 and previous years of the Commission's operations are at various stages in the prosecution process.
- 2.64 The table below summarises arrests made and charges laid in connection with Commission/DEA and FEA task force operations in 1995/96*.

REF	TOTAL ARRESTS	ARRESTS FOR SERIOUS DRUG OFFENCES	CHARGES
Azure II	15	11	42
Bianco II	19	15	55
Gecko	247	204	362
Vacy	59	45	156
Waratah	31	24	138
Zetland	71	48	234
Eden	3	2	5
Farley	22	10	42
TOTAL	467	359	1034

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

COURT PROCEEDINGS AND APPLICATIONS

R v A (Identity Withheld) and Another

- 2.65 In last year's report the Commission reported on the decision of the Court of Criminal Appeal in relation to a claim of public interest immunity raised by the Commission in answer to a subpoena issued on behalf of A. A was charged with offences as a result of a Commission investigation.
- 2.66 In A's trial, which was listed to commence in the District Court at Sydney on 26 August 1996, he asked the Court to make orders that the two registered informants who were involved in the operation which led to his arrest, be called to give evidence. At the

same time the Director of Public Prosecutions asked for orders that the evidence of the informants be given in closed court, which would have the effect of protecting their identities.

- 2.67 A made the application because of recent evidence which was disclosed to him by the prosecution that suggested the two informants were relevant and material witnesses whose evidence was important to the outcome of the trial.
- 2.68 The Commission was granted leave to appear in the applications and made a claim to public interest immunity in relation to the non-disclosure of the identity of the informants.
- 2.69 The court delivered judgment on 27 September 1996, dismissing the applications by the defendants, making the orders sought by the Director of Public Prosecutions and upholding the Commission's claim to public interest immunity.

NATURE AND EXTENT OF ORGANISED AND OTHER CRIME

- 2.70 Since its inception the Commission's work has concentrated on drug trafficking which was the primary objective of the legislation under which the Commission was established. This was reflected in the Commission's original title.
- 2.71 The Commission's capacity to comment on matters other than drugs was limited in its early days by its experience. Since that time the Commission has been exposed to a range of diverse subjects including corruption, political murder and violence, race fixing and public justice offences. It should be borne in mind, however, that the Commission is not a general investigation agency like a police force, but is limited by the terms of *References* issued to it.
- 2.72 Most of these *References* have been initiated by the Commission or through discussion with the Police Service. The Commission believes that through targeting specific groups it can have the greatest impact on serious organised criminal activity.

- 2.73 The Commission draws comfort from the fact that the Commonwealth Law Enforcement Review nominated each of the Commission's long term *References* as appropriate subjects for the *Menu of Work* for the *National Crime Authority*.
- 2.74 In every case the menu identified groups as long-term targets rather than targeting events or commodities. The advantages of working on groups is that by its nature, organised crime activity involves numbers of persons involved in joint criminal enterprise. While groups may change and individuals may contribute to a greater or lesser extent, the targeting of the group leads to accumulation of knowledge and a readiness to seize opportunities to apprehend offenders.
- 2.75 This approach has been true of groups however defined. Some are very specifically defined by formal membership such as the Outlaw Motorcycle Gangs targeted under the *Zetland Reference*. Others may be defined by ethnicity as in the case with the Commission's drug *References Azure, Bianco and Gecko* and others by geography and conduct, as is the case with the *Eden Reference* which focuses on organised crime by groups operating out of Kings Cross.
- 2.76 In all of these areas the Commission has found patterns of association which are enduring. While the structure may vary, even to the extent that relationships between individuals may be reversed, the structures and patterns continue and are vulnerable to penetration for that reason. This penetration can take the form of undercover operations, electronic surveillance, cultivation of informers and other more overt methods. Penetration through electronic surveillance remains difficult due to the continued inability to intercept digital mobile telephones and outmoded legislation at Commonwealth and State levels.
- 2.77 An understanding of the problem continues to improve as knowledge accumulates and new minds and methods are brought to bear on the subject matter. However, knowledge of the subject remains fragmented and the law enforcement response is less than

unified. This remains so notwithstanding the efforts of a number of key players, including the Commissioner of the Australian Federal Police. Nowhere is the problem more significant than in NSW, where organised crime is most evident and the resources available most numerous. Attempts are being made in this State to reduce fragmentation and duplication of effort but much more is needed.

- 2.78 As law enforcement becomes more adept, so too do the criminals. Most targets of the Commission who are worthy of attention because of the seriousness of their activity, habitually use digital telephones and will even disable other means of communication to avoid interception. They adapt security and counter-surveillance measures specifically aimed at avoiding detection and carry out business in remote locations. They call upon specialists and networks to facilitate particular activities. Corruption detected by the Royal Commission is but one manifestation of this.
- 2.79 With each year of its operations, the Commission becomes more convinced that organised crime conducted for profit can be most effectively attacked by confiscating the proceeds of crime.
- 2.80 While the proportion of criminal assets confiscated each year is relatively small compared with the money generated, it is hoped that through the long-awaited changes to the relevant legislation and improved expertise, we will have a more substantial impact. It is the Commission's belief, based on solid intelligence, that there are very substantial assets in the hands, or under the control, of professional criminals. These assets continue to empower them in other unlawful endeavours which will further enrich them at the cost of the law-abiding. There is also a substantial body of evidence indicating that many such assets are located offshore. The assets in Australia or offshore should be more amenable to confiscation action if the amendments first sought by the Commission in 1993 are passed into law.

- 2.81 It was reported in last year's Annual Report that the Commission has combined the former Telecommunications Interception Unit and the Information Technology Unit to form the Information Technology and Telecommunications Unit. The new Unit, which has responsibility for all IT related issues within the Commission, has proven to be a success, with increased productivity, reduced costs and a higher standard of service.

Telephone Interception

- 2.82 The Commission was granted 112 warrants during the 1995/96 financial year. A total of 78 arrests were effected as a result of operations involving interception.
- 2.83 The use of DEA task force 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 flexibility for task force resources.

Information Processing

- 2.84 During the year in review, the Commission continued its strategy of utilising COTS (commercial-off-the-shelf) products wherever possible, thus reducing initial and ongoing costs.
- 2.85 During 1995/96 the Commission's in-house network software was upgraded, improving its reliability, and a phased program of upgrading personal computers from eighty 486-based machines to Pentium-based computers was commenced. At the same time, many of the Commission's personal computers were upgraded to run Windows 95.
- 2.86 The Commission is examining intranet technology with a view to the possible introduction of an intranet as a method of publishing and distributing internal documentation.
- 2.87 Data related to Commission operations continues to be entered onto the ABCI's ACID system in line with the Commission's aim of fostering inter-agency cooperation.

During the last financial year, intelligence analysts from the Commission benefited from the introduction of automated entry onto ACID of certain data. The Commission acknowledges the assistance of technical staff at ABCI in developing the automated entry systems.

Operation BITS

- 2.88 Operation BITS is a joint research project between the Crime Commission and the NSW Police Service. Its primary task is to research crime involving the use of computers and/or on-line information services including the Internet and bulletin board services.

CHAPTER THREE

LEGAL CHANGE

- 3.1 Last year the Commission was obliged to report no progress in relation to long-standing submissions seeking amendments to the Crime Commission Act and the Drug Trafficking (Civil Proceedings) Act. The Commission was optimistic about these changes being achieved by Autumn 1996 in the light of Cabinet approval. However priority was necessarily given to gun legislation and financial changes imposed by the Commonwealth. It is now likely to occur in the Budget session of 1996.
 - 3.2 In the area of electronic surveillance the Commission is less sanguine. Recommendations made by the Commission and the Police Service have now been referred to the Law Reform Commission after years of inaction.
 - 3.3 There has been legislative activity relevant to the Commission in the area of Witness Security and, following the High Court decision in *Ridgeway* the Commonwealth has passed controlled operations legislation.
 - 3.4 Search Warrants legislation remains long overdue for amendment.
 - 3.5 The Telecommunications (Interception) Act (Cth) is due to be reviewed in 1997 in the light of telecommunications deregulation and there are proposed minor amendments to the Act following decisions in the NSW Supreme Court.
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CHAPTER FOUR

CONFISCATION

BACKGROUND

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

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

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

4.3 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.

4.4 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

4.5 The CD was staffed by five lawyers, five financial investigators and four litigation support officers.

4.6 The Commission has continued to employ legal and accounting staff on a contract basis so as to have experienced staff capable of fulfilling the CD’s specialised requirements.

RESTRAINING ORDERS

4.7 During the 1995/96 year, 95 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 drug-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.

- 4.8 The number of restraining orders obtained under the DTCP Act since 3 August 1990 was 352, made up as follows:

90-91	91-92	92-93	93-94	94-95	95-96
57	59	24	44	73	95

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

- 4.10 The increase in the number of restraining orders obtained in 1995/96 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 six years by the Commission in the confiscation area and the further allocation of resources by the Commission to investigation work in this area.

ASSET FORFEITURE ORDERS AND PROCEEDS ASSESSMENT ORDERS

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

- 4.12 During 1995/96, 57 applications for assets forfeiture orders were completed by the Commission either by way of hearing or negotiated settlement, resulting in orders that property having an approximate value of \$3,567,890 be forfeited to the Crown. The property forfeited included motor vehicles, a boat, jewellery, real property and funds held in bank accounts.

- 4.13 During 1995/96, 24 applications for proceeds assessment orders were

completed by way of negotiated settlement, resulting in orders that \$4,870,820 be paid to the Treasurer. Of this total, it is estimated that only \$1,537,118 will be realisable due to there being insufficient property to satisfy one of the orders.

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

Year	Assets Forfeiture Orders	Proceeds Assessment Orders	Total Confiscation Orders
1990/91	4	1	5
1991/92	18	1	19
1992/93	26	10	36
1993/94	16	2	18
1994/95	33	5	38
1995/96	57	24	81
TOTAL	154	43	197

Year	Assets Forfeiture Orders	Proceeds Assessment Orders (Realisable Amount)	Total Realisable Confiscation Orders
90/91	\$118,515	Nil	\$118,515
91/92	\$650,000	\$500	\$650,500
92/93	\$2,673,528	\$450,000	\$3,123,528
93/94	\$1,298,000	\$230,000	\$1,528,000
94/95	\$3,031,739	\$344,900	\$3,376,639
95/96	\$3,567,890	\$1,537,118	\$5,105,008
Total	\$11,339,672	\$2,562,518	\$13,902,190

- 4.15 The great majority of confiscation orders made to date have been made as a result of negotiated settlement.

- 4.16 The DTCP Act has been in force for six years and it is accordingly useful to compare the results to date with the cost to Government of CD.

4.17 The following table makes the comparison.

Year	Realisable Confiscation Orders (including legal costs recovered)	Cost of CD
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
TOTAL	\$13,993,290	\$12,064,131

4.18 The cost of CD includes all capital costs and employee-related expenses, but does not include general overheads borne by the Commission prior to the introduction of the Division, such as IT, Finance, Administration, Human Resource Management, Registry and Executive.

4.19 There was a 3.43% increase in the cost of CD in 1995/96 over 1994/95 which followed an 18.58% decrease in the cost of CD in 1994/95 over the previous year. The budget for CD for 1996/97 is \$1,155,000 with the monetary value of confiscation orders projected to be not less than \$6,000,000. The costs of CD would be further reduced if amendments to the DTCP Act proposed by the Commission were enacted.

4.20 The CD has been revenue positive since July 1994 and expects to remain revenue positive.

PRODUCTION ORDERS

4.21 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.

4.22 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 1995/96 the Commission applied for and obtained 215 production orders. The Commission also issued 387 notices pursuant to sections 10 and 17 of the Commission's Act in respect of investigations under references which were the subject of confiscation action.

SEARCH WARRANTS

4.23 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.

4.24 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.

4.25 During the 1995/96 year, the Commission applied for the issue of 34 warrants under these provisions.

MONITORING ORDERS

4.26 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.

- 4.27 The Commission successfully applied for 2 monitoring orders during the 1995/96 year. The fact that few 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.

LIAISON WITH DPP

- 4.28 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).
- 4.29 The Confiscation Division has continued its links with both agencies and liaises with them in respect of operational and policy matters.

THE COPOC ACT

- 4.30 On 22 March 1993, a regulation pursuant to the COPOC Act was gazetted which empowered the Commission to take proceedings for restraint and forfeiture of tainted property in indictable drug matters under the Drug Misuse and Trafficking Act 1985. This regulation was made in order to overcome the overlap in functions between the NSW DPP and the Commission in respect of the forfeiture of the property of persons involved in drug crime.
- 4.31 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.
- 4.32 During 1995/96 no restraining orders were obtained under the COPOC Act.

LIAISON WITH THE AUSTRALIAN TAXATION OFFICE

- 4.33 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.

- 4.34 During the year 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.

LIAISON WITH FINANCIAL INSTITUTIONS

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

- 4.36 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.”

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

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

INTERNATIONAL AND INTERSTATE INQUIRIES

- 4.39 In an increasing number of matters investigated by the CD, there has been evidence to suggest the removal of funds offshore and the acquisition of property in foreign jurisdictions. In such cases the CD

has made requests through the Commonwealth Attorney-General's Department for documents relevant to the Commission's investigations to be obtained from foreign jurisdictions. The Commission's experience of such inquiries has been that little is achieved and long delays are involved.

4.40 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) until 13 July 1993. Because the DTCP Act was not a "corresponding law", orders under the Act did not fall within the terms of the Mutual Assistance in Criminal Matters Act 1987 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.

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

LIAISON WITH SUPREME COURT AND DISTRICT COURT REGISTRIES

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

LIAISON WITH THE DRUG ENFORCEMENT AGENCY AND OTHER POLICE

4.43 The contribution of the DEA Task Forces, the Regional Drug Units and a number of

other police to the litigation commenced by the Commission has been substantial. The CD has access to the NSWPS on-line charging system which delivers information to a computer terminal in the Commission which provides early notice of arrests of persons in connection with relevant drug-related activities.

4.44 During 1995/96 a total of 674 matters were referred to the CD for assessment of confiscation action under the DTCP Act and/or COPOC Act.

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

90/91	91/92	92/93	93/94	94/95	95/96
346	637	828	898	832	674

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

4.47 A number of seminars were conducted in 1995/96 to further educate police as to the role of the CD and the operation of the DTCP Act. Assistance was also provided to police by the dissemination of financial reports or information concerning persons allegedly involved in drug trafficking.

LIAISON WITH THE PUBLIC TRUSTEE

4.48 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

- 4.49 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.
- 4.50 To date the monies paid into the Account have largely been paid to the Treasury to recoup the costs of administering the DTCP Act.

REVIEW OF THE DTCP ACT

- 4.51 As reported in annual reports since 1992/93, the Commission conducted a review of the operation of the DTCP Act and provided to the Ministry for Police an Issues Paper reflecting that review. In the Issues Paper the Commission raised for consideration amendments concerning a number of aspects of the DTCP Act.
- 4.52 The Issues Paper was adopted by the Ministry and Cabinet approved the proposed amendments. It is anticipated that a Bill will be brought before the Parliament this year.
- 4.53 The DTCP Act contained a 'sunset' provision which had the effect that the Act would cease to operate on 3 August 1996 unless either House of Parliament resolved to the contrary. This was done by the Legislative Assembly on 19 June 1996.

TRAINING

- 4.54 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.

RESOURCES

- 4.55 The confiscation process is complex and requires considerable legal and investigative resources. There is a need to simplify procedures and to reform a number of the provisions in the DTCP Act in order to make the forfeiture process more efficient.

CHAPTER FIVE

ADMINISTRATION

INTRODUCTION

- 5.1 Mr P Bradley is the Chairman, a full-time Member of the Commission and the Chief Executive Officer. Mr C Briese is a part-time Member of the Commission.
- 5.2 All functions of the Commission are performed within two Divisions, the Investigation Division and the Confiscation Division, each headed by a Director.
- 5.3 A current organisation chart is shown on the inside back cover.

STRUCTURE

Management Team

- 5.4 The Commission Members and the Directors of each of the two Divisions constitute the Management Team. The Management Team is responsible for the Commission's strategic plan and for the achievement of its aims and objectives.
- 5.5 During most of the year the Commission has been without the services of a Director, Investigation Division due to the Commission's plans to adjust the structure to reflect its increased emphasis of assets-based investigations. At the time of writing, the new structure was being introduced.

Administrative Office

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

Organisation

- 5.7 The Investigation Division provides services which support the investigative work of Police task forces. The purpose of this work is to assemble admissible evidence of serious criminal offences and to furnish that evidence in briefs of evidence to the Director of Public Prosecutions. These

services comprise a Legal Unit, an Information Technology and Telecommunications Unit, an Analytical Unit, a Registry and Supply Unit, a Finance Unit and an Administration Unit (comprising Human Resources, Informant Management, Executive Support and Transcription functions).

- 5.8 The Confiscation Division is divided into two groups: the Financial Investigation Unit and litigation teams. The litigation teams comprise lawyer(s), financial investigator(s) and support staff. The Financial Investigation Unit comprises teams of financial and general investigators. The purpose of the Division is to identify the assets of those engaged in serious drug offences and/or in receipt of the proceeds of those offences (this work is conducted by the Financial Investigation Unit), and to commence and conduct proceedings in the Supreme Court under the DTCP Act for the restraint and confiscation of those assets and proceeds (this work is conducted by the litigation teams).

HUMAN RESOURCES

Staff Establishment

- 5.9 In 1995/96 the establishment comprised positions under the Public Sector Management Act, and staff employed on a contract basis pursuant to the NSW Crime Commission Act.
- 5.10 At the end of the reporting year, the number of staff employed by the Commission was 73 (68.2 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.

	95/9	94/9	93/9	92/9	91/9
	6	5	4	3	2
Statutory Officers	2	2	2	2	3
SES	1	2	2	2	2
Public Service	26	35	46	59	62
Staff					
Contracted	46	36	23	26	24
Employees					
TOTAL	*74	75	73	89	91

*69.2 Equivalent Full-Time

SES Positions

- 5.11 The composition of SES level positions held by Commission staff during 1995/96 and the previous three years is set out in the following table.

Level	SES 95/96	SES 94/95	SES 93/94	SES 92/93	SES 91/92
2	1	2	2	2	1
1	0	0	0	0	1
Total	1	2	2	2	2

- 5.12 The previous Level 2 is equal to Band 2, Lower.

Female Executive Officers

- 5.13 There was one female executive officer employed by the Commission during the reporting period, in the position of Director, Investigation Division. She resigned from the Commission in November 1995 and is not included in the above statistics.

Staffing Changes

- 5.14 There were no significant changes in staff numbers during the year.

Personnel Policies and Practices

Performance Management

- 5.15 The Commission does not function under a performance management system but is in the process of developing one in the context of the Framework Document.

Training

- 5.16 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

- 5.17 The Commission's Equal Employment Opportunity (EEO) Annual Report 1994/95 was completed and submitted to the

Director of Equal Opportunity in Public Employment.

- 5.18 The Commission conforms with the requirements of the Office of the Director of Equal Opportunity in Public Employment and has had the Director's approval of its strategies and outcomes following the annual review by that Office. The Commission takes the view that its EEO outcomes, as reflected in the statistics below, demonstrate that its strategies have been successful, particularly for a law enforcement agency.
- 5.19 In the reporting period, 18 new members of staff were recruited. Of these, 8 were women (44%) and 3 were people of non-English speaking backgrounds (NESB) (17%).
- 5.20 The following tables contain EEO statistics for 1995/96, 1993/94, 1992/93 and 1991/92.
- 5.21 **Representation and Recruitment of Target Groups (Aboriginals, People with Physical Disability (Disab), People of non-English Speaking Backgrounds (NESB), and Women)**

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

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

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

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

1992/93			(33%)	(66%)	Grades 6 - 9	17	9 (52%)	5 (29%)
					Grades 3 - 5	17	11 (64%)	3 (17%)
					Grades 1 - 2	16	13 (81%)	3 (18%)
					CO 1 - Grade 1	6	4 (66%)	1 (16%)
					Below CO 1	0	0	0
					TOTAL	73	44 (60%)	16 (21%)

* In the past the Commission has not asked staff to identify themselves as having a physical disability, because of the size of the organisation and resultant privacy implications. During 1994/95 and for all new staff recruited since then, staff were asked to complete EEO questions and no staff identified themselves as having a physical disability.

5.22 Representation of EEO Target Groups by Level 1995/96

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

5.23 Representation of EEO Target Groups by Level 1994/95

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

5.24 Representation of EEO Target Groups by Level 1993/94

Grade	Total Staff	Women	NESB
Above Grade 12	12	4 (33%)	2 (16%)
Grades 10 - 12	5	3 (60%)	2 (40%)

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
TOTAL	84	49 (58%)	15 (17%)

5.26 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
TOTAL	45

5.27 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
TOTAL	22

SES

- 5.28 The one SES member who is not a Commission member is from a non-English speaking background.

Staff Handbook

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

Enterprise Agreement

- 5.30 During the past year there has been one meeting between the Commission and the relevant unions, the Public Service Association (PSA) and the Professional Officers' Association (POA). There has been no progress towards an enterprise agreement.

Overseas Visits

- 5.31 No overseas trips were made by Commission staff during the year.

CORRUPTION PREVENTION

- 5.32 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.
- 5.33 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

- 5.34 During 1995/96 the Commission continued to monitor its operational activities and administrative support functions with a view to being as efficient and effective as possible.
- 5.35 The Commission holds weekly operations meetings to assess the performance of teams for each Reference. Written reports are provided for those meetings and minutes are kept. In addition, status reports for each Reference and/or major operation are provided to the Management Committee at its meetings (usually held every five to six weeks).
- 5.36 The Commission produces monthly financial performance reports. The

Accountant also provides quarterly reports on expenditure on specific items.

- 5.37 During the year the Commission has updated its Guarantee of Service which details the services and standards of service offered to the Commission's clients.

COMMITTEES

Computer Users Group

- 5.38 This committee was re-established in the second half of the year, and its membership included the Chairman; Director, Confiscation Division, Manager, ITTU, System Administrator, ITTU and senior officers drawn from each user group.
- 5.39 The committee was re-established after having been disbanded in late 1994 to provide user input to, and feedback on, the application of computer resources to the various operational and administrative areas. It also provided a customer based focus for measuring ITTU performance. The committee met several times during the first half of 1996.

Information Technology and Telecommunications Unit Briefings

- 5.40 This committee was formed to discuss issues arising in the work of the ITTU and to monitor TI warrants. The membership includes the Chairman, Director, Confiscation Division; and the Manager, ITTU. Minutes are kept of each weekly meeting.

CONSULTANTS

- 5.41 No consultants were retained during 1995/96.
- 5.42 An amount of \$149,088.50 was paid to 7 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

5.43 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 dual flush toilets. Signs requiring conservation of electricity are attached to every light switch.

5.44 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

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

DISABILITY PLAN

5.46 The Commission has submitted its 1995/98 Disability Plan to the Directorate on Disability.

5.47 The Commission has met all its objectives contained in the Plan during the year.

SERVICES TO THE PUBLIC

Services and Complaints

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

5.49 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

5.50 The only Commission publications available to the public are:

- . Annual Reports 1985/86 to 1995/96 inclusive; and
- . Freedom of Information Statements of Affairs and Summaries of Affairs (current copies are available from the Administration Manager, at the address shown in Appendix C).

ETHNIC AFFAIRS CHARTER OF PRINCIPLES

5.51 The Commission submitted its Charter of Principles Implementation Report for the year to the Ethnic Affairs Commission, in which it was reported that the Commission has been able to meet all its commitments as outlined in the Commission's Statement of Intent.

FINANCE

Financial Statements and Position

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

Account Payment Performance

5.53 The total value of accounts paid during 1995/96 was \$7,182,998.54. Of this amount 95.51% was paid on time (94.84% in 1994/95). There were no instances where the Commission was forced to pay penalty interest for late payment during 1995/96.

5.54 As at 30 June 1996, \$31,674.40 was outstanding in accounts payable to creditors. All of this amount was current.

	Qtr Ended 30 Sep 95	Qtr Ended 31 Dec 95
Value of Accounts Paid	1,282,432	1,847,629
Value of Accounts Paid on Time	1,170,634	1,751,477
% of Accounts Paid on Time	91.29	94.80
Value of Accounts Payable	42,165	22,550

	Qtr Ended 31 Mar 96	Qtr Ended 30 Jun 96
Value of Accounts Paid	1,969,851	2,083,086
Value of Accounts Paid on Time	1,903,673	2,034,620
% of Accounts Paid on Time	96.64	97.67
Value of Accounts Payable	32,838	31,674

Stores and Equipment

5.55 The following table shows expenditure on general stores, IT equipment, furniture and office equipment by month for the 1995/96 financial year.

Month	Expenditure
July	\$3,082
August	\$13,876
September	\$4,330
October	\$5,379
November	\$3,918
December	\$1,721
January	\$5,384
February	\$15,444
March	\$10,511
April	\$7,814
May	\$10,003
June	\$17,495

Value of Long Service Leave and Recreation Leave

5.56 The value of accrued annual leave, including applicable leave loadings, and extended leave at 30 June 1995 was \$270,286.46 and \$384,732.14 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 1995/96

5.57 Assets acquired by the Commission during 1995/96 were:

- . Pentium personal computers
\$96,282.00
- . Prolinea file server
\$24,035
- . Laptop computers
\$18,376
- . Office switchboard
\$56,391
- . Photocopier
\$19,995
- . General computer equipment
\$24,921
- . TI system upgrade
\$97,526
- . Replacement motor vehicles (2)
\$51,399

Real Estate

5.58 In 1993/94 the Commission acquired its main capital asset, being its premises at 453 Kent Street, Sydney for \$5.7 million. The Commission has received an informed estimate of current resale value in the range of \$6.8 million to \$9.5 million. The value range depends upon whether a sale is with vacant possession or a leaseback.

Risk Management and Insurance

5.59 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 1995/96 the Commission made 2 claims (8 in 1994/95). Of these claims, 1 related to workers compensation (4 in 1994/95) and 1 related to motor vehicles (4 in 1994/95).

Grants to Community Organisations

5.60 In accordance with its statutory charter, the _____
Commission did not provide any grants to
community organisations in 1995/96.

INTERNAL AUDIT

- 5.61 In 1995/96 the Commission engaged the services of the Audit Office to perform an internal audit. The areas covered included purchases/disbursements, payroll (including SES) and write-off matters under review by the Confiscation Division.
- 5.62 The Commission has received the report of the Audit Office relating to the latter matter, that is, the audit of the Confiscation Division referral system. The audit addressed risk evaluation of the referral system and targets/files prior to July 1995.
- 5.63 The audit report concluded that the Commission's risk management practices applying to the litigation files are appropriate.
- 5.64 The Commission has also embraced the Statement of Best Practise for Internal Control and Internal Audit, and is in the process of implementation.

FREEDOM OF INFORMATION

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

CONTRACTING AND MARKET TESTING

- 5.66 The Commission identified possible areas in which it could conduct market testing, and tested the market during the year. The Commission formed the view that the functions market-tested 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 1996**

New South Wales Crime Commission

**Financial Statements for the
Year Ended 30 June 1996**

STATEMENT BY CHAIRMAN

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

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

P A Bradley
Chairman

L Giles
Accountant

Dated: 21 August 1996

Auditor-General’s page

NEW SOUTH WALES CRIME COMMISSION
Operating Statement
For the Year Ended 30 June 1996

	Notes	Actual 1996 \$'000	Budget 1996 \$'000	Actual 1995 \$'000
Operating Expenses				
Employee Related	2.2 & 4	3,919	5,181	4,039
Other Operating Expenses	5	1,547	2,050	1,555
Maintenance	6	189	314	98
Depreciation	2.5 & 7	513	888	753
Other Services		0	17	0
Total Operating Expenses		6,168	8,450	6,445
Operating Revenues				
Other	8	393	334	279
Interest	9	137	98	129
Total Operating Revenues		530	432	408
Net loss on sale of property, plant and equipment	12	(445)	(60)	(2)
NET COST OF SERVICES	3	6,083	8,078	6,039
Government Contributions				
Consolidated Fund recurrent appropriation		4,740	6,717	4,825
Consolidated Fund capital appropriation		309	309	307
Acceptance by the State of the Commission's liabilities	2.2	397	413	404
Deficit for the year		(637)	(639)	(503)
Accumulated surplus at the beginning of the year		7,819	7,819	8,322
Accumulated surplus at the end of the year		7,182	7,180	7,819

The accompanying notes form part of these statements.

NEW SOUTH WALES CRIME COMMISSION
Statement of Financial Position
As at 30 June 1996

	Notes	Actual 1996 \$'000	Budget 1996 \$'000	Actual 1995 \$'000
Current Assets				
Cash		1,226	1,285	1,325
Receivables	10	147	143	143
Other	11	42	15	15
Total Current Assets		1,415	1,443	1,483
Non-Current Assets				
Property, Plant and Equipment	12	6,228	6,211	6,810
Total Non-Current Assets		6,228	6,211	6,810
TOTAL ASSETS		7,643	7,654	8,293
Current Liabilities				
Creditors and accruals	13	191	188	188
Provisions	14	270	286	286
Total Current Liabilities		461	474	474
TOTAL LIABILITIES		461	474	474
NET ASSETS		7,182	7,180	7,819
EQUITY				
Accumulated Surplus		7,182	7,180	7,819
TOTAL EQUITY		7,182	7,180	7,819

The accompanying notes form part of these statements.

NEW SOUTH WALES CRIME COMMISSION**Cash Flow Statement****For the Year Ended 30 June 1996**

	Notes	Actual 1996 \$'000	Budget 1996 \$'000	Actual 1995 \$'000
Cash Flow from Operating Activities				
Payments				
Employee Related		(3,540)	(4,768)	(3,612)
Other Operating Expenses		(1,621)	(2,050)	(1,505)
Maintenance		(172)	(314)	(98)
Other Services		0	(17)	0
		<u>(5,333)</u>	<u>(7,149)</u>	<u>(5,215)</u>
Revenue				
Other		430	334	313
Interest		145	98	55
		<u>575</u>	<u>432</u>	<u>368</u>
Total Net Cash Outflow on Operating Activities	20(b)	<u>(4,758)</u>	<u>(6,717)</u>	<u>(4,847)</u>
Cash Flow from Investing Activities				
Purchase of property, plant and equipment		(455)	(387)	(317)
Proceeds from the sale of property, plant and equipment		65	38	88
		<u>(390)</u>	<u>(349)</u>	<u>(229)</u>
Total Net Cash Outflow on Investing Activities		<u>(390)</u>	<u>(349)</u>	<u>(229)</u>
Net Cash Outflow from Operating and Investing Activities		<u>(5,148)</u>	<u>(7,066)</u>	<u>(5,076)</u>
Government Funding Activities				
Consolidated Fund recurrent appropriation		4,740	6,717	4,825
Consolidated Fund capital appropriation		309	309	307
		<u>5,049</u>	<u>7,026</u>	<u>5,132</u>
Total Net Cash provided by the Government		<u>5,049</u>	<u>7,026</u>	<u>5,132</u>
Net (Decrease)/Increase in Cash		(99)	(40)	56
Opening Cash Balance		1,325	1,325	1,269
CLOSING CASH BALANCE	20(a)	<u>1,226</u>	<u>1,285</u>	<u>1,325</u>

The accompanying notes form part of these statements.

NEW SOUTH WALES CRIME COMMISSION
Notes accompanying, and forming part of, the Financial Statements
For the year ended 30 June 1996

Note 1: The Commission's Reporting Entity

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

Note 2: Summary of Significant Accounting Policies

2.1 Basis of Accounting

The Commission's financial statements is a general purpose financial report and has been prepared in accordance with the Statement of Accounting Concepts, applicable Australian Accounting Standards and other mandatory professional reporting requirements (Urgent Issues Group Consensus Views), the requirements of the Public Finance and Audit Act 1983 and Regulations, the Treasurer's Directions and the Financial Reporting Directives published in the Financial Reporting Code for Inner Budget Sector Entities.

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

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

2.2 Employee Related Expenses

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

As the Commission's liabilities for long service leave and superannuation are accepted by the State, the Commission accounts for the liability as having been extinguished resulting in non-monetary revenue described as "Acceptance by the State of the Commission's Liabilities" in the Operating Statement.

Long service leave which has been accepted by the State has been calculated using the nominal method as the use of the present value of estimated cash flows as per AAS 30 - "Accounting for Employee Entitlements" would not result in a material difference.

Similarly, as sick leave is non vesting and as the sick leave taken is less than the sick leave accruing in any reporting period, then no liability is recognised by the Commission.

2.3 Government Allocations

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

2.4 Acquisition of Assets

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

2.5 Depreciation

Depreciation is provided for on a straight line basis against all depreciable assets so as to write off the depreciable amount of each depreciable asset as it is consumed over its useful life. The rates of depreciation applied to relevant categories of assets are set out in the following table and are consistent with those used in 1994/95.

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

2.6 Property, Plant and Equipment

Land and buildings are revalued at no more than five yearly intervals. Independent assessments are obtained of the value of land and buildings based on existing use. Valuations adopted in the financial statements do not exceed these independent assessments.

The Commission purchased its premises in December 1993. To date the building is shown in the Statement of Financial Position at cost.

Note 3: Budget Review

The actual net cost of services was less than the budget allocation by \$1,995,000. This favourable result was due to a reduction in operating expenses coupled with increases in revenues. The lower than anticipated expenditure was caused by staff turnovers and generally lower operational expenses (eg maintenance and motor vehicles), whilst the increased revenue arose from leasing of signs for advertising, rental of office space and interest received from the NSW Treasury on Commission cash balances held at the bank.

Note 4: Employee Related Expenses

	1996 \$'000	1995 \$'000
Salaries and Wages	2,870	2,938
Superannuation	303	304
Payroll and Fringe Benefits Tax	236	251
Recreation Leave Paid	264	240
Provision for Recreation Leave	(16)	62
Long Service Leave	94	100
Workers Compensation Insurance	15	41
Other	153	103
TOTAL	3,919	4,039

Note 5: Other Operating Expenses

	1996 \$'000	1995 \$'000
Office Maintenance	105	120
Office Supplies	492	467
Computer Services	138	154
Travel Expenses	20	24
Motor Vehicle Expenses	(2)	6
Service Fees	342	331
Internal Audit Fees	6	7
External Audit Fees	14	11
Other	432	435
TOTAL	1,547	1,555

Note 6: Maintenance

	1996 \$'000	1995 \$'000
Building	144	45
Office Equipment	45	53
TOTAL	189	98

Note 7: Depreciation

	1996 \$'000	1995 \$'000
Computer Equipment	328	553
General Plant and Equipment	46	61
Motor Vehicles	15	15
Building	124	124
TOTAL	513	753

Note 8: Other Revenue

	1996 \$'000	1995 \$'000
Lease of Advertising signage	165	115
Rental of office space	159	156
Miscellaneous	69	8
TOTAL	393	279

Note 9: Interest Revenue

	1996 \$'000	1995 \$'000
Interest on Commission Funds	137	129
TOTAL	137	129

Note 10: Receivables

Appendix A: Financial Statements

	1996 \$'000	1995 \$'000
Interest Receivable	75	83
Trade Debtors	5	10
Sundry Debtors	32	12
Lease of advertising signage space	0	38
Other	35	0
TOTAL	147	143

Note 11 Other Current Assets

	1996 \$'000	1995 \$'000
Prepayments	42	15
TOTAL	42	15

Note 12: Property, Plant and Equipment

	Computer Equipment \$'000	General Equipment \$'000	Motor Vehicles \$'000	Building \$'000	Land \$'000	Total 1996 \$'000	Total 1995 \$'000
At Cost:							
Balance at 1 July 1995	2,252	735	139	3,731	1,800	8,657	8,457
Additions	261	129	52	0	0	442	318
Disposals	(1,364)	(313)	(69)	(0)	(0)	(1,746)	(118)
Transfers	(8)	10	(2)	0	0	0	0
Balance at 30 June 1996	1,141	561	120	3,731	1,800	7,353	8,657
Accumulated Depreciation:							
Balance at 1 July 1995	1,381	221	29	216	0	1,847	1,119
Depreciation for Year	328	46	15	125	0	514	753
Write Back on Disposal	(1,088)	(128)	(20)	(0)	(0)	(1,236)	(25)
Transfers	31	(29)	(2)	0	0	0	0
Balance at 30 June 1996	652	110	22	341	0	1,125	1,847
Written Down Value:							
As at 1 July 1995	871	514	110	3,515	1,800	6,810	7,338
As at 30 June 1996	489	451	98	3,390	1,800	6,228	6,810

Transfers represent an alignment of the Fixed Asset Register to the General ledger.

Note 13: Creditors and Accruals

1996 **1995**

	\$'000	\$'000
Trade Creditors	32	42
Accrued Operating Expenses	142	146
Accrued Maintenance	17	0
TOTAL	191	188

Note 14: Provisions

	1996 \$'000	1995 \$'000
Provision for Annual Leave		
Balance at beginning of the year	286	224
Provided during the year	248	302
Payments made during the year	(264)	(240)
Balance at 30 June 1996	270	286

Note 15: 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 16: Commitments

16.1 Recurrent Commitments

Recurrent commitments as at 30 June 1996 for goods and services totalled \$19,000. (1994/95 \$1,000)

16.2 Capital Commitment

No capital commitments were contracted for as at 30 June 1996. (1994/95 \$168,000)

	1996 \$'000	1995 \$'000
Capital Commitments		
Repayment Schedule		
Less than 1 year	0	168
Between 1 and 2 years	0	0
Between 2 and 5 years	0	0
Greater than 5 years	0	0
Total	0	168

16.3 Operating Lease Commitments - Motor Vehicle

1996 \$'000	1995 \$'000
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Cancellable Operating Leases	0	1
	0	1

Note 17: 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 18: Bad Debts Written Off

No amounts were written off in 1995/96 as bad debts. (1994/95 \$2,000)

Note 19: Material Assistance Provided by Other Parties

No material assistance was received by the NSW Crime Commission free of charge during 1995/96 from any other organisation.

Note 20: Note to Cash Flow Statement

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

	1996 \$'000	1995 \$'000
Cash on Hand	267	40
Cash at the Bank	959	1,285
Cash as per Statement of Financial Position	1,226	1,325

(b) Reconciliation of "Net Cost of Services" to "Net Cash Outflow on Operating Activities"

	1996 \$'000	1995 \$'000
Net Cost of Services	(6,083)	(6,039)
Depreciation	513	753
(Decrease)/Increase in Recreation Leave	(16)	62
Acceptance by the State of the Commission's Liabilities	397	404
Decrease/(Increase) in Prepayments	(27)	17
Increase/(Decrease) in Creditors	15	(11)
Decrease/(Increase) in Receivables	(2)	(35)
(Gain)/Loss on Disposal of Plant and Equipment	445	2
Net Cash Outflow on Operating Activities	<u>(4,758)</u>	<u>(4,847)</u>

Note 21: Joint Operation with Office of State Revenue

During 1995/96 the Commission was granted a reference which involved the Office of State Revenue. For the convenience of Office of State Revenue staff located at the Commission these 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 them.

The amount of funding provided and spent by the Office of State Revenue in relation to this joint operation during 1995/96 is shown below:

	\$'000
Amount of income received	165
Less: Expenditure	<u>(103)</u>
Unexpended balance at 30 June 1996	<u>62</u>

Note 22: Program Information

The program number of the New South Wales Crime Commission is 58.1.1. 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.

END OF AUDITED STATEMENTS

OUTLINE OF 1996/97 BUDGET

The proposed operating budget for the NSW Crime Commission for the 1996/97 financial year is:

	\$'000	\$'000
<u>Expenses</u>		
Employee-related expenses	5,211	
Other operating expenses	2,110	
Maintenance	280	
Depreciation	581	
Other Services	18	8,200
<u>Revenue</u>		
User charges revenue	337	
Other departmental revenue	120	457
<u>Net Cost of Services</u>		\$7,743
<u>Less: Non-Funded Expenses</u>		
Depreciation	581	
Acceptance by State of Commission liabilities	389	970
<u>Consolidated Fund Recurrent Appropriation</u>		<u>\$6,773</u>

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

Acquisition of property, plant and equipment:	\$387,000
	<hr/>
Consolidated Fund Capital Appropriation	<u>\$387,000</u>

**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 and proceeds of drug traffickers.

1.2 Commission Membership

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

1.3 Charter

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

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

1.4 Aims and Objectives

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

trafficking. In order to fulfil its objectives the Commission:

- . investigates relevant criminal activity referred to the Commission by its Management Committee with a view to the prosecution of offenders and the making of applications for orders under civil forfeiture and other proceeds of crime legislation;
- . assembles admissible evidence and furnishes it to the Director of Public Prosecutions (DPP) for use in the prosecution of persons allegedly engaged in relevant criminal activities;
- . makes applications for the restraint and confiscation of property under the Drug Trafficking (Civil Proceedings) Act 1990;
- . reviews police inquiries referred by the Management Committee and provides recommendations to the Management Committee for further action;
- . with the approval of the Management Committee, disseminates intelligence and information to, and cooperates and consults with, such persons or bodies as the Commission thinks appropriate;
- . furnishes reports relating to illegal drug trafficking and organised crime including, where appropriate, recommendations for changes in the laws of the State;
- . disseminates investigatory, technological and analytical expertise to such persons or bodies as the Commission thinks fit;
- . manages its resources effectively, efficiently and economically.

1.5 Responsible Minister

The Minister for Police 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, the Chairman of the Police Board of NSW and the Chairman of the Commission.

1.7 Functions of the Management Committee

The principal functions of the Management Committee are to:

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

1.8 Structure and Organisation

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

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

the control and direction of the Commissioner of Police.

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

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

The Commission is responsible for investigating drug trafficking and organised and other crime in NSW and for the administration of the Drug Trafficking (Civil Proceedings) Act. It does not provide normal 'services' to the public. However, its activities have implications for members of the public under investigation or involved in investigations (eg witnesses), and for members of the public who are the subject of investigation or 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. 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 Chairman
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: Administration Manager
(02) 269-3888**

NEW SOUTH WALES CRIME COMMISSION GUARANTEE OF SERVICE

The Commission's Role

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

The Commission's Clients

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

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

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

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

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

How the Commission works with its Clients

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

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

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

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

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

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

proper consideration of their impact on individuals.	<u>Legal Advice:</u>	John Giorgiutti, Director, Confiscation Division
. Witnesses at hearings will have their rights and obligations explained.	<u>Financial Analysis</u>	Mike Lulan, Assistant Director (Investigations), Confiscation Division
. The Commission will pursue its litigation in the courts diligently, with a view to disposition of matters in a timely and fair manner.	<u>Analysts' Services</u>	Tina Amies, Chief Coordinating Analyst
. The Commission will seek to develop and maintain cooperative relationships with agencies with related business.	<u>Warrants</u>	Rodney Ferral-Smith, Lawyer
. 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>	Pat Dunne, Manager, ITT Unit
Service standards will be monitored regularly by way of client feedback.	<u>Registry</u>	Daria Harnett, Manager, Registry and Building Services
	<u>Financial</u>	Len Giles, Accountant
	<u>Transcription Services</u>	Alison Brook, Administration Manager

Complaints Procedures

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

<u>Physical Resources</u>	Daria Harnett, Manager, Registry and Building Services
<u>Security</u>	Mark Standen, Chief Investigator

Contact Directory

Street Address:

453 Kent Street
(Corner Druitt Street)
Sydney

Postal Address:

PO Box Q566
QVB Post Office
Sydney 1230

Telephone:

(02) 9269 3888

Facsimile:

(02) 9269 3809
(02) 9269 3864
(02) 9269 9733

Business Hours:

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

<u>Intelligence Liaison</u>	Daria Harnett, Manager, Registry and Building Services
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**PERFORMANCE STATEMENT FOR THE
CHAIRMAN OF THE NEW SOUTH WALES
CRIME COMMISSION
FOR THE YEAR ENDED 30 JUNE 1996**

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

The Annual Reports (Departments) Act 1985 requires that officers at or above the level of SES 5 be the subject of a performance statement signed by the Minister. The Chairman 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 Chairman'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
CHAIRMAN**

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 1995/96 the Commission's confiscation function was audited by the NSW Audit Office. The results of that audit will be available for the 1996/97 annual report.

The Commission is committed to the internal audit process, which it sees as critical to its effective operations.

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.

Evidence of the Commission's performance in risk management can be demonstrated by a reduction in the overall insurance premium paid from \$66,770 in 1994/95 to \$45,014 in 1995/96, and is further reflected by the fall in total claims from 8 in 1994/95 to 2 in 1995/96.

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
Chairman

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**NEW SOUTH WALES
CRIME COMMISSION**

ANNUAL REPORT

1995-96

**NEW SOUTH WALES CRIME COMMISSION
PARTICULARS**

ADDRESS: 453 - 463 Kent Street
Sydney NSW 2000

POSTAL: PO Box Q566
QVB Post Office
SYDNEY NSW 1230

DX: DX 13018 Market Street Sydney

TELEPHONE: (02) 9269 3888
(008) 02 3143

FACSIMILE: (02) 9269 3809

**BUSINESS
HOURS:** Reception:
7:30am - 6:30pm Mon to Fri
All Operations:
8:30am - 5:30pm Mon to Fri

ANNUAL REPORT

Five hundred copies of the 1995/96 annual report were printed at a cost of \$2,900 or \$5.80 per copy. This can be compared with a total cost of \$3,300 or \$6.60 per copy for 500 1994/95 annual reports. A copy of the report is available on disk and will be provided to Parliament in that form.

NEW SOUTH WALES CRIME COMMISSION

