

# CRIMINAL JUSTICE COMMISSION QUEENSLAND

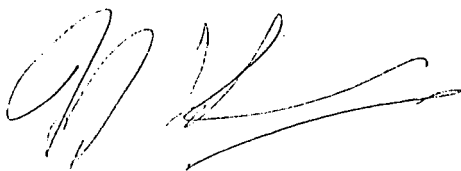
## ANNUAL REPORT

Year Ended 30 June, 1990

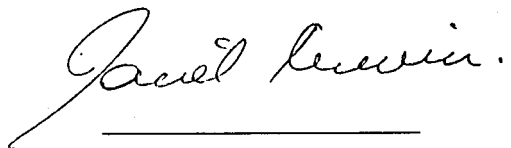
To the Honourable the Premier, Minister  
for Economic and Trade Development and  
Minister for the Arts

Sir

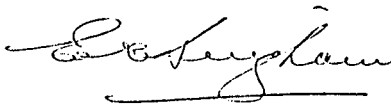
In accordance with the provisions of Section 7.10 of the *Criminal Justice Act 1989-1990*, we submit to you for presentation to Parliament, the 1st Annual Report of the Criminal Justice Commission which formally embraces the period 21 December, 1989 to 30 June, 1990.



Commissioner



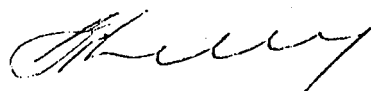
Commissioner



Chairman



Commissioner



Commissioner

September, 1990

## CRIMINAL JUSTICE COMMISSION

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Members of the public wishing to communicate with the Commission can write, telephone (the switch is open for the purpose between 8 a.m. and 5.30 p.m. Monday to Friday) or call at the Commission's premises. All public hearings of the Commission will be advertised in the Law Notices, and anyone interested can attend.

## CHAIRMAN'S INTRODUCTION TO ANNUAL REPORT

*The Criminal Justice Act 1989 received assent on 31 October 1989. Following the State election I was appointed Chairman with effect on and from 21 December. With the assistance of Mr P. H. Forster of the Implementation Unit the establishment of the Commission then began.*

*Mr R. M. Wedgwood was "borrowed" from the Commonwealth Public Service and played an important part in the establishment process. Recruitment continued over most of the period covered by this Report. It is a matter of great pleasure to be able to record the quality, enthusiasm and idealism of the team which the Commission has been able to put together. They are mostly young Queenslanders who are dedicated to the carrying out of the reforms recommended by the Fitzgerald Report and there is also a healthy infusion of special skills and experience, especially at the Director level.*

*During this period I also held concurrently the position of Chairman of the Commission of Inquiry engaged in completing the investigations begun by that body under Mr Fitzgerald Q.C., and later under Mr Crooke Q.C. I also participated to some extent in the reform process in relation to the Queensland police.*

*On 8 March Dr Janet Irwin, Mr John Kelly and Mr James Barbeler were appointed members of the Commission, and on 21 March Professor John Western was appointed as the fourth part-time member. On the same date the members of the Parliamentary Committee were appointed. They were Mr Beattie, Mrs Edmond, Mrs Woodgate, Messrs Schwarten, Abern, Gunn and Santoro, and on 22 March Mr Beattie was elected Chairman of the Committee.*

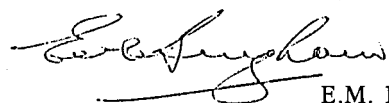
*The part-time Commissioners have brought wide experience and a high level of ability and dedication to the work of the Commission and have shown great tolerance and support to me in this initial period. The Parliamentary Committee has been thoughtful and practical in its approach, and ably led by the Chairman, Mr Beattie. I believe a satisfactory basis has been established for the working relationship between the Commission and the Committee so that both may function as envisaged by the Act.*

*I would wish to express appreciation to those Commission of Inquiry staff who returned to their home Departments after serving with the Fitzgerald Commission and having rendered valuable assistance in the changeover period.*

*The Criminal Justice Act was prepared in some haste and with the knowledge that amendments were likely to be needed. That this has now turned out to be the case is not a reflection on the draftsman, but a product of the circumstances and experience of the first few months of working.*

*The period under review has seen the production of the first two reports in the research capacity of the organisation and I think it is right to say that they have played a significant part in stimulating debate and discussion on the subjects with which they were concerned. As the following pages will indicate, I think the Commission can claim that by 30 June 1990 it had already made substantial progress. For my part I am proud and grateful to have been given the opportunity to participate.*

BRISBANE  
SEPTEMBER 1990

  
E.M. BINGHAM

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# 1. THE COMMISSION

## ESTABLISHMENT

- 1.1 The decision to establish the Criminal Justice Commission was taken in response to the recommendations of the Commission of Inquiry chaired by the Hon. G.E. Fitzgerald Q.C. which was appointed following media revelations on crime and corruption in Queensland.

The Commission of Inquiry investigated the policing of organised prostitution, unlawful gambling, sale of illegal drugs, and associated misconduct by members of the Queensland Police Force.

The Report of the Commission of Inquiry recommended the creation of a new entity to be known as the Criminal Justice Commission (C.J.C.). It was to be permanently charged with the monitoring, reviewing, co-ordinating and initiating reform of the administration of criminal justice. It was also to fulfil those criminal justice functions not appropriately carried out by the police or other agencies. The recommendation of the Commission of Inquiry was carried into effect when the *Criminal Justice Act 1989* received assent on 31 October, 1989.

For the period November 1989 to April 1990 the C.J.C. undertook operations on a limited basis with Division 1 of Part II only of the Criminal Justice Act having been proclaimed. The remainder of the Criminal Justice Act was proclaimed to take effect from 22 April, 1990.

## COMMISSION MEMBERSHIP

- 1.2 Section 2.2 of the *Criminal Justice Act 1989* provides that the C.J.C. shall consist of five members being a Chairman, and four other members appointed by the Governor-in-Council on the recommendation of the Minister who, for the purposes of the Criminal Justice Act, is the Honourable the Premier.

The Chairman of the Commission, Sir Max Bingham Q.C., was appointed with effect on and from 21 December, 1989. Three other members of the Commission, namely:

Mr. Jim Barbeler LL.B.

Dr. Janet Irwin MB. Ch.B.

Mr. John Kelly B.Sc.

were appointed on 8 March. On 21 March Professor John Western Ph.D. was appointed as the fourth part-time member.

## IMPLEMENTATION UNIT

- 1.3 The Criminal Justice Commission benefited immeasurably from the work of Mr Peter Hill Forster, Ms. Kathy Sinclair and their fellow directors of the The Consultancy Bureau who were appointed in the immediate post Inquiry period to co-ordinate the implementation of the recommendations of the Fitzgerald Report. The Implementation Unit co-ordinated initial moves for reform in the Police Service and the creation of the Electoral and Administrative Review Commission and the Criminal Justice Commission. Many of the co-ordination functions performed by the unit now fall within the responsibilities of the Criminal Justice Commission. This Commission is in debt to the Implementation Unit for the sound base it prepared while permanent staff were being recruited and structures were being put in place.

## PURPOSE, AIMS AND OBJECTIVES

- 1.4 The purpose of the C.J.C. has been shortly referred to above, namely, the reformation of the administration of Criminal Justice in Queensland and the fulfilling of those criminal justice functions not appropriately carried out by the police or other agencies. The Commission in discharging this purpose has the following aims and objectives:

- enhancing public, parliamentary and forensic awareness of the problems which beset the administration of criminal justice in Queensland;
- exposing corruption and official misconduct through hearings and reports to Parliament;
- providing evidence which leads to the prosecution of persons engaged in corruption or official misconduct either before the courts, the Misconduct Tribunals or by disciplinary proceedings;

- providing evidence which leads to the prosecution of persons engaged in major or organised crime which cannot be effectively investigated by the Police Service or other agencies of the State
- reducing the incidence of misconduct, official misconduct and corruption in the Police Service and other units of public administration
- upgrading the ability of the Police Service to tackle major and organised crime
- providing comprehensive and accurate intelligence briefings to law enforcement agencies, Parliament and the community on the state of major and organised crime in Queensland.

## **FUNCTIONS AND RESPONSIBILITIES**

1.5 The principal functions and responsibilities of the Commission are adumbrated in section 2.15 of the Criminal Justice Act 1989. It is useful to set out the provisions of that section in full:

“The responsibilities of the Commission include—

- (a) the acquisition and maintenance of the resources, skills, training and leadership necessary for the efficient administration of criminal justice;
- (b) monitoring and reporting on the use and effectiveness of investigative powers in relation to the administration of criminal justice generally;
- (c) monitoring and reporting on the suitability, sufficiency and use of law enforcement resources and the sufficiency of funding for law enforcement and criminal justice agencies including the offices of the Director of Prosecutions and of the Public Defender;
- (d) overseeing criminal intelligence matters and managing criminal intelligence with specific significance to major crime, organized crime and official misconduct;
- (e) researching, generating and reporting on proposals for reform of the criminal law and the law and practice relating to enforcement of, or administration of, criminal justice, including assessment of relevant initiatives and systems outside the State;
- (f) in discharge of such functions in the administration of criminal justice as, in the Commission’s opinion, are not appropriate to be discharged, or cannot be effectively discharged, by the Police Force or other agencies of the State, undertaking—
  - (i) research and co-ordination of the processes of criminal law reform;
  - (ii) matters of witness protection;
  - (iii) investigation of official corruption in units of public administration;
  - (iv) investigation of organized or major crime.
- (g) monitoring the performance of the Police Force with a view to ensuring that the most appropriate policing methods are being used, consistently with trends in the nature and incidence of crime, and to ensuring the ability of the Police Force to respond to those trends;
- (h) providing the Commissioner of Police with policy directives based on the Commission’s research, investigation and analysis, including with respect to law enforcement priorities, education and training of police, revised methods of police operation, and the optimum use of law enforcement resources;
- (i) overseeing reform of the Police Force;
- (j) reporting regularly on the effectiveness of the administration of criminal justice, with particular reference to the incidence and prevention of crime (in particular, organized crime) and the efficiency of law enforcement by the Police Force;
- (k) reporting, with a view to advising the Legislative Assembly, on the implementation of the recommendations in the Report of the Commission of Inquiry relating to the administration of criminal justice, and to the Police Force;
- (l) taking such action as the Commission considers to be necessary or desirable in respect of such matters as, in the Commission’s opinion, are pertinent to the administration of criminal justice”.

The responsibilities of the Commission can be grouped under seven main headings:

- research and/or policy making
- review and revision of methods of work, procedures, laws and practices
- investigation
- advice
- education
- brief preparation for criminal prosecution or adjudication on disciplinary charges
- complaint resolution.

It is clear that Parliament, by giving the Commission these wide-ranging responsibilities, expects it to deal with the comprehensive reformation of the criminal justice system in general, and law enforcement in particular.

## KEY DEFINITIONS

- 1.6 There are a number of terms used in section 2.15 which are defined in the Criminal Justice Act. To appreciate the ambit the Commission's responsibilities, it is necessary to refer to those terms and their definitions. The terms are "official misconduct" and "unit of public administration".

(a) **Official Misconduct**

"Official Misconduct" is defined by Section 2.2 and 2.23 of the *Criminal Justice Act*. In brief, it means—

- (A) Where a person holds an appointment in a unit of public administration;
- (i) conduct in the exercise of his powers or authority which has been dishonest or not impartial; or
  - (ii) conduct which adversely affects or could adversely affect the honest or impartial exercise of his powers or authority; or
  - (iii) conduct which has breached the trust placed in him by reason of his employment; or
  - (iv) conduct which involves a misuse of information acquired by him by reason of his employment;
- and in any such case, constitutes or could constitute,
- (v) a criminal offence; or
  - (vi) a disciplinary breach that provides reasonable grounds for the termination of his employment.
- (B) Where a person does not hold an appointment in a unit of public administration;
- (i) conduct that adversely affects or could adversely affect the honest and impartial discharge of functions or exercise of powers or authority of a unit of public administration or of any person holding an appointment therein;
- and in any such case, constitutes or could constitute—
- (ii) a criminal offence.

The Act also provides that conduct may be official misconduct notwithstanding that—

- (a) it occurred before the commencement of the Act; or
- (b) the person involved in the conduct is no longer the holder of an appointment in a unit of public administration.

(b) **Unit of Public Administration**

Section 1.4(1) of the *Criminal Justice Act* defines "Unit of Public Administration" as —

- (a) the Legislative Assembly, and the Parliamentary Service;
- (b) the Executive Council;
- (c) every Department of the Public Service of Queensland within the meaning of the *Public Service Management and Employment Act 1988*;
- (d) the Police Force;
- (e) the Railway Department;
- (f) every corporate entity that is constituted by an Act, or that is of a description of entity provided for by an Act, which in either case collects revenues or raises funds under the authority of an Act;



- (g) every non-corporate entity established or maintained pursuant to an Act, which is funded to any extent with moneys of the Crown, or is assisted in a financial respect by the Crown;
- (h) the Courts of the State of whatever jurisdiction, and the registries and other administrative offices thereof.
- (c) **An Appointment in a Unit of Public Administration**  
Section 1.4(2) provides that a person holds an appointment in a unit of public administration if he holds any office, place or position therein, whether his appointment thereto is by way of election or selection.

The clear intention of the statutory provisions is to define "official misconduct" widely albeit limiting the Commission's function to the more serious examples of such conduct. Although the conduct may not necessarily be criminal, if it constitutes a disciplinary breach it must provide reasonable grounds for the termination of the person's services.

The exact limits of the definition of "a unit of public administration" have yet to be fully realised as the definition can have some very technical effects, for instance, the possible exclusion of the Corrective Services Commission from the ambit of the Act (referred to later in the report). However it is clear that the vast majority of persons employed directly by the public sector in Queensland, either the persons employed under the Public Service Management and Employment Act 1988, or in various statutory corporations within the State (other than Commonwealth agencies) are covered by this definition and thus brought within the scope of the Commission's operations.

## ORGANISATION

- 1.7 The Criminal Justice Act 1989 itself sets out the basic organisation and structure of the Commission, in particular section 2.12 which provides for the following organisational units:

- Official Misconduct Division
- Misconduct Tribunals
- Witness Protection Division
- Research and Co-ordination Division
- Intelligence Division.

A Corporate Services Division has been established under the Executive Director to support the operations of these organisational units.

Further, the Commission is empowered to establish and maintain any other organisational unit which it considers necessary or desirable. An organisation chart will be found at Appendix A.

## THE INFRASTRUCTURE

- 1.8 The Report of the Commission of Inquiry recommended a complex organisation, with a multiplicity of roles, functions and responsibilities.

The basic tool of the Commission to enable it to discharge this wide and diverse list of functions is information. The acquisition, management and dissemination of information is pivotal.

The remarks which follow are not meant to be critical of the Commission of Inquiry in any way. Indeed they would lack credibility if that was their purpose. The C.J.C. would like to sketch the present position with a view to engendering a better understanding of the task faced in the information area.

The Commission of Inquiry was initially established to undertake an investigation of six weeks duration. This investigation became six months, twelve months and eventually two years. What has to be borne in mind is that it was set up as a temporary organisation for a limited life and, as the inquiry proceeded and progressively uncovered the activities ultimately the subject of report, the organisation grew exponentially to meet the challenge.

Consequently over the lifetime of the Commission of Inquiry very little other than a fairly rudimentary infrastructure was created. Far from being critical in making these observations, in the view of the CJC, it indicates greater merit on the part of those involved in achieving that which is now nationally acclaimed.

Vast amounts of information were gathered for the purposes of the Commission of Inquiry by summons, by seizure under warrant, upon request or was volunteered which was recorded and indexed only in a crude form and, in some instances, not recorded at all. For the purposes of the Commission of Inquiry this was satisfactory given the use to be made of that material, namely to support Inquiry hearings and examinations. This was underpinned by a good knowledge among the officers of the Commission of Inquiry of the content of the material.

In the long term, to support a permanent organisation the system is totally inadequate. Total registration of all documentary material needs to be achieved, including complete indexing to support investigations, examinations, the building of briefs, the writing of reports, the intelligence profiling of targets and the dissemination of material to other agencies. The system had to be re-designed virtually from the ground up.

It is very discomfoting to have boxes of material, seized pursuant to legal process, stored within the CJC without adequate knowledge of the contents. There have been some embarrassing moments and there is the potential for more while this remains the case.

The handling of information is vital and will to a large extent determine whether the Commission is a successful organisation in the long run.

The greatest challenge to the Commission has been and remains its ability to get the right people into the right jobs within an acceptable time frame.

The Parliament has given the Commission freedom from normal public service constraints in several areas, including the hiring of staff and the fixing of remuneration, for example:

- the Commission may with the concurrence of the Premier fix the salaries, wages, allowances and conditions of employment of any staff in so far as they are not fixed by or under another Act or law;
- staff may be hired on contract;
- the Commission may second staff from other public sector bodies including the Police Service; and
- the Commission may engage consultants.

The Commission has been acutely aware that it could be seen to be a “pace setter” in the fixing of salaries, and although mindful of the need to attract appropriate staff with the skills and commitment necessary to enable the Commission to succeed, it has, contrary to rumour, restricted itself to employing staff on rates equivalent to the ruling rates in the public sector plus approximately 10% to compensate for employment on contract and the loss of job security and long term public service benefits. No staff enjoy “permanency” as, in effect, exists in the public service. All staff are engaged for a finite period, in the main a contract period of between 3 and 5 years, while others are seconded for fixed terms. Every staff member is therefore employed on the basis that the employment can be terminated if necessary. Strict vetting procedures will soon apply in respect of all staff engaged by the Commission.

## **MEETINGS OF THE COMMISSION**

- 1.8. Section 2.10 of the Criminal Justice Act provides that meetings of the Commission shall be held at regular intervals as prescribed, or if not prescribed, as the Commission resolves. There has been no prescription. The Commission has resolved to formally meet every two weeks to review the operations of the Commission and to transact the Commission's business.

From time to time extraordinary meetings of the Commission are held to deal with specific issues. The Executive Director of the Commission attends meetings to take minutes.

## **SENIOR MANAGEMENT**

- 1.9 The Chairman approached the task of setting up the Criminal Justice Commission by giving priority attention to the identification and selection of the senior management appointees so that those persons could assist in strategic planning, the implementation of systems of work and the selection of appropriate subordinate staff.

The Act contemplates the establishment of positions of Chairman, four part-time Commissioners, the Executive Director, the Directors of the various Divisions and the Chief Officer of the Complaints Section. In addition to the positions referred to in the Act, the Commission has established the position of General Counsel as the senior legal advisor to the Commission, independent of any organisational unit within it, the Director of Operations whose duties span

not only the Witness Protection Division (which is contemplated by the Act) but include investigative standards and methodologies and the discipline of the seconded police contingent, and the Registrar of the Misconduct Tribunals, the Misconduct Tribunals having been created as an organisational unit within the Commission.

Brief details of the occupants of the senior management positions are as follows:—

**Chairman—Sir Max Bingham Q.C.**

Sir Max was educated at Hobart High School and the University of Tasmania. He obtained his law degree with honours in 1949 and was admitted to practice as a Solicitor in 1950. Sir Max later studied at Oxford University as a Rhodes Scholar, and in 1963-64 he attended the University of California in Berkeley under the auspices of a Harkness Fellowship.

Sir Max has held numerous public offices in Tasmania, among which were Crown Prosecutor and Police Magistrate. His long career as a State Parliamentarian in Tasmania, from 1969 till 1984, included terms as a Police Minister, Opposition Leader, Deputy Premier, Attorney General and several other ministerial portfolios. Sir Max was a foundation member of the National Crime Authority from 1984 until 1987.

**Commissioner—Mr J. J. Kelly**

Mr Kelly was educated at St. Mary's Christian Brothers' College, Ipswich. In 1951 he was awarded a Diploma with distinction by the Australian Forestry School, Canberra and in 1952 he obtained a Degree of Bachelor of Science (Forestry) from the University of Queensland.

On his retirement Mr Kelly held the position of Conservator of Forests, responsible to the Minister as Chief Executive of the Department. Mr Kelly brings to the Commission extensive management expertise. He has played a considerable role in the implementation of systems of work and future planning activities.

**Commissioner—Mr J. P. Barbeler**

Mr Barbeler holds a Bachelor of Laws degree and is currently in private practice at the Brisbane Bar. He was admitted as a Solicitor of the Supreme Court of Queensland in July, 1964. In February, 1967 Mr Barbeler was admitted as a Barrister of the Supreme Court of Queensland. From 1968-1970 Mr Barbeler was Assistant Public Defender in the Public Defender's Office at Brisbane.

From April, 1970 to November, 1985, he was in continuous practice as a Barrister at the private Bar in Brisbane. Mr Barbeler has developed a varied practice in both the civil and criminal jurisdictions. During the period December, 1985 to September, 1988 Mr Barbeler practiced as a Crown Prosecutor with the Director of Prosecutions in Brisbane. He has since returned to private practice.

**Commissioner—Dr J. R. McC. Irwin**

Dr Irwin was born and educated in New Zealand. She holds a medical degree awarded at the University of Otago Medical School.

- Director, University of Queensland Health Service 1974-1988.
- Elected Member of University Senate 1983-1989.
- Member, Commonwealth Health Commission 1985-1986.

Dr Irwin, in addition to being a Criminal Justice Commission Commissioner, is Commissioner for Police Service Reviews.

Dr Irwin is eminently qualified in the field of womens issues and has a proven ability in community affairs.

**Commissioner—Professor J. S. Western**

Professor Western holds the position of Professor of Sociology, Queensland University. He graduated from the University of Melbourne in 1955 and obtained a Master of Arts (Social Psychology). Professor Western was awarded his Ph.D (Sociology) from Columbia University in 1962.

Professor Western has worked as a Sociological Consultant to a number of social impact studies concerned with mineral and energy development in Queensland. He has also been a Consultant to both Federal and State government agencies.

Professor Western brings to the Commission a vast amount of practical research and management experience.

**General Counsel—Mr M. P. Irwin**

Mr Irwin was educated in Brisbane and admitted as a Barrister of the Supreme Court of Queensland in 1976 after graduating from the University of Queensland. He has considerable prosecution and investigative experience. He was formerly a Deputy Director with the Office of the Queensland Director of Prosecutions. He served as a Legal Adviser with the National Crime Authority in Melbourne from 1988 until his appointment as Senior Counsel Assisting the Commission of Inquiry on 23 October, 1989. Mr. Irwin was subsequently appointed as General Counsel to the Commission and presently holds these positions concurrently.

**Director, Official Misconduct Division—Mr P. M. Le Grand**

A graduate of Melbourne University in 1969 Mr Le Grand has been involved in prosecutions work since 1971 and in particular, has investigations experience reaching back to 1976. From 1977 he was Senior Solicitor to the Australian Royal Commission of Inquiry into Drugs conducted by Sir Edward Williams. Mr Le Grand was Senior Solicitor on the first ("Mr Asia") of the Royal Commissions Mr Justice Stewart undertook from 1981–1982. Later Mr Le Grand served as senior solicitor to Special Prosecutor Robert Redlich Q.C. (1983–1984) in the investigation and prosecution of matters flowing from the Stewart and Costigan Royal Commissions, was Deputy Commonwealth Director of Public Prosecutions (1984–1986) and General Counsel to the National Crime Authority in Melbourne (1986–1988). Immediately prior to his appointment to the Criminal Justice Commission, Mr Le Grand was the South Australian Member of the National Crime Authority.

**Director, Intelligence Division—Mr J. P. Morris**

Mr Morris served for almost twenty (20) years as an Administrator with Criminal Intelligence Operations, California Department of Justice. He has direct experience with computer services, confidential file requirements, charting and analytical techniques and the training of criminal intelligence personnel.

Mr Morris has served as Consultant to the Intelligence and Information Operations of several large U.S. law enforcement agencies. He shared in the conception of a criminal intelligence network spanning the South Pacific.

The author of five books, two of which are dedicated to the criminal intelligence craft. Mr Morris holds a Master of Public Administration degree from the University of Southern California.

**Director, Research & Co-ordination—Dr S. K. Mukherjee**

Dr Mukherjee has had a long and distinguished academic career. Prior to his appointment to the Criminal Justice Commission, Dr Mukherjee was a Principal Criminologist at the Australian Institute of Criminology in Canberra.

Dr Mukherjee has wide experience in working with Police, the practical nature of his research work and his demonstrated management ability and liaison skills have been invaluable in establishing the Research & Co-ordination Division.

Dr Mukherjee has held research positions at the University of Pennsylvania, Philadelphia, U.S.A. Tatu Institute of Social Sciences, Bombay and the United Nations Social Defence Research Institute, Rome, Italy.

**Executive Director—Mr G. M. Brighton**

Prior to his appointment as Executive Director in June, 1990, Mr Brighton held the position of Assistant Director, Government Superannuation Office from 1984. In that role he was responsible for the overall management of the Scheme Administration Program of that Office. From 1964 to 1984 Mr Brighton worked for the Public Service Board—the central personnel agency for the Queensland Public Service. At the time of leaving the Board he was a Senior Consultant in the Management Consultancy Division. Mr Brighton holds a Bachelor of Arts degree from the University of Queensland.

**Director, Operations—Commander J. C. Mengler**

Commander Mengler has been a police officer for 34 years and is arguably Australia's most experienced detective. He rose through the ranks of the Victoria Police to be appointed a Deputy Commissioner in 1989. He has seen service in uniform and as a Detective, the later both at the regional level and in the specialist squads such as the Homicide, Armed Robbery and Major Crime Squads. In 1981 he was seconded to the "Mr. Asia Inquiry" under Mr. Justice

Stewart as a Senior Investigator. In 1983 he headed the Operation Trio Task Force which solved the Wilson murders and the murder of Donald McKay. He subsequently served on two occasions as the Chief Investigator with the National Crime Authority in Melbourne and Adelaide respectively.

**Chief Officer Complaints Section—Mr D. J. Bevan**

Admitted as Barrister of Supreme Court of Queensland in 1973 and received commission to prosecute on indictment in 1975 following which he prosecuted a wide range of criminal matters in all jurisdictions. Later appointed as a Senior Legal Officer in the Solicitor-General's Office providing legal advice at Ministerial and senior departmental level. In 1983 appointed as an Assistant Parliamentary Counsel and responsible (inter alia) for the drafting of the recent Corrective Services Act, Fire Service Act and amendments to the Criminal Code.

**Registrar of the Misconduct Tribunals—Mr R. J. Kenzler**

Admitted as a solicitor of the Supreme Court in December 1985. Prior to his appointment to the Criminal Justice Commission Mr Kenzler was Senior Deputy Registrar of the Supreme Court. During the Commission of Inquiry he was Clerk to the Commission of Inquiry.

## 2. ACCOUNTABILITY

*"Unlimited power is apt to corrupt the minds of those who possess it. And this I know my Lords, that where laws end, tyranny begins".*

William Pitt

Although an autonomous and independent body equipped with extraordinary powers, the Criminal Justice Commission is made closely accountable to Parliament, the community and the courts by the Criminal Justice Act. The main avenues through which the Commission is made accountable are reviewed in this Chapter.

### PARLIAMENTARY COMMITTEE

- 2.1 The establishment of the Parliamentary Criminal Justice Committee is provided for in Part IV of the Criminal Justice Act. The main responsibility of the Committee is to monitor and review the discharge of the functions of the Commission.

Over the period, the Members of the Joint Committee were:—

Mr. P. B. Beattie, Member for Brisbane Central, (Chairman)  
Hon. M. J. Ahern, Member for Landsborough, (Deputy Chairman until resignation)  
Mr. W. A. Gunn, Member for Sommerset, (Deputy Chairman from 10 May)  
Mrs. W. M. Edmond, Member for Mount Cootha  
Mr. N. Harper, Member for Auburn, (from 10 May)  
Mr. S. Santoro, Member for Merthyr  
Mr. R. E. Schwarten, Member for Rockhampton North  
Mrs. M. R. Woodgate, Member for Pine Rivers  
Research Director: Mr. T. Woodyat

The functions and powers of the Parliamentary Committee are set out in Section 4.8 of the Criminal Justice Act.

During the period under review three meetings were held between the Committee and the Commission.

At the inaugural meeting of the Committee, the Commission was represented by the Chairman, the Directors appointed to that time and General Counsel. At all subsequent meetings the Commission has been represented by the Chairman and the Commissioners.

The first of these meetings which was held on 6 April, 1990 was open to the public. The Hansard record of the opening statement to Parliament of the Chairman of the Parliamentary Committee about the operations of the Committee is contained at Appendix D to this Report. On this occasion the Committee reviewed the Commission's operations to that time and its aims for the future.

Discussion at subsequent meetings ranged over diverse areas nominated by the Committee.

On 1 June, 1990 the Commission furnished two major Reports in accordance with Section 2.18 of the Criminal Justice Act. These Reports were:

- Reforms and Laws relating to Homosexuality—An Information Paper;
- Report on Gaming Machine Concerns and Regulations.

In accordance with an arrangement made between the Committee and the Commission, these Reports were released and the public given the opportunity to make written submissions to the Committee with a view to it holding public hearings on the issues raised. A program of public hearings is to be held in the near future.

As recorded in the Chairman's introduction to this Report, the Commission recognises the thoughtful and practical approach by the Committee which has been ably led by its Chairman. The Commission believes that a satisfactory basis has been established for the working relationship between it and the Committee so that both may function as envisaged by the Act.

The Commission is appreciative of the Committee's support during its inaugural period of operation.

## RESPONSIBLE MINISTER

2.2 The Minister responsible for the Criminal Justice Act 1989-1990 is the Hon. Wayne Goss M.L.A. Premier and Minister for Economic and Trade Development and Minister for the Arts. As the responsible Minister he discharges the following functions under the Act:

- section 2.5—selection for appointment of the Chairman;
- section 2.6—appointment of the other members of the Commission;
- section 2.18—along with the Chairman of the Parliamentary Committee and the Speaker of the Legislative Assembly receives reports of the Commission;
- section 2.32—the approval of persons to be appointed as members of the panel of the Misconduct Tribunals;
- section 2.54—the approval of the use by secondment or otherwise of staff or facilities of any unit of public administration with the concurrence of the Minister responsible for that unit of public administration;
- section 7.8—the approval of the Commission's budget.

## COMMISSION REPORTS

2.3 The Commission is charged with a number of responsibilities that include:

- monitoring and reporting on the use and effectiveness of investigative powers in relation to the administration of criminal justice generally;
- monitoring and reporting on the suitability, sufficiency and use of law enforcement resources and the sufficiency of funding for law enforcement and criminal justice agencies including the offices of the Director of Prosecutions and of the Public Defender;
- researching, generating and reporting on proposals for reform of the criminal law and the law and practice relating to enforcement of, or administration of, criminal justice, including assessment of relevant initiatives and systems outside the State;
- reporting regularly on the effectiveness of the administration of criminal justice, with particular reference to the incidence and prevention of crime (in particular, organized crime) and the efficiency of law enforcement by the Police Force;
- reporting, with a view to advising the Legislative Assembly, on the implementation of the recommendations in the Report of the Commission of Inquiry relating to the administration of criminal justice, and to the Police Force.

In the discharge of those functions the Commission is required:

- wherever practicable, to consult with persons or bodies of persons known to it to have special competence or knowledge in the area of the administration of criminal justice concerned, and seek submissions from the public;  
and
- in its report to present a fair view of all submissions and recommendations made to it on the matter in relation to which it is discharging its functions, whether such submissions and recommendations are supportive of, or contrary to, the Commission's recommendations on the matter.

Further, the Act requires the Commission to report to the Parliamentary Committee:

- on a regular basis, in relation to the Commission's activities;
- when instructed by the Parliamentary Committee to do so in relation to any matter that concerns the administration of criminal justice;
- when the Commission thinks it appropriate to do so in relation to any matter that concerns the administration of criminal justice.

The procedure for reporting by the Commission is by way of a report signed by the Chairman being furnished to the Chairman of the Parliamentary Committee, the Speaker of the Legislative Assembly and the Minister. The Commission may furnish a copy of its report to the principal officer in a unit of public administration who, in its opinion, is concerned with the subject matter of the report. Exceptions to the above procedure are provided in relation to confidential matters and court procedure.

When a report is made by the Commission in accordance with the above procedure it is granted all the immunities and privileges of a report tabled and printed by order of the Legislative Assembly.

Two reports have been compiled by the Research and Co-ordination Division of the Commission pursuant to this procedure and those reports are dealt with later in this Report.

The functions of the Parliamentary Committee include monitoring and reviewing the discharge of the functions of the Commission as a whole and of the Official Misconduct Division in particular. To assist in the carrying out of this function the Commissioners report to the Parliamentary Committee on a monthly basis thereby providing an overview of the Commission's activities. All reports delivered by the Commissioners to date have been conducted in public.

The Chairman and Commission staff report on a fortnightly basis to the Commissioners to ensure significant oversight of Commission activities.

To ensure satisfactory internal co-ordination of reporting within the Commission separate meetings are scheduled each week involving:

- the Executive;
- the Chairman, the Directors of all divisions and leaders of particular sections within those divisions;
- Team Leaders and staff.

## REPORTS ON INVESTIGATIONS

- 2.4 The Official Misconduct Division has the duty of assessing the substance of all complaints and information concerning suspected misconduct furnished to the Commission. In addition to this the Division operates of its own initiative not only in relation to misconduct but also the investigation of organized or major crime.

The Director of the Division is obliged to report to the Chairman with a view to such action by the Commission as he considers desirable on every investigation carried out by the Division and every matter of complaint, or information, submitted to him by the Complaints Section of the Division.

With the authority of the Chairman he may report to one or more of the following as the Chairman considers appropriate—

- the Director of Prosecutions, or other appropriate prosecuting authority, with a view to such prosecution proceedings as the Director of Prosecutions or other authority considers warranted;
- the Executive Director of the Commission with a view to a Misconduct Tribunal exercising jurisdiction in respect of the matter to which the report relates;
- the Chief Justice of the State, if the report relates to conduct of a judge or, or other person holding judicial office in, the Supreme Court;
- the Chairman of District Courts, if the report relates to conduct of a judge of District Courts;
- the Chief Stipendiary Magistrate, if the report relates to conduct of a person holding judicial office in the system of Magistrates Courts or Children's Courts;
- in a case to which the three paragraphs immediately above do not apply, the appropriate principal officer in a unit of public administration, with a view to disciplinary action being taken in respect of the matter to which the report relates.

A report made to the Director of Prosecutions or the Executive Director of the Commission must contain or be accompanied by all relevant information known to the Official Misconduct Division whether the information supports a charge that may be brought in consequence of the report or supports a defence that may be available to any person liable to be charged.

The Director also has the responsibility of causing a response to be given to complainants to the Complaints Section stating what action has been taken on the complaint and the reason that action is appropriate, the result of that action if it be known, or if no action has been taken the reason for inaction.

The details in relation to these reports are dealt with in the section of this Annual Report dealing with the Official Misconduct Division.



Where the Director of the Official Misconduct Division reports to a principal officer of a unit of public administration that a matter involves or may involve official misconduct by a prescribed person in that unit and the available evidence shows a prima facie case to support a charge of official misconduct against that person, it is the duty of the principal officer and of persons acting under him to charge the prescribed person with the relevant official misconduct by way of disciplinary charges and to have him dealt with by a Misconduct Tribunal as prescribed by the Criminal Justice Act 1989-1990.

## ANNUAL REPORT

- 2.5 The Commission is obliged to submit an annual report to the Minister. One of the functions of the Parliamentary Committee is to examine the annual report and other reports of the Commission and report to the Legislative Assembly on any matter appearing in or arising out of any such report.

## MEDIA RELATIONS

- 2.6 The Commission recognises the vital role of the media in informing the public on the complex issues that will be attended to in the coming years. Some media organisations and some individual journalists are to be commended for the attention they have given to the process of reform following the Commission of Inquiry.

The Commission endeavours to assist journalists wherever it is practical and responsible to do so and the Chairman, Sir Max Bingham Q.C., has made himself available to the media on many occasions. However there is much work within the Commission which has to be conducted in a confidential manner and Section 6.7 of the Criminal Justice Act 1989 makes it an offence for a Commissioner or officer of the Commission to wilfully disclose any information provided to the Commission except for the purposes of the Commission.

The Commission has as yet held no hearings but it is the intention that wherever possible and appropriate these will be open to the public and the media. Such openness has both advantages and disadvantages but, on balance, the openness of the Commission of Inquiry contributed significantly to its success.

The Commission inherited the media arrangements set up during the Commission of Inquiry and, like Commissioner G E Fitzgerald Q.C., wishes to express its appreciation to Mr. Gary Lynch, the former Secretary of the Commission of Inquiry, who continued the difficult job of dealing directly with media requests.

On 25 June 1990 the Commission appointed Mr Damien Sweeney as a full time Media Liaison Officer.

## COMPLAINTS AGAINST STAFF

### *Quis custodiet ipsos custodes?*

- 2.7 The latin question posed above, literally "who will guard the guards" was asked by Decimus Junius Juvenalis in the first century AD. It is just as valid today and indeed is the subject of debate from Brisbane to Birdsville. The Commission recognised that it would unfortunately be the case, given the nature of its function and responsibilities, that there would be complaints against its officers in the course of performing their duties.

With a view to accountability, the Commission was concerned to establish an independent mechanism to deal expeditiously with such complaints.

To this end, discussions were had with the Attorney-General, the Director of Prosecutions and the Commissioner of Police, whereby such a mechanism was established. This involves an investigation by a Senior Crown Prosecutor, nominated by the Director of Prosecutions and a senior police officer or officers, nominated by the Commissioner of the Police Service. They report to the Chairman of the Commission, the Attorney-General and the Minister for Police and Emergency Services.

The Commission is grateful to the Attorney-General, the Director of Prosecutions and the Commissioner of the Police Service for their ready assistance in this regard.

## **REVIEW BY THE SUPREME COURT**

2.8 Pursuant to the provisions of section 2.25 of the Criminal Justice Act, any person who claims:

- that an investigation by the Official Misconduct Division is being conducted unfairly;  
or
- that the complaint or information on which an investigation by the Official Misconduct Division is being, or is about to be, conducted does not warrant an investigation

may seek injunctive relief from a judge of the Supreme Court. If any such order is made against the Director of the Official Misconduct Division, such order shall not operate so as to prevent or inhibit the conduct of the investigation in question if there have emerged further factors in light of which the order appears to be unjustified.

Where further factors emerge that put in question the propriety of any such order, the Commission may apply to a judge of the Supreme Court for revocation of the order, and the judge may revoke the order, or vary its terms as he thinks fit.

### 3. **GENERAL COUNSEL**

#### **Legal Functions**

The more significant legal functions of General Counsel have included:

- drafting the contract of employment for Commission staff (and associated documents);
- drafting statutory declarations of personal particulars and private interests and associations to be declared by the Chairman, the Commissioners and all Commission staff;
- drafting of notices under section 3.1 of the Act and notices of summons under section 3.6 of the Act (and associated procedures);
- preparation of document/exhibit handling procedures;
- drafting of procedures to be followed in applications to the Supreme Court for authority to use listening devices;
- preparation and updating of operational procedures;
- preparation of administrative procedures; and
- ongoing review of the Act with a view to identifying any amendments which may be required in the light of practical experience.

The declarations of personal particulars, private interests and association are considered more stringent than those of any other Australian organisation which has similar functions. This is considered essential having regard to the Commission's role of advising on the administration of the criminal justice system in Queensland. It is in keeping with its aim of establishing a model to be followed by other agencies.

#### **Operational Procedures**

In relation to the preparation and updating of operational procedures, the Commission inherited a set of procedures from the Commission of Inquiry which have provided an excellent starting point to the development of procedures relevant to the object, functions, responsibilities and powers of the Commission. In addition, the close liaison with other agencies which is referred to in Section 4.7 of this report has materially assisted the Commission in the development of its own procedures.

The preparation of procedures has involved specific consultation in relation to the development of procedures and forms for the Complaints Section, Misconduct Tribunals and the Commissioner for Police Service Reviews.

General Counsel was involved with the Chairman in discussions for investigating complaints against its staff. This system is described in more detail in Section 2.7 of the report.

#### **Reform of the Criminal Justice System**

The Commission has received and taken the opportunity to have input into the reform of the criminal justice system, including providing comments on:

- a proposed 'Miscarriage of Justice Remediation Unit';
- possible amendments to the Evidence Act;
- the Police Service Administration Act 1990 and the Regulations made thereunder;
- form and content of Police Complaints Tribunal Repeal Act.

General Counsel has advised on these issues and in addition, is a non-voting member of the Attorney-General's Committee reviewing the Criminal Code.

He had oversighted persons considered for entry and subject to the programs of the Witness Protection Division until the appointment of the Director, Operations who is also the Director of the Division. He is presently a member of a joint Commission/Queensland Corrective Services Commission/Queensland Police Service Working Party on the development of procedures for all aspects of witness protection in this State.

In the period under review, General Counsel was the liaison point for all Office of the Special Prosecutor requests for assistance in respect of its investigations and prosecutions. He also had a close day to day involvement in administrative matters and in the Official Misconduct Division.

## 4. OFFICIAL MISCONDUCT DIVISION

The Official Misconduct Division is constituted as the “investigative unit within the Commission”. It is divided into two main areas, namely the Complaints Section and the Multi-Disciplinary Teams.

The Complaints Section comprises four investigative teams while the four multi-disciplinary teams operate in the areas of organised crime, police corruption and government corruption.

### ESTABLISHMENT

The main aspect of the work of the Official Misconduct Division to this time has been its establishment against the background of a continuation of the work of the Commission of Inquiry. It must be recognised that the Criminal Justice Commission is a very different organisation from its forerunner, the Commission of Inquiry.

An infrastructure of procedures, systems, methods, guidelines and training had to be put in place while the Division continued to undertake 50 investigations into matters as diverse as the bribery of public officials and large scale narcotics trafficking.

### FUNCTIONS AND POWERS

- 4.1 The Official Misconduct Division is authorised under the Act to operate of its own initiative, as well as in response to complaints or information received concerning misconduct.

The Official Misconduct Division has nine (9) functions under the Act including:

- the investigation of the incidence of official misconduct generally in Queensland;
- furthering the investigative work commenced by the Commission of Inquiry;
- the investigation of all cases of alleged or suspected misconduct by police officers or official misconduct by other persons holding appointments in units of public administration in Queensland;
- the provision of assistance, by way of education or liaison, to law enforcement agencies, units of public administration and others concerning the detection and prevention of official misconduct.

In its investigation of alleged or suspected police misconduct or official misconduct the Division is obliged to consider information that comes to its notice from any source, including information from an anonymous source.

For the purpose of discharging the functions and responsibilities of the Official Misconduct Division, the Commission may conduct a hearing and may receive evidence orally or in writing, on oath or affirmation, or by way of statutory declaration.

Such a hearing (not to be confused with a Misconduct Tribunal hearing) shall be constituted by:

- the Chairman, alone or, if the Chairman so elects, with one or more of the other Commissioners;
  - the Director of the Official Misconduct Division;
- or
- an officer of the Commission who is a legal practitioner, authorised by the Chairman for the purpose in a particular case.

In the conduct of such a hearing, the Commission may be assisted by a legal practitioner employed or retained by the Commission.

Other investigative tools which may be used by the Official Misconduct Division are mentioned later in this Chapter.

The Director of the Official Misconduct Division shall report on:

- every investigation carried out by the Division;
- every matter of complaint or information, submitted to him by the Complaints Section of the Division.

Such report is made to the Chairman with a view to such action by the Commission as he considers desirable as previously stated. If the Chairman considers it appropriate, he may authorise a report to those agencies and bodies previously described in Section 2.4 of this Report.

A report made to the Director of Prosecutions or the Executive Director of the Commission must contain, or be accompanied by, all relevant information known to the Official Misconduct Division, whether the information:

- supports a charge that may be brought against any person in consequence of the report;  
or
- supports a defence that may be available to any person liable to be charged in consequence of the report.

## **POLICE ESTABLISHMENT**

- 4.2 The Criminal Justice Commission police establishment comprises 94 Queensland Police Service members headed by a Commander who as at 30 June, 1990 supervised one Acting Superintendent, one Inspector, six Acting Inspectors and sixty-two other ranks. This establishment is allocated to the following areas of operational endeavour:

- Witness Protection Division
- Surveillance Section
- Complaints Section
- Multi-disciplinary teams
- Operations Directorate.

Recruitment has yet to reach authorised strength, in particular in the Complaints Section which is to be staffed wholly by commissioned officers in accordance with the recommendation of the Commission of Inquiry.

The police members are specially selected, having previously exhibited high integrity and investigative skills.

### **Technical Group**

At the date of this report there are two Technical Officers attached to the Technical Unit of the Commission. Both are serving Queensland Police Service members.

This unit is in the process of establishing a secure communication system within the Commission.

In conjunction with the Surveillance Team, the Technical Unit has been actively involved in 34 surveillance operations by providing technical support and advice.

Since its formation, this group has achieved its short term objectives.

### **Complaints Section**

The Complaints Section of the Official Misconduct Division was established on 22 April 1990, following the disbanding of the Police Complaints Tribunal and the Police Internal Investigations Section. As a temporary measure, six Detective Senior Sergeants of Police were seconded to the Complaints Section as Acting Detective Inspectors.

During the latter part of 1990, a further eight Inspectors of Police will be permanently attached to the Complaints Section. Their main role and function will be to investigate complaints containing allegations of misconduct and official misconduct by police and official misconduct by other public officials.

At this time the police establishment in the Complaints Section is functioning on a restricted basis.

## MANAGEMENT OF INVESTIGATIONS

- 4.3 Investigations are conducted by the Complaints Section of the Official Misconduct Division, and by four multi-disciplinary teams. All complaints and information concerning misconduct must be furnished to the Complaints Section. That section is responsible for the majority of the Division's investigations, whilst it is envisaged that the multi-disciplinary teams will conduct investigations of greater complexity or of a pro-active nature.

The Complaints Section is staffed by a team of lawyers, complaints officers, police, and support staff. All staff are responsible, in their day to day activities, to the Chief Complaints Officer who is a senior lawyer. With the exception of those complaints which are summarily rejected as being furnished vexatiously or frivolously the Complaints Section, through its Chief Officer, must submit to the Director of the Official Misconduct Division, all complaints and information concerning misconduct, together with observations as to whether the complaint involves official misconduct, and a recommendation as to what further action (if any) is necessary.

The Director of the Official Misconduct Division must report pursuant to section 2.24 of the Act to the Chairman on every investigation carried out by the Division, and every matter of complaint or information submitted to him by the Complaints Section.

In addition the Director, with the authority of the Chairman, shall report in appropriate cases to the relevant prosecuting authority, judicial officer, principal officer of a unit of public administration or the Executive Director of the Commission with a view to appropriate proceedings being instituted.

The multi-disciplinary teams, which are discussed at greater length hereafter, consist of a number of lawyers, police, support staff, and a financial analyst who is a qualified accountant.

A lawyer, as team leader, is responsible for the daily management of the team, which in addition to continuing informal liaison, meets weekly to discuss recent occurrences and the future direction of investigations.

The Director of the Official Misconduct Division is in regular contact with the team through briefings by the team leader and the review of the minutes of team meetings. The Chairman and General Counsel are also kept up to date on team activities through the minutes of these meetings.

Although the team leader is responsible for the management of the team, each police investigator is answerable to the Director of Operations. The Director of Operations retains a supervisory role over all police operations and is responsible for the discipline of the police contingent.

Similarly, each team accountant is responsible to the Chief Financial Analyst, who ensures that professional accounting standards are maintained and expertise shared.

At the completion of an investigation the team leader reports to the Chief Officer of the Complaints Section, who in turn reports to the Director of the Official Misconduct Division in the manner previously described.

## COMPLAINTS SECTION

- 4.4 In accordance with paragraph 10.2.3(f) of the Report of the Commission of Inquiry, the Criminal Justice Act provides for the establishment of a Complaints Section (2.27).

Section 2.28 provides for the referral of complaints to the Complaints Section. Under subsection (1) any person may furnish to the Complaints Section a complaint or information concerning conduct that is perceived as, or may be, official misconduct.

The Act imposes a duty on the Commissioner of the Police Service, other principal officers of units of public administration, and certain other persons to refer to the Complaints Section all matters that involve or may involve official misconduct. In addition, it is the duty of the Commissioner of the Police Service to refer to the Complaints Section all complaints of or matters involving suspected misconduct other than official misconduct, by members of the Police Service, whether such complaints and matters arise within or from outside the Police Service.

The functions of the Complaints Section in assessing complaints is best explained by reproducing section 2.29 of the Act in full. That provision reads:

**"2.29 Functions.** Subject to any guidelines relating thereto, issued by the Commission, it is the function of the Complaints Section —

- (a) to assess the substance of all complaints and information concerning suspected misconduct furnished to it, including from anonymous sources, and of all matters involving suspected misconduct referred to it;
- (b) to summarily reject such complaints and information as appear to the chief officer of the Section to have been furnished frivolously or vexatiously;
- (c) to submit to the Director of the Official Misconduct Division all complaints, information, and matters not dealt with under paragraph(b), accompanied by observations of the chief officer of the Section—
  - (i) as to whether the complaint or information involves, or may involve, official misconduct; and
  - (ii) as to what further action (if any) is necessary or desirable, if action is to be taken by the Commission in respect thereof.

### **Transition**

The Report of the Commission of Inquiry recommended the abolition of the Police Complaints Tribunal and the Internal Investigations Section of the Queensland Police Force. Reference should be made here to the finding of the Commission of Inquiry that the Police Complaints Tribunal had made a determined and successful effort to improve its image under the last Chairman, His Honour Judge McGuire.

From early 1990 discussions took place between the Criminal Justice Commission and both precursor organisations with a view to the take-over of their functions on 22 April, 1990. The Internal Investigations Section investigated 1,045 complaints last year. However, many of those matters were investigated on behalf of the Internal Investigations Section by officers in regional areas. The Police Complaints Tribunal dealt with 791 matters last year.

On 22 April, 1990 the Complaints Section not only took over new complaints made concerning members of the Police Service but also inherited from the Police Complaints Tribunal 66 matters, many of which were of a complicated nature and of several years standing. The Section also commenced to discharge a function of assessing complaints concerning other public officials. The Commission experienced an initial rush to lodge complaints either through dissatisfaction with the processes or results of the former bodies or because of the publicity which attended the Commission's take-over of this function.

### **Workload**

As mentioned above, on 22 April, 1990, 66 complaints made to the Police Complaints Tribunal were transferred to the Complaints Section of which 14 matters had not been investigated at all. The remainder were at varying stages of investigation. Many of the matters were of a substantial nature having been the subject of investigation for a number of years.

From 22 April, 1990 complaints immediately began to flow in at the rate of approximately 45 per week. Approximately 80% of those complaints related to the conduct of police officers.

The second largest category of complaints was soon identified as being that related to the activities of local authorities. It was observed that investigations of these complaints were likely to be of an involved and protracted nature.

As yet, there is not an appreciable number of complaints being lodged by principal officers of units of public administration. In the Commission's view this does not indicate any default on the part of principal officers but reflects the usual delays which occur upon the introduction of a new system. Several weeks prior to the 22 April, 1990 the Chairman wrote to all Ministers requesting their assistance in notifying officers in their respective portfolios of the obligations under the Act to bring instances of suspected official misconduct to the attention of the Commission. They were also provided with a standard form on which reports of official misconduct could be made.

Similar arrangements were made with the Commissioner of the Police Service. A form headed **Complaint made against Member of Police Service** was circulated throughout police establishments in Queensland together with an instruction under the hand of the Commissioner concerning a police officers obligation to report to the Commissioner and to the Complaints Section any case in which he knows or reasonably suspects another officer to have engaged in misconduct.

### **Staffing Difficulties**

In the period covered by this Report delays were experienced in staffing of the Complaints Section for two reasons:

- delay in the approval of the Commission's budget thereby preventing the engagement of staff;
- a decision by the Commissioner of the Police Service that it was not appropriate for the Criminal Justice Commission to continue with past arrangements to directly select the required police officers from among serving officers.

In relation to the Commissioner's decision he was of the view that as the Criminal Justice Commission is a permanent body, police officers should be recruited to the Commission by way of the normal processes of selection for promotion. The Commission agrees with this view. Therefore, filling the 15 Inspector's positions within the Complaints Section has become part of the standard promotions selection process of the Police Service.

The abovementioned delays have resulted in the Complaints Section being without its permanent investigative support as at the date of this Report and this situation will continue on current advice for many weeks to come.

To provide for at least some investigative support to the Section in the interim, the Commissioner agreed to the temporary secondment of 6 officers of the rank of Inspector.

The Commission has also made internal arrangements for the temporary transfer of staff from the multi-disciplinary teams, both lawyers and police, to the Complaints Section.

The Chief Officer of the Complaints Section and other officers within the Section have, at this formative stage of the Section, been unable to give their undivided attention to the assessment and investigation of complaints as they have also been engaged in setting up procedures, drafting guidelines and organising workflows with the assistance and supervision of the Director of the Division and members of the Commission.

### **Addressing the Backlog**

As at 30 June, 1990 the Complaints Section has on hand 333 matters requiring assessment. It should be noted that assessment may in some instances be possible without investigation, but in most cases investigation is required to varying degrees.

At the inception of the Complaints Section it was decided that 15 investigators of the rank of Inspector would provide the investigative support to that Section. This equalled the total number of investigators previously attached to the Police Complaints Tribunal and the Internal Investigations Section. However, as indicated above 60% of investigations properly classifiable as matters requiring investigation by the Internal Investigations Section were passed to Divisional Commanders outside that Section for investigation to be carried out on behalf of that Section. As mentioned above during the 12 months preceding the disbandment of these bodies, they handled in total approximately 1,800 complaints.

The decision to commence with only 15 Inspectors for the Complaints Section was taken having regard to the well-being of the Police Service (so as not to strip it of too many experienced officers) and the budgetary constraints of the Commission.

The Commission has been taking action to reduce the backlog to manageable proportions. It recognises that its goal of instilling public and police confidence can only be achieved by fair and speedy investigation and disposition of complaints. It has therefore been necessary for the Director to suspend any further pro-active or target oriented investigations by the multi-disciplinary investigative teams with the exception of the Organised Crime Team. These teams have been assisting in dealing with the most complex complaints.

To further expedite the investigation and disposition of complaints the Director and the Chief Officer have restructured the Complaints Section. New staff employed originally for other areas of the Official Misconduct Division have been redeployed within the Complaints Section. This staff includes some legal officers. The restructuring has involved the creation of four small investigative teams, each comprised of a lawyer, one or two complaints officers (whose function is principally to debrief complainants) and two or three Inspectors. The number of Inspectors will increase with the commencement of the remaining Inspectors within the next month or so.

It is anticipated that the creation of these teams will provide a more streamlined system for dealing with complaints as well as fostering the working relationship between the disciplines within the Complaints Section.



### **Selective Investigation**

One of the functions of the Official Misconduct Division is to investigate all cases of:—

- alleged or suspected misconduct by members of the Police Force;
- or
- alleged or suspected official misconduct by persons holding appointments in other units of public administration,

that come to its notice from any source, including by information from an anonymous source.

The Commission cannot hope to investigate all matters fully. It has finite resources and the total of 15 investigative officers is, as mentioned above, the same number previously attached to the Police Complaints Tribunal and the Internal Investigations Section. That number did not prove adequate in those organisations and even with the improved procedures within the Complaints Section, will be unlikely to prove adequate in the future. The Commission regards this number only as an appropriate starting point and its arrangements with the Commissioner of the Police Service have always been conducted on that basis, a basis which he has accepted.

The Criminal Justice Act does not extend to the Official Misconduct Division or the Complaints Section the luxury afforded to the Independent Commission Against Corruption by the legislation under which that organisation is established. The New South Wales organisation can pick and choose which matters it will investigate. On the other hand, the Official Misconduct Division and the Complaints Section is required to investigate all complaints other than those dismissed by the Chief Officer as having been made frivolously or vexatiously.

The Commission is of the view that some investigation (although somewhat pre-emptory at times) is far preferable to no investigation. It is better to deal at some level with all complaints (even if only by interviewing the complainant and assessing material provided by him) than to deal with only a minor proportion, justifying such selectiveness on the basis of "a lack of resources" or "a burgeoning backlog".

### **Statistical Analysis of Complaints**

The statistics from 22 April, 1990 to 30 June, 1990 can be summarised as follows:

- 66 complaints inherited from the Police Complaints Tribunal, many of which were of a complicated nature and of several years standing;
- an average of 9 complaints received per day;
- 165 matters referred to the Complaints Section investigators;
- 6 matters referred to the multi-disciplined teams for further investigation;
- 27 minor matters referred to the Commissioner of Police;
- 22 country circuit matters;
- 56 matters finalised;
- 80% approximately of all complaints received in this period related to police;
- 6 matters dismissed as being frivolous/vexatious; and
- 333 matters on hand.

A significant number of complaints allege assault by police ranging from rough handling to assaults causing serious bodily injury.

Complaints received from country areas are assessed as soon as practicable to determine whether they require urgent action. In the event that a matter requires such action, investigators are despatched immediately from Brisbane. If a matter does not require immediate action the most efficient and economical way of dealing with it appears to be on a circuit basis. Investigators are despatched for a period of time to a country area to deal with as many complaints within that area as possible. Furthermore, when investigators within other areas of the Official Misconduct Division travel to country areas they also are required to attend to as many complaint matters as possible.

### **Importance of Complaints Section to operation of Commission**

Lest the Commission is thought to be giving undue attention and allocating unnecessary resources to the Complaints Section, it should be remembered that the widespread corruption which flourished within the Queensland Police Force as revealed by the Commission of Inquiry

substantially resulted from the failure of those mechanisms whose function it was to monitor, to control and to punish misconduct within the Force. Such functions have been performed ineffectually in Queensland and also widely throughout the common law world. For the Commission also to fail would irreparably damage its credibility.

## **MULTI-DISCIPLINARY TEAMS**

- 4.5 In carrying on the work of the Commission of Inquiry, the Official Misconduct Division has inherited and progressively developed and modified the investigative teams constituted within the Commission of Inquiry to pursue three main areas of illegality, namely police corruption, government corruption and organised crime. In doing so, it has constituted multi-disciplinary teams on a more formal and structured basis and brought about greater consultation and participation in the investigative process.

### **Team Structure**

Typically, each team is headed up by a Team Leader who is an experienced criminal lawyer with exposure to investigation and the management of personnel. Under the Team Leader there are one or two subordinate lawyers, a financial analyst who is a qualified accountant with previous experience in financial investigations, five or six police officers and a complement of support personnel. It is hoped soon to recruit a criminal analyst for attachment to most teams.

Team methodology now in place will be greatly enhanced by the recruitment of further legal and financial personnel and the more intense use of "hands on" computer support. Currently the multi-disciplinary teams collectively are attending to 50 investigations. This number is far too great to provide for the appropriate investigation of the more significant matters.

The proper staffing of the Complaints Section with its own investigative units will allow the number of investigations within the teams to be reduced, (at least after the accumulated backlog in the Complaints area has been addressed), and the teams to concentrate on those matters requiring the full range of sophisticated investigative techniques available within the teams.

Individual instances of official misconduct will be attended to by the investigative units attached to the Complaints Section. Further, with the establishment of the Intelligence Division, the investigative teams will move into more pro-active investigations rather than reacting to complaints or information received by the Commission. The Commission will also be able to develop its own targeting of significant criminal activity.

### **Organised Crime Team**

The Commission is approaching a watershed in respect of the investigations of this Team. Several operations are joint operations with the Queensland Police (QPOL), with one also including the Australian Federal Police. One operation has been underway for approximately 5 months, 3 months of which have been substantially under the direction and management of the Criminal Justice Commission though the operation is a joint operation with the QPOL Drug Squad. Sufficient evidence has been obtained during the operation so far to charge 20 persons, 16 of whom are significant drug traffickers.

This operation has been based upon United States models of task force operations in the drug area. On anybody's estimation the operation has been very successful thus far in providing admissible evidence against significant targets in the drug area.

### **The Police Teams**

The role and function of these teams is to investigate alleged corruption and other impropriety involving police members, which stem from complaints or pro-active operations.

Investigations by these teams during the period led to several serving police officers being charged with criminal and disciplinary offences. Additionally, a number of police members who engaged in unacceptable conduct have either resigned, been dismissed from the Police Service, or have been transferred, reprimanded or counselled.

### **Government Team**

The Government Team was formed in the latter part of the Commission of Inquiry and has continued under the auspices of the Criminal Justice Commission.

The function of this team is to investigate allegations of corruption in the public sector, mainly in local government and the Public Service areas.

A number of local government councillors and employees, public servants and present and former political figures have been investigated and in some cases briefs of evidence have been forwarded to the Office of the Special Prosecutor for consideration.

## INVESTIGATIVE TOOLS

4.6 To perform its function of investigating official corruption in units of public administration and organized or major crime, the Commission has been given powers that are wider than normal policing powers. These powers include:—

- the power to require a person to furnish to the Commission a statement of information relevant to an investigation of the Commission;
- the power to compel the production of records and things relevant to an investigation of the Commission;
- the power to summons persons to attend before the Commission and give evidence relevant to an investigation of the Commission;
- the power to conduct hearings at which witnesses may be compelled to give evidence on oath and produce documents;
- the power to compel a person, in attendance before the Commission:—
  - to furnish a statement of information;
  - to give evidence;
  - to produce records and things;

notwithstanding that compliance would tend to incriminate him. (Information obtained under compulsion cannot be used against the person in civil or criminal proceedings).

- with the leave of a Supreme Court Judge, the power to compel a person for the purpose of the discharge of the functions or responsibilities of the Commission
  - to furnish a statement of information;
  - to produce records and things;

notwithstanding that compliance would be a breach of duty to maintain confidentiality imposed by Statute or obligation. (Information obtained in these circumstances does not render the person liable to a breach of the Statute or obligation or to disciplinary action).

In addition to these wider powers, the Commission, with the leave of a Supreme Court Judge, may:—

- execute a search warrant;
- use a listening device.

## INTER-AGENCY CO-OPERATION

4.7 The Commission considers itself to be part of the national fabric of the administration of criminal justice. Accordingly, it has established close working relationships with other agencies with common functions, responsibilities and goals. For example, it has fostered close liaison with the National Crime Authority [NCA], the Independent Commission Against Corruption [ICAC], the NSW State Drug Crime Commission [SDCC], interstate police services and forces and the Cash Transaction Report Agency [CTRA].

In accordance with its responsibility for taking such action as it considers to be necessary or desirable in respect of such matters as in its opinion are pertinent to the administration of criminal justice, it has provided support to other agencies with law enforcement functions. These agencies have been the NCA, the SDCC and the Australian Federal Police. It has done this by providing operational support and disseminating information in accordance with the Act.

It has conducted joint operations with the NSW State Drug Crime Commission in conjunction with the Queensland Police Service Drug Squad.

The Commission has received commendation for the quality and professionalism of this support.

The Commission is continuing to strengthen these relationships by sharing information and intelligence with these organisations. In addition it has gained access to their procedures and guidelines in areas of common interest. This has materially assisted the Commission in the preparation and continual updating of its operational procedures as a model to be followed by other agencies. In particular, it wishes to acknowledge the valuable assistance of the NCA, ICAC and the SDCC in this regard.

### **Liaison with the Office of the Special Prosecutor**

The Commission has maintained a close liaison with the Office of the Special Prosecutor. In particular, it has provided it with support and assistance in respect of its investigation and prosecution functions.

## **PROSECUTIONS**

### **4.8 The Prosecution of Offences**

The Commission has no role in the prosecution of criminal offences investigated by the Commission and its staff beyond the laying of charges and the support of the brief of evidence. The Criminal Justice Act by section 2.24 provides that every investigation carried out by the Official Misconduct Division shall be the subject of a report to the Chairman who may refer the report to the Director of Prosecutions or other appropriate prosecuting authority with a view to prosecution proceedings being taken. The Commission has interpreted this provision as requiring the completion of a brief of evidence prior to its referral to the Director of Prosecutions and the obtaining of the sanction of the Director of Prosecutions to the laying of charges. However, from time to time operational exigencies will require the laying of charges prior to referral of the matter to the Director of Prosecutions, for example, in the case of continuing criminal conduct or where the defendant is about to flee the jurisdiction. In such cases the Commission is of the view that by virtue of section 2.56(3) the seconded police members of its staff retain all powers and authorities had by them as police members and can proceed to charge where there is an operational requirement to do so.

## 5. RESEARCH AND CO-ORDINATION DIVISION

5.1 This Division came into existence in March 1990 with qualified staff being progressively appointed. It consists of three functional units: research, co-ordination and a library.

During the period since its formation, the Division's Directorate has:

- (i) determined the Division's organisational structure;
- (ii) established working links with related research agencies; and
- (iii) set priorities for proposed research projects.

A team of multi-disciplined professionals has been appointed to confront the complex issues associated with researching the suitability of criminal law, the exercise of investigative powers, the changing nature and incidence of crime, and the effective use of resources.

A library, staffed by a qualified Librarian, has been established within the Division. To date, significant progress has been made in acquiring text and reference material, developing inter-library loans, and literature searches.

**Links with other agencies:** Officers of the Division have formed harmonious working relationships with other research agencies at both a State and National level. Such co-operation has resulted in a number of joint research projects (see below).

### Research priorities

It was neither desirable nor practical to attempt immediately to address the many problems facing the State's legal and criminal justice systems. Research on all the priority projects has begun. The list includes:

- **Homosexuality:** An information paper on Reforms in Laws Relating to Homosexuality was completed and tabled in Parliament.
- **Prostitution:** Research on the issue aims to examine the links with organised crime with a view to making recommendations for reforms in laws relating to prostitution.
- **SP Bookmaking:** Research on this issue will, among other matters, investigate its links with organised crime, the value of gambling, the estimated loss in revenue to the State, and possible reforms in laws relating to illegal gambling.
- **A report on Crime and Justice in Queensland:** With the help of factual and descriptive data, this research aims at providing the people of Queensland with a clear understanding of crime and the operation of the criminal justice system in the State.
- **Community Policing and Crime Prevention:** Research will focus on examining the thrust of community policing in the State. As part of this project, a survey of community attitudes and evaluation of community policing initiatives will be attempted.
- **Integrated Criminal Justice Data Base:** This long-term and on-going research project will be developed and conducted in association with various agencies in Queensland.
- **Surveys of Criminal Victimisation:** As part of the development of a criminal justice data base, an on-going survey of criminal victimisation is planned.
- **Police Education and Training:** The Division will assist the Queensland Police Education Advisory Council in arriving at the kind of education and training needed to prepare police personnel for service in the 1990's and beyond.

### Joint Programs

Joint programs which have been commenced include:

- **The Australian Institute of Criminology**—preparing a directory of researchers in crime and criminal justice in Australia.
- **The Royal Commission into Aboriginal Deaths in Custody**—A Survey of police-Aboriginal relationships.
- **The Government Statistician's Office Queensland**—A crime victims survey.

During the four months to June 1990, planning for research on issues such as police powers and crimes by young offenders began. Work on these issues will begin in the first half of 1990-91.

Preparations for a major National Conference on Community Policing to be held in Brisbane in October 1990 are underway.

The Division's staff attended and presented papers at a number of seminars and conferences during the period under review.

### **Special Report**

In January 1990 the Chairman Sir Max Bingham Q.C., was requested by a Cabinet Sub-committee to provide advice on "areas of likely difficulty" in the introduction of gaming machines into licensed establishments in Queensland. At that time neither the Research & Co-ordination Division nor the Parliamentary Committee was established.

The report was prepared under extraordinary circumstances in that certain stages in the introduction of gaming machines proceeded in the intervening period, in particular the preparation of legislation and the calling of expressions of interests for the supply of gaming machines.

A 105 page report entitled "Gaming Machines Concerns and Regulations" was delivered to the Speaker of the Legislative Assembly Mr J Fouras MLA, the Chairman of the Parliamentary Criminal Justice Committee, Mr P Beattie MLA and the Premier, the Hon. W K Goss on 1 June 1990. The report was to be the subject of subsequent hearings by the Parliamentary Criminal Justice Committee.

## 6. INTELLIGENCE DIVISION

- 6.1 The Intelligence Division was formed later than other units due to difficulty in locating a suitable foundation Director. When no suitable applicant was found following an Australia-wide search, the Commission was able to appoint Mr Jack Morris from the United States of America on a short-term basis to establish the Division. Mr Morris is an international leader in Criminal Intelligence matters and former Administrator of Intelligence for the California Department of Justice. Guidelines for the operation of the Intelligence Division were completed and approved by the Commission Chairman during May and the main body of new staff members commenced duty on 12 June 1990.

An ongoing staff training program commenced in June. Topics covered by this training program include knowledge of operation guidelines, intelligence gathering methodology, computer training, report writing skills and analytical training.

### Projects

Projects identified to date for the Intelligence Division during 1990/91 include:

- Offer advisory services to the Queensland Police Service and endeavour to ensure that intelligence procedures are considered and incorporated in operational planning.
- Assume control of all data records of the former Commission of Inquiry.
- Locate, identify and make secure all data which is the responsibility of the Director of the Intelligence Division.
- Develop and co-ordinate the implementation of a formal integration plan which links the use of information and intelligence between the Divisions of Official Misconduct, Research and Co-ordination and Intelligence.
- Establish compatible computer data bases in conjunction with other related agencies.
- Monitor the relationships between the Bureau of Criminal Intelligence Queensland and other law enforcement agencies and determine if a need exists to oversee their external performance.
- Develop 6 to 10 tactical intelligence reports for consideration by the Official Misconduct Division and other agencies with mutual interests.
- Produce two short duration intelligence-related training programs for operational police, Senior Officers of the Queensland Police Service and Senior Officers of related law enforcement agencies.
- Create a data base concerning the criminal activities of persons and organisations, using as sources Intelligence Division operations, the Official Misconduct Division of the Commission, the Queensland Police Service and other sources as they are available.
- Develop a procedure for introducing civilians into the Queensland Bureau of Criminal Intelligence Queensland and oversee its implementation. Further, establish an ongoing auditing function which ensures this change takes place and is continued.
- Develop a certification program for intelligence personnel in conjunction with the University of Queensland and in compliance with the Education (General Provisions) Act 1989. This would be followed by the training and certification of intelligence personnel of both the Commission and the Bureau of Criminal Intelligence, Queensland.
- Develop and produce independently, or in conjunction with another agency, a complete security program for the Commission's premises.
- Develop and implement an inspection program for the review of the Bureau of Criminal Intelligence Queensland files and related activities. Conduct two inspections and prepare two follow-up confidential reports for use by the Commissioner of Police and the Chairman of the Commission.
- Conduct a review of the Queensland Police Information Bureau. This review shall include, but not be limited to: Type of holdings; security controls; utility of operational guidelines; purging and destruction procedures; and its present use of civilian and uniformed personnel. Also to be studied will be the degree and manner in which the Bureau of Criminal Intelligence Queensland utilises the material held by the Queensland Police Information Bureau.
- Develop two or more long term strategic crime assessments on the subjects of Japanese Organised Crime (Yakuza), Chinese Triads and/or an Organised Crime group yet to be identified. One or more of these assessments may be an independent Commission production or undertaken in conjunction with one or more allied law enforcement agencies.

## 7. WITNESS PROTECTION DIVISION

- 7.1 In accordance with the recognition in paragraph 10.2.7 of the Report of the Commission of Inquiry that witness protection is a specialist function and the recommendation at page 375 of the Report, that a Witness Protection Division be established within the Commission, such a Division has been established as a separate organisational unit within the Commission.

It is the unit within the Commission directly responsible for providing protection of the personal safety of persons who, in the opinion of the Chairman following consultation with the Director of the Division, are in need of it [section 2.51(1) of the Act]. Such persons must have assisted the Commission or a law enforcement agency of the State in the discharge of its functions and responsibilities. It is irrelevant that a person has been summoned or called as a witness [section 2.50 of the Act].

### Function

By virtue of section 2.51(2), it is the function of the Division to:

- provide witness protection through its officers to such persons;
  - provide, to persons receiving such protection, facilities and means whereby they may assume new identities and may be relocated and re-established in employment or business, if in the opinion of the Chairman, such facilities or means are necessary;
  - to devise methods whereby such protection may be provided adequately to persons generally or in particular cases;
  - to devise programs for training and to train personnel whether officers of the Division or not, for the duties involved in providing such protection;
  - to accurately maintain a register of the factual particulars and the assumed particulars of persons who have assumed new identities for the purpose of such protection provided to them;
- and
- advise the Minister and the Commission in relation to arrangements with authorities of the Commonwealth and other States and the Territories of the Commonwealth, with a view to the establishment and operation of a National Witness Protection program.

Only the Chairman, the Executive Director and the Director of the Division may have access to the Register of Particulars [section 2.52 of the Act]

Such protection must be terminated if the person so requests [section 2.51(3) of the Act].

This Division was established on the foundation of the Witness Protection Unit which was established by the Commission of Inquiry. No such unit had previously existed in Queensland

As stated above, the Director of Operations is also the Director of this Division. Prior to the appointment of the Director, General Counsel oversaw persons considered for entry and subject to the programs of the Division.

### Levels of Threat

The Division assesses and evaluates applicants for protection and presents its findings and recommendations to the Director of Operations for submission to General Counsel and the Chairman of the Commission.

It provides protection for a variety of levels of threat based on assessment of what is considered appropriate to protect the particular witness in view of the circumstances and level of threat against the witness. A very high level of threat may indicate 24 hour close personal protection which means that a team of guards would be deployed to protect the witness around the clock.

The witness would be relocated to covert safe house accommodation and could expect a permanent relocation after giving evidence. This relocation would entail the Division providing the witness and his family with a new identity and documentation to support this. This would mean moving the witness to a suitable location where he would start a new life far removed from those dangerous elements that threatened him, and arranging suitable accommodation and employment to give him good impetus to succeed in his new environment.

A lower level of threat would entail a temporary relocation to a safe house and the deployment of one guard or minder on a shift basis to cover the witness around the clock. Subsequent to giving evidence the witness may be permanently relocated.



"On Call" protection is utilised for those witnesses where the threat is not sufficient to warrant 24 hour close personal protection and where the witnesses can be adequately provided safety by relocation to a covert safe house away from the danger area.

They are provided with a case officer contactable on a pager and with the back-up of a multi pager system to ensure a quick response should they call for assistance.

The Division also provides court security during witness appearances at court. This requires careful planning and the deployment of sufficient manpower to counter the added threat which is encountered during this period, as it is generally known when a witness is to give evidence at court.

### **Future Program**

In the next 12 months the Division will:

- implement a regular training program for staff;
- establish an accepted system of entry into the Witness Protection Program for those people considered to be in need of protection;
- obtain equipment sufficient to support operational requirements;
- establish a pool of trained personnel within the Queensland Police Service, available to be on call for secondment to the Witness Protection Squad at short notice as required;
- establish a permanent staff member within the Headquarters staff to be responsible for intelligence, research and obtaining safe houses.

It is expected that the call for Witness Protection will continue over the next 12 months and several factors influence this:

- the trend towards increased violence in crime and a resulting higher risk to informants;
- the law enforcement drive against drug trafficking, organised crime and corruption, areas where large finances are often available to the targets, providing them with a high capacity to carry out threats against witnesses;
- the exercise of indemnity from prosecution as a tool against organised crime and corruption where the witness is often an associate of those he is implicating and which may engender bitter hatred and the threat of reprisal;

The demand for the services of this unit has increased over the past 12 months and liaison with other Witness Protection units in Australia tends to confirm this trend generally.

There has been established a joint Commission, Queensland Corrective Services Commission/ Queensland Police Service Working Party on the development of procedures for all aspects of witness protection in this State. The Director, Operations and General Counsel are members of this working party.

During the past 12 months the Division carried out 28 operations involving 38 witnesses, and in some cases, members of their families, requiring differing levels of response. Close personal protection was carried out on 10 of these witnesses.

Pursuant to its training functions, the Division conducted the National Witness Protection Course over 3 weeks from 4 December 1989 to 22 December 1989 and was a key achievement for this squad.

Students were trained in all facets of Witness Protection and VIP Protection. Eighteen students attended from Queensland, two from New South Wales, one from the Federal Police and one from Victoria. The objectives were to establish a pool of trained personnel within the Queensland Police Department to provide assistance to the Division when required, to train selected staff members and to establish closer liaison with interstate Witness Protection and VIP Protection Squads.

On 30 November, 1990, 2 officers of the Commission, together with officers of the Premier's Department, Justice Department, Corrective Services Commission and Police Service attended the National Co-Operative Witness Protection Scheme Steering Committee in Canberra.

## 8. MISCONDUCT TRIBUNALS

- 8.1 At the date of compiling this Report, the Commission has gone a substantial distance in establishing the Misconduct Tribunals.

It has called for and received many expressions of interest from persons to be members of a panel. It notes in this regard that some eminent jurists, including former members of the Supreme Court of Queensland, have indicated a willingness to serve the community in this way. A list of names has been nominated to the Premier by the Commission for appointment by the Governor-in-Council.

The Commission is seeking appropriate accommodation for the establishment of the Tribunals away from the Commission's Offices, in recognition of the independent role of the Misconduct Tribunals. Further, some staff have been recruited including the Registrar of the Misconduct Tribunals and a Support Officer.

Work is also underway to draw rules of procedure, forms and notices to be used by applicants and respondents in proceedings before the Tribunals for submission to the panel of members for consideration upon their appointment.

The Commission received a disappointing response from areas outside the Brisbane metropolitan area to its advertisements for panel members, and the Chairman has written to professional bodies in central and northern Queensland seeking their assistance in encouraging suitable members of the legal profession to apply for membership of the panel.

The Commission proposes having the Misconduct Tribunals sit from time to time in regional areas. It follows that, as no members of the panel from which Misconduct Tribunals will be constituted have been appointed as at 30 June, no disciplinary charges of official misconduct had been heard to that time. It is anticipated that, within a short time of a panel being appointed, a number of matters will be referred to the Commissioner of Police by report from the Director of the Official Misconduct Division, indicating that the matter involves or may involve official misconduct by a member of the Police Service.

This action will impose a duty upon the Commissioner of Police and persons acting under him to charge the police officer with the relevant official misconduct by way of a disciplinary charge and have him dealt with by a Misconduct Tribunal.

In addition, two appeals have already been lodged with the Director of the Official Misconduct Division requesting a review of a decision by a Deputy Commissioner of the Queensland Police Service in respect of a disciplinary charge of misconduct. In each case, the appeal is against dismissal from the Police Service.

### **Prescribed Persons**

The Tribunals have both original and appellate jurisdiction in respect of official misconduct by a "prescribed person" and, in addition, appellate jurisdiction in respect of a disciplinary charge of "misconduct" in respect of a prescribed person. The Criminal Justice Act itself only prescribes one class of person for the purposes of the Misconduct Tribunals, namely members of the Queensland Police Service.

Other prescribed persons must be declared by Order in Council and, to this time, no such Order has been made. Further, on the Commission's understanding, no Order will be made except on a case by case basis upon the recommendation of the Commission to Government and the acceptance of the government of that recommendation.

### **Independence**

The Misconduct Tribunals are established under Part II Divisions 5 and 5A of the Criminal Justice Act. Section 2.31 of the Act constitutes the Misconduct Tribunals as part of the Official Misconduct Division. This provision does not appear internally consistent with the provision contained in Section 2.12 of the Act which establishes the initial organisational units within the Commission, under which the Misconduct Tribunals would appear to be established as a separate organisational unit. In any event, the Commission has great difficulty with the concept of the Misconduct Tribunals being established as part of the Official Misconduct Division, as this arrangement appears to be contrary to legal principle.

The concern is that the investigative unit, which is the Official Misconduct Division, should superintend in any way the functioning of the quasi-judicial unit responsible, inter alia, for adjudicating upon investigations undertaken by the Official Misconduct Division. Further, the legislative arrangement would appear to be contrary to the recommendations of the Commission of Inquiry that the Misconduct Tribunals "must be demonstrably independent of government agencies and the police". (See page 315).

The Commission recommends the amendment of Section 2.31 so as to delete reference to the Misconduct Tribunals as constituting part of the Official Misconduct Division.

It also recommends the deletion of any reference to the role of the Director of the Official Misconduct Division and Executive Director of the Commission in respect of the Misconduct Tribunals. This legislative scheme would be altered to allow their current roles to be exercised by a Registrar of the Tribunals. This would ensure that not only are the Misconduct Tribunals in fact independent but will be manifestly perceived to be so.

## 9. **COMMISSIONER FOR POLICE SERVICE REVIEWS**

Dr Janet Irwin, a member of the Criminal Justice Commission, has been nominated as the Commissioner for Police Service Reviews under the Police Service Administration Act 1990. Under that Act, an officer of the Police Service who is aggrieved by decision relating to:

- selection of a person for appointment on promotion;
- transfer of an officer;
- action against an officer for breach of discipline; or
- standing down of an officer or any other decision prescribed by the Regulations which is open to review under Part IX of the Act, may make application to have the decision reviewed by the Commissioner for Police Service Reviews.

The current Registrar of the Misconduct Tribunals, as Secretary to the Commissioner, is currently working closely with Dr Irwin to develop procedures for the conduct of the informal administrative proceedings envisaged by the Act and Regulations in relation to the conduct of such reviews. This has included liaison with the Public Sector Management Commission with a view to adopting their procedures, where appropriate. It is also likely that the Public Sector Management Commission will make available one of their Hearing Rooms to be used for the purpose of these reviews. The intention is to demonstrate insofar as is possible, that the Commissioner for Police Service Reviews functions independently of the Criminal Justice Commission. Three appeals, involving promotion/disciplinary decisions, have already been received by the Secretary.

## 10. CORPORATE SERVICES DIVISION

10.1 The Corporate Services Division, through the Executive Director, is responsible for:

- co-ordinating the Commission's operational functions;
- developing recommendations to the Commission regarding staff appointments, promotions, and terminations; and
- all aspects of personnel management including staff training, discipline, performance appraisal, deployment and keeping of records.

During the period under review, officers from the Division have been developing and implementing the management information systems and administrative procedures necessary for the efficient operation of the Commission.

With the creation of the Commission, Mr R. M. Wedgwood was seconded from the Commonwealth Joint House Department as acting Executive Director for a period of six months to assist with establishing the Commission. Mr G. J. Zerk was appointed Executive Director in May 1990 however, he subsequently resigned. The Commission is appreciative of the assistance rendered by Messrs Wedgwood and Zerk during their time with the organisation.

### MANAGEMENT RESOURCES BRANCH

The principal functions of the Branch are:

- Financial planning and budgeting;
- Development and maintenance of financial and accounting systems;
- Development and maintenance of payroll system;
- Logistic planning and acquisition; and
- Office and personnel administration.

Since its formation, Branch officers have been involved in establishing the procedures for the provision of financial and administrative services necessary for the control and co-ordination of the Commission's operational functions.

Management Resources Branch comprises three Sections:

- Financial Services;
- Personnel Services; and
- Administrative Services.

#### **Financial Services Section**

Financial Services Section administers the Commission's financial systems and controls expenditures and receipts in accordance with the Financial Administration and Audit Act 1977-1988 and other relevant Acts.

The Section also monitors and provides senior management with information and advice relevant to the financial performance of the various functions of the Commission.

#### **Personnel Services Section**

Personnel Services Section is responsible for the provision of a wide range of programs designed to maximise the efficient utilisation of the Commission's human resources.

The Commission is committed to the professional development and training of its officers. Extensive development work in this area is to be undertaken by Personnel Services Section during the 1990-91 financial year.

#### **Administrative Services Section**

The Administrative Services Section provides property management and logistics support to the Commission in accordance with the Financial Administration and Audit Act 1977-1988 and other relevant Acts.

## **INFORMATION MANAGEMENT BRANCH**

The Information Management Branch of the Corporate Services Division is responsible for records management and the use of information technology.

It seeks to optimise the usage of Commission information technology and provide accurate registration for and recording of information required by the Commission in the execution of its responsibilities.

The Branch provides a central registry for the control of files and related document flow, together with secure facilities for property and material acquired by the Commission. The information holdings from both the Commission of Inquiry and the Commission itself are extensive and are supported by computer software for file/document/item tracking.

The Branch also provides a related information retrieval service utilising the holdings of the Commission and available external information sources.

The use of information technology to support the operational Divisions is undergoing extensive planning, with 1990/91 being targeted for implementation of key administrative and operational systems.

Officers from this Branch are developing a Corporate Computer Strategy to facilitate acquisitions for and enhancement of the computer communications network.

The resultant integrated approach to computing will act as a sound basis for incorporation of relevant emerging technology.

## 11. LEGAL CHANGE

### 11.1 CHANGE DURING THE PERIOD UNDER REVIEW

The Members (E.A.R.C. and C.J.C.) Act 1990 (Act No. 1 of 1990) was assented to on 21 March 1990. This amended section 2.4 of the Act which disqualifies certain person for appointment as a member of the Commission. Prior to the amendment, those disqualified included any persons holding an appointment in a unit of public administration or appointed by the Governor-in-Council as a member of a statutory body (other than an ex-officio entitlement), or a servant of such a body. The amendment which was requested by the Commission, excluded educational institutions from units of public administration and statutory bodies for the purposes of this section. Accordingly, the holder of an appointment in an educational institution is not thereby ineligible for appointment as a Commissioner. The skills of such persons are therefore not lost to it. This enabled the appointment of Professor Western as a part-time member of the Commission, on the date of assent.

Act No. 1 of 1990 made a similar amendment to the Electoral and Administrative Review Commission Act 1989 for the same reason.

### 11.2 RECOMMENDATIONS FOR FURTHER LEGISLATIVE AMENDMENT

#### (a) **The Criminal Justice Act 1990**

Doubt has arisen in the course of the Commission's work that the Queensland Corrective Services Commission is a unit of public administration within the meaning of that term in Section 1.4 of the Act. If the doubts expressed are correct, the Commission has no jurisdiction to investigate alleged or suspected misconduct by persons holding appointments in the Queensland Corrective Services Commission.

At the date of writing this Report, the Commission has briefed Counsel to provide an advice in this regard. If Counsel's advice is to the effect that the Queensland Corrective Services Commission is not a unit of public administration within the meaning of the Act, then the Commission will seek an early amendment to bring the Corrective Services Commission within the scope of the Criminal Justice Commission.

Such an amendment would be in accordance with the intention of the Report of the Commission of Inquiry and the Corrective Services Commission may inadvertently have slipped through the net by virtue of the manner in which it was constituted.

#### (b) **Qualifications of Members**

It is also considered that an amendment is required to section 2.32 of the Act of a similar nature to that made to section 2.4, to ensure that persons who hold office in an educational institution are not thereby ineligible for nomination and appointment to the panel of Misconduct Tribunal Members.

#### (c) **Official Seal**

The Commission will recommend that there be provision made in the Act for an official seal of the Misconduct Tribunals and for it to be judicially noticed.

#### (d) **Ability to Waive Non-Compliance with Requirements of Act and Regulations**

The Commission is of the view that a provision to this effect should be inserted in relation to the operation of the Misconduct Tribunals. Such a provision would overcome the absence in the Act of any powers in the Misconduct Tribunals to exercise a discretion to extend time to lodge a notice of appeal or proceed to hear an appeal notwithstanding it was lodged out of time. It would also enable such a discretion to be exercised in relation to any procedural defects which might occur under the Act or any regulations gazetted in respect of the Misconduct Tribunals.

#### (e) **Judicial Notice of the Chairman's Signature**

Although section 2.1(2) of the Act requires all courts and persons acting judicially to take judicial notice of the official seal of the Commission, there is no requirement for judicial notice of the Chairman's signature. This is notwithstanding that he is the Chief Executive Officer of the Commission and in the discharge of his duties and the exercise of his authorities under the Act and other legislation, he will be required to sign a number of documents which are potentially subject to scrutiny by courts and tribunals (including the Misconduct Tribunals).

The Act requires the Chairman to sign Commission Reports (section 2.18(2)) and instruments of delegation (section 7.2). It requires the Chairman or his delegate to sign any notice issued under section 3.1, a notice of summons (section 3.6) and direction to have a prisoner or patient produced to the Commission (section 3.13).

Certain applications which can be made under the Act are required to be made to the Supreme Court by the Chairman or his delegate, for example:

- the issue of a search warrant (section 3.3);  
and
- an order approving the use of a listening device (section 3.14(2)).

In this regard reference is also made to sections 3.7 and 5.3(1); sections 3.9, 3.10 and 5.4; section 3.11; and sections 3.16(2) and 5.6 of the Act.

Although the documents may be signed and applications made by the Chairman's delegate, it is the Commission's policy, that when the Chairman is available, all such documents are to be considered and issued under his signature.

Other examples of documents which for the purpose of proof would be signed by the Chairman are those referred to in sections 2.35(1) [which requires the Chairman to nominate a Misconduct Tribunal panel member to hear and determine a particular matter or group of matters], 2.48, 2.53(2), 2.56(2), 3.27, 3.28, 3.35 and 7.4 of the Act.

Reference is also made to sections 3.2, 3.14(1), 3.15, 3.16(1), 3.26(2), 3.26(3)(b), 3.26(4), 3.26(5)(b), 3.36(2) and 3.36(5)(c) of the Act.

Section 1.4 of the **Police Service Administration Act 1990** impliedly empowers the Chairman to nominate a Commissioner for Police Service Reviews. Regulation 4 of the **Police Service (Review of Decisions) Regulations 1990** implies that the Chairman has power to appoint a Secretary to that Commission. The nomination and appointment have been made by instrument under the Chairman's signature.

In these circumstances, it is considered that proof of the Chairman's action under these provisions would be greatly facilitated by the insertion of a section to enable judicial notice to be taken of the Chairman's signature. By virtue of the definition of "Chairman" in section 1.4 of the Act, this would extend to any Commissioner who, in accordance with the Act, discharges the duties, or exercises the authority of the Chairman. It would be necessary to draft the provision to enable such judicial notice to be taken by members of the Misconduct Tribunals.

(f) **Commissioner (other than Chairman) to constitute the Commission to conduct a hearing for the purpose of discharging its functions and responsibilities allocated to the Official Misconduct Division**

By virtue of section 2.17(2) when the Commission (other than a Misconduct Tribunal) is conducting such a hearing, it may be constituted by:

- the Chairman alone, or if the Chairman so elects *with* one of more of the other Commissioners;
- the Director of the Official Misconduct Division;
- or
- an officer of the Commission who is a lawyer authorised by the Chairman for the purpose in a particular case.

This is to be distinguished from a situation in respect of the discharge of its functions or responsibilities or the exercise of its powers in any other case (including the holding of hearings for other purposes), where it may be constituted, *inter alia*, by:

- one or more of the Commissioners (other than the Chairman) if the Chairman so approves. (Section 2.16(2)(b)).

In accordance with section 2.3(2)(a) there will always be one member of the Commission who is in actual legal practice and who has demonstrated an interest and ability in civil liberties. At present, this member is Mr. J. P. Barbelor of Counsel.

There seems no reason why such a Commissioner should be excluded from constituting the Commission only for the purpose specified in section 2.17(2) when the Chairman may authorise a Commission lawyer to do so.



The Commission suggests an amendment to section 2.17, whereby as in the case of section 2.16(2), the Commission may be constituted by:

- one or more of the other Commissioners if the Chairman so approves,

will ensure that the Commission is able to call upon all its reserves of experience for the purpose of conducting such hearings.

**(g) Correction of an error in Section 2.18(5)**

This provision governs the publication, furnishing and delivery of the Commission's reports.

It is clear that the reference in subsection (5) to "subsection (2)" is an error or misprint and should read "subsection (3)".

**(h) Complaints Section**

**(a) Amendment to Section 2.20—Official Misconduct Division—Role and Functions**

Section 2.29 in Division 4A of the Act provides that subject to any guideline issued by the Commission, it is the function of the Complaints Section:

- “(a) to assess the substance of all complaints and information concerning suspected misconduct furnished to it, including from anonymous sources, and of all matters involving suspected misconduct referred to it;
- (b) to summarily reject such complaints and information as appear to the chief officer of the Section to have been furnished frivolously or vexatiously;
- (c) to submit to the Director of the Official Misconduct Division all complaints, information, and matters not dealt with under paragraph (b), accompanied by observations of the chief officer of the Section —
  - (i) as to whether the complaint or information involves, or may involve, official misconduct;
  - and
  - (ii) as to what further action (if any) is necessary or desirable, if action is to be taken by the Commission in respect thereof.”

This provision establishes a chronological sequence to be followed upon receipt by the Complaints Section of a complaint or information concerning suspected misconduct. However, section 2.20(2)(d) of the Act adds another step to this process by providing that it is the function of the Official Misconduct Division to investigate all matters of complaint or information concerning suspected misconduct submitted to the Director of the Division by the Complaints Section.

“Investigate” is defined to include “examine and consider” (section 1.4 of the Act). This would seem to extend the meaning of the word to include, at least in part, that which is required “to assess” the substance of a complaint or information concerning suspected misconduct, by the Complaints Section.

Having regard to the appearance in section 2.20(2)(d) of the words, “submitted to the Director of the Division by the Complaints Section of the Division pursuant to Division 4A”, the section operates to impose a further investigative function on the Official Misconduct Division, after assessment of the complaint or information and its submission to the Director of the Division by the Complaints Section pursuant to section 2.29(c).

This has the anomalous effect that each matter assessed and submitted to the Director by the Complaints Section is subsequently to be investigated within the Official Misconduct Division (of which the Complaints Section is a part) and refurnished to the Director so that he may comply with his obligation under section 2.24(1) of the Act to report on:

- (a) every investigation carried out by the Division;
- and
- (b) every matter of complaint, or information, submitted to him by the Complaints Section of the Division.

Construed strictly, this provision would require the Director to report twice in respect of the same complaint or information. First, upon submission of that complaint or information to him by the Complaints Section and second, upon the completion of the further investigation carried out by the Division. Such a situation is unworkable. Experience has now shown that the Complaints Section in conducting the required assessment investigates matters before submitting them to the Director. As the Complaints Section is part of the Official Misconduct Division, the function imposed by section 2.20(2)(d) is fully encompassed by section 2.20(2)(e) which makes it a function of the Division to investigate all cases of:

- (i) alleged or suspected misconduct by members of the Police Force;
- or
- (ii) alleged or suspected official misconduct by persons holding appointments in other units of public administration,

that come to its notice from any source, including information from an anonymous source.

In these circumstances, section 2.20(1)(d) is considered to be surplus and to create an unworkable situation. It is recommended that it be *omitted*.

**(b) Amendment of Section 2.24(1)—Reports of Division**

Having regard to the definition of “investigate”, the term “investigation” in clause (a) of this subsection will incorporate, at least in part, the assessment by the Complaints Section of the substance of all complaints and information concerning suspected misconduct furnished to it. This has the effect of requiring a report by the Director of the Official Misconduct Division even in relation to those cases in which the Chief Officer of the Section does not submit a matter to him e.g. where he has summarily rejected it as frivolous or vexatious pursuant to section 2.29(b). The current situation is, that by virtue of section 2.24(1) the Director is effectively required to report on every matter which is “examined and considered” (including assessed) by the Division. In a situation in which the Commission expects to receive about 2,500 complaints in its first year of operation, this is unworkable. It also does not reflect the role of the Complaints Section in identifying those matters that warrant further action as described in paragraph 10.2.3(f) (pp. 314-5) of the Commission of Inquiry.

The Commission considers that it would be consistent with the intention of the Commission of Inquiry and create a more workable scheme (which would allow complaints to be expeditiously assessed and a final determination made), if section 2.24(1) was to be amended by omitting paragraph (a) and substituting the following (or similar) provision:

“(a) every investigation carried out by the Division of a matter of substance which is not required by Division 4A to be assessed by the Complaints Section”.

This would clearly distinguish between matters assessed by the Complaints Section and other investigations carried out by the Division. In relation to the former, the Director's obligation to report would be limited to those matters submitted to him by the Complaints Section pursuant to Section 2.29. At the same time, the new section 2.24(1)(a) would be limited to requiring him to report on other investigations of substance which have not arisen from a complaint or information concerning suspected misconduct being furnished to the Complaints Section, namely those matters which it is the function of the Division to investigate pursuant to sections 2.20(1), and 2.20(2)(a), (b), (c), (e), (i) of the Act.

**(c) Amendment of Section 2.28(6)—Issue of direction by the Chairman or his Delegate**

This section provides:

“(6) A person referred to in subsection (2) or (3) shall comply with the directions in writing of the Chairman, or his delegate, relating to any complaint of, or a matter involving, suspected misconduct, including the transference to the Commission of responsibility for investigation of any such complaint or matter or of any suspicion arising therefrom”.

The difficulty with this subsection is that it incorporates a number of different concepts and:

- it does not clearly distinguish between the duty of the Commissioner of Police under subsection (3) to refer to the Complaints Section all complaints of, or matters involving suspected “misconduct” and of the persons referred to in subsection (2) to refer those matters that he suspects involves or may involve, “official misconduct”;
- it is not clear whether the Chairman or his delegate is empowered to make directions to require the Commissioner of Police to investigate on the Commission’s behalf any complaint of, or matter involving, suspected misconduct or any class of complaint or matter as opposed to requiring the “transference” to the Commission of responsibility for investigation of any such matter.

It is clear from paragraph 10.2.3(f) of the Report of the Commission of Inquiry that it intended that power exist to make such directions (also see recommendation 10(g), (h) at pp. 373-4). The intention, it would appear, was that the Commission through its Complaints Section, carry out an initial screening process of the complaints and information received to determine the appropriate action to be taken in each case. This action could include the referral of the matters to other agencies for investigation.

Accordingly, it is recommended that the power of the Commission to issue directions relating to the misconduct of members of the Police Service and official misconduct of other public officials, be clarified by an amendment of section 2.28(6). Any such amendment would include a power to the Chairman or his delegate to issue written directions to require the Commissioner of Police to investigate on the Commission’s behalf any complaint of, or matter involving, suspected misconduct or any class of complaint or matter.

(d) **Repeal of and enactment of a new Section 2.29 and the making of Regulations to prescribe the functions of the Complaints Section**

The experience of the Commission has been that the procedure provided in this section for assessing complaints and information and referring them for appropriate action has been unnecessarily circuitous and not conducive to expeditious determination. To redress this situation it is recommended that section 2.29 be repealed and the following section (or a similar provision) substituted for it:

“It is the function of the Complaints Section to deal with all complaints and information concerning suspected misconduct furnished to it, including from anonymous sources, and of all matters involving suspected misconduct referred to it, as nearly as possible in accordance with the report of the Commission of Inquiry, in accordance with the provisions of the Act and as prescribed by regulations”.

It is further recommended that this be complimented by a regulation gazetted on the same date as this amendment to the Act in the following or similar terms:

“It is the duty of the Complaints Section —

- (a) to assess, with such investigation (if any) as the Chief Officer of the section considers appropriate, the substance of all complaints and information concerning suspected misconduct furnished to it, including from anonymous sources, and of all matters involving suspected misconduct referred to it;
- (b) to summarily reject such complaints and information as appear to the Chief Officer of the section to have been furnished frivolously or vexatiously;
- (c) to refer to the principal officer of a unit of public administration any complaint, information or matter that, in the opinion of the Chief Officer of the section, involves or may involve cause for the taking of disciplinary action (other than for official misconduct) by the principal officer against a person holding an appointment in the unit of public administration;
- (d) to submit to the Director of the Official Misconduct Division any complaint, information or matter that, in the opinion of the Chief Officer of the Section—
  - (i) involves or may involve official misconduct if, in his opinion, the available evidence shows a prima facie case to support a charge of a disciplinary nature of official misconduct against a person;or

- (ii) should be referred to the Director of Prosecutions, or other appropriate prosecution authority, with a view to prosecution proceedings”.

Paragraph (b) would be in the same terms as the present section 2.29(b).

Paragraph (a) would substantially be in the same terms as the current section 2.29(a) however additional words have been inserted to clarify the meaning of “assessed” which is not defined by the Act, by investing the Chief Officer of the Complaints Section with a discretion as to whether or not it will involve an investigation.

Paragraph (c) which has no equivalent in the current section would be consistent with the scheme of the Act whereby the Director of the Official Misconduct Division can only oblige the principal officer of a unit of public administration to charge a person holding an appointment in that unit with official misconduct (section 2.30(1) of the Act) and confers original jurisdiction on the Misconduct Tribunals, only in relation to a disciplinary charge of official misconduct (section 2.36(1)). It also reflects the scheme envisaged in the Report of the Commission of Inquiry (paragraph 10.2.3(f) and recommendation 10(g)).

Paragraph (d) would remove the requirement under the current section 2.29(c) that all matters assessed by the Complaints Section, other than those summarily rejected as frivolous or vexatious be submitted to the Director of the Official Misconduct Division and the associated requirement under section 2.24(d) that the Director report on each such matter.

Having regard to the anticipated number of complaints to be assessed by the Section during its first year of operation, this procedure is an obstacle to the expeditious determination of such matters. The proposed paragraph (d) would limit the requirement that matters be submitted to the Director (and consequently be the subject of report) to the circumstances specified therein.

It will be recommended that these functions be prescribed by regulation rather than by Act, because this is a more appropriate and flexible method of setting out what is in fact a chronological sequence of procedures to be followed by the Complaints Section. It would avoid any further requirement for amendment to the Act itself, should future experience indicate that the procedures require further fine tuning.

The regulation would also remove the power to amend the legislation by the issue of internal guidelines by the Commission which would appear to be envisaged by the opening words of the present section 2.29. The Commission would prefer that any amendment to the functions of the Complaints Section be achieved by regulations made by Governor-in-Council, rather than by such an internal mechanism.

**(i) Section 7.2—Extension of Power of Delegation**

**(a) To the Registrar of the Misconduct Tribunals**

This section empowers the Chairman to delegate, either generally or otherwise, any of the powers and authorities conferred on him by the Act to a Director or an Acting Director of an organisational unit of the Commission (subsection (1)) subject to such conditions and limitations as he thinks fit (subsection (2)).

Section 3.6 of the Act empowers the “Chairman or his delegate” to issue a notice of summons signed by him, compelling a person to attend before the Commission to give evidence and/or produce a record or thing. By virtue of subsection (1)(a)(i) and (ii) thereof, this power extends to issuing such a notice to secure attendance of a person before a Misconduct Tribunal for this purpose.

It is considered that an independent Tribunal with the jurisdiction and powers of the Misconduct Tribunals under the Act should be able to determine for itself or through its staff, whether there are grounds to warrant the issue of a notice of summons under section 3.6. Such a summons could be issued by any Registrar created by amendment to the Act if section 7.2(1) was also amended to enable the Chairman to delegate his powers and authorities to such an officer or any person acting in that position.

Such an amendment would also enable the Chairman to delegate his power to nominate the panel member to constitute a Misconduct Tribunal under section 2.35(1)(a) of the Act. This would appear to be an administrative function which could be adequately and fairly exercised by the Executive Officer of the Misconduct Tribunals.

(b) **To enable delegation of the powers and authorities conferred on Directors and other Senior Officers of the Commission**

It is recommended that the section be amended to allow the powers and authorities conferred on Directors and other senior officers (other than delegated to them by the Chairman) under section 7.2(1) to be subject to delegation.

The existing power of delegation relates only to the Chairman's powers. This situation has proved difficult to work with. The Director of the Official Misconduct Division, for example, may wish to delegate his power and obligation to report under section 2.24(1)(b) of the Act, either generally or in a particular case to the Chief Officer of the Complaints Section. This officer is required by section 2.29 (whether under the current or suggested formulation of that section) to report to the Director in relation to the same matters which would be the subject of the Director's report under section 2.24(1)(b). This process involves two reports. It is cumbersome and detrimental to the expeditious disposition of matters. This could be overcome if the Director was empowered to delegate to the Chief Officer the reporting function under section 2.24(1)(b). It is recommended that any such amendment ensure adequate control by requiring that the delegation be subject to the approval of the Chairman.

(j) **Whistleblowers Protection**

It is recognised that the Act currently provides only limited protection to persons who are often termed "whistleblowers". Research and recommendation in relation to such legislation is within the charter of the Electoral and Administrative Review Commission (E.A.R.C.). The Chairman of that Commission has indicated that because of other priorities it is unlikely that this project will commence until 1991. There have already been concerns expressed that the services of a person have been terminated because of assistance rendered to this Commission. It has been suggested by the Chairman of E.A.R.C. that some whistleblowers (interim protection) legislation be considered. Any such legislation would need to include an amendment to the Criminal Justice Act to insert an offence of victimisation and to empower the Commission to make application to the Supreme Court for an injunction (including an interim injunction) restraining a person from engaging or proposing to engage in conduct that constitutes or would constitute an offence of victimisation, or an attempt to victimise, or aiding, abetting, counselling or procuring a person to victimise, in any way to directly or indirectly be knowingly concerned in or a party to or conspiring with other persons to commit the offence of victimisation.

The Commission would support any such legislation.

(k) **Original Jurisdiction of Misconduct Tribunals to extend to persons holding appointments in units of public administration other than the Police Force**

By virtue of section 2.30(1) of the Act, where the Director of the Official Misconduct Division reports to a principal officer of a unit of public administration in certain terms, he imposes a duty upon that officer and of persons acting under him to charge a "prescribed person" with a disciplinary charge of official misconduct, and to have that person dealt with by a Misconduct Tribunal in accordance with the Act.

The Misconduct Tribunals have both original jurisdiction to investigate and determine every charge of a disciplinary nature, of "official misconduct" made against a "prescribed person" [section 2.36(1) of the Act].

The Misconduct Tribunals have appellate jurisdiction to review a decision (other than that of a Court or Misconduct Tribunal) made in respect of a disciplinary charge of "misconduct" against a "prescribed person" [section 2.36(2) of the Act].

Accordingly, the scheme of the Act is that only certain persons, who are described as "prescribed persons" may be charged with a disciplinary charge of "official misconduct" and made subject to the original jurisdiction of the Misconduct Tribunals.

Further, the Misconduct Tribunals only have appellate jurisdiction in relation to this limited class of persons.

"Prescribed person" for the purposes of section 2.30(1) and the exercise of both the original and appellate jurisdictions of the Misconduct Tribunals is defined in the same terms [see sections 2.30(2) and 2.36(3)] namely:

- (a) a member of the Police Force;
- (b) a person who holds an appointment in a unit of public administration (other than the Police Force), which appointment or unit is for the time being declared by Order-in-Council to be subject to the jurisdiction of a Misconduct Tribunal."

It follows that the Act only prescribes one class of person for the purposes of section 2.30(1) and the Misconduct Tribunals, namely members of the Queensland Police Force (now known as the Queensland Police Service). Other such persons must be declared by Order-in-Council and, to this time, no such order has been made nor, on the Commission's understanding will be made other than on a case by case basis, upon the recommendation of the Commission to the Government and the acceptance of the Government of that recommendation.

Thus, upon the Commission concluding that the available evidence shows a prima facie case to support a charge of a disciplinary nature of official misconduct against a person who holds an appointment in a unit of public administration (other than the Police Service), it cannot oblige the principal officer of that unit to charge that person with the relevant official misconduct [see section 2.30(1) of the Act].

This also means that the Misconduct Tribunals have no original jurisdiction over "official misconduct" committed by such a person. Put more broadly, the Misconduct Tribunals currently have no original jurisdiction over alleged "official misconduct" by employees within the wider public sector.

The Commission appreciates that to declare a "unit of public administration" (or an appointment in such a unit) to be subject to the jurisdiction of a Misconduct Tribunal, has the effect that the holder of an appointment (or the particular appointment) in that unit, will be liable not only to be charged with "official misconduct" and subject to the exclusive original jurisdiction of a Misconduct Tribunal, but also to its appellate jurisdiction in respect of a decision on a disciplinary charge of "misconduct" (although the appellate jurisdiction is not exclusive).

It is appreciated that it may be viewed as undesirable that, except in special cases, the Misconduct Tribunals be invested with appellate jurisdiction in respect of the wide range of conduct (no matter how minor) which can fall within the definition of "misconduct" in respect of a unit of public administration.

On the other hand, it is undesirable in the Commission's view that the consequences of a report by the Director of the Official Misconduct Division under section 2.30(1) should depend upon the discretion of a principal officer of a unit of public administration; and if such officer decides to charge the person in respect of whom the report is made, the disposition of the charge must be left to in-house tribunals or procedures in relation to which local arrangements or understandings can become the norm. This has the potential to defeat the anti-corruption strategy of the Report of the Commission of Inquiry which sought to combat those influences by recommending that:

"The Misconduct Tribunal's roles will be to review decisions on disciplinary matters within the Police Force, and to make original administrative decisions in relation to allegations of official misconduct on the part of police and such other officials as may be made subject to it by Order in Council. It will be subject to judicial review on the basis of natural justice and error of law in respect of its original decisions."

[See paragraph 10.2.4, p.315; Recommendation 11(a) p.374].

It is significant that the Report envisaged that the Misconduct Tribunals' review role would be limited to decisions on disciplinary matters within the Police Force. It was the Act which extended this to the review of disciplinary matters within other units of public administration. It was however intended that the Tribunal's have jurisdiction to make original administrative decisions in relation to allegations of official misconduct on the part of such officials of those units of public administration which may be made subject to it by Order-in-Council.

This is in keeping with Report's conclusion at p.299 (para 9.3) that the essential features of police misconduct similarly characterise other manifestations of official misconduct, and that the potential gravity of official misconduct is not limited to police misconduct or misconduct in and about the administration of criminal justice.

"Public servants in records offices, registries, communications facilities, taxation and revenue offices, public works and security, for example, are targets for criminals. Official misconduct by a variety of public officers, in key roles and positions, assists and in some instances is essential to the success of criminals. The observations made in respect to police misconduct are therefore of general applicability and concern."

Although the Report went on to state that the particular significance of police misconduct, being at the threshold of the administration of criminal justice is not equalled, it added:

“It is sufficient to record that the evidence before this Inquiry plainly established common and, apparently, growing, manifestation of other official misconduct and its central importance in facilitating major and organised crime.

The seriousness of that other official misconduct must not be overlooked. Rather, it is the plainest demonstration of the need for the researched and integrated approach to organised crime mentioned earlier in the Report.”

Against this background, the decision as to whether a particular “unit of public administration” (or an appointment therein) should be declared by Order-in-Council to be subject to the jurisdiction of a Misconduct Tribunal, may be rendered less difficult if it did not have the concurrent effect of making that unit (or appointment) subject to the appellate as well as the original jurisdiction of the Misconduct Tribunals.

This result could be avoided by severing the nexus between the original and appellate jurisdictions of the Misconduct Tribunals for the purposes of such a declaration.

This could be achieved by legislative amendment to reflect the recommendations of the Report at paragraph 10.2.4 (p.315) and recommendation 11(a) [p.374] namely:

- the restriction of the appellate jurisdiction of the Misconduct Tribunals to the review of decisions on disciplinary matters (whether in respect of “misconduct” or “official misconduct”) within the Police Service; and
- retaining the current scheme, whereby the Misconduct Tribunals have original jurisdiction to make administration decisions in relation to allegations of “official misconduct” on the part of police and such other officials as may be made subject to it by Order-in-Council.

The Commission will recommend that there be such an amendment.

The suggested amendments are as follows:

- Amend section 2.30(2)(b) by inserting “original” before “jurisdiction”;
- Amend section 2.36 by:
  - omitting (2);
  - inserting “original” in the heading before “jurisdiction”; in (3) before “jurisdiction” where twice occurring and in (4) before “jurisdiction”;
  - redesignating “(3)” and “(4)” to “(2)” and “(3)” respectively;and
- Inserting a new section 2.36A as follows:

**“2.36A Appellate jurisdiction.** (1) Appellate jurisdiction is hereby conferred on every Misconduct Tribunal from time to time constituted to review a decision (other than a decision of a court or Misconduct Tribunal) made in respect of a disciplinary charge of misconduct made against a member of the Police Force after the commencement of this section.”

## (I) Other Legislation

### (a) Telecommunications (Interception) Act 1979

During the course of the Commission of Inquiry an amendment was made to the Telecommunications (Interception) Act 1979 by the addition of Part IIA (Communicating Certain Information to the Fitzgerald Inquiry).

That Part permitted Telecom to communicate “eligible information” to the Commissioner of the Inquiry for one or more purposes connected with it. The Commissioner could communicate to a person, make use of, or make a record of eligible information for purposes connected with the Inquiry. The Act defined “eligible information” as that which discloses the existence of the communication, the date, time and duration of the call, the identity of the service from which the communication emanated and the service to which the communication was made. It did not include the contents of the conversation.

This Commission has no authority to receive eligible information either from Telecom or the Commission of Inquiry as such a communication could not be said to be for “a purpose connected with the Inquiry” which was a requirement for the communication under Part IIA.

Access to such information would assist in most areas for which the Commission is responsible including the investigatory, research and intelligence functions. Such benefits flowed to the Commission of Inquiry, for example, in respect of its investigations into corruption within the Police Force and S.P. bookmaking. There is no doubt that the information would be of similar value to this Commission in respect of its investigations into public sector and police corruption.

The Commission will seek the assistance of the Minister to obtain amendments to the Telecommunications (Interception) Act 1979 in similar terms to Part IIA to enable the it to obtain eligible information and to communicate it for a purpose connected with the Commission. In this regard it will be asking that an approach be made to the Prime Minister seeking the necessary amendments.

(b) **Cash Transaction Reports Act 1988**

The Cash Transaction Reports Agency (the Agency) was created in accordance with the provisions of the above Act. This Act places obligations on cash dealers including a requirement to report certain cash transactions to the agency. The requirements which must be met under the Act are designed to assist in the detection of criminal activity and taxation evasion by identifying money which has been obtained as a consequence. The definition of "cash dealer" includes, inter alia, banks, building societies, credit unions, finance corporations, insurance companies and brokers, securities, dealers, gambling houses, casino operators, the TAB, on-course totes and bookmakers.

The obligations upon these cash dealers are:

- to obtain specified verification of the identification of anyone wishing to open new accounts or use facilities such as safety deposit boxes;
- to report to the Agency, with some exceptions, all currency transactions involving \$10,000 or more that the dealer has with its customers in Australia;
- and
- to report to the Agency all suspect transactions whether they are in cash or not.

The Agency was established to receive and analyse the reports of cash transactions for taxation and criminal intelligence purposes and to distribute that information to taxation and law enforcement agencies.

The criminal intelligence which can be provided by the Agency would greatly enhance the Commission's investigations in such areas as police and public sector corruption and major and organised crime in addition to its research projects into S.P. bookmaking and prostitution.

However restrictions are placed upon access to cash transaction reports information by the Act. In particular, such information is only available to a law enforcement agency and a law enforcement officer.

This Commission does not fall within the definition of "a law enforcement agency".

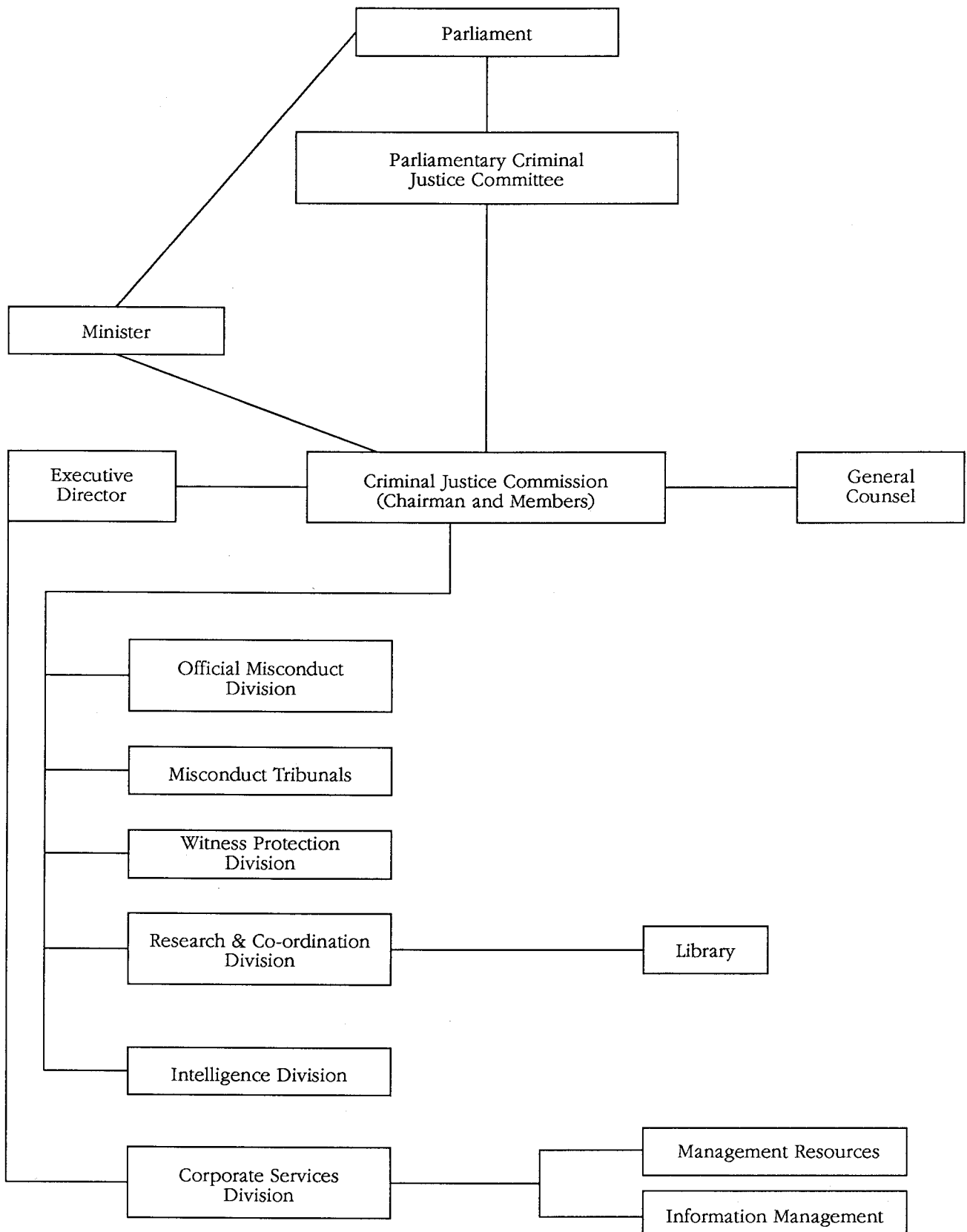
The Commission has had discussions with the Director of the Agency, Mr. Bill Coad, who supports the concept of access to such information being provided to the Commission. On 25 May, 1990 the Commission's General Counsel, and the Commissioner of the Independent Commission Against Corruption, Mr. Ian Temby Q.C., met with Mr. Coad and Mr. Alan Rose, the Secretary of the Commonwealth Attorney-General's Department to jointly seek the necessary amendments to authorise both Commissions to have access to such information. As a result of this meeting the Commission will request the Minister to approach the Prime Minister with a request that the relevant Act be amended to specifically state that a reference to a law enforcement agency includes the Commission and a reference to a law enforcement officer includes a reference to an officer, employee or other person under the control of the Chairman of the Commission. In this way, all officers attached to the Commission may have access to such information.

There would be safeguards attached to the provision of any such information received in the event of this amendment. First, by the Commission agreeing only to use such information for the objectives of the Cash Transactions Reports Act 1988 and second, by logging access to all such information.



# ORGANISATIONAL STRUCTURE

## CRIMINAL JUSTICE COMMISSION QUEENSLAND



**APPENDIX B****SENIOR OFFICERS AND STAFF OF THE COMMISSION AT 30 JUNE 1990**

<b>Chairman:</b>	Sir Max Bingham QC	<b>Chief Officer Complaints Section:</b>	Mr D J Bevan
<b>Commissioners:</b>	Mr J P Barbeler Dr J R McC Irwin Mr J J Kelly Professor J S Western	<b>Team Leaders:</b>	Mr P D Kelly Mr S H Lambrides Mr R A Marxson Mr F H Smith Mr B J Thomas
<b>Executive Director:</b>	Mr G M Brighton		
<b>General Counsel:</b>	Mr M P Irwin	<b>Chief Financial Analyst:</b>	Mr P B McCallum
<b>Director Official Misconduct Division:</b>	Mr P M Le Grand	<b>Manager Management Resources:</b>	Mr R G Capper
<b>Director Research and Co- ordination Division:</b>	Dr S K Mukherjee	<b>Manager Information Management:</b>	Mr G J Rigby
<b>Director Intelligence Division:</b>	Mr J P Morris	<b>Special Advisor to the Chairman:</b>	Mr P J Dickie
<b>Director Operations and Witness Protection Division:</b>	Commander J C Mengler	<b>Media Liaison Officer:</b>	Mr D Sweeney

**PUBLIC ADDRESSES**

**SIR MAX BINGHAM Q.C.,  
CHAIRMAN**

Queensland University  
of Technology  
Conference 29 November 1989

Harvard Club of  
Australia 12 December 1989

Queensland Police  
Commissioned  
Officers Mess 16 February 1990

Criminal Law  
Association 17 February 1990

Tasmanian Devils Club 16 March 1990

Junior Chamber of  
Commerce 27 March 1990

Police Graduation  
Dinner 19 April 1990

Brisbane College of  
Advanced Education,  
Kedron Park 15 May 1990

Queensland University  
of  
Technology  
Association  
of Law Students 25 May 1990

Queensland Police  
Service Executive  
Workshop 28 May 1990

Queensland  
Stipendiary  
Magistrates Conference 5 June 1990

**MR M P IRWIN, GENERAL COUNSEL**

Queensland Police  
Service  
Executive Workshop 28 May 1990

Attorney-General's  
Department 7 June 1990

**MR P M LE GRAND, DIRECTOR,  
OFFICIAL MISCONDUCT DIVISION**

Queensland Police  
Service Executive  
Workshop 28 May 1990

**MR F H SMITH, SENIOR LAWYER**

South East Queensland  
Branch  
of Institute of  
Municipal  
Management 20 April 1990

South West  
Queensland Branch  
of Institute of  
Municipal  
Management 18 May 1990

## STATEMENT OF THE CHAIRMAN OF THE PARLIAMENTARY COMMITTEE

## PARLIAMENTARY COMMITTEE FOR CRIMINAL JUSTICE

## Appointment

**Mr BEATTIE** (Brisbane Central) (8.19 p.m.): I move—

- “(1) That the membership of the Parliamentary Committee for Criminal Justice comprise Mrs Edmond, Mrs Woodgate, Messrs Schwarten, Ahern, Gunn, Santoro and the mover.
- (2) That in accordance with Section 4.8 (2)(b) of the Criminal Justice Act 1989
- (i) the Committee shall have power to send for persons, papers and records;
  - (ii) the Committee may examine witnesses on oath or affirmation;
  - (iii) the Committee may sit during the sitting of the House;
  - (iv) the Committee may meet and adjourn from place to place;
  - (v) (a) upon the appointment of the Committee, the members shall appoint a member to be chairman of the Committee and another member to be deputy chairman of the Committee;
  - (b) the chairman shall preside at all meetings of the Committee at which he is present;
  - (c) in the absence of the chairman, the deputy chairman shall preside at meetings of the Committee at which he is present;
  - (d) in the absence of the chairman and the deputy chairman at any meetings at which a quorum is present, the members in attendance may appoint one of their number then present to be temporary chairman during that absence.”

The establishment by this motion of the parliamentary Criminal Justice Committee sets in train one of the fundamental recommendations of the Fitzgerald report. The committee members—Mrs Wendy Edmond, the member for Mount Coot-tha; Mrs Margaret Woodgate, the member for Pine Rivers; Mr Robert Schwarten, the member for Rockhampton North; the Honourable Mike Ahern, the member for Landsborough; the Honourable Bill Gunn, the member for Somerset; Mr Santo Santoro, the member for Merthyr; and I—reflect not only the political balance in this House in accordance with the Criminal Justice Act 1989 but also they are people of integrity who may not all share the same political views, but who certainly share a determination to clean up corruption in this State.

I believe that at the outset it is worth examining the skills which each committee member will bring to the committee. Prior to entering Parliament after last year's State election, Wendy Edmond was a nuclear medicine technologist at the Holy Spirit Hospital. She has more than 20 years' experience in cancer-related health fields and she is a past Queensland secretary of the Australian Society of Nuclear Medicine. She is also the mother of three young children. She is more than well qualified to be a member of this committee. Margaret Woodgate has served as a local government councillor in the Pine Rivers Shire and is immediate past president of the Pine Rivers Welfare Association. She and her husband, Leo, are active members of the Fraser Island Defenders Organisation, FIDO. Margaret has three adult children and has been actively involved in many community organisations, progress associations and p. and f. associations. Both women will bring sensitivity and understanding to the committee, especially in the important area of criminal law reform.

Robert Schwarten brings provincial city experience to the committee, as well as five years' local government experience. He graduated from the Capricornia Institute of Advanced Education with a Diploma of Teaching and a Bachelor of Education degree. Robert was a teacher and Queensland Teachers Union official before being elected to this Parliament.

As members would know, the Honourable Mike Ahern was the Premier and Treasurer and Minister for State Development and the Arts. Prior to that, he was the Minister for Health, the Minister for Industry, Small Business and Technology, the Minister for Primary Industries, Government Whip, a member of the Select Committee on Punishment of Crimes of Violence, chairman of both the Parliamentary Select Committee of Privileges and Parliamentary Select Committee on Education, and a member of the Library Committee. I believe the community accepts that he has clearly demonstrated a sound commitment to implementing the recommendations of the Fitzgerald report.

The Honourable Bill Gunn has served as Deputy Premier, Minister for Public Works, Main Roads and Expo, Minister for Police, Minister Assisting the Treasurer, Minister for Commerce and Industry and Minister for Education. As Acting Premier, he initiated the Fitzgerald inquiry.

Mr Santo Santoro is a graduate in arts and economics and was a former Young Liberals State President. He is currently the Liberal Party's spokesman on Police, Corrective Services and Emergency Services, Employment and Industrial Relations, ethnic affairs, and youth affairs and is Liberal Party parliamentary Whip. He is zone chairman of the Salvation Army Red Shield Appeal, was a member of the ministerial advisory committee for youth affairs between 1983 and 1988, treasurer of the Breakfast Creek Wharf Bicentennial Community Committee, a member of the Queensland Ethnic Communities Council, and a member of the Co-as. Italian-Australian Welfare Association.

I believe that the committee's representation is incredibly well balanced and certainly reflects the views of this House.

At the outset, we should say very clearly that both the Fitzgerald report and the Criminal Justice Act give the parliamentary Criminal Justice Committee one of the toughest jobs given to any parliamentary committee in Queensland's history. The House needs to be acutely aware of that.

The powers and functions of the committee are set out in section 4.8 of the Act and give the committee the heavy and onerous responsibility of monitoring and reviewing the Criminal Justice Commission in the discharge of all its functions. The committee is required to report to the Legislative Assembly with such comments as it sees fit on any matters pertinent to the commission, the discharge of the commission's functions or the exercise of the powers of the commission, a commissioner, or of officers of the commission to which the attention of the Parliament, in the committee's opinion, should be drawn. The discretion there is very clear.

The Act gives the committee the responsibility to examine the annual report and other reports of the commission and report to Parliament. The committee also has the power to participate, if necessary, in the removal from office of the commissioner in the terms set out in the Act. The committee is required to report on the activities of the commission and any action that should be taken in relation to the Criminal Justice Act or the functions, powers and operations of the commission.

The Criminal Justice Act gives the parliamentary committee wide powers. Those are set out in section 4.8 (2) in these terms—

“The Parliamentary Committee has such powers as—

(a) are necessary to enable or assist the committee in the proper discharge of its functions”—  
as prescribed in the Act. They are very wide powers which require sensitivity and responsibility in their implementation.

Section 4.8 (1) (a) gives the committee the responsibility to particularly monitor and review the discharge of the functions of the official misconduct division of the commission. It is one of the five fundamental divisions of the commission.

The motion before the House clarifies the committee's power in relation to the holding of public hearings. The motion enables the committee to send for persons, papers and records and to examine witnesses on oath or affirmation. Section 4.8 (2) (b) of the Act specifically gives the Parliament the function of conferring on the committee additional powers, and this procedure is being followed in the motion before the House. Public hearings, I stress, will be a crucial part of the committee's work.

On page 6 of his report, Commissioner Fitzgerald said that there is “need for a free flow of accurate information within a society. Such a flow of information is needed if public opinion is to be informed. Public opinion is the only means by which the powerful can be controlled.” I am sure that all members of this House agree with Mr Fitzgerald. On page 10, he went on to say that his “Inquiry could not have proceeded without public confidence, co-operation and support.” That point was made very strongly by my colleague, Mr Foley, with whom I totally agree.

On page 11, Mr Fitzgerald pointed out that the Criminal Justice Commission “will be primarily accountable to Parliament. It will still need public support and confidence, and there will be at least some occasions when open hearings will be appropriate.” That applies to both the commission and the parliamentary committee. Care will need to be taken to avoid duplication. That can easily be resolved by consultation between the commission and the committee. On the few occasions that I have had informal contact with Sir Max Bingham, I am happy to say that I formed the view that a very strong relationship will develop between the committee and the commission, which will be in the best interests of this State.

As soon as the committee meets, I intend to consult members about the appropriate date for a public hearing at which the commission will begin reporting on its procedures and guidelines. Following informal discussions with members of the committee from the National and Liberal Parties and the Labor Party, I can say that a meeting is tentatively planned for 11 a.m. on Friday, 30 March 1990. I have also consulted Sir Max Bingham about that date.

The committee also has the power to meet and adjourn from place to place. Although it is clearly envisaged that it will sit on the overwhelming majority of occasions in the precincts of this Parliament, the committee may from time to time find it necessary to sit in other places such as provincial or rural Queensland, a point which I am sure is supported by members on the other side of the House.

The motion also provides for the appointment of a deputy chairman. I hope that, when the committee meets tomorrow morning at 9.30 a.m., in accordance with the learned text of Erskine May which states that it cannot meet on the same day as it is in fact chosen, I will be elected as chairman of the committee and the Honourable Mike Ahern will be elected deputy chairman. I place on public record that I look forward to working closely with him in that capacity.

The House needs to be acutely aware that the tasks given to this committee will require it to operate as much as possible in a non-partisan, non-political way. I stress those words. On page 309 of his report, Commissioner Fitzgerald used words that need to be given great attention by the House, because they are very significant and will have a significant influence and bearing on the operation of not only the commission but also the committee. Commissioner Fitzgerald stated—

“The Criminal Justice Committee should have the power to formulate policies and guidelines to be obeyed by the CJC, and to direct the CJC to initiate and pursue investigations or to report to the Parliament.”

The report further stated—

“The CJC should report to the Criminal Justice Committee.

In contrast to the position of the Electoral and Administrative Review Commission, many of the matters to be the subject of report by the CJC, including some of its operational priorities and methods and the subject matters of its concern, may need to be confidential. In consequence, the reporting of the CJC should not be to the Parliament in the first instance, and, in some cases, not at all.

The Criminal Justice Committee's members should all be subject to specific obligations of confidentiality. The Criminal Justice Committee must have the power to conduct hearings in camera. It should decide what material matters reported to it can be reported to and tabled in the Parliament and when that is to be done. Some matters may never be tabled.

However, that should not prevent the necessary, effective and sufficient oversight of the operations, methods and priorities of the CJC being had by the Criminal Justice Committee, against the background of the constitution of the CJC and reinforced by the checks and balances within it.”

In light of those comments of Commissioner Fitzgerald, it is easy to see that the seven members of this parliamentary committee have had a very heavy onus of responsibility placed on them and that, indeed, they are bound by a “specific obligation of confidentiality”. It is possible that, if any member of the committee deliberately or inadvertently related confidential information, the lives of witnesses and investigators could be put at risk. All honourable members would be aware of the gunning down of Pasquale Barbaro on Saturday. Although that had nothing to do with the CJC, there are suggestions in today's press that he had some association with the National Crime Authority.

I think the point needs to be made that we cannot afford to have a breach of confidentiality. Indeed, section 6.7 of the Criminal Justice Act makes it an offence for any member of the parliamentary committee to wilfully disclose information. Section 6.12 of the Act provides for a penalty of imprisonment for 12 months or a fine or both for a person convicted of an offence against the Act. As I said earlier, there is little room for playing politics in relation to the Criminal Justice Commission.

As honourable members would know, there are five divisions within the Criminal Justice Commission; first is the official misconduct division, second is the misconduct tribunal, third is the witness protection division, fourth is the research and coordination division and fifth is the intelligence division, all of which have specific roles which are set out in the report.

I turn now to criminal law reform. Section 2.15 of the Criminal Justice Act sets out the responsibilities of the commission. Subsection (e) provides for—

“... researching, generating and reporting on proposals for reform of the criminal law and the law and practice relating to enforcement of, or administration of, criminal justice, including assessment of relevant initiatives and systems outside the State;”

This subsection establishes a process for the reform of the criminal law in this State. One of the most important roles that the committee will have, in conjunction with the commission, is getting this process operating properly and effectively, and with the respect of the community and of all the parties in this House.

Commissioner Fitzgerald envisaged that the commission would prepare reports on proposed criminal law reform and that these would then be provided to the committee for consideration and recommendation to this House. This process would enable the necessary political debates to take place on proposed criminal law reform in an informed and constructive way, which is the way they ought to be conducted. If members of the committee wish, they have the opportunity to deliver minority reports to this House on any area of criminal law reform, and their views will be respected by other members of the committee and me. As chairman, I will be endeavouring to work towards consensus. However, I appreciate that in some areas of criminal law reform involving social issues this may not be possible. I hope that it will be possible, but it may not be.

The House will have to deal with some tough reports from the committee, covering such areas as the law relating to prostitution, SP bookies and homosexual law reform, as well as drugs—and I emphasise “drugs”. I believe that we can clearly say to the people of Queensland that the Criminal Justice Commission will be pursuing the Mr Bigs of the drug world. None of them will be exempt. Instead of having a police force whose officers were running around trying to catch people with small quantities of drugs in their possession, and a police force which, because of a lack of resources, was unable to deal with the Mr Bigs of the drug world, we will now have the CJC, which will enable the Mr Bigs to be pursued in an effective, efficient way, using the latest computer techniques and the latest devices available to a modern police force.

I will be doing everything in my power to avoid hysterical debate on the social issues to which I have referred, and I hope that any ensuing debate will be informed. I want to deal with some of those social issues, which have attracted some media attention recently. That takes me back to Commissioner Fitzgerald’s report. On page 362 he says—

“The criminal law should be reviewed. Considerable resources are used to detect and prosecute minor offences. The burden is then passed from the Police Department to the court system and prisons.”

I know from my own experience the enormous delays in the court system. The commissioner goes on—

“There seems little social purpose to much of this process and alternatives to criminal sanctions should be considered.

The vast majority of breaches of the law are simple offences. A considerable number of those are breaches of regulatory law, where the conduct itself is not illegal. In these cases there is no clear need for criminal sanctions. Non-criminal offences could be the subject of civil pecuniary penalties. More appropriate legal procedures could then be adopted, with consequent savings in the court system.

Prostitution, other voluntary sexual behaviour”—

and I stress “other voluntary sexual behaviour”—

“s.p. bookmaking, illegal gambling and the illicit sale of alcohol and drugs are presently criminal offences, but the laws concerning them are not effectively enforced. From a resources point of view, there are arguments for decriminalization and regulation of some of these types of conduct. However, not enough is known about the involvement of organized crime in these areas, and the likely affect of decriminalization on such involvement. Without this knowledge, and in spite of considerable research, this Commission cannot make recommendations on these matters, in spite of the expectation that it will do so.

Methods of making areas of law enforcement self-funding should be examined. For example, the proceeds of crime could be confiscated and used by law enforcement agencies. Stamp duty on motor vehicle insurance policies could be increased and a levy paid towards law enforcement in relation to motor vehicle theft.”

Mr Fitzgerald goes on to say—

“This report does not make a final recommendation on decriminalization of any offences, or on the other suggestions mentioned above, but sees them as priorities for review by an independent but accountable body later recommended called the Criminal Justice Commission (CJC).”

I repeat that Commissioner Fitzgerald said—

“... but sees them as priorities for review by an independent but accountable body later recommended called the Criminal Justice Commission (CJC).”

I turn now to page 377 of the Fitzgerald report and to the section headed "Criminal Justice Commission Review Programme". Much debate has occurred in the public arena about whether the commission should consider homosexual law reform. The basis for the consideration of that issue—which was promised by the Premier prior to the election—is contained in those recommendations. Recommendation 2 states that the commission should undertake—

"... general review of the criminal law, including laws relating to voluntary sexual or sex-related behaviour, s.p. bookmaking, illegal gambling, and illicit drugs".

Anybody who concludes that that does not include homosexuality has not read the Fitzgerald report.

The Fitzgerald report, the Act and this motion provide for specific procedures to act on commission reports. That is how the commission will act in relation to the committee. I want to put this clearly on the record so that any member who has any argument with it can debate it tonight. Firstly, the commission will prepare a report for the parliamentary committee after consultation with the entire committee. Secondly, the report will be considered by the committee and public hearings will be held if the committee decides that they are necessary. Because of that consultation process, there will be no unnecessary duplication with CJC public hearings. Thirdly, the committee's reports will be brought to this House and the appropriate resolution then passed after debate during which all parties have the opportunity to express their views. Fourthly, the Attorney-General or other appropriate Minister will then bring to the House the necessary legislation consequent upon the wishes of the House. Honourable members will appreciate that the recommendations to the committee will cover several Ministries, but I stress that the committee is responsible to the Parliament, not the Executive.

The Fitzgerald report repeatedly gives the committee the heavy responsibility of informing the public of its activities and the commission's activities as well as protecting the public interest. The parliamentary committee is the public watchdog. Public hearings are one major way in which that watchdog role can be achieved. If the Criminal Justice Commission and the committee are to succeed in cleaning up corruption and completing their other responsibilities, they will need public support and confidence. That will be achieved and maintained only if the public is informed and has access to the committee not only in Brisbane but also around the State.

It will be important for the committee to establish with the commission at an early date priorities and accountability on matters covering internal structures, procedures, operations and methods of the commission. It will be necessary also for the committee to establish: guidelines for the applications and use of listening devices; guidelines for the investigation of official misconduct; guidelines for overseeing criminal intelligence matters and managing criminal intelligence; guidelines for the monitoring of the performance of the police force; training methods; prosecutions; research and coordination of the process of criminal law reform; investigation of official corruption; investigation of organised crime; firearms procedures; the relationship between the Criminal Justice Commission, the National Crime Authority and other interstate crime-fighting organisations; a program for the examination of the effectiveness of the criminal justice system, including the matters to which I have referred; the reform of the procedures relating to committal proceedings, drug penalties and the operation of the Drug Squad; and the operation of the Director of Prosecutions and the Public Defender. I am sure that all honourable members were interested in the comments that Des Sturgess made today.

In his report Commissioner Fitzgerald set out a number of other review priorities for the CJC, including reviews to the laws of evidence; a review of police conduct in areas such as verballing, powers of questioning, search, seizure and arrest; and special consideration and review of convictions of anyone who is still in prison, has no current appeals and who has raised with the Fitzgerald commission or the Government any allegations of verballing. The CJC should consider the method by which that could be done—perhaps by a retired judge. I notice that today the Attorney-General made an appropriate announcement in that regard.

The review priorities include consideration of recording confessions. Commissioner Fitzgerald said that, as a high priority, the CJC should review and propose a form of guidelines for, and controls on, practices in respect of interviews.

Other priorities include a review of allowing interrogation upon statements reported in *Hansard*. Parliamentary privilege in respect of *Hansard* can unnecessarily fetter proper and necessary examination of issues in the courts. As well, Commissioner Fitzgerald referred to lies that were told under parliamentary privilege. At the appropriate time the committee should consult the Privileges Committee about changes in that capacity.



Commissioner Fitzgerald also spoke about a consideration by the CJC of the necessity for law to facilitate the detection and punishment of officials who act when private interest conflicts with their official duty. He spoke also about the consideration of laws to prevent illicit benefit being gained through the disposal of property that is confiscated—whether by buying or selling. Commissioner Fitzgerald recommended a review of the Commissions of Inquiry Act and its powers.

For the information of honourable members, I will table the review program that was recommended by Commissioner Fitzgerald, which comprises pages 377, 378 and 379 of the report. That covers 15 areas of review, including the issues to which I have already referred. I do that not in a facetious way but from the point of view that it be made available to those members who have not read it.

The Criminal Justice Act specifically deals with the use of listening devices, about which some community concern has been expressed. That will have to be monitored very carefully. Section 2.15 (i) of the Act specifically gives the CJC the responsibility of overseeing reform of the police force. Section 2.15 (g) provides for the monitoring of the performance of the police force. That enormous task has inherent in it the need to assist in the restoration of public confidence in the police force, together with the restoration of police faith in police institutions and the administration of the force.

The Criminal Justice Act sets a high standard of behaviour for the commission and each commissioner. Section 7.3 requires the commission to maintain a register of pecuniary interests of each commissioner as well as a record of personal or political associations that might influence the commissioner in the conduct of any investigation. The disclosure of pecuniary interests and political interests will be an important safeguard in the commission's operations, and the public need to be acutely aware of the existence of that provision. Sections 6.3 and 6.4 of the Act provide for seven years' imprisonment and a possible fine for abuse of office by a commissioner and bribery.

Let me turn now to the very important matter of cost. There needs to be a clear understanding in this House and in the community that the Fitzgerald program of reform will cost a significant amount of money. The Criminal Justice Commission must be given sufficient funds to adequately and properly carry out its tasks. Without sufficient funds and resources, the CJC will fail. There should be no doubt in anyone's mind about that. The community must be prepared to pay to rid Queensland of corruption and to establish proper standards of behaviour.

The committee will be regularly reporting to this House on the adequacy or otherwise of the commission's resources. Inadequate CJC funding will only help the dishonest and the corrupt. Those who have an interest in maintaining the festering of corruption in this State will no doubt in the future seek to attack the cost of the Fitzgerald reform structures as a means of discrediting the CJC's operation. This must be resisted at all costs by this House. On page 360 of his report, Commissioner Fitzgerald says two very pertinent things. He states—

“Organized crime is an especial threat, since it leads to the perversion and corruption of the basic institutions of our society. Its sophistication, adaptability and wealth make it extraordinarily difficult to combat.

Organized crime cannot exist on the scale which it does without the knowledge and help of otherwise honest citizens, both individual and corporate. Organized crime can afford the best in equipment, technology and advice, sometimes provided by unethical professionals.”

If the CJC is to combat that wealth and the resources of those who are involved in organised crime in this State, it must have the resources to do so.

Today's press contained reports about the fees that the Government has paid to members of the legal profession. Even though I am a lawyer, I do not intend to spring to their defence on this occasion.

**Mr Foley:** Shame!

**Mr BEATTIE:** However, I am wearing my Law Society tie, I hasten to add.

At this juncture I think it appropriate to say that perhaps it would be worth while for the Government to look at the list of lawyers who in fact are briefed by the Government and to make sure that the briefs given to the legal profession are spread across a more diverse number of firms. I think it would also be appropriate if the Government reached the stage at which it asked some of those firms for itemised accounts and actually asked them to go through the taxation process in the Supreme Court to make sure that it is getting value for money. I would not like to see valuable money wasted on lawyers when the Criminal Justice Commission needs it to perform its task.

I look forward to working with the members on the committee. As I said initially, I have faith in their integrity. I have respect for all seven members of the committee. We have a tough task ahead of us. I believe we can accomplish it. We will take our responsibilities seriously. We will be reporting regularly to this House. If we fail, it will be the responsibility of this House for not pursuing us.

*Whereupon the honourable member laid on the table the document referred to.*

**Mrs WOODGATE** (Pine Rivers) (8.49 p.m.): I am pleased to second the motion to establish a parliamentary Criminal Justice Committee. This committee which, if I can use layman's terms, is Parliament's agency to keep an eye on the Criminal Justice Commission, is a body which is to be set up as a direct consequence of the Fitzgerald report recommendations. The establishment of the committee represents another milestone in this Government's determination to implement all recommendations of Commissioner Fitzgerald and so hasten the process of cleaning up corruption in this State and initiating reform of the administration of criminal justice.

I think it would be fair to say that in 1990 Queenslanders have had enough of public scandals. As Mr Fitzgerald pointed out—

"Suspicion of impropriety in matters of public administration causes public scandal. If there is a pattern of such controversies, as happened in Queensland, it compromises trust in democratic institutions and practices.

A response by Government to allegations of impropriety that action will be taken when evidence is produced is no more than a cynical exercise in public deception. Ordinary citizens commonly lack the powers and resources to produce such evidence.

Periodic reforms to the administration of criminal justice tend to provide for the introduction of substantially autonomous bodies, by which Parliament effectively places some matters beyond its control and the control of the Executive."

Mr Fitzgerald continues—

"One mechanism which is sometimes adopted to retain a measure of control over such a body is the constitution of a parliamentary committee to monitor its operations.

Such a committee can provide an effective democratic mechanism to determine which controversies should be fully investigated to allay public concern.

FINANCIAL STATEMENTS  
CRIMINAL JUSTICE COMMISSION  
FOR THE PERIOD 1 APRIL 1990 TO 30 JUNE 1990



## **CRIMINAL JUSTICE COMMISSION**

### **PURPOSE AND SCOPE OF FINANCIAL STATEMENTS**

The Criminal Justice Commission was established pursuant to the Criminal Justice Act 1989 and commenced operations from 1 April 1990.

The role of the Commission is to—

- (a) continually monitor, review, co-ordinate and, if the Commission considers it necessary, initiate reform of the administration of criminal justice;
- (b) discharge such functions in the administration of criminal justice as, in the Commission's opinion, are not appropriate to be discharged by the Police Service or other agencies of the State.

The Criminal Justice Commission is a Statutory Body in accordance with the Financial Administration and Audit Act 1977-1988.

The Financial Statements have been prepared pursuant to Section 46F of the Financial Administration and Audit Act and in accordance with the Australian accounting standards and disclosure requirements of the Australian accounting bodies so as to provide full disclosure of the Criminal Justice Commission's operations during the period 1 April 1990 to 30 June 1990 and the general state of affairs at the end of the period.



**CRIMINAL JUSTICE COMMISSION**  
**INCOME AND EXPENDITURE ACCOUNT**  
**FOR PERIOD 1 APRIL 1990 TO 30 JUNE 1990**

	\$	\$
Income for the period was .....		5,024,225
This was earned from—		
Grant from Consolidated Revenue Fund .....	5,000,000	
Interest Accrued .....	<u>24,225</u>	
	<u>5,024,225</u>	
Expenditure for the period was .....		2,187,462
This consisted of—		
Salaries and Related Expenses (Note 1) .....	941,868	
Administration Expenses (Note 2) .....	747,496	
Operational Expenses .....	475,215	
Transfers to Provision—Recreation leave .....	<u>22,883</u>	
	<u>2,187,462</u>	
Resulting in an operating surplus for the period of .....		2,836,763
Extraordinary Item		
Transfers to Provisions (Note 3) .....		<u>239,258</u>
Balance transferred to Accumulated Funds .....		<u>\$2,597,505</u>

**CRIMINAL JUSTICE COMMISSION**  
**BALANCE SHEET**  
**AS AT 30 JUNE 1990**

	\$	\$
Funds employed were—		
Provisions (Note 4) .....		260,942
Accumulated Funds .....		<u>2,597,505</u>
Total funds .....		<u>\$2,858,447</u>
These funds were represented by—		
Current Assets		
Cash at Bank or On Hand .....	1,861,422	
Payments in Advance .....	816,582	
Interest Receivable .....	<u>24,225</u>	
	2,702,229	
Less Current Liabilities		
Sundry Creditors .....	<u>325,420</u>	
Net Current Assets .....		2,376,809
Non Current Assets		
Fixed Assets		
Office Machines & Equipment .....	197,048	
Operations Equipment .....	16,165	
Furniture & Fitting .....	675	
Computing Equipment .....	245,139	
Motor Vehicles .....	<u>22,611</u>	
		481,638
Total Net Assets .....		<u>\$2,858,447</u>



**CRIMINAL JUSTICE COMMISSION**  
**STATEMENT OF SOURCES AND APPLICATIONS OF FUNDS**  
**FOR THE PERIOD 1 APRIL 1990 TO 30 JUNE 1990**

	\$	\$
Funds were obtained from the following sources—		
From Operations—		
Grant from Consolidated Revenue Fund .....	5,000,000	
Interest .....	<u>24,225</u>	
	5,024,225	
Outflow of funds from Operations .....	<u>2,164,579</u>	
		<u>2,859,646</u>
Total Source of Funds (Note A) .....		<u>\$2,859,646</u>
Funds were applied to—		
Increase in Working Capital (Note B) .....	2,376,809	
Purchase of Fixed Assets .....	481,638	
Recreation Leave Paid .....	<u>1,199</u>	
		<u>2,859,646</u>
Total Application of Funds .....		<u>\$2,859,646</u>
Note A      Reconciliation of net funds from Operations with operating surplus is as follows—		
Funds from Operations .....		2,859,646
Less non-cash items—		
Transfers to Provisions—Current .....		22,883
Transfers to Provisions—Extraordinary .....		<u>239,258</u>
Operating Surplus .....		<u>\$2,597,505</u>
Note B      Increase in Working Capital		
Increase in Current Assets		
Cash at Bank .....		1,861,422
Interest Receivable .....		24,225
Payments in Advance .....		<u>816,582</u>
		2,702,229
Less Increase in Current Liabilities—		
Sundry Creditors .....		<u>325,420</u>
		<u>\$2,376,809</u>



**CRIMINAL JUSTICE COMMISSION**  
**SUMMARY OF ACCOUNTING POLICIES**

*(a) Basis of Accounts*

The accounts have been prepared on an historical cost basis. Income and Expenditure are brought to account on an accrual basis.

*(b) Fixed Assets*

Fixed assets are included in the accounts at cost.

Assets of \$1,053,562 were purchased by the Department of Justice and Corrective Services for use by the Commission of Inquiry over the period June 1987 to 31 March 1990. Upon establishment of the Criminal Justice Commission ownership of these assets was transferred to the Commission at cost.

A complete inventory is currently being carried out and as yet it has not been possible to identify, locate and value these assets. Therefore the assets have not been included in the books and accounts of the Commission as at 30 June 1990.

*(c) Accommodation*

Rental for office accommodation and some furniture used by the Commission has been provided free of charge by Department of Administrative Services.

*(d) Depreciation*

No depreciation has been provided on assets transferred from Department of Justice and Corrective Services. These assets were acquired over an extensive period and as yet a stocktake has not been completed. Adjustments occurring as a result of the stocktake will be reflected in the accounts of the Commission for the 1990-91 financial year.

Depreciation on assets acquired since 1 April 1990 will not be provided for until the first complete financial year following acquisition.

*(e) Employee Leave Entitlements*

Provision has been made for legal liability to employees for long service leave and accrued annual leave. Sick pay is brought to account as incurred. Employer superannuation contributions are charged against income. Long Service Leave and Recreation Leave for the Police establishment are brought to account as incurred.

*(f) Commitments*

Commitments of \$1,160,000 exist at 30 June 1990 consisting of outstanding purchase orders of approximately \$160,000 and \$1,000,000 for upgrade/relocation of office accommodation.

*(g) Costs Associated with the Police Establishment*

Costs incurred by the Police establishment on behalf of the Criminal Justice Commission were met by the Queensland Police Service and reimbursed by Treasury Department for the period 1 April 1990 to 30 June 1990. In future years this expenditure will be met by the Commission.

*(h) Operational Expenses*

This consists of expenditure incurred in the carrying out of operations relating to investigations.



# CRIMINAL JUSTICE COMMISSION

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

		\$
Note 1	Salaries and Related Expenses	
	Salaries, Wages and Allowances .....	774,001
	Overtime .....	93,436
	Payroll & Fringe Benefits Taxes .....	60,304
	Superannuation Contribution .....	14,127
		<u>\$941,868</u>
Note 2	Administrative Expenses	
	Airfares, Taxis, Hire Cars, Travel Allowances .....	101,534
	Telephones, Pagers, Facsimile .....	47,308
	Postage and Petty Cash .....	4,121
	Advertising .....	26,746
	Subscriptions, Books .....	126,182
	Stores and Stationery .....	56,729
	Printing and Binding .....	12,438
	Petrol, Maintenance, Registration .....	71,084
	Maintenance, Accommodation, Security .....	65,286
	Computing Expenses & Software .....	104,697
	Consulting & Legal Fees .....	35,977
	Witness Security & Expenses .....	47,573
	Other Expenses .....	47,821
		<u>\$747,496</u>
Note 3	Extraordinary Item	
	Transfers to Provisions	
	Long Service Leave .....	138,695
	Recreation Leave .....	100,563
		<u>\$239,258</u>

This represents entitlements of contract staff and of seconded staff whose accrued entitlements were transferred to the Criminal Justice Commission upon secondment.

Note 4	Provisions	
	Long Service Leave	
	Provision .....	138,695
	Less Long Service Leave paid .....	—
	Balance 30 June .....	<u>\$ 138,695</u>
	Recreation Leave	
	Provision .....	123,446
	Less Recreation Leave paid .....	1,199
	Balance 30 June .....	<u>\$ 122,247</u>



### **CERTIFICATE OF THE CRIMINAL JUSTICE COMMISSION**

We have prepared the foregoing Financial Statements pursuant to the provisions of the Financial Administration and Audit Act 1977-1988 and other prescribed requirements and certify that—

- (a) the foregoing Financial Statements with other information and notes to and forming part thereof are in agreement with the accounts and records of the Criminal Justice Commission;
- (b) in our opinion—
  - (i) the prescribed requirements in respect of the establishment and keeping of accounts have been complied with in all material respects; and
  - (ii) the foregoing Financial Statements have been drawn up so as to present a true and fair view of the transactions of the Criminal Justice Commission for the period 1 April 1990 to 30 June 1990 and of the financial position as at the close of that period.

4th September, 1990

Sir Max Bingham Q.C.  
Chairman

G. M. Brighton  
Executive Director

### **CERTIFICATE OF THE AUDITOR-GENERAL**

I have examined the accounts of the Criminal Justice Commission as required by the Financial Administration and Audit Act 1977-1988 and certify as follows—

- (a) I have received all the information and explanations which I have required;
- (b) the foregoing Income and Expenditure Account, Balance Sheet and the Statement of Sources and Applications of Funds have been prepared in accordance with the prescribed requirements in operation until 30 June 1990 and in terms of the transitional arrangements of Public Finance Standard 501(3) and are in agreement with those accounts; and
- (c) in my opinion—
  - (i) the prescribed requirements in respect of the establishment and keeping of the accounts have been complied with in all material respects; and
  - (ii) the foregoing statements have been drawn up so as to present a true and fair view of the transactions of the Criminal Justice Commission for the period 1 April 1990 to 30 June 1990 and of the financial position as at 30 June 1990.



P. B. Nolan  
Auditor-General

BY AUTHORITY  
R. G. GILES, ACTING GOVERNMENT PRINTER, QUEENSLAND—1990