



CRIMINAL JUSTICE COMMISSION  
ANNUAL REPORT  
1990/91



1990-91

(i)



# CRIMINAL JUSTICE COMMISSION

## ANNUAL REPORT

Year Ended 30 June 1991

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 2nd Annual Report of the Criminal Justice Commission which formally embraces the period 1 July 1990 to 30 June 1991.

Professor J Western  
Commissioner

Dr J Irwin A.M.  
Commissioner

Sir Max Bingham Q.C.  
Chairman

Mr J Barbeler  
Commissioner

Mr J Kelly  
Commissioner

# CRIMINAL JUSTICE COMMISSION

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Senior Commission personnel as at 30 June 1991 are listed below:

|  |   |
|--|---|
| Sir Max Bingham Q.C.                   | Chairman  |
| Mr Jim Barbeler                        | Part-time Commissioner                                    |
| Dr Janet Irwin A.M.                    | Part-time Commissioner                                    |
| Mr John Kelly                          | Part-time Commissioner                                    |
| Professor John Western                 | Part-time Commissioner                                    |
| Mr Mark Le Grand                       | Director, Official Misconduct Division                    |
| Assistant Commissioner<br>Carl Mengler | Director of Operations and Witness Protection<br>Division |
| Dr Satyanshu Mukherjee                 | Director, Research and Co-ordination Division             |
| Mr Paul Roger                          | Acting Director, Intelligence Division                    |
| Mr Marshall Irwin                      | General Counsel   |
| Mr Graham Brighton                     | Executive Director  |

## CHAIRMAN'S INTRODUCTION TO ANNUAL REPORT

*This is the first Report to cover a full year of the Criminal Justice Commission's activities. The pages that follow reveal an organisation which is complex, various in its functions, and unique in Australia.*

*The Commission's expenditure of \$17 million for the year represents a significant investment by the State of Queensland. In truth, however, after allowing for the cost of previously-existing functions brought under its umbrella, the incremental expense of the Commission is more like \$10 million. This represents some of the cost of repairing the damage done to the body politic by the evil influences identified by the Fitzgerald Commission of Inquiry (Fitzgerald Inquiry) and of measures to prevent the recurrence of such damage.*

*The work of the Official Misconduct Division reflects much of the variety of the Commission's activities and attracts a large proportion of the media interest in the Commission. However, the work of the Intelligence Division and the Research and Co-ordination Division is of at least equal importance. Indeed the initiatives being undertaken by both these units will have lasting benefits for the people of Queensland. The Research and Co-ordination Division especially has set in train developments which have the capacity to put Queensland in the front rank of criminological research in the country.*

*Of particular importance is the relationship between the Commission and the Queensland Police Service. On the one hand, the Commission's duty to act as a Police Complaints Authority naturally generates a degree of tension with serving police officers. On the other, the Commission has participated in arranging new training processes, and provided support in operations and assistance in many behind-the-scenes ways. Against that background the Commission has been greatly heartened by the way in which the Queensland Police Service has progressed with the reform agenda prescribed by the Fitzgerald Report. Its congratulations go to the Service accordingly.*

*I should add a comment about the relationship between the Commission and its supervising Parliamentary Criminal Justice Committee, headed by Mr. Peter Beattie MLA. It can be confidently said that the "monitor and review" process envisaged by the Criminal Justice Act has worked. By this means the Commission has continued to be, and be seen to be, accountable to the Parliament and the people of Queensland.*

*It is appropriate to conclude with a tribute to the Directors and staff of the Commission who have worked under considerable pressure to produce the year's achievements.*



SIR MAX BINGHAM Q.C.

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# 1. THE COMMISSION

## ESTABLISHMENT

The Criminal Justice Commission (the Commission) is a very young organisation. The *Criminal Justice Act 1989-1990* (the Act) received Royal Assent on 31 October 1989. However, the major portion of the Act was proclaimed to take effect as from 22 April 1990. This, the Commission's second Annual Report, is submitted shortly after completing its first full year of operation.

Much was demanded of the Commission during its establishment phase. While seeking to establish a complex organisation with no role models in this nation for many of its tasks, the Commission also performed the continuing functions of the Fitzgerald Commission of Inquiry (Fitzgerald Inquiry) and assumed the backlog of work accumulated by the Police Internal Investigations Section and the Police Complaints Tribunal. A high level of assistance was required for the reform process in the Police Service and also by the Office of the Special Prosecutor. Staff with necessary specialised skills were, and remain, in short supply, particularly within Queensland. The task of recruitment and consequently that of establishment has been prolonged and difficult.

## COMMISSION MEMBERSHIP

Section 2.2 of the Act provides that the Commission shall consist of five members being a Chairman and four other members appointed by the Governor-in-Council on the recommendation of the Minister.

Members of the Commission are identified, along with other senior staff, at the introduction of this Report.

During the year under review, the Commission formally met on 19 occasions to transact Commission business. Meetings are normally held on the first and third Friday of each month. However, from time to time extraordinary meetings are held to deal with specific issues. The Executive Director assists the Commissioners with the conduct of Commission business.

### Role of Commission Members

Reference should also be made to the role of the members who, in addition to the Chairman, constitute the Commission. The members, as intended by the Report of the Fitzgerald Inquiry (Fitzgerald Report) in accordance with the qualifications required by Section 2.3(2) of the Act, bring a broad range of professional and practical expertise and experience to the Commission.

In accordance with Section 2.16(1) of the Act, each member plays an active role in advising and assisting the Chairman and Commission staff in relation to the proper discharge of the Commission's functions and responsibilities. Each has a primary area of responsibility in relation to the Commission. These areas are as follows:

Mr Jim Barbeler LL.B.—Operations and General Counsel Matters

Dr Janet Irwin A.M., M.B., Ch.B.—Misconduct Tribunals and Police Reform

Mr John Kelly B.Sc.(For.)—Complaints and Corporate Services

Professor John Western Ph.D.—Intelligence and Research

They regularly meet with the Commission officers concerned in these areas in addition to the fortnightly Commission meetings at which Directors and other senior staff report and are questioned on the activities of their areas of responsibility. The Commissioners also participate in a range of other activities of the Commission.

*The Chairman and Members of the Commission (l to r)  
Dr Janet Irwin A.M., Sir Max Bingham QC (Chairman), Professor John Western, Mr John Kelly, Mr Jim Barbeler*





## AIMS AND OBJECTIVES

The Commission, in discharging its functions, has the following aims and objectives:

- To conduct research into, and enhance public, parliamentary and forensic awareness of the issues confronting the administration of criminal justice in Queensland;
- To expose corruption and official misconduct through hearings and reports to Parliament;
- To provide evidence which leads to appropriate action being taken against persons engaged in corruption or misconduct (including official misconduct) before the courts, Misconduct Tribunals or other disciplinary proceedings;
- To provide 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;
- To reduce the incidence of misconduct, official misconduct and corruption in the Police Service and other units of public administration;
- To upgrade the ability of the Police Service to tackle major and organised crime; and
- To provide 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

The Commission's functions and responsibilities, and key definitions of terms, have been enunciated in previous reports released by the Commission however, they are worthy of reiteration and are set out in Appendix A.

## ORGANISATION STRUCTURE

As envisaged in the Fitzgerald Report and the Act, the Commission consists of the following organisational units:

- Official Misconduct Division
- Misconduct Tribunals
- Research & Co-ordination Division
- Intelligence Division
- Witness Protection Division

Further, the Commission is empowered to establish and maintain any other organisational unit which it considers necessary or desirable. A Corporate Services Division has been established to support the operations of the above organisational units. In addition, a General Counsel was appointed to provide legal services to the Commission and the requirements of the Commission, and other agencies, have led to this evolving into the Office of the General Counsel.



*The Executive Management Group  
(l to r) Dr Satyanshu Mukherjee, Mr Mark Le Grand, Mr Paul Roger, Sir Max Bingham QC, Mr Graham Brighton,  
A/Com Carl Mengler, Mr Marshall Irwin*

The structure of the organisation that has evolved closely follows the Fitzgerald model and is illustrated in Appendix B.

## EXECUTIVE MANAGEMENT

The Executive Management group, which comprises the Chairman, General Counsel and Divisional Directors, meets on a weekly basis to discuss inter-divisional matters and determine operational policies and priorities.

This group also constitutes an internal editorial committee which reviews all reports and issue papers produced by the Commission prior to their release.

## CORPORATE PLAN

The Commission is currently preparing a revised Corporate Plan for 1991-1994 and a Strategic Plan for 1991-1992. The Corporate Plan will identify the principal goals and strategies for the next five years, and the Strategic Plan will describe the objectives, strategies and performance measures for each function within the Commission. Each functional objective shall be linked to the corporate goals of the Commission.

The Corporate Plan will provide the public with a window into the operations of the Commission. Through this Plan, the Commissioners and line managers can accurately and quantitatively respond to the demands for openness and accountability in the post Fitzgerald era.

## 2. ACCOUNTABILITY

The Commission was created as a consequence of a public inquiry showing existing public institutions were neither accountable nor effective. Given this heritage and recognising that community concern over "who watches the watchers" is legitimate, the Commission has from the beginning set out to be a model organisation in terms of accountability. However, it has been charged with the conduct of investigations and the collection and analysis of intelligence which can only responsibly be achieved in confidence. The competing public interests of ensuring on the one hand that the Commission is accountable and on the other that an appropriate level of confidentiality is maintained, are dealt with in this Chapter.

Although an independent body equipped with extraordinary powers, the Commission is made closely accountable to Parliament, the community and the courts, by the Act.

The Commission is accountable:

- Internally, through mechanisms instituted for the purpose by the Executive and Directors;
- Internally, through the Executive to the Commission;

- To the Parliamentary Committee and through it to the Parliament and the public;
- To the Courts, as provided in the Act and otherwise;
- To the public on some occasions, or to the media, and thereby (however imperfectly) to the citizens of Queensland; and
- To complainants.

### PARLIAMENTARY COMMITTEE

The accountability of the Commission to the Parliamentary Committee is facilitated by Section 2.14(2) of the Act which directs, inter alia, that the Commission report to the Committee:

- “(a) on a regular basis in relation to the Commission’s activities;
- (b) when instructed by the Parliamentary Committee to do so with respect to that matter, in relation to any matter that concerns the administration of criminal justice . . .”



*The Parliamentary Criminal Justice Committee  
(l to r) The Hon. N. Harper, Mrs W. Edmond, The Hon. W. Gunn, Mr P. Beattie (Chairman), Mr S. Santoro, Mr R. Schwarten  
Inset: Mrs M. Woodgate*

Members of the all party Committee are:

Mr P D Beattie, MLA, Member for Brisbane Central, (Chairman)

Mr W A Gunn, MLA, Member for Somerset, (Deputy Chairman)

Mrs W M Edmond, MLA, Member for Mount Coot-tha

Mr N Harper, MLA, Member for Auburn

Mr S Santoro, MLA, Member for Merthyr

Mr R E Schwarten, MLA, Member for Rockhampton North

Mrs M R Woodgate, MLA, Member for Pine Rivers

Research Director: Mr T Woodyatt

Research Assistant: Mr D Wright

During the period under review, the Commission met with the Committee on eleven (11) occasions. Written reports are prepared by the various operational units of the Commission and provided to the Committee in advance of the formal monthly meetings.

The information provided in advance to the Parliamentary Committee may, if required, be supported by individual oral presentations by both Commissioners and Directors.

The Commission's accountability to the Committee ensures that it in turn is accountable to the Parliament, and ultimately the people of Queensland.

## REVIEW OF COMMISSION

### *Parliamentary Review*

The Commission recognises and endorses the intent of the Fitzgerald Report that Parliament is the institution ultimately accountable to the electorate and that the Commission should be ultimately accountable to the Parliament.

In the first quarter of 1991 the Parliamentary Committee conducted a series of hearings in relation to the activities of the Commission. In addition to providing a detailed written submission, the Commissioners and Directors delivered verbal reports on their respective areas of responsibility.

As part of this review process, the Committee tabled in Parliament Minutes of evidence taken at public hearings as well as other material provided by the Commission to the Committee.

In these ways, the legislature has also ensured that the Commission is independent of executive controls, in accordance with the underlying philosophy of the Fitzgerald Report.

### *Judicial Review*

The statutory requirements to afford accountability include a superintendence by the Supreme Court in many aspects of the Commission's operation, and in particular, the exercise of its statutory powers.

For a more detailed explanation of this area of accountability, please refer to pages 179-182 of the Commission's submission to the Parliamentary Committee on monitoring of the functions of the Commission.

In addition, the Commission will be subject to the Supreme Court in any case in which a citizen seeks prerogative relief in respect of its actions, as in the Ainsworth case.

The Commission's actions and decisions will also be brought under public scrutiny on each occasion it is served with a subpoena to produce its documents to a Court.

Finally, in any case in which action is taken against a person in a Court or Misconduct Tribunal as a result of a Commission investigation, its investigations and officers are subject to public scrutiny.

## INTERNAL AND OTHER MECHANISMS

Most of the internal accountability mechanisms instituted within the Commission will be discussed in this Report under the headings of the various Divisions. Where guidelines exist, such as in the public finance area, the Commission has been concerned to meet or exceed these. In certain areas, such as the accountability mechanisms for Commission property, the Commission has developed new systems which may well have much wider application. The Commission as a whole has taken certain steps to enhance its own accountability, above and beyond the measures implemented within its administrative units. Some of the more significant of these are discussed below.

### **Declarations of Personal Particulars and Private Interests and Associations**

Statutory declarations of Personal Particulars and of Private Interests and Associations have been prepared and completed by the Chairman, the part-time Commissioners and all Commission staff. This is considered essential having regard to the Commission's statutory role in relation to the criminal justice system in this State and is in keeping with the Commission's aim of establishing a model for other agencies in the State.

### **Register of Pecuniary Interests and Record of Personal and Political Associations**

The requirements of Section 7.3(1) of the Act relating to pecuniary interests and personal and political associations have been complied with.

### **Forms and Procedures in Relation to the Exercise of the Commission's Statutory Powers**

The Commission has developed forms and procedures in connection with the use of its statutory powers. No such powers are exercised unless the required documentation is completed, setting out the reasons for their exercise, and this documentation is accepted by the Chairman.

### **Undertaking as to Confidentiality**

A document has been drafted to bring to the attention of all Commission staff, and have them acknowledge, their obligations and responsibilities in relation to confidentiality in accordance with Section 6.7 of the Act.

### **Provision for Independent Investigation of Complaints Against Commission Officers**

In the Commission's first Annual Report it acknowledged the need, and outlined the mechanism which has been established, to have a mechanism in place for investigating complaints against its officers should such arise in the course of their duties.

### **Public Hearings**

The Commission's commitment to ensuring that its work is seen in the public arena is evidenced by the conducting of public hearings and other similar mechanisms.

### **Relations with the Media**

The Commission's dealings with the media have not been without trauma, and in this the Fitzgerald Report contained some accurate prophecy. Despite this, the Commission has endeavoured to be as responsive as possible to media enquiries given the limits imposed by the Act. Generally speaking, the Commission appreciates its overall satisfactory relationship with the media.

### **Direct Contact with the Public**

The Commission has an important role in public education on criminal justice issues. Once again, some of this responsibility is discharged through open hearings, public reports and other interactions with the media and public. During the year the Commission's staff have further made themselves available to the public by addressing a diversity of groups.

### **Accountability to Complainants**

The Director of the Official Misconduct Division is required by Section 2.24(4) of the Act to cause a response to be given to each complainant advising of the action taken (including where no action is taken) and the reason. During the period under review the Commission has sought to improve on this by instituting a program of debriefing complainants, where practicable, at the end of the investigation.

### **Role of the Minister**

The Commission has been constituted to reflect the ideal of freedom of executive controls and primary accountability to Parliament as enunciated by Mr Fitzgerald Q.C.

The Act does however provide a role for the Minister (currently the Premier). This is in relation to the development of the infrastructure of the Commission and an obligation on the part of the Commission to provide certain information on its work, e.g. the Minister is to be furnished with a copy of certain categories of Commission Reports, including the Annual Report.

## **CONCLUSION**

The Commission's attitude to accountability is perhaps best illustrated by its response to the Electoral and Administrative Review Commission (EARC) issues papers on Freedom of Information and Judicial Review of Administrative Decisions and Actions. The tenor of the Commission's public submissions is found in paragraph 23 of its Freedom of Information paper:

"It is the submission of this Commission that the balance between the desirable aims of the Freedom of Information legislation and the need for confidentiality concerning certain activities of this Commission can be found not by way of blanket exemption but by a carefully drafted provision which enables each request for information to be dealt with on an individual basis. This will permit the security considerations outlined in this submission to be given proper regard."

Indeed, the Commission would consider itself to be probably more open to scrutiny than any like agency or official. As such, it satisfies the ideal expressed in the Fitzgerald Report:

"The administration of criminal justice should be independent of executive controls. It is an apolitical, vital public function. Such administration must be accountable for its activities and should be open to public review and accountable to the Parliament."

### 3. OFFICIAL MISCONDUCT DIVISION

In terms of staff and resources the Official Misconduct Division (OMD) is the major organisational unit of the Commission. Its establishment and some guidelines for its operation were recommended in the Fitzgerald Report; with some variations these recommendations were given legislative force in the Act. In summary, the OMD:

- Receives, investigates and resolves complaints of official misconduct of public officers, and in respect of members of the Police Service, misconduct;
- Investigates, or assists in the investigation of major or organised crime not appropriately or effectively attended to by the Queensland Police Service;
- Acts to prevent corruption; and
- Has established a capacity to recover the proceeds of crime.

The OMD consists of a Directorate, a Complaints Section and a number of Multi-disciplinary investigative teams. Further investigative support is provided by Surveillance and Technical Units and by the Commission's Director of Operations, an Assistant Commissioner of Police who is also the commander of the Commission's Police Establishment.

The process of reform of the Police Service has resulted in considerable disruption to established structures in the medium term and the Commission has felt the impact on its seconded police resources.

#### ESTABLISHMENT AND FUNCTIONS OF THE OMD

The sources of the role and functions of the OMD are:

- The Fitzgerald Report; and
- The Act.

#### The Fitzgerald Report

The Fitzgerald Report sets out the role of the OMD in Section 10.2.3. The main points are that the OMD is required to:

- Continue the investigative work of the Fitzgerald Inquiry;
- Conduct independent investigations of any suspected official misconduct;
- Investigate individual cases or conduct broader based inquiries into the incidence of official misconduct.

The Fitzgerald Report is of continuing, as well as of historical significance in the establishment and functioning of the OMD. It provides the rationale

for the Division, including its broad structure, functions and powers and some procedures for its operation. Most of its prescriptions were subsequently included in the Act. Additionally, the Fitzgerald Report is given continuing statutory significance, with the OMD required to:

“further the investigative work carried out on behalf of the Commission of Inquiry . . .”

and

“give effect to the guidelines for operation of the Official Misconduct Division contained in the Report of the Commission of Inquiry.”

“Guidelines” as such are not delineated in the Fitzgerald Report. For the purposes of the Act, as quoted above, the Commission takes “guidelines” to mean the substance of the Report, in particular the matters set forth in Chapter X “Reforms in Criminal Justice” and in those recommendations defining the role, composition and powers of the OMD.

As a consequence, the Director of the OMD has felt bound to follow the “guidelines” contained in the Fitzgerald Report to the extent practicality allows, where those “guidelines” are not in conflict with the provisions of the Act.

#### The Act

The Act gives effect to most of the recommendations of Mr Fitzgerald Q.C. in relation to the establishment of the OMD and its functions and powers. Hence Section 2.20(1) prescribes the OMD as the investigative unit within the Commission. Subsection (2) lists the functions of the Division and Section 2.24 provides for reports by the Director of the Division to the Chairman and, with the Chairman's approval, to various other persons and authorities.

Division 4A provides for the establishment and functions of the Complaints Section and imposes on the Commissioner of the Police Service the duty to refer to the Complaints Section all matters that he suspects involve, or may involve, misconduct, and on the principal officers of other units of public administration, the duty to similarly report suspicion of official misconduct.

The Act does, however, depart from the Fitzgerald Report recommendations in certain important respects. The principal departures are:

- The Report recommended that the Misconduct Tribunals be separate from the Divisions, however Section 2.31 of the Act provides for the constitution of Misconduct Tribunals as part of the OMD.

- The Report recommended that the OMD be able, at its discretion and with circumspection, to investigate both anonymous and “stale” complaints. However, Section 2.20 of the Act gives the Division no such discretion and requires it to investigate all cases of alleged or suspected misconduct by members of the Police Service and all cases of 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. Similarly, Section 2.29(a) of the Act requires the Complaints Section to assess the substance of all complaints and information concerning suspected misconduct furnished to it, including from anonymous sources.
- The Report recommended that the Complaints Section “be able to give assurances of confidentiality to informants or complainants in its discretion and on guidelines to be established”. The Act gives the Complaints Section no such power.
- The Report recommended that the OMD be able to conduct secret investigations which may not be reported to the subjects of the investigations or any other persons. There is no provision in the Act dealing specifically with secret investigations. Furthermore, this recommendation does not sit comfortably with the requirement imposed by Section 2.24(4) of the Act on the Director to cause a response to be given to every complainant stating what action has been taken in respect of the complaint.
- The Report recommended that the Division be empowered to “cause interception of or intercept telecommunications and post”. No such power is acknowledged by the Act, although it is recognised that it would require complementary Federal legislation.
- Various other powers which the Report recommended be conferred on the Division are not in fact conferred by the Act. These include:
  - The power to detain persons for specified times and purposes, and under specified conditions.
  - The power to take samples or specimens from the person of anyone detained or arrested.
  - The power to cause arrested or detained persons to undergo examinations and tests.
  - The power to photograph, fingerprint, palm print, footprint or voice print or take samples of handwriting from any person detained or arrested.

- Mr Fitzgerald Q.C., though recommending that the activities of the OMD be open to review by the judiciary on application, was concerned that such judicial review not be able to be used by the corrupt and misguided as a “window” on the Division’s activities. Section 2.25 of the Act provides for judicial review but contains no such safeguard.

One suspects that in the main, the failure to provide the Commission with the various additional powers referred to above may well have reflected a governmental or bureaucratic unease with the extent of the powers being granted to the OMD, although other matters such as the lack of a discretion concerning the investigation of anonymous and/or stale complaints, or the failure to empower the Complaints Section to give assurances of confidentiality, or the provision of some protection against the misuse of the judicial review process by the corrupt may well indicate oversights on the part of the Parliamentary draftsman and those instructing him.

## FUNCTIONS AND POWERS

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

The Division’s functions under the Act include:

- The investigation of the incidence of official misconduct generally in Queensland;
- Furthering the investigative work commenced by the Fitzgerald 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.

To appreciate the ambit of the Commission’s responsibilities, it is necessary to refer to the terms “official misconduct” and “unit of public administration” and their definitions, the meaning of which is spelt out in Appendix A.

## Hearings

For the purpose of discharging the functions and responsibilities of the OMD, 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) must be constituted by:

- The Chairman alone, or, if the Chairman so elects, with one or more of the other Commissioners;
- The Director of the OMD; 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

To perform its function of investigating official corruption in units of public administration and organised 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;
- As mentioned above, the power to conduct hearings, and at those hearings to compel witnesses 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. (Incriminating information obtained under compulsion and after objection cannot be used against the person in civil, criminal or disciplinary 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; and
- Use a listening device.

### The Prosecution of Offences

Generally, the Commission has no role in the prosecution of criminal offences investigated by the Commission and its staff beyond preparation of the brief of evidence. The Act, by Section 2.24, provides that every investigation carried out by the OMD 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 or other prosecuting agency (in most cases the Queensland Police Service). It is a matter for the prosecuting agency to determine whether the evidence is sufficient to support 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 prosecuting agency, 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) of the Act 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.

### Reports

By virtue of Section 2.24(1) of the Act, the Director of the Official Misconduct Division shall report 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.

Such a report is made to the Chairman with a view to such action by the Commission as he considers desirable. If the Chairman considers it appropriate, he may authorise a report to those agencies and bodies enumerated in Section 2.24(2) of the Act.

Pursuant to Section 2.24(3) of the Act, 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 OMD 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.



## STRUCTURE OF OMD

### The Guiding Principle

In the light of its genesis in the work of the Fitzgerald Inquiry and in conformity with the statutory injunction contained within Section 2.20(2)(g) of the Act, the Commission has resisted the temptation to second-guess the scheme for the operation of the OMD as embodied in the Fitzgerald Report (save only to the extent that it is inconsistent with the direct statutory obligations set forth in the Act). The Commission has adopted as its guiding principle the full implementation of the Fitzgerald model, except where practicality or operational experience has required some modification.

The fact that some modification would be required in the light of experience was recognised by Mr Fitzgerald Q.C., where in speaking of the composition of the OMD, in particular the appropriate balance in size and establishment, he said:

“In part that will have to be the product of experience in operations.”

Thus the present establishment and structure of the OMD reflects:

- What was inherited from the Fitzgerald Inquiry;
- The recommendations contained within the Fitzgerald Report; and
- The product of experience gained in operating that structure over the intervening period. The decision was taken that wherever possible, this structure would be trialled for a twelve month period before any major modifications were made to it, subject only to necessary modifications to maintain the efficiency of the operation.

OMD consists of four main organisational units, namely:

- (i) A Directorate, consisting of the Director of the Division and support personnel;
- (ii) A Complaints Section (provided for by Division 4A of the Act)—the function of which is to receive all complaints or information concerning misconduct or official misconduct;
- (iii) The Multi-disciplinary Teams (a development of the investigative structure inherited from the Fitzgerald Inquiry)—the function of which is to investigate the more complex complaints and pro-active matters of a major or organised crime nature developed within the Intelligence Division, or which otherwise come to the notice of the Commission; and

- (iv) A Surveillance Section, embodying a capacity for static, mobile and electronic surveillance, which section acts in aid of the investigations undertaken in the OMD by both the Complaints Section and the Multi-disciplinary Teams.

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

### The Police Establishment

The Fitzgerald Report recognised the need to second police members in order to carry out investigations in the pursuit of the Commission's role and function.

The Chairman, in agreement with the Commissioner of the Police Service, established a police contingent of 94 personnel in June 1990 for the Commission on the basis of the requirement as it then appeared. This police establishment comprises one Assistant Commissioner, two Superintendents (a third will be added shortly) and 91 other officers of various ranks.

During the course of the Fitzgerald Inquiry, promotions and transfers in the Queensland Police Service (QPS) were stopped and only recommenced as of late 1990. The QPS is undergoing dramatic change at this time, particularly in relation to the selection, promotion and training of police members. The police staff at the Commission are unsettled in that they also are vying for places in the general Police Service. As a result the tenure of appointment of police staff at the Commission has not stabilised with continual transfers taking place both into and out of the Commission police component. This will continue into the foreseeable future.

With the step up in training now available to police, Commission police staff are likewise requesting consideration to attend training courses to enhance their promotional prospects and at times this cannot be facilitated due to the demanding workload at the Commission.

Additionally, during the Fitzgerald Inquiry police recreation leave was allowed to accumulate with the result that many members of the QPS have

significant recreation leave owing and in many instances, this amounts to more than three months. The Police Service itself has adopted the policy that all outstanding leave must be taken by the end of 1992. Bearing in mind that further leave will be accrued before the end of 1992 and in an endeavour to reach the QPS target, there will be a further significant drain on human resources which the Commission must address as an additional and previously unidentified problem.

The police establishment is allocated to the following areas of operational endeavour:

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

Police staff the Witness Protection Division, the Surveillance Group and the Technical Support Unit. This comprises some 40% of the police staff. The remaining police work within the Complaints Section and the Multi-disciplinary Teams and carry out investigations under the guidance of the Team Leaders.

With the transfer of staff into and out of the Commission on promotion and otherwise, the Police Establishment has yet to reach authorised strength, although, given the large investigative workload of the OMD, strenuous efforts are being made to rectify this situation.

The Witness Protection Division is separate from the OMD and its Director is also the Assistant Commissioner in charge of the Police Establishment. The Witness Protection Division accounts for twenty-four members of the Commission Police Establishment.

The other sections containing seconded police officers all fall within the OMD. The seconded police within the OMD are subject to a matrix form of control with the Assistant Commissioner (designated within the Commission as the Director of Operations) being responsible for the discipline of police personnel, the maintenance of work performance, and professional standards and the management of the Surveillance Section, while the Director of the OMD, operating through the Chief Officer of the Complaints Section or the leaders of the Multi-disciplinary teams, is responsible for the tasking and operational supervision of police investigators. The Surveillance Section and the Technical Unit are tasked via the Director of Operations.

It is a complicated arrangement in theory but works well in practice (provided that senior personnel are appropriately professional in their approach).

The police members are specially selected for secondment to the Commission, having previously exhibited high integrity and well developed investigative skills. Upon secondment, by virtue of Section 2.56 of the Act, they are relieved of any obligation to obey, provide information to, or account to any other police officer. Secondments are for a two to three year period and are non-renewable. This is in line with the recommendations of the Fitzgerald Report.

### Surveillance Section

The Fitzgerald Inquiry formed a Surveillance Section in January 1988 with four members under the command of a Detective Sergeant, including a police technical officer.

At the time of the issue of the Fitzgerald Report the squad had a total complement of 20, including two technical officers and had proved its value, providing considerable assistance in the investigation of major crime.

It was, no doubt, in the light of this experience that the Fitzgerald Report recommended that the OMD have a surveillance capability.

The legacy of the Fitzgerald Inquiry and the recommendation of its Report are the basis of the Commission's Surveillance Section, which currently has an allocated strength of 15 personnel. In September 1990 the two Technical Officers then attached to the squad formed the Commission's Technical Unit, separate from but working closely with the Surveillance Section.

Joint operations have been conducted with the Bureau of Criminal Intelligence Queensland (BCIQ), QPS Drug Squad, QPS Homicide Squad, Corrective Services Investigation Unit, the Australian Federal Police, the National Crime Authority, NSW Drug Enforcement Agency, the New South Wales Crime Commission, and the Australian Customs Service.

The majority of the operations utilising the services of the Surveillance Section have been major drug investigations.

Training is ongoing, mainly conducted in-house, by the Section itself. It takes approximately six months to train a basic surveillance officer.

Surveillance is a very demanding task reliant upon driving, photographic and basic technical skills. The function requires patience, concentration, team participation, commitment and initiative.

A senior officer of the Australian Federal Police (AFP) commented after a lengthy joint Commission/AFP operation that the Commission Surveillance Section is one of the most professional

surveillance sections that he has observed. Other law enforcement agency officials have made similar comments.

### **Technical Unit**

As described above, the Surveillance Section established by the Fitzgerald Inquiry included a technical component within its ranks.

Over time it became apparent there was a need to expand these technical services beyond the requirements of the Surveillance Section to those of the Fitzgerald Inquiry and the newly formed Commission. Accordingly, in September 1990 the Technical Unit became a unit within the Commission.

The primary goals of the Technical Unit are to provide technical support to the Commission, in particular, to participate as necessary in investigations and to promote the optimum use of technical resources.

The Unit has been directly involved in nearly all operations involving the Commission's Surveillance Section and has assisted in operations to secure witnesses in the Commission's witness protection program.

An important role is the development of new applications in equipment and its use, and to this end the Unit's members have engaged in extensive training programs.

## **COMPLAINTS SECTION**

### **Historical Context**

#### **Transition**

The Fitzgerald Report recommended the abolition of the Police Complaints Tribunal and the Internal Investigations Section of the Queensland Police Force. The findings of the Fitzgerald Inquiry should be borne in mind when judging the performance of the Commission in addressing the police complaints function since 22 April 1990. These are recorded in particular at pages 81 and 82 and 288 to 293 of the Fitzgerald Report. They paint a grim picture of what previously occurred. It is salutary to re-state the main conclusion of the Fitzgerald Inquiry in respect to the failure of the Internal Investigations Section:

"The Internal Investigations Section has been woefully ineffective, hampered by a lack of staff and resources and crude techniques. It has lacked commitment and will, and demonstrated no initiative to detect serious crime. Corrupt police have effectively neutralised whatever prospect there might have

been that allegations against police would have been properly investigated. The Section's effects have been token, mere lip service to the need for the proper investigation of allegations of misconduct.

The Internal Investigations Section has provided warm comfort to corrupt police. It has been a friendly, sympathetic, protective and inept overseer. It must be abolished."

Based upon its observations of the many files which it has been requested to re-investigate since the establishment of the Complaints Section, the Commission can corroborate the conclusions of the Fitzgerald Inquiry.

Reference should also be made to the failure of the Police Complaints Tribunal which similarly led the Fitzgerald Inquiry to recommend its abolition, although the Fitzgerald Inquiry recognised that the Police Complaints Tribunal had made a determined and successful effort to improve its image under the last Chairman, His Honour Judge McGuire. This very substantial improvement in performance at once provided great comfort to the Commission and suggested a means of overcoming many of the inefficiencies of the past.

From early 1990 discussions took place between the Commission and both precursor organisations with a view to the take-over of their functions on 22 April, 1990. The Internal Investigations Section processed 1,045 complaints in 1989. However, an estimated 60% 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 in 1989, although many of those matters were dispatched in a very peremptory fashion. This is not a criticism but rather an acknowledgment that His Honour Judge McGuire and the other members of the Police Complaints Tribunal did their utmost to "clear the decks" of matters, many of which were several years old, prior to the handing over of the function to the Commission, so that the Commission would not be weighed down by the baggage of past years. As mentioned, they were successful in respect of all but 66 matters, although some of these matters were voluminous, very historical and required the commitment of considerable resources by the Commission early in the life of the Complaints Section to the detriment of the investigation of current matters.

#### **Role and Functions**

Section 2.27 of the Act provides for the establishment of the Complaints Section and requires that all complaints or information concerning misconduct brought to the notice of the Commission be furnished to the Complaints Section.

Section 2.28 of the Act provides for the referral of complaints or information concerning misconduct to the Complaints Section. It is significant that the Commissioner of the Police Service is required to refer to the Complaints Section all complaints of, or matters involving, suspected misconduct by members of the Police Service, whether such complaints and matters arise within or from outside the Police Service whereas principal officers of other units of public administration are only required to refer to the Complaints Section matters they suspect involve or may involve official misconduct.

Section 2.28(5) of the Act empowers the Commission to issue guidelines to regulate or modify the duties imposed on the Commissioner of the Police Service and on other principal officers to report instances of misconduct and official misconduct respectively. Section 2.28(6) of the Act requires principal officers to comply with the written directions of the Chairman, or his delegate, relating to cases of suspected misconduct. This power to issue directions extends to directing the transference to the Commission of responsibility for investigation of any complaint. Guidelines and directions were issued to the Commissioner of the Police Service by the Commission. Those currently in force (dated 20 July 1990) are annexed to this Report as Appendix I.

Pursuant to these guidelines and directions, the Commissioner of the Police Service investigates, on behalf of the Commission, complaints of misconduct of a minor nature against members of the Police Service. Examples of such cases are complaints of incivility and minor complaints of harassment. Furthermore, the Commissioner of the Police Service is required to investigate more serious matters:

- If required to do so by the Commission (for example, where the alleged misconduct occurred in a remote part of the State and the Commission is unable to deploy investigators to deal with the matter); or
- If immediate investigation is necessary in order to preserve evidence or obtain evidence which the Commission would not otherwise be able to obtain or would not readily be able to obtain (for example, where a complainant alleges assault a medical examination needs to be organised and photographs need to be taken).

Section 2.29 of the Act provides that 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 OMD 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.”

The performance of these functions by the Complaints Section and the Chief Officer is subject to any guidelines issued by the Commission. The Commission, in fact, issued guidelines to the Chief Officer on 5 October 1990. A copy of these guidelines is annexed to this Report as Appendix H. Among other things, these guidelines give effect to Mr Fitzgerald's recommendation that the Complaints Section have the discretion to “refer trivial or purely disciplinary matters to chief executives of Departments or the Commissioner of the Police Service to investigate and take appropriate action”. The guidelines also provide that matters assessed by the Chief Officer need not be referred to the Director for his consideration unless a prima facie case of criminal conduct or official misconduct exists.

## Establishment

### Assessment versus Assessment and Investigation

In establishing the Complaints Section, the first dilemma faced by the Commission was whether to operate the Complaints Section purely as an assessment centre, that is, a clearing house for the receipt, assessment and referral of complaints, much along the lines of the Independent Commission Against Corruption in New South Wales, and the majority of other civilian bodies charged with the oversight of internal police investigations in Australia and overseas (called the “IACOLE model” from the initials of the International Association for Civilian Oversight of Law Enforcement), or to undertake both assessment and investigation within the Complaints Section. As mentioned above, the Commission was substantially influenced in this decision by the apparent success of the Police Complaints Tribunal under the chairmanship of His Honour Judge McGuire during the last twelve months of its operation, a success which Judge McGuire had attributed to:

- The transfer of investigators to the Tribunal;

- The assessment of complaints in the light of immediate preliminary inquiries by Tribunal investigators;
- A selective approach to the extent of investigation of particular complaints (that is, all complaints were not investigated equally—indeed His Honour conceded that some received peremptory treatment while others were investigated in full); and
- The conservative use of the hearing power (only four (4) matters were dealt with by way of hearing in the last twelve months of the PCT), on the basis that the conduct of hearings had the tendency to bog matters down in legal formalities and the protracted examination of witnesses.

Further, the IACOLE model, on the basis of research undertaken by the Commission, did not appear successful in instilling public confidence in the process of investigation. As it stated in its First Annual Report:

“The Commission is of the view that some investigation (although somewhat peremptory 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”.

The Act does not extend to the OMD or the Complaints Section the luxury afforded to the Independent Commission Against Corruption (ICAC) by the legislation under which that organisation is established. The New South Wales organisation can pick and choose which matters it will investigate. Indeed, in a recent report the ICAC said:

“The Independent Commission Against Corruption was two years old on March 13 1991. Since then (the establishment of the ICAC) the Commission has received around 2,500 complaints or reports of suspected corrupt conduct. It has initiated over 30 formal investigations, some of which are not yet complete.”

On the other hand, the OMD is required to investigate all complaints other than those dismissed by the Chief Officer as having been made frivolously or vexatiously. However, investigation within the meaning of the Act, namely Section 1.4, is defined thus:

“ ‘investigate’ includes examine and consider”.

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.

### Initial Workload

Of the 66 complaints made to the Police Complaints Tribunal transferred to the Complaints Section, 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. After a few months the rate tapered off somewhat but has increased again in recent months. It is possible that this increase in recent months reflects a growing community awareness and acceptance of the role and credibility of the Commission in discharging its function, although it is conceded that there may be other reasons. Approximately three quarters of complaints relate to the conduct of police officers.

The second largest category of complaints was soon identified as that related to the activities of local authorities. The investigation of these complaints has proved to be involved and protracted.

There is a growing number of complaints being lodged by principal officers of units of public administration, although this is a fairly recent phenomenon. 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 operational date of 22 April 1990, the Chairman wrote to all Ministers requesting their assistance in notifying officers in their respective portfolios of the obligation under the Act to bring instances of suspected official misconduct to the attention of the Commission. They were also provided with a standard form of report of official misconduct.

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 officer’s 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

During the initial months delays were experienced in the 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 Commission to continue with past arrangements to directly select the required police officers from among serving officers.

The Commission considered that it was inappropriate to transfer the investigative staff assigned to the former Internal Investigations Section of the QPS and the Police Complaints Tribunal as a matter of policy in view of the trenchant criticism made of the operation of those bodies by Commissioner Fitzgerald QC in his Report. Consequently the positions without the incumbents were transferred to the Commission on 22 April, 1990.

The Commissioner was of the view that as the 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 agreed with this view on the understanding that the selection process would be completed within a matter of weeks. In fact, the filling of the 15 Inspector positions within the Complaints Section became part of the standard promotions selection process of the Police Service and was not completed until mid August 1990, some four months later. This resulted in the accumulation of a substantial backlog by September 1990 of over 628 complaints.

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

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

Further, during the initial six months, the Chief Officer of the Complaints Section and other officers within the Section were unable to give their undivided attention to the assessment and investigation of complaints as they were also engaged in setting up procedures, drafting guidelines and organising work flows with the assistance and supervision of the Director of the Division and members of the Commission.

#### Complaints Section Investigative Complement

The investigative complement of the Complaints Section was originally set at the total number of officers attached to the Police Complaints Tribunal and the Internal Investigations Section. This figure was reached after negotiations by the Commission with the Commissioner of the Police Service. It was clearly understood by both the Commission and the Commissioner that this complement was the starting point only.

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 commissioned officers at a critical time in the police reform process) and the budgetary constraints of the Commission. It was however, not envisaged as a permanent staffing level but as an appropriate starting point. Additional staffing would depend upon the experience gained in the operation of the Complaints Section. This is an important point and it is useful to refer to the actual words of the arrangement set forth in the Chairman's letter to the Commissioner of the Police Service dated 15 March 1990:

"Finally, the Commission would reserve the right based upon its experience in the operation of the Complaints Section to request the transfer of further positions from the Police Force should it become clear that such a step is warranted by the workload. In this regard the Commission is mindful that 60% of the 800-900 complaints received annually by the Internal Investigations Section are referred to Regional Commanders for investigation, some 15% of which are appropriately classified as serious matters."

Unlike the requirement on similar agencies interstate, the Act requires the OMD to investigate all cases of misconduct of police officers and all cases of official misconduct of other public officials. This in itself represents a far higher workload than that of the Police Complaints Tribunal and Internal Investigations Section combined. Furthermore, in respect of the Internal Investigations Section, only misconduct of a serious nature was retained by that Section for investigation. Whilst some matters of a minor nature are referred to the Commissioner of the Police Service for investigation on behalf of the Commission only 373 such cases of the 2,453 complaints received by the Commission have been so referred. This represents 15.2 percent.

The effect of the above has been to place unrealistic demands upon the Complaints Section and the OMD. During July and August 1990 it was considered necessary to deploy further legal and investigative personnel of the OMD in the investigation and assessment of complaints matters. This significantly depleted resources available for the investigation of pro-active matters within the Division.

Another factor contributing to the pressure upon the Complaints Section has been the demands for expeditious finalisation of complaints. The Commission accepts that in some instances there have been understandable but undesirable delays in finalising complaints. This has particular significance in view of the provisions of the Police

Service (Administration) Regulations which require appointments and promotions to be made in accordance with integrity principles. The Commissioner cannot consider for promotion an officer whose conduct is the subject of an unfinalised complaint within the Commission if the Chairman has advised the Commissioner that the allegation has credibility, a proper basis for belief and is sufficiently serious (if substantiated) to debar the officer from promotion. That the Complaints Section and the OMD have finalised complaints at a creditable rate is shown by the statistical information set out below (in fact at several times the rate per investigator of similar organisations).

It is also relevant to compare the rate at which the Commission has finalised complaints with the rate at which the Police Service has finalised complaints of minor misconduct referred to it by the Commission. Of the 2,453 complaints received by the Commission, it has finalised 1,711 (that is, 70 percent). During that period to 31 March 1991 the Complaints Section assessed 373 matters as involving misconduct of a minor nature and as being appropriate for referral to the Commissioner of the Police Service for investigation and any disciplinary action considered appropriate. As mentioned previously the referral of a matter for investigation to the Commissioner of the Police Service is not the end of the Commission's involvement in that matter. Upon finalisation of the investigation, the report is referred to the Complaints Section for further assessment. This assessment may result in further investigation, either by the Commission's investigators or by the officers of the Police Service. Following the final assessment of such matters, the Commission corresponds with the complainant in order to comply with Section 2.24(4) of the Act.

As stated above, the complement of police officers engaged in the investigation of complaints was initially fixed at 14 Inspectors and 1 Superintendent. The demands placed on the Section have resulted in that complement being increased to 17 officers. It is further intended in the near future an additional five (5) officers will be deployed from elsewhere within the Commission in the investigation of complaints matters. Obviously this strain on investigative resources reduces the operations of the Commission in other areas.

#### *Inter-Jurisdictional Comparison of Personnel Allocated to the Investigation of Complaints*

##### • New South Wales Police Internal Affairs Section:

1989-1990—Received a total of 2,414 complaints of which 475 were sent to Internal Affairs and 340 sent to officers on patrol. 1,599 were resolved without investigation, e.g. not investigated or resolved by conciliation.

*Staff Levels 1989-1990*

70 police and 17 support staff.

##### • Australian Federal Police (Internal Investigation Branch)

1989-1990—Received a total of 582 complaints, which were classified into:

- 487 complaints—relating to “on duty” officers
- 95 allegations—relating to “off duty” officers and internally raised complaints.

*Staff Levels 1989-1990*—24 police and 4 support staff.

An unspecified number of complaints are referred to the various Regional Commanders for investigation and report.

##### • Victoria Police Internal Investigations Department

1989-1990—Received 1052 matters classified as complaints, 613 of which were further classified as serious and 439 of which were further classified as minor.

*Staff Levels 1989-1990*—56 gazetted police staff with 15 support staff. Vicpol also employ “special task force” staff when required for larger investigations, which brings total police staffing to approximately 60 from time to time.

##### • Complaints Section, Criminal Justice Commission, Queensland

2,453\* complaints received from 22 April 1990 to 30 June 1991

##### Staffing

- Complaints Section
  - 17 Inspectors of Police
  - Other staff: 6 lawyers\*\*  
1 financial investigator  
5 Complaints Officers  
6 support staff

##### • Multi-disciplinary Teams

An estimated one third of the capacity of the Teams has been expended on the investigation of the more complex complaints referred from the Complaints Section in recent months. This represents in terms of staffing:

- 11 investigators
- 2 lawyers\*\*
- 1 financial investigator
- 3 support staff

##### Notes

- \* Approximately 25% of complaints emanate from the public sector (other than the Police Service). As a rule they represent more involved investigations, and are therefore more expensive of personnel and resources.

\*\*The main function of the lawyers in the Complaints area is the supervision and review of complaint investigations. In other jurisdictions the review of complaint investigation is undertaken by an external body. The lawyers therefore do not represent a field investigative capacity.

A substantial portion of the personnel in the OMD was not appointed until well into the financial year.

The two (2) Figures opposite display the number of complaints received by the Commission and by New South Wales, Victoria and the AFP during a one (1) year period. Figure 1 shows the number of complaints received per police investigator in all four (4) jurisdictions. Figure 2 presents the number of complaints received per police investigator in New South Wales, Victoria and the AFP but for Queensland it is the number received per investigating officer which includes police, financial investigators and complaints officers.

No matter how one examines the data, the Commission's workload and output are far greater than like bodies in the other jurisdictions.

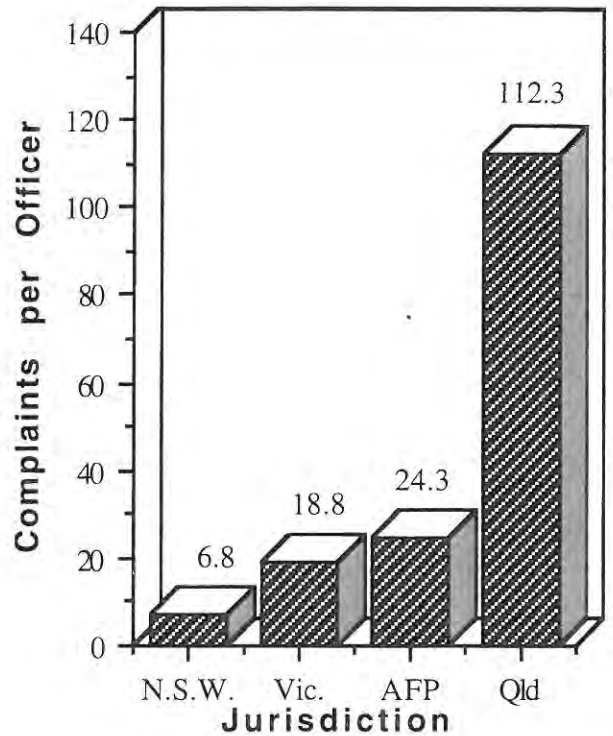
**Addressing the Backlog**

As already mentioned, the Complaints Section, after five months of operation, had over 628 matters on hand 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.

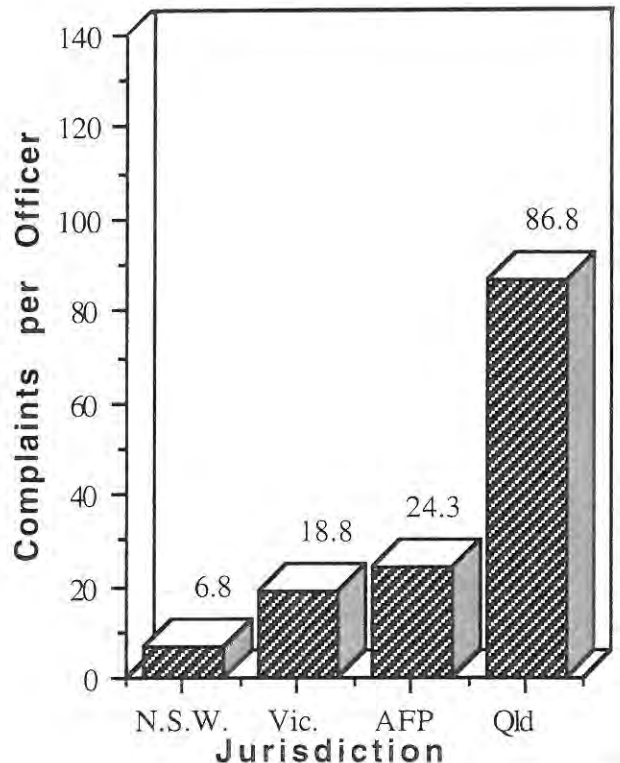
Principal factors contributing to this backlog can be summarised as follows:

- The Division's inheritance of the outstanding Police Complaints Tribunal matters. As previously mentioned, these matters were not simply the most recent ones referred to that Tribunal but included many complex, lengthy and stale matters. Some of the incidents giving rise to these complaints occurred as long ago as 1985-86.
- The Complaint Section's operation for a period of four months with little more than a skeleton staff. This resulted from the fact that the provisions of the Act establishing the Complaints Section were proclaimed to commence on 22 April 1990 at which time the Complaints Section was not fully operational. In particular, the appointment of police officers took longer than anticipated as a result of the implementation of a new promotions system within the Police Service.
- From the time the Complaints Section commenced operations, complaints were received at the rate of at least 45 per week.

**FIGURE 1**  
Complaints per Investigating Officer  
(Police Investigators Only)



**FIGURE 2**  
Complaints per Investigating Officer  
(Qld All Investigators)





- Upon the commencement of the Complaints Section, a number of complaints previously received by the Commission were transferred to that Section.

The complaints received of official misconduct against members of the wider public sector to this date have proven to be a substantial additional workload, representing 25% of all complaints received.

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 is also acutely aware that one of the criticisms by the Fitzgerald Inquiry of the failure of the Internal Investigations Section was that it was "hampered by a lack of staff and resources".

However, since that time, the Commission has surrendered \$3 million from its overall budget and cannot within current budgetary limits afford to request additional police staffing.

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 OMD have been redeployed within the Complaints Section. This staff includes some legal officers. The restructuring has involved the creation of four investigative teams, each comprising a lawyer, a complaints officer (whose function is principally to debrief complainants upon the making of the complaint, and after investigation) and four seconded police investigators of the rank of Inspector. The Complaints Section also has the dedicated services of a senior Financial Analyst.

The creation of these teams has provided a more effective system for dealing with complaints as well as fostering the working relationship between the disciplines within the Complaints Section.

It is clear that in future the Commission will need to make some hard decisions in respect of investigation of complaints. As mentioned previously, it has already been necessary to gradually raise the threshold in respect of those matters categorised as involving allegations of misconduct of a minor nature, which matters are referred to the Commissioner of the Police Service for investigation on behalf of the Commission. These statistics indicate that such matters are not being dealt with as expeditiously as those investigated by the Complaints Section and elsewhere within the OMD. This is a problem currently being addressed by the Commission in consultation with the Commissioner of the Police Service. It is clear that unless the Commission's resources are substantially increased, which seems most unlikely,

the Commission will of necessity become more selective in assessing those matters which warrant investigation whether within the Commission or by the Commissioner of the Police Service on behalf of the Commission.

#### Advantages of Team Structure

The team structure facilitates access by investigators to legal advice at any stage of the investigations and further provides for legal review upon completion of investigations.

The juxtaposition of lawyers and police in the investigation of complaints has proved extremely important. As reported by the Fitzgerald Inquiry, there has been a cultural reluctance on the part of many police officers and the Police Service generally to investigate complaints of police misconduct. The Fitzgerald Report found that the operations of the Internal Affairs Section were grossly biased in favour of police officers:

"Some of the procedures adopted have been amazing; for example, disclosing the material available to suspected police officers prior to interrogation and seeking and acting on reports from sections which are the subject of complaint or allegation. Regularly, no more has been required as a basis for a finding in favour of a police officer than his denial of the case against him, which was seen to put one word against another and therefore make the allegation unsustainable, a proposition so absurd as to be risible. On other occasions, nothing was done because of a claimed perception that the witnesses against the police officer would not be considered sufficiently reliable."

Many of the police officers when first seconded to the Complaints Section exhibited evidence of the attitudes reported upon by the Fitzgerald Inquiry. It has been necessary to bring about a cultural realignment over the intervening months which by and large has been successful. Where these attitudes are so deeply entrenched as to not be capable of change, then officers have been transferred out of the section. The Commission is happy to report that this has been a rare occurrence.

It has been a useful discipline to have lawyers work with police, both as members of the investigative teams and by way of ultimate review of investigations by the Chief Officer of the Complaints Section or his deputy and, in respect of official misconduct, by the Director of the OMD and the Chairman of the Commission.

It must be recognised as a fact of life that the requirement that police officers investigate other police officers carries with it considerable pressures, both physical and psychological, on the investigator.

The police culture which was reported upon extensively by Mr Fitzgerald Q.C. and which depreciates any such endeavour is very real. The police officers within the Complaints Section are subject to great stress and in many instances are treated as pariahs by their fellow police members in the wider police community. Ultimately it is a matter which only time and fair dealing will rectify, or at least reduce to an acceptable balance.

One peculiarity of Complaints Section investigations is that they are undertaken by very senior police officers of commissioned rank. Although this is not required in all cases and persons of lesser rank and experience could effectively undertake many complaint investigations, this situation in part results from the Commission inheriting the investigative positions formerly allocated to the Internal Investigations Section and the Police Complaints Tribunal which were of commissioned rank status. There remain, however, good reasons for the retention of a large number of commissioned officers in the Complaints Section, in particular the facts that some three quarters of all complaints are complaints against police officers as opposed to employees of the wider public sector and that police officers can be required under the provisions of the Code of Conduct (5.7) to answer questions for disciplinary purposes.

Furthermore, the Fitzgerald Report recommended that the investigation of misconduct by members of the Police Force should be carried out by commissioned officers.

## Complaints Processing

### Initial Assessment

Matters received by the Complaints Section receive initial assessment by the Chief Officer. Options available upon initial assessment include the following:

- The complaint is frivolous or vexatious and should be summarily rejected. Section 2.29(b) of the Act empowers the Chief Officer to reject complaints on this basis. A complaint may be rejected on this basis if inherently implausible or if it appears to have been made by a person suffering from mental illness, it is a repetition of previously unsubstantiated allegations or it appears to have been motivated by vindictiveness or mischievousness.
- A complaint may be referred to the Commissioner of the Police Service for investigation in accordance with guidelines and directions issued by the Commission to the Commissioner of the Police Service on 20 July 1990. These guidelines are discussed above. Matters referred pursuant to the guidelines include alleged breaches of discipline

(such as neglect of duty) and matters involving allegations of misconduct of a minor nature generally classifiable as matters not warranting dismissal (for example, incivility and minor instances of harassment). It should be noted that as the number of active complaints within the Section increases it will be necessary to raise the level of those matters assessed as involving minor misconduct and hence referred to the Commissioner for investigation.

- If the initial assessment is that the matter involves official misconduct as defined in Sections 2.22 and 2.23 of the Act, the OMD is primarily responsible for investigating the matter pursuant to Section 2.20(2)(e).
- Where a complaint relates to alleged misconduct of an officer holding an appointment in a unit of public administration other than the Police Service, the matter may be referred to the principal officer of the relevant unit of public administration to investigate whether internal disciplinary action should be taken. Such matters may include matters involving a prima facie case of official misconduct as Misconduct Tribunals presently have original jurisdiction to hear disciplinary charges of official misconduct only in relation to the Police Service. All such cases are referred by the Chief Officer to the Director for his consideration and the Director in turn is required by Section 2.24 to report to the Chairman in respect of these matters. There has been no case to date of a sufficiently grave nature to warrant the Commission's seeking to have the unit of public administration or the position concerned declared by Order in Council for the purpose of conferring original jurisdiction on Misconduct Tribunals (although this can be done retrospectively). It is intended that such prescriptions be sought on a case by case basis.
- Simply because a complaint alleges that a major crime has been committed or the existence of organised crime, does not mean the Commission will investigate the matter. Application of Section 2.15 of the Act, which lists the responsibilities of the Commission, requires the Commission to investigate organised or major crime but only where, in the Commission's opinion, such investigations cannot be effectively discharged by the Police Service or some other agency of the State.
- An assessment that a matter is not within the jurisdiction of the Commission can be made on various bases:
  - An initial assessment may be that although the conduct complained of is of a grave nature (even of a criminal nature) it does not involve official misconduct or the misconduct of any police officer. In such cases the matter is then referred to the appropriate agency.

- Even where the conduct complained of relates in some way to the performance of duties or the exercise of powers within a unit of public administration, an assessment needs to be made as to whether or not that conduct amounts to official misconduct. Official misconduct is defined in Sections 2.22 and 2.23. Conduct, though clearly misconduct, will only amount to official misconduct if it constitutes or could constitute a disciplinary breach that provides reasonable grounds for termination of a person's services in a unit of public administration or a criminal offence.
- In determining whether official misconduct is involved, an assessment must be made in each case as to whether or not the organisation concerned is a unit of public administration. The term is defined in Section 1.4 of the Act but difficulties have been experienced in the application of paragraphs (f) and (g) of that definition. Those paragraphs define as units of public administration:
  - 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;
  - Every non-corporate entity established or maintained pursuant to an Act, which is funded to any extent with monies of the Crown, or is assisted in a financial respect by the Crown.

The application of these paragraphs has led to some interesting results. For example, it would appear that one of the principal components of our criminal justice system, the Corrective Services Commission, is not a unit of public administration. On the other hand, it appears that the Rockhampton Girls' Grammar School is a unit of public administration and thus within the jurisdiction of the Commission. Certain local Turf Clubs and Jockey Clubs are units of public administration but one of the parent bodies, the Queensland Turf Club, appears not to be a unit of public administration. Other Acts such as the Electoral and Administrative Review Act and the Public Sector Management Commission Act use a similar definition. These bodies and other Government agencies have also experienced difficulties in applying the definition. A working party has been established to consider the matter and the Commission is represented on that working party.

- Some complaints involve allegations of police officers falsely attributing confessional statements to persons found guilty of criminal

offences. Mr Fitzgerald Q.C. recommended that:

“Although the community may have to accept that some past injustices will go uncorrected, special consideration should be given for a review of the convictions of any who have previously raised allegations of ‘verballing’ with this Commission or with the Government, who are still in prison and who do not have current appeals.”

The Attorney-General is presently considering conferring this jurisdiction on a unit to be established within his Department to be known as the Remediation of Miscarriage of Justice Unit. Some complaints made to this Commission have already been referred to the Department of the Attorney-General for consideration by this unit when established.

- The courts of the State of whatever jurisdiction, and the registries and other administrative offices are units of public administration within the meaning of the Act. Where an initial assessment of a complaint reveals that the conduct complained of is that of a judge of, or other person holding judicial office in, a court of the State, the authority of the OMD pursuant to Section 2.20(3) of the Act, to conduct an investigation into that conduct:
  - (a) Is limited to investigating misconduct such as, if established, would warrant removal from office;
  - (b) Shall be exercised by the Commission constituted by the Chairman; and
  - (c) Shall be exercised in accordance with appropriate conditions and procedures settled in continuing consultations between the Chairman and the Chief Justice of the State.

These special considerations were considered necessary in order to preserve the independence of the judiciary.

- As mentioned earlier, although Mr Fitzgerald Q.C. recommended that the OMD be able, at its discretion and with circumspection, to investigate both anonymous and “stale” complaints, the Act confers no such discretion. However, the finite resources of the Commission demand that more stringent tests be applied when determining whether anonymous and stale complaints should be investigated. In both cases the Commission looks for some corroborative evidence, whether existing or obtainable by the expenditure of an amount of resources justifiable in the circumstances. An assessment that a complaint is stale depends upon the circumstances. For example, a complaint of an assault of a minor nature may be assessed as stale if not brought to the attention of the Commission within the first few days of its alleged commission

particularly where there is no supporting medical evidence. On the other hand a complaint involving the substantial misappropriation of official funds may be assessed as warranting investigation although it occurred some years ago.

- When assessing whether or not a complaint warrants investigation the Commission now has regard to the following criteria—:

#### **Degree of Seriousness of Alleged Misconduct**

- Is the misconduct of a trivial or technical nature only?
- Are there any mitigating or aggravating circumstances?
- Would the consequences of prosecution action or disciplinary action be unduly harsh and oppressive or be likely to be regarded as such by most officers of the relevant Unit of Public Administration?
- Would the investigation or resultant prosecution action or disciplinary action be perceived as counter-productive, for example, by bringing the law or the criminal justice system (or the disciplinary system) into disrepute?
- Does the alleged misconduct involve a group of persons acting in concert?
- Is the alleged misconduct of a continuing nature?

#### **Public Interest**

- Does the community have a genuine interest in having the matter investigated?
- If the matter is not investigated, what will be the effect on public order and morale?
- Does the matter relate to essential institutions such as the Parliament, the Courts or the Police Service to the extent that public confidence in those institutions may be eroded if the matter is not investigated and the alleged wrong-doers brought to justice?

#### **The Likelihood of the Commission being able to Conduct a Successful Investigation**

- How stale is the alleged misconduct?
- Are there likely to be problems in locating or interviewing relevant witnesses?
- Is the complainant willing to co-operate with the investigation and any consequent prosecution action or disciplinary action?

#### **What Resources are likely to be Committed to the Investigation if the Matter is to be Properly Investigated**

- How long is the investigation likely to take?

- How many investigators and other personnel will need to be deployed in the investigation?
- What additional expense is required to undertake the investigation?

#### **Special Circumstances Relating to the Alleged Wrong-doer**

- What is the age and experience of the alleged wrong-doer?
- What is the state of his physical and mental health?
- Has the alleged wrong-doer been convicted of or disciplined for misconduct of a similar nature, or been the subject of allegations of misconduct of a similar nature?
- Are there any other relevant personal particulars of the alleged wrong-doer?

#### **The Prevalence of the Alleged Misconduct**

- Is there a need to investigate and take prosecution action or disciplinary action by way of a deterrent, whether personal or general?

#### **Is the State or any other Person or Body likely to be Entitled to Claim Compensation, Reparation or Forfeiture if Prosecution Action is Successful?**

#### **Is any Other Agency Investigating or Capable of Investigating the Alleged Misconduct?**

#### **The Obsolescence or Obscurity of the Law or Rule Breached**

- Particularly in relation to proposed disciplinary action, is the rule no longer generally complied with?

#### **Is the Alleged Wrong-doer Willing to Co-operate in the Investigation or Prosecution of Others or has the Alleged Wrong-doer already done so, and if so, to what Extent?**

#### **Factors affecting priority of investigations**

In addition to the sheer volume of complaints, there are several other factors which intervene to increase the intensity of the work in the Complaints Section, in particular the pressure to finalise matters which for one reason or another have a priority status.

#### **Fresh Assaults**

There is unfortunately a high incidence of alleged police assaults on civilian defendants. To 30 June 1991, approximately 15 percent of allegations against police related to assault. Some, on the basis of the medical evidence, would appear to have been quite severe. The investigation of police assaults is notoriously difficult as the civilians involved are normally

very vulnerable persons of low forensic credibility and usually alone or in the company of like individuals. Almost invariably the police club, as the police culture has been described by Mr Fitzgerald Q.C., demands that police officers stick by their mates and provide the same story when questioned by investigating officers. Against this background stale complaints, that is complaints more than a few days old or, in the case of severe injuries a few weeks old, are very difficult to investigate successfully. The only good chance of successful investigation is to attend the scene of the alleged assault within hours, or at the very least a day or two, obtain an independent medical examination of the alleged victim and immediately search for corroboration of the victim's story through the observations of independent witnesses or some other independent means. With such an immediate and vigorous response there is some prospect of successful investigation; without it there is very little chance.

The Commission has sufficient medical and other evidence before it to conclude to its satisfaction that resort to violence by police is a problem within Queensland, although it is acutely aware that successful investigation and prosecution is likely to prove very difficult.

The Commission is fortified in its resolve to vigorously pursue such allegations by overseas experience, in particular that of the Public Complaints Commissioner in Ontario, Canada where over a period of a decade allegations of assaults by members of the Toronto Metropolitan Police Force on civilians in that city dropped dramatically, both in numbers and in severity, at least partially due to the endeavours of the Public Complaints Commissioner. Even where complaints of assault were not amenable to successful investigation, the mere fact that errant police were subjected to vigorous questioning and a requirement to account for their actions within hours of the allegation having been made, brought home to them that they had no right to inflict extra-judicial punishment and to stand in the place of judge, jury and jailer.

• **Police Promotion or Resignation**

Pursuant to the integrity vetting provisions of the Police Service (Administration) Regulations, a police officer is at risk of not being promoted while he is the subject of an outstanding complaint of misconduct. These provisions, although very necessary in the Commission's view to guard against the malpractice of the past, also have the capacity to work a grave injustice to the police officers concerned. Police officers' future advancement is effectively stultified while the complaint remains outstanding, even though that complaint may be without foundation.

Further, when a police officer resigns it has become the practice of the Commissioner of the Police Service to seek a clearance to that

resignation from the Commission. The Commissioner is reluctant to allow any officer to resign if that officer is currently the subject of investigation which might lead to a criminal charge or a charge of official misconduct before a Misconduct Tribunal. Once an officer resigns, and his resignation is accepted, the Misconduct Tribunals are (effectively) robbed of jurisdiction as the maximum penalty the Tribunals can inflict is one of dismissal. If a police officer who should be dismissed is allowed to resign, it can result in that person accruing significant superannuation benefits to which he or she would not otherwise be entitled. There is therefore considerable pressure on the Commission to finalise the investigation of such complaints as soon as possible.

• **Pending Criminal Proceedings**

The resolution of complaints of official misconduct or misconduct may be relevant to the issues in pending criminal proceedings, and the courts from time to time adjourn matters under investigation by the Commission pending the results of those investigations. When this occurs, the Commission is placed under considerable pressure to complete the investigation and provide the result to the complainant and other interested parties prior to the adjourned hearing date.

• **Matters of Interest to the Parliamentary Criminal Justice Committee**

From time to time persons with an interest in the resolution of a complaint make representations to the Parliamentary Criminal Justice Committee or to a Minister of the Crown, most frequently the Minister for Police and Emergency Services, the Attorney-General, the Premier or the Minister for Justice, which representations lead to a request to the Commission for information or the results of an investigation. Within its competing priorities, the Commission attempts to satisfy such queries as soon as it reasonably can, which places further pressure on the staff and resources of the Complaints Section.

• **Matters of Public Interest/Media Interest**

Although matters of public interest and media interest are dealt with together under this heading, they in fact are not necessarily coterminous. Within the limits of its resources the Commission attempts to deal on a priority basis with matters of substantial public interest, such as the Jury Tampering investigation, or the matter of the Rochedale Dump. However, there are matters of particular media interest, such as the hobby horses of investigative journalists which place additional pressure on the staff of the Complaints Section although the Commission tries, as far as possible, not to allow such campaigns to distort its other priorities.

### • Obsessive Interest of Some Complainants

Some complaints are made by complainants who for one reason or another, are obsessed with the validity and importance of their particular matter and convinced of the righteousness of their cause beyond all reasonable argument. Although they represent a small percentage of all complainants, they have a disproportionate and quite damaging effect on the work of the Complaints Section. Despite dispassionate and appropriate investigation they are unlikely ever to be satisfied and almost invariably complain bitterly when the result is not everything that they desire.

The Commission is often only one of a long line of organisations with whom they have lodged similar complaints and their dissatisfaction with the results of Commission investigative endeavours are soon lodged in extreme terms with the Parliamentary Criminal Justice Committee, various media outlets, Ministers of the Crown and sundry other politicians. Although there are only a handful of such people, they invariably generate the need for response after response and tie down valuable resources which could be far more productively used on genuine complaints of real substance. They probably represent less than two percent of all complainants, although by their incessant and obsessive campaigning they act greatly to the prejudice of the Commission's credibility.

### • Other Factors Affecting Investigation of Complaints

#### The Need for Circuits to Regional Centres

The Commission is an organisation which is meant to serve the State of Queensland, not just the Brisbane metropolitan area or the south-eastern corner. A large number of complaints furnished to the Complaints Section have their source in centres throughout Queensland. Given the limited investigative resources available to the Commission to undertake its function of investigating complaints, these regional matters create special difficulty.

To provide for the most efficient use of available resources the Commission has settled upon a circuit arrangement whereby complaints in regional areas are accumulated and then dealt with as a group when an investigative team undertakes a circuit to that regional area. The larger areas are fairly well served by this arrangement but particular difficulty occurs when matters arise in remote areas of the State. To access truly remote areas may mean that an investigative team of two members could be absent from the Commission's Brisbane headquarters for one week to attend to one matter which in any event may require a follow up visit. It is almost inevitable that these remote areas,

given the limit on resources and the Commission's priorities, will suffer substantial delays in the investigation of their complaints.

The Commission also faces the considerable difficulty of responding immediately to complaints in remote areas, in particular complaints which have a high priority such as complaints of assaults by police officers. The Commission is currently negotiating with the QPS for that Service to nominate, if not to dedicate, a commissioned officer in each region to attend to urgent Commission investigations in that region for and on behalf of the Commission as a Commission investigator.

#### Procedural Fairness in Hearings

The Commission has already held 21 hearings in respect of matters properly categorised as Complaints Section matters. A total of 30 private hearings covering all OMD investigations have been conducted to date. These hearings have been conducted in private by application of the criteria discussed below.

#### Procedural Fairness in Investigation

The Complaints Section strives to conduct investigations impartially, expeditiously and effectively. Investigations are carried out by experienced commissioned officers. The reasons for selecting commissioned officers to carry out these investigations have been already discussed. However, it is felt that this selection carries with it another bonus relating to procedural fairness—namely, that officers the subject of false or trivial complaints will be comforted by the fact that the investigation will be carried out by an experienced officer fully acquainted with the exigencies of police work.

Not long after the formation of the Complaints Section police officers against whom complaints had been made complained that, even though the complaints against them had not been substantiated, information relating to the complaints would appear on their files and would result in adverse inferences being drawn against them upon their seeking promotion. With this in mind the Complaints Section devised a standard letter to the Deputy Commissioner of the Police Service advising him in each such case that the complaint against the officer had not been substantiated and that the Commission recommended that no reference to the matter, adverse to the officer, be made on his/her file in respect of the complaint. In each case advice that this recommendation has been made to the Deputy Commissioner is also given to the officer concerned.

Police officers against whom complaints have been made have also argued that at the conclusion of the investigation, even where the complaint is not substantiated, the complainant is given more particulars of the investigation than they are. The Commission is torn between two competing considerations—on the one hand the desire to achieve procedural fairness in the eyes of the police officers against whom the complaints are made and on the other hand the statutory requirement that officers of the Commission maintain confidentiality in respect of matters brought to their attention in the course of their duties. The Commission's view is that the requirement to maintain confidentiality contained in Section 6.7 of the Act does not permit it to divulge to officers complained of details of the investigation. This position should be compared with that existing in respect of information to be given to complainants pursuant to Section 2.24(4) of the Act which requires the Director of the OMD to cause a response to be given to the complainant (if his/her identity and whereabouts are known to the Commission) that states:

- (a) If no action has been taken on the complaint, the reason for inaction;
- (b) If action has been taken on the complaint, what that action is, the reason that action is appropriate in the circumstances of the case and the result of that action, if it be known at the time of making the response.

### Fairness to Complainant

In most instances, complainants are initially interviewed by Complaints Officers following which a preliminary assessment is made by the Chief Officer of the Complaints Section. Where a determination is made that a matter warrants investigation by the Complaints Section, the complainant is reinterviewed by an investigator.

After a matter has been finally assessed, a response is furnished to the complainant in compliance with Section 2.24(4) of the Act, discussed above. Furthermore, where practicable, the complainant is further debriefed by a Complaints Officer. This debriefing is conducted by telephone or, if the complainant so desires, by personal interview.

### Review of Referred Investigations

In order to cope with its burgeoning workload, the Complaints Section has adopted a policy of increasing the threshold of seriousness of the complaints which it will investigate in the future. The fiat for doing so is contained both in the Fitzgerald Report and in the Act. The Report envisaged that the Complaints Branch could refer "trivial or purely disciplinary matters to Chief Executives of departments or the Commissioner of Police to investigate and take appropriate action".

By Section 2.29 of the Act after assessment what further action is necessary or desirable is left to the discretion of the Commission. As mentioned above, the Commission has adopted the philosophy of acting in accordance with the full and undiminished scheme of the Fitzgerald Report for a twelve month period to gain experience in the operation of the OMD before proceeding to modify that scheme in the light of experience. It is clear that the Commission cannot hope to deal with the volume of complaints which continues to flood into the Complaints Section, increasingly from the public sector. As a consequence given the Commission's limited capacity to provide additional staffing to the Complaints Section, it has no choice but to raise the threshold of complaints which will be investigated by the Commission, referring other complaints either to the Chief Executives of departments or to the Commissioner of the Police Service to investigate. To this time only 13% of all complaints have been dealt with in this way, although this will increase in the future. The best estimate the Commission can make, given the current receipt of complaints at 45 per week, is that it can only sustain an investigation rate of one half of the total number of receivals, in particular given the fact that those complaints which are retained for investigation will by and large be matters of substance and weight requiring greater depth and intensity of investigation.

It must be remembered that those matters which are referred either to Chief Executives or the Commissioner of the Police Service for investigation will, after investigation ultimately find their way back to the Complaints Section for review to determine whether they have been properly and appropriately investigated. If they are found upon review not to have been so investigated (and there have been several instances of this already including a cavalier attitude adopted in certain police regions which smacks of a return to the type of investigation so trenchantly criticised by Mr Fitzgerald Q.C.), then those matters will either be re-investigated by the Commission or referred back for further investigation accompanied by a requisition setting forth the further steps which need to be taken to provide for an acceptable level of investigative endeavour. This review process will become increasingly burdensome in particular on the legal staff within the Complaints Section as increasing numbers of complaints are referred outside the Commission for investigation.

### De-briefing of Complainants

By Section 2.24(4) of the Act a complaint of official misconduct or misconduct furnished to the Complaints Section requires a response to be given to the complainant whether or not action has been taken, detailing the action taken or the reason for inaction. The Commission, acting on the experience

of overseas agencies, has determined not only to provide a written response to complainants but to personally de-brief them. The reason for this initiative, which is usually undertaken by the complaints officer assigned to each complaints team, is a view that the Complaints Section is providing a service to the public. This is a clear break from a tradition which viewed the receipt and servicing of complaints as simply a nuisance which had to be endured. The de-briefing program which has now been under way for several months has brought forth some very positive feedback and the experience to date is that most complainants, even if they do not agree with the result of the investigation, very much appreciate the opportunity of being told personally of the results of the investigation undertaken at their instigation. This program has almost certainly reduced the number of disgruntled complainants, although equally as clearly there is a certain class of complainant who will never be satisfied no matter what the extent of the investigative response has been.

### Final Assessment of Complaints

Every complaint investigated within the OMD, whether by an investigator within the Complaints Section or within a Multi Disciplinary Team, is made the subject of a report to the relevant Team Leader. Each report together with the Team Leader's recommendation is then referred to the Chief Officer, Complaints Section, for further assessment. The Chief Officer assesses each matter in accordance with Section 2.29 and the guidelines issued to him by the Commission on 5 October 1990. The options available include the following:

Cases assessed as involving a prima facie case of official misconduct or criminal conduct are referred to the Director of the OMD who in turn reports to the Chairman in respect of each matter. With the Chairman's approval, a copy of that report may be forwarded to:

- The Director of Prosecutions or other appropriate prosecuting authority, with a view to prosecution proceedings;
- To 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;
- To the Chief Justice or other principal judicial officer of the relevant court;
- To the principal officer of the unit of public administration concerned with a view to disciplinary action being taken.

Where the Director reports to the Chairman that a matter involves official misconduct and the Chairman is in agreement, the Director forwards a copy of the report to the principal officer of the unit of public administration concerned. The receipt by the principal officer of that report requires that

officer to charge the person the subject of the report with the relevant official misconduct by way of a disciplinary charge. As explained earlier, a Misconduct Tribunal has jurisdiction only where the unit of public administration or the position concerned has been prescribed by Order in Council for the purposes of the Act. When no such prescription has been made, a copy of the report may be referred to the principal officer concerned for the taking of appropriate internal disciplinary action.

In many cases there may be no evidence whatsoever to support the allegations or insufficient evidence to support them. Inevitably, this is the final assessment in the majority of matters investigated.

A final assessment whether resulting in disciplinary action or not may involve making recommendations to the principal officer of the unit of public administration concerned that certain administrative changes be implemented or that certain directions be issued in order to obviate the occurrence of future complaints of a similar nature. The Commission has already issued more than 20 recommendations of this kind to the Commissioner of the Police Service which are discussed later in this Report, and a number of other principal officers.

Matters the subject of report by the Director to the Chairman may result in such other action as the Chairman considers appropriate.

In many instances, although no disciplinary action is recommended, the matter is referred to the Commissioner of the Police Service for officers the subjects of the complaints to be chastised or corrected by way of guidance. This is regarded not as disciplinary action but as training.

The matter may not be within the Commission's jurisdiction. In some instances, this is not apparent until the matter has been partially investigated.

### Complaints Section—Record of Achievements

The Commission would contend that despite the considerable difficulties outlined above, the Complaints Section has a record of considerable achievement. The volume of complaints being received is testament to the vacuum it has filled in public life in Queensland and the degree of credibility with which it is regarded.

One of the principal achievements of the Commission has been the establishment of a multi-disciplinary section for the assessment and investigation of complaints against members of the Police Service and other public officers. As explained earlier the establishment of the Section has been undertaken in less than ideal circumstances (at times approaching chaos) as a result of the Section opening for business before being staffed and the disruption caused by the relocation of the



Commission. Its immediate and continued public acceptance is best evidenced by the volume of complaints received. This public acceptance has generally been echoed by favourable media coverage. The Section has sought to maintain the high level of public acceptance by impartially and professionally investigating complaints received by it.

Despite the volume of complaints received, the Complaints Section retains the ability to respond immediately to complaints requiring such attention. In respect of matters of an urgent nature arising in country areas, the Commission has issued guidelines and directions to the Commissioner of the Police Service pursuant to which the Commissioner causes preliminary investigations to be conducted until an officer of the Commission can take command of the situation. The Complaints Section's achievements in this regard must be considered in the light of its limited resources. It is useful to compare the workload and resources of the Section with those of like bodies in other jurisdictions. This comparison is made elsewhere in this Report.

The Commission in general and the Complaints Section in particular have been the catalyst for discernible changes of attitude to the performance of public duty. Some examples of this are as follows:

- Shire Clerks have reported that as a result of the existence of the Commission, they are no longer impotent in situations where they observe behaviour of Councillors giving rise to a suspicion of corruption.
- The Complaints Section has already received a number of complaints from police officers reporting suspected misconduct of fellow officers. The existence of the police club phenomenon was roundly criticised in the Fitzgerald Report. Honest police officers need no longer fear that there is nowhere to go to report suspicions of misconduct or that their careers will be adversely affected as a result of reporting misconduct.
- The Complaints Section has been instrumental in endeavours to change attitudes within the Police Service by the Section's initiative in making recommendations to the Commissioner of the Police Service as a result of complaints assessed and investigated within the Section. These recommendations are detailed later in this Report.
- The Complaints Section is also involved in initiatives taken by the Professional Standards Unit within the Police Service to improve the professionalism and image of the Service. Weekly meetings are held between senior officers of the Complaints Section and the Professional Standards Unit.

- As mentioned earlier the Chief Officer has addressed a number of seminars and other groups of public officers in respect of duties under the Act and corruption prevention measures. Officers within the Complaints Section have also addressed groups of police officers within the Brisbane area and in country regions to explain to police officers the operations of the Complaints Section and the provisions of the Act.
- The Chief Officer of the Complaints Section and the Director of the OMD have held discussions with senior officers of a number of departments of government that already have in place systems for detecting and investigating official misconduct. Agreements have been reached with such departments whereby the departments notify the Complaints Section of suspected official misconduct but continue to investigate such misconduct unless directed by the Chairman to transfer to the Commission responsibility for such investigation.

#### Problem Areas—A Summary

The high incidence of allegations against police of assault and the difficulties in substantiating these allegations have been addressed already. The Commission is giving priority treatment to such complaints.

The matters inherited from the Police Complaints Tribunal have been a substantial burden upon the resources of the OMD. As mentioned earlier, many of these matters are lengthy, complex and stale.

Of particular relevance are the complaints made by aboriginal persons against police officers. These complaints are disproportionately high in incidence and often occur in remote areas thus requiring the expense of investigation by circuit.

Many other complaints have been received from remote areas and these matters also have required investigation by circuit.

Continued close monitoring of the increasing number of matters being referred to the Commissioner of Police is required, in addition to proper assessment of reports received from the Commissioner.

To counter such attitudes, engendered over time by the police club mentality, the Commission has been forced to engage in the expensive exercise of sending senior officers to police conferences, particularly in country areas, to explain the functions and aims of the Commission.

Despite the existence of statutory requirements upon police officers and principal officers to report misconduct and official misconduct respectively,

the Commission is well aware that this duty has not always been discharged. This is once again linked to the police club phenomenon of a reluctance to "dob in your mates". The failure of principal officers of units of public administration to report official misconduct in all instances is explained, in the Commission's view, by a similar attitude and by an ignorance of the statutory duty and the non-existence of effective internal reporting systems.

Another problem faced by the Commission in the investigation of misconduct and official misconduct is the failure to report such conduct expeditiously. Matters are harder to investigate when the trail is cold or when preliminary investigations have already been carried out, often clumsily, by another agency.

The Commission has noted instances of senior officers intentionally undermining the Commission's operations. The Commission has noted similar activities among members of local authorities. Other instances have arisen among members of the public with their own hidden agendas.

By way of a final comment, the Commission stresses that the destructive effect on police community relations of police misconduct cannot be overestimated. A police service cannot be effective unless it has community support and this support will only be forthcoming when earned.

### Initiatives of the Complaints Section

The officers of the Complaints Section, when examining complaints, are constantly on the alert for circumstances or procedures likely to give rise to further complaints. The Commission then makes recommendations to the Commissioner of the Police Service or other principal officer that measures be taken to obviate the recurrence of complaints of that nature. These recommendations include the following (made to the Commissioner of the Police Service):

- The Commissioner of the Police Service was advised that the Commission had received complaints in relation to inappropriate response by police officers to "000" emergency calls, principally the length of time taken by police officers to respond to calls. It was recommended that the Commissioner of the Police Service give urgent attention to putting in place procedures to ensure appropriate response to emergency calls for police assistance.
- It was noted that the Commission had received a large number of complaints that police members had failed to supply their names or registered numbers when requested to do so by members of the public. As failure to provide name and registered number is a breach of

General Instruction 1.6, and may give rise to public perception of incivility, arrogance or deceit on the part of the police officer involved, it was recommended that all members of the Police Service be reminded of their duty to observe General Instruction 1.6.

- It had come to the attention of the Commission that in cases concerning restraining orders under the provisions of the Drugs Misuse Act 1986-1987 no action was being taken by members of the Police Service to inform institutions upon which the orders operated when such orders had ceased to have effect, the current practice then being to leave it to the person whose property was subject to the order to apply for discharge of the order. It was noted that there was no onus on police officers to obtain a discharge of orders. However, in the interest of fairness it was recommended that members of the Police Service should take steps to ensure that the holder of funds (for example a bank) is advised when an order under the Drugs Misuse Act ceases to have effect, and that the most appropriate person to do so would be the arresting officer who sought the order in the first instance. The Commissioner of the Police Service was asked to direct all members of the Police Service to comply with this general practice.
- It had come to the Commission's attention during the investigation of a complaint, that the investigating police officer in the matter had passed information to a private investigator for an insurance firm in relation to his investigation. It was considered that the release of information in similar circumstances may have become widespread, particularly in certain squads of the Police Service. It was recommended to the Commissioner of the Police Service that all officers be reminded of their duties under Section 10.1 and 10.2 of the Police Service Administration Act not to disclose confidential information, and of the provisions which exist for proper authorisation of the release of material through the Office of the Commissioner of the Police Service.
- The Commission noted that a number of complaints had been received in relation to the execution of search warrants upon premises. It was noted that one simple measure to lessen the number of complaints would be to leave a copy of the search warrant with the occupier of the premises searched. It was recommended that the Commissioner of the Police Service implement the giving of a copy of the search warrant as a standard procedure by issuing a direction under Section 4.9 of the Police Service Administration Act.
- It had come to the Commission's attention that police officers involved in an investigation under the Drugs Misuse Act had used civilian

personnel in the operation as "assistants" under Section 53 of the Drugs Misuse Act. The civilians used were fellow employees of the suspect, and also informants in the matter. It was recommended that a direction be given to all police officers to exercise extreme caution in relation to the use of civilian assistants. In particular, officers should be advised that it was inappropriate to use informants as assistants.

- It had come to the attention of the Commission that some police officers were involving themselves in investigations where they had a personal interest. Two instances were cited where officers had had an earlier physical or verbal altercation with a member of the public, and had then later taken part in arresting or summoning the person. In such circumstances, it was noted that the mere presence of the police officer may incite further altercation, or give rise to an allegation that the police officer has committed a breach of clause 5.3 of the Code of Conduct, requiring officers to perform their duties impartially. It was recommended that the Commissioner of the Police Service issue an appropriate direction in this matter pursuant to his power under Section 4.9 of the Police Service Administration Act.
- It had come to the attention of the Commission that an Aboriginal field officer had not been allowed to attend an interview conducted by police officers with an Aboriginal youth. Even though the youth's father was present at the interview, it was considered that the circumstances as outlined did not comply with General Instruction 4.54A(c) which provides that Aborigines and Torres Strait Islanders under disability will be questioned in the presence of an independent adult person concerned with the welfare of those races. The words "concerned with the welfare of those races" were considered to connote someone with a more general involvement in Aboriginal welfare than the parent of the child. It was recommended that the second paragraph of General Instruction 4.54A(c) be amended to specify that Aboriginal and Torres Strait Islanders under disability must be questioned in the presence of a solicitor or other legal adviser, or a person concerned with the welfare of those races. It was also considered that General Instruction 4.56A (which allows a suspect person the right at any stage of an investigation to consult with a solicitor) should be amended to apply to any legal representative (whether or not qualified to practise as a solicitor or barrister), so that the instruction could be seen to apply more readily to field officers for Aboriginal and Torres Strait Islander persons.
- It had come to the attention of the Commission that General Instruction 4.54A(b) relating to the questioning of children was being widely disregarded or misinterpreted. It was noted that a practice had developed of police questioning children at school in the presence of a teacher or headmaster without a parent or guardian being present. The instruction in question requires that an adult person be present for the interview as nominated by the child or parent of the child. It was unlikely in the circumstances outlined that the teacher or headmaster had been so nominated, and in any case it was considered that as the teacher or headmaster could be considered an authority figure the child was likely to feel overborne. It was considered that in a case where it was inappropriate for a parent or guardian to be present (for example where the parent was alleged to be involved in the suspected offence) other suitable arrangements should be made, such as an officer from the Department of Family Services and Aboriginal and Islander Affairs being present. It was recommended that the Commissioner of the Police Service issue a direction to this effect under Section 4.9 to clarify procedure in relation to questioning of children.
- The Commission received a complaint that a police vehicle escorting a wide load had been driven dangerously. The Commission's investigations disclosed that guidelines regarding the conduct of such police escorts did not exist and it was recommended that consideration be given to the issuing of appropriate guidelines.
- The Commission received a complaint relating to an accident at a sugar tram crossing. Officers of the Commission inquired into the use of traffic signs at the crossing. The investigation showed that the driver of a motor vehicle which collided with a cane train could have been under the misapprehension that the line was not in use as a "lights not in use" sign was present at the scene at the relevant time and had been there for some time previously. The potential danger of such signs is that persons used to seeing the signs at a particular crossing might not pay adequate attention to the crossing if it were to be used at any time. The Commission recommended that consideration be given to discontinuing the use of such signs and that sugar mills be made aware of the potential danger of their use.
- An investigation of a search of premises conducted pursuant to the "emergency" power under Section 18(12) of the Drugs Misuse Act to search premises without a warrant revealed that the power was not being used solely in cases of genuine emergency. On some occasions it appeared that the power was being used simply to avoid the requirements for the

obtaining of a warrant. The Commission recommended that the General Instructions be amended to provide that entry without a warrant pursuant to Section 18(12) must not be effected unless a situation of genuine emergency arises and there exists no reasonable opportunity for the obtaining of a warrant beforehand.

- The Commission recommended to the Commissioner of the Police Service, as a result of an investigation conducted by it, that he issue a direction to police officers that warrants of apprehension relating to school children not be executed at school unless police are of the view that the child is about to flee the jurisdiction or is seeking to avoid detection.
- The Commission recommended to the Commissioner of the Police Service that Section 17 of the Drugs Misuse Act (which provides that body cavity searches may only be ordered by Commissioned Officers and carried out by medical practitioners) should always be complied with even where the person the subject of the search has consented thereto.
- In the course of an investigation by the Commission it came to attention that police involved in the management of Police Citizens' Youth Clubs do not receive adequate training to ensure that they are fully conversant with the provisions of the Art Union and Amusements Act 1976-1984 and Regulations. The Commission recommended the introduction of a comprehensive training scheme and certain other safeguards relating to the measures to be adopted by persons promoting, conducting and assisting with art unions within the clubs.
- The Commission investigated a complaint regarding the entry of a home by police officers in the early hours of the morning in pursuit of a suspected traffic offender. The Commission expressed its concern to the Commissioner that the power to enter property pursuant to section 43 of the Traffic Act 1949-1985 be exercised with appropriate restraint, particularly at night. The Commission recommended that directions be issued requiring officers to exercise this power with restraint and to take into account criteria such as the seriousness of the suspected offence and the time of day.
- As a result of a complaint that the Crime Stoppers Unit had publicly issued incorrect information concerning a suspect, the Commission recommended to the Commissioner of the Police Service the implementation of certain safeguards to ensure the accuracy of information released by that Unit.
- The Commission received a complaint that a police officer at an Aboriginal Community had used "Mace" to subdue an Aborigine who

threatened police officers with a weapon. The Commission advised the Commissioner of the Police Service that although police officers were authorised under the *Firearms and Offensive Weapons Act* to possess dangerous articles and offensive weapons, such protection extended only to items issued to police officers and used in the course of their duties. The Commission recommended that the Commissioner consider the appropriateness of the use of "Mace" or similar substances and that directions be issued either prohibiting their use or providing clear guidelines concerning their use.

- The Commission, having received a number of complaints alleging that traffic offence notices had been improperly waived by police officers as favours to other officers, friends or acquaintances, ascertained that no formal guidelines had been issued governing the circumstances in which such traffic offence notices could be waived. The Commission suggested as an appropriate starting point, that traffic offence notices should only be waived if:
  - A technical fault existed in the issuing of the Notice; and
  - The prosecution was unlikely to be successful.
- The Commission received complaints alleging that single males in a Brisbane suburb were being subjected to unjustified questioning by police officers as part of a concerted effort by police officers to harass suspected homosexuals. The Commission concluded some of the methods used by the police officers had been heavy handed and unnecessary and that some of the patrols were not being conducted within Police Service Guidelines. Therefore, the Commission recommended to the Commissioner of the Police Service that directions be given to ensure that the policing of this area was in accordance with the recent change to legislation concerning consensual homosexual activities.
- An investigation carried out by the Commission disclosed that no Guidelines had been issued by the Commissioner of the Police Service concerning the circumstances in which vehicles carrying heavy loads would be required to obtain police escorts before negotiating potential trouble spots within the State. The Commission recommended that the matter be considered by the Commissioner and appropriate Guidelines issued.
- The Commission received a number of complaints from persons concerning the use by police officers of the choker or sleeper hold when effecting arrests. In most of these cases, the persons being arrested had committed minor traffic breaches and during the

confrontation which followed, had been arrested for offences such as use of obscene language or failure to provide name and address. It was clear to the Commission that the use of this hold was widely employed when effecting arrests. In a number of cases, complainants maintained that when the hold was applied to them they lost consciousness briefly. The Commission referred the Commissioner of the Police Service to an article in a journal in which it was stated that Los Angeles Police Department officers often employed this hold when arresting persons and that between 1975 and 1982, 15 people had died following the application by LAPD officers of choker holds. The Commission recommended to the Commissioner that he give urgent consideration to the matter with a view to either prohibiting the use of the hold or restricting its use to specified extraordinary circumstances.

The Commission has also recommended to principal officers of other units of public administration the implementation of procedures

and the issuing of directions and guidelines to address situations likely to give rise to corruption or other abuse by officers of those units.

### STATISTICAL INFORMATION

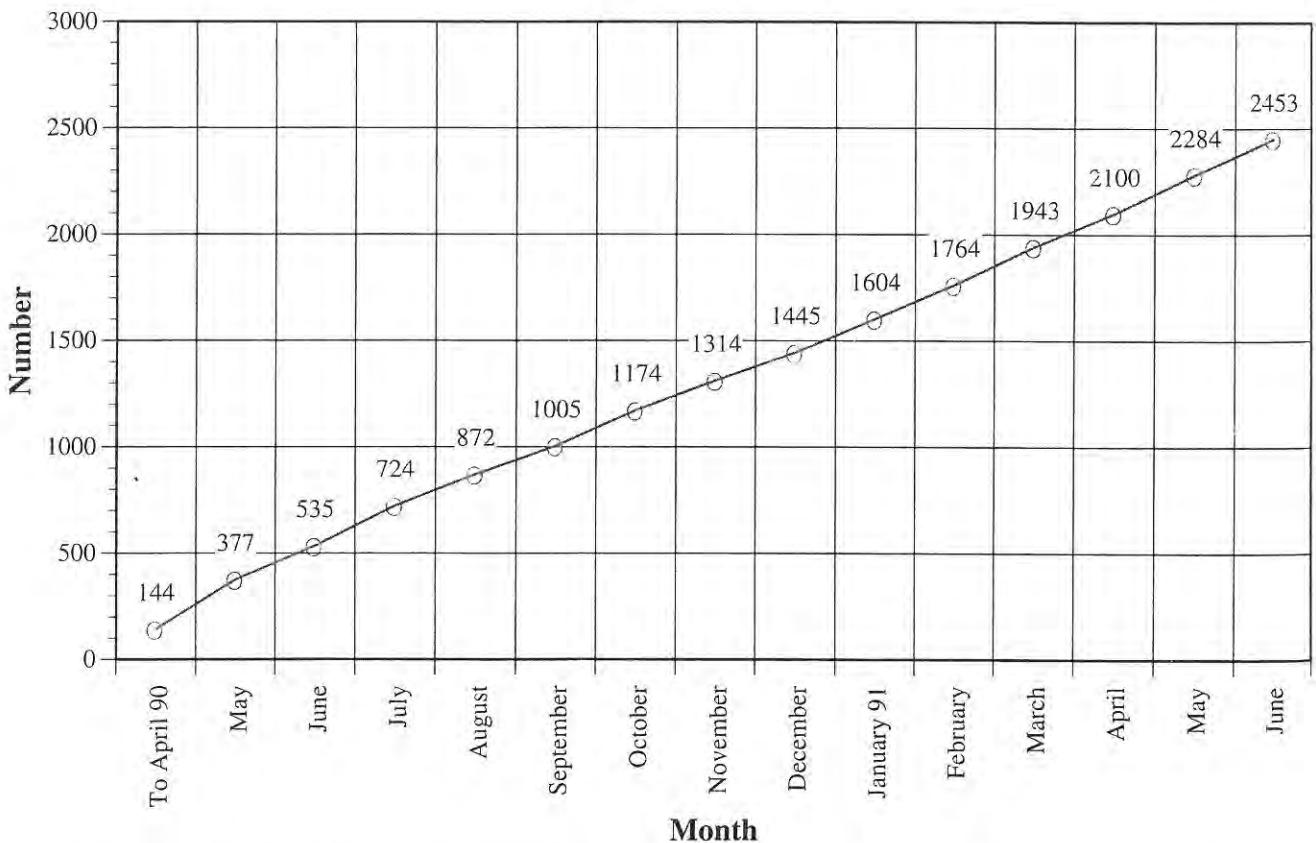
The significant task of data collection associated with complaints received has been completed.

The database now established provides a source of management information for monitoring the workload, progress and performance of the Commission with respect to the complaints. It also enables the Commission to analyse trends in complaints and identify potential or actual problem areas within the Police Service.

Graphs have been compiled showing key aspects of this workload, progress and performance for the period 22 April 1990 to 30 June 1991.

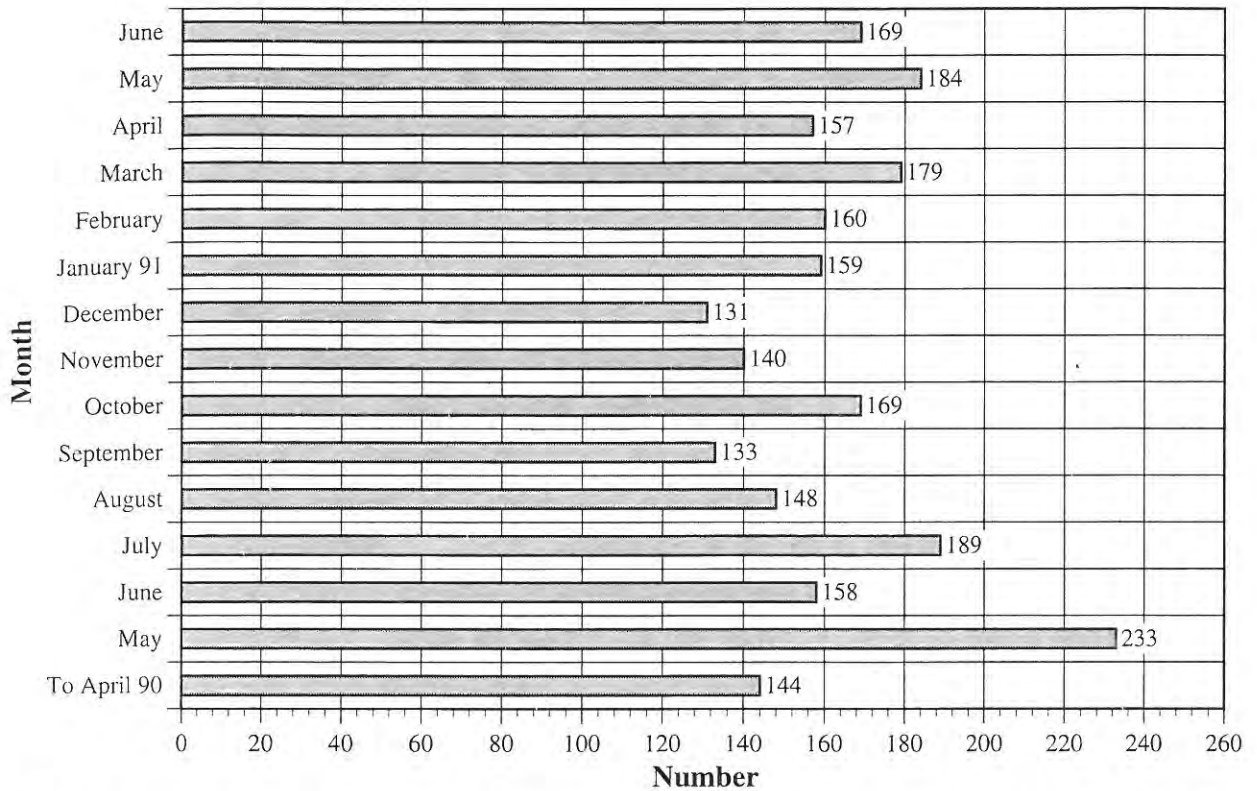
**Complaints Received**—Refer graphs 1(a), (b), (c), (d)

**GRAPH 1(a) COMPLAINTS RECEIVED (to 30 June 1991)  
Progressive Total**



- To 30 June 1991, 2,453 complaints had been received.
- The 2,453 complaints received involved 5,504 allegations against 3,564 subjects. Each complaint averages 2.2 allegations against 1.5 subjects.

**GRAPH 1(b) COMPLAINTS RECEIVED (to 30 June 1991)  
By Month**

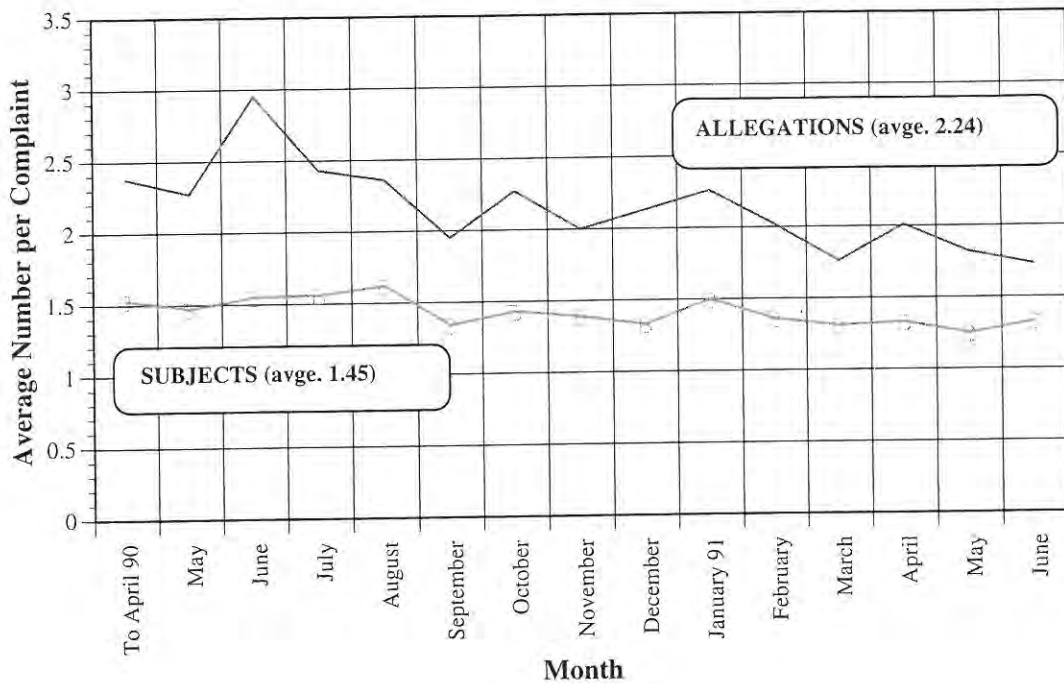


- The May 1990 figure (233 complaints received) resulted in part from the registration during that month of 66 complaints transferred to the Commission from the Police Complaints Tribunal.

**GRAPH 1(c) COMPLAINTS RECEIVED (to 30 June 1991)  
Completion by Percentage**

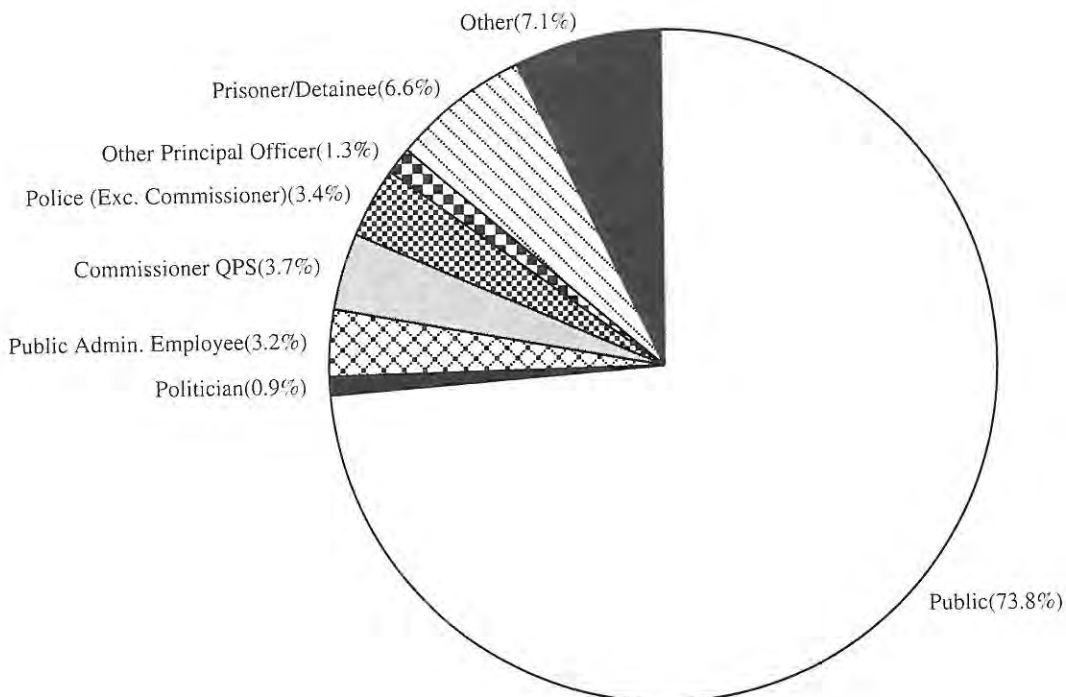


**GRAPH 1(d) COMPLAINTS RECEIVED (to 30 June 91)  
Subjects/Allegations Per Complaint**



- The OMD's workload is significantly higher than the number of complaints received, as complaints generally involve two or more allegations. Allegations contained in one complaint are often unrelated and require separate investigation.

**GRAPH 2 COMPLAINTS RECEIVED (to 30 June 1991)  
Category of Complainant**



- The large majority of complainants are members of the public (73.8%).
- Prisoners and detainees comprise the next most significant class of complainants (6.6%).

**Allegation Details** (Refer graphs 3(a), (b))

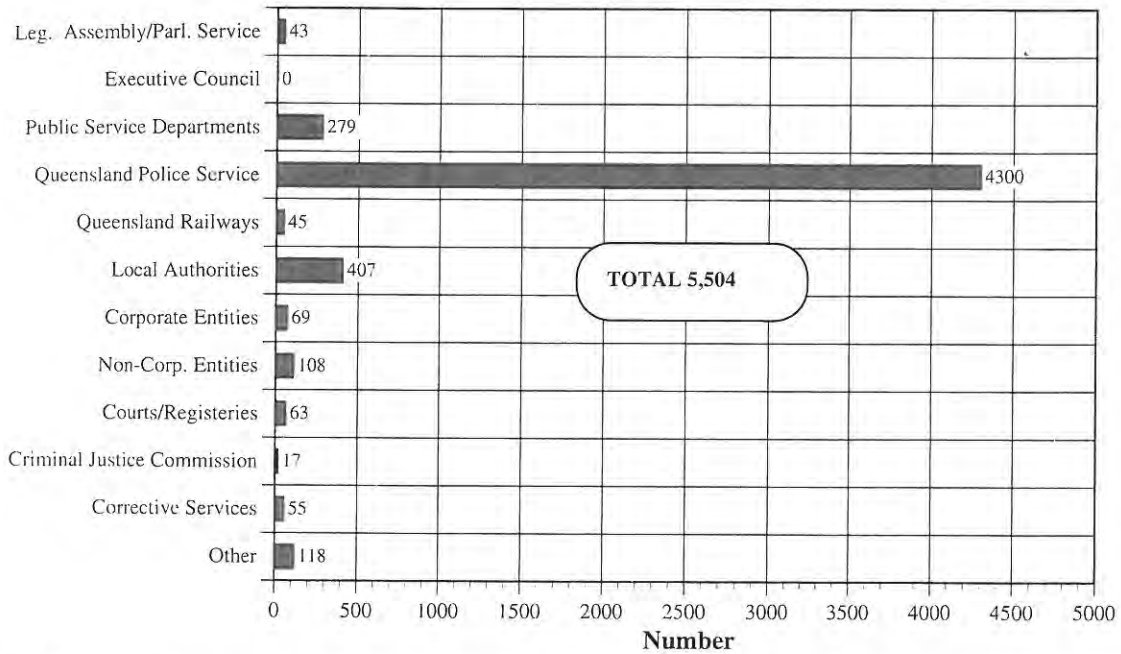
- Of the 5,504 allegations contained in the 2,453 complaints, 4,300 allegations representing 78% are against the Queensland Police Service.
- The other significant categories are Public Service Departments (5.1%) and Local Authorities (7.4%).

• The most significant allegations are:

- Failure to Perform Duties 907 (16.5%)
- Corruption/Favouritism 667 (12.0%)
- Harassment 490 (8.9%)
- Assault 535 (9.7%)
- Behaviour 565 (10.3%)

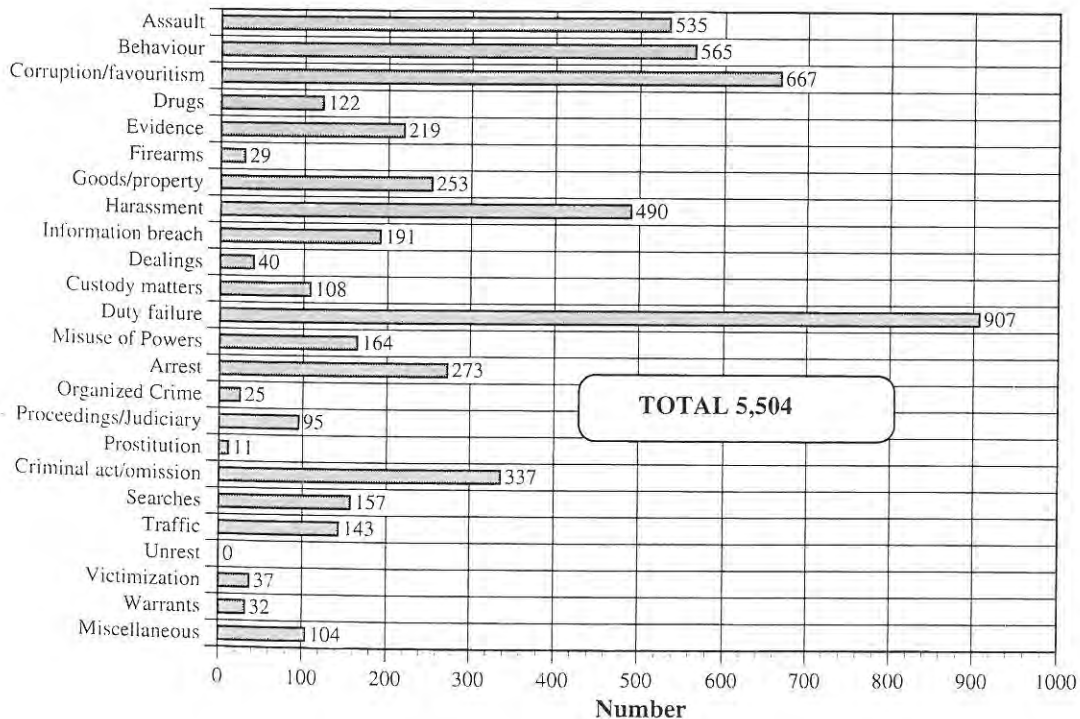
A full explanation of the types of allegations is annexed to this Report as Appendix G.

**GRAPH 3(a) COMPLAINT ALLEGATIONS (to 30 June 1991)  
By Subject of Allegation**



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**GRAPH 3(b) COMPLAINT ALLEGATIONS (to 30 June 1991)  
By Type of Allegation**





**OFFICIAL MISCONDUCT DIVISION**

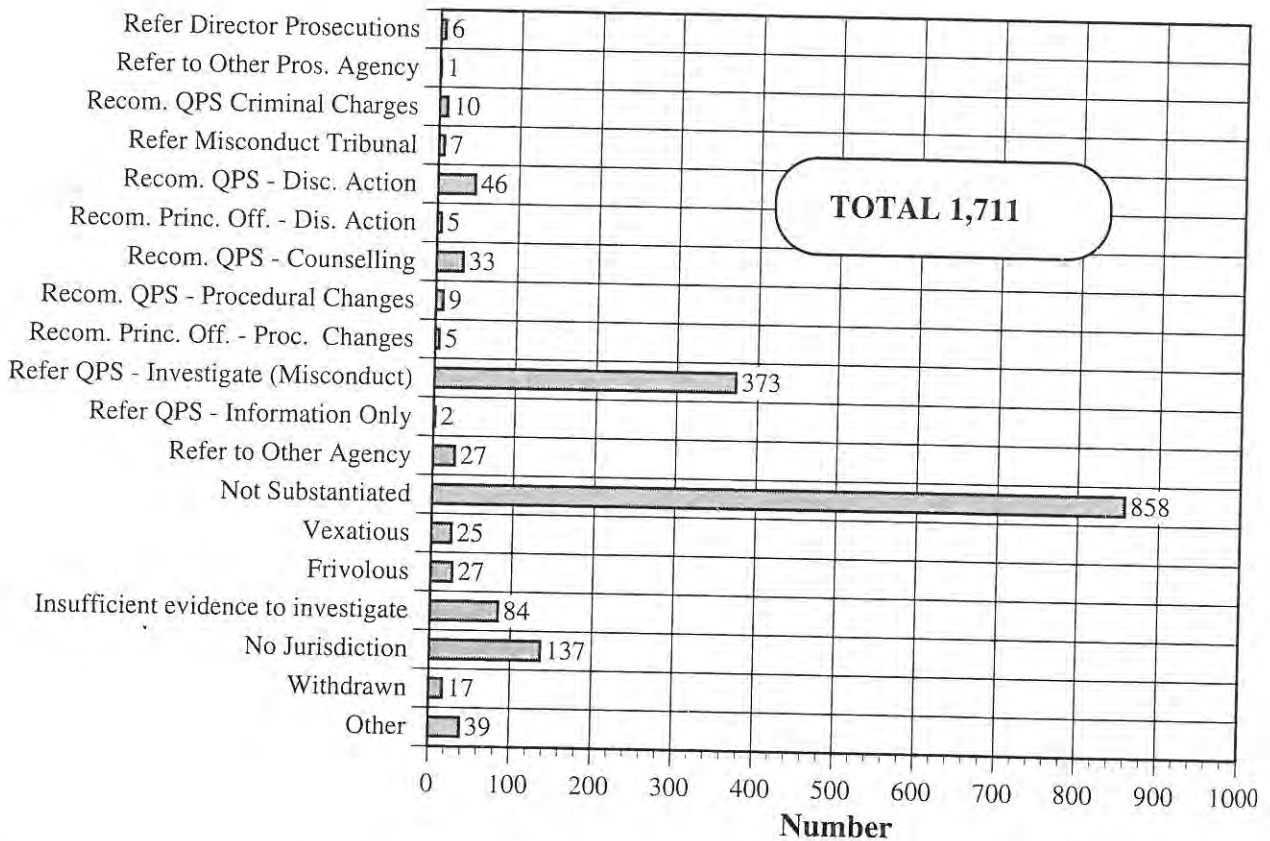
**Finalised Complaints** (Refer graphs 4(a), (b), (c))

- Of the 1,711 finalised complaints 1,148 have resulted effectively in no action being taken due to:
  - Not substantiated . . . . . 858 (50.1%)
  - Insufficient Evidence to Investigate . . . . . 84 (4.9%)
  - No Jurisdiction . . . . . 137 (8.0%)
  - Vexatious . . . . . 25 (1.5%)
  - Frivolous . . . . . 27 (1.5%)
  - Withdrawn . . . . . 17 (1.0%)

462 matters are shown as having been referred to the Commissioner QPS for:

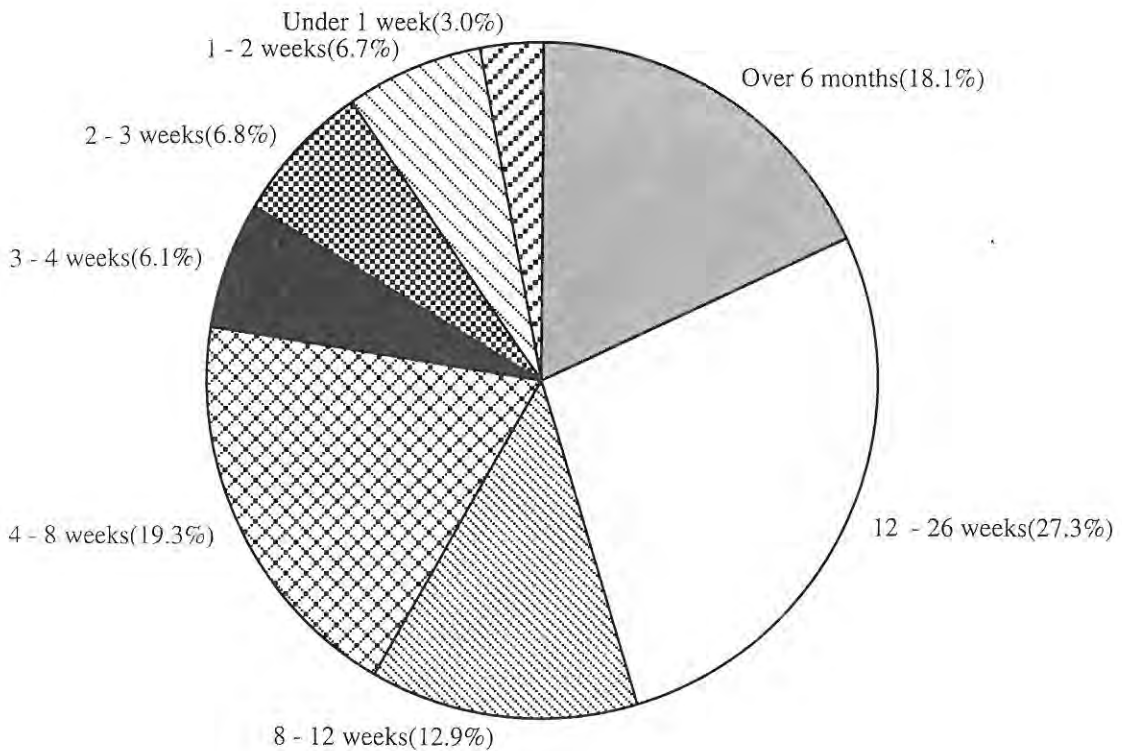
- Investigation of possible minor misconduct or breach of discipline — 373
- Recommendation of disciplinary action regarding misconduct or breach of discipline — 46
- Recommendation of criminal charges — 10
- Recommendation of counselling — 33

**GRAPH 4(a) FINALIZED COMPLAINTS (at 30 June 1991)  
By Outcome of Major Allegation**



- For the purpose of graph 4(a), the major allegation for each complaint has been identified. A full explanation of the outcomes is listed in Appendix G.

**GRAPH 4(b) FINALIZED COMPLAINTS (at 30 June 1991)  
By Duration**

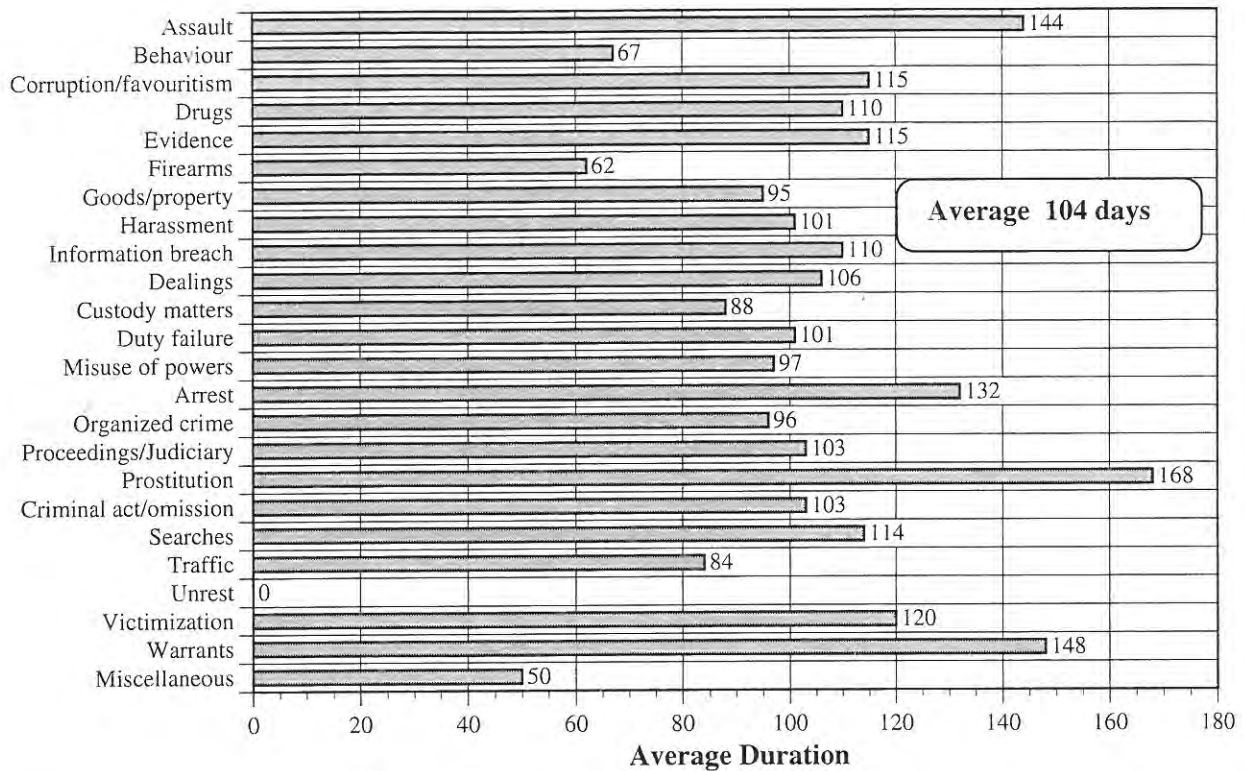


- In this Graph and Graph 4(c), duration is defined as the period from the date of receipt of a complaint to the date of finalisation.

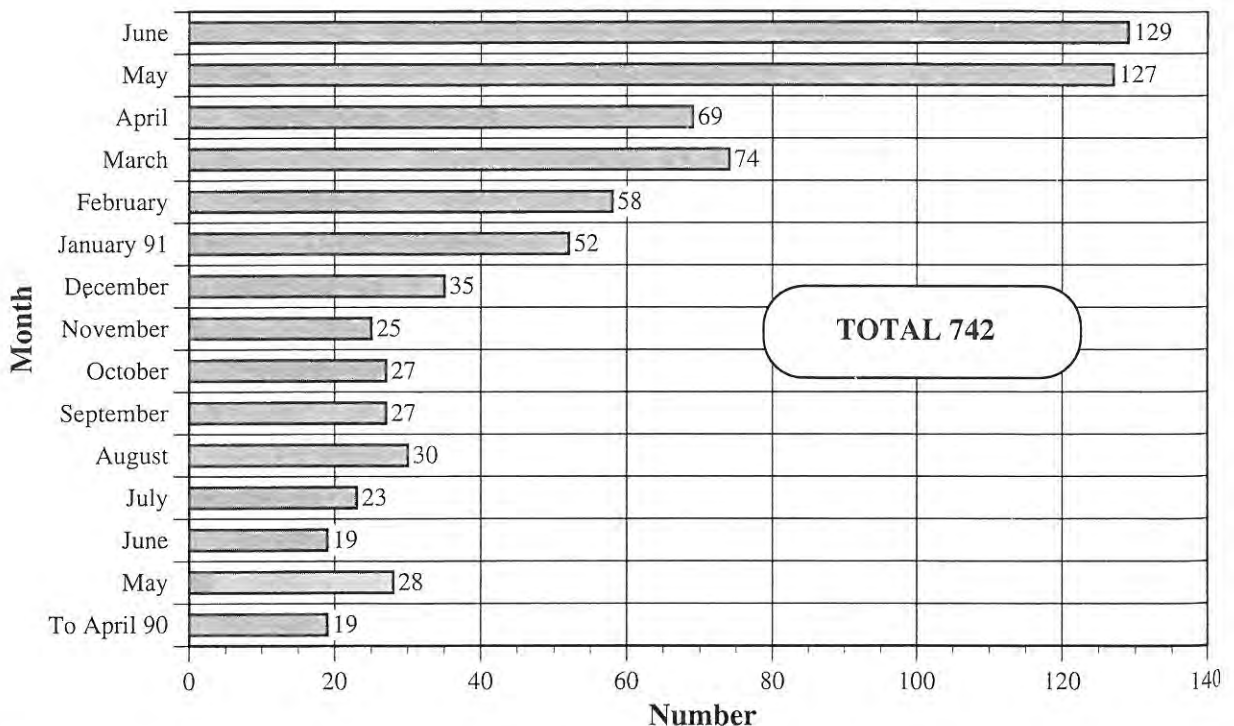
**Investigation Duration**

- The average duration for completed complaints has been 104 days.
- 54.8% have been completed in under twelve (12) weeks.
- This compares favourably with the average time that it takes the Public Complaints Commissioner for Ontario and the Police Complaints Authority of the United Kingdom to resolve a complaint.
- The Ontario Commissioner takes an average of 190.3 days to do so.
- Comparisons with rates of finalisation of other bodies are misleading. For example, the Police Complaints Authority's rate of finalisation is 68 days. However, that Authority has no investigators and its functions are limited to:
  - Supervision of investigations by police of all serious disciplinary complaints (including all deaths); and
  - Review of all investigations by police of disciplinary complaints.
- Further, the Complaints Section is required to operate over a geographical area which is ten times larger than that within the jurisdiction of the Police Complaints Authority. In addition, 60% of complaints against the police in the United Kingdom are resolved by mediation within the Police Force and are never referred to the Authority.

**GRAPH 4(c) FINALIZED COMPLAINTS (at 30 June 1991)  
Average Duration Per Allegation**



**GRAPH 5 INCOMPLETE COMPLAINTS (at 30 June 1991)  
By Month of Receipt**

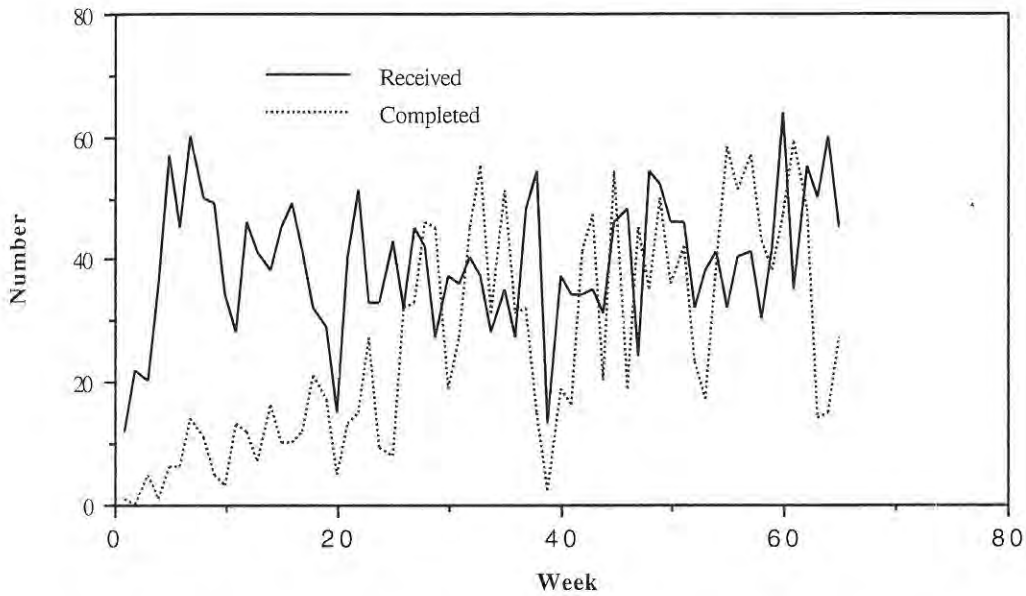


- Most of the incomplete complaints come from the most recent months. However, 66 complaints received prior to 30 June 1990 also remain incomplete. (pending the determination of charges before the court or the location of material witnesses etc.)

**Complaints Received and Completed**

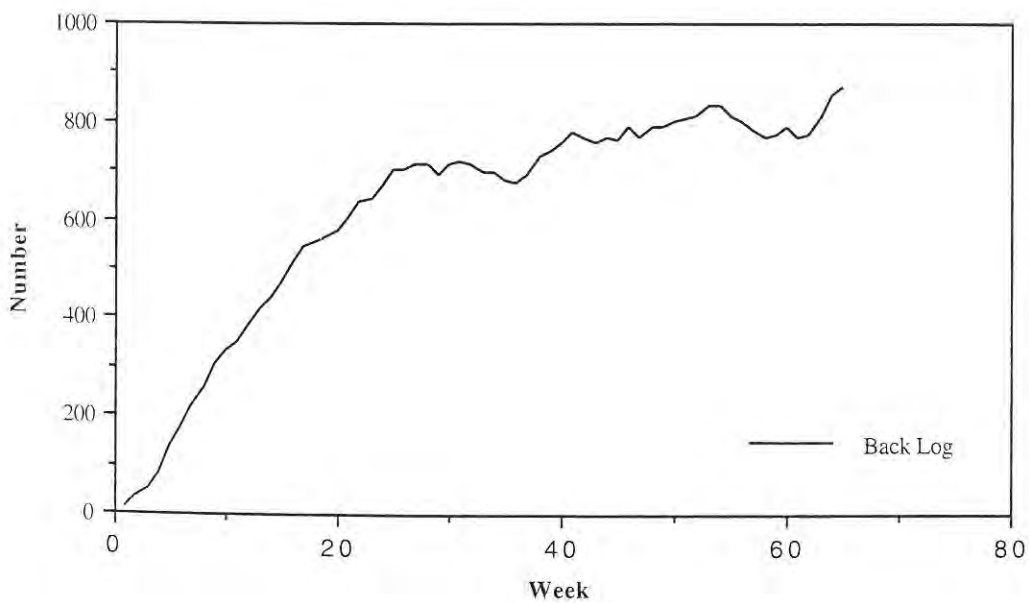
Four (4) further Figures have been compiled showing a comparison of complaints received and complaints completed and highlighting the growth of the backlog of complaints during the first four months of the operation of the Complaints Section.

**FIGURE 1 Complaints Received & Completed by Week**



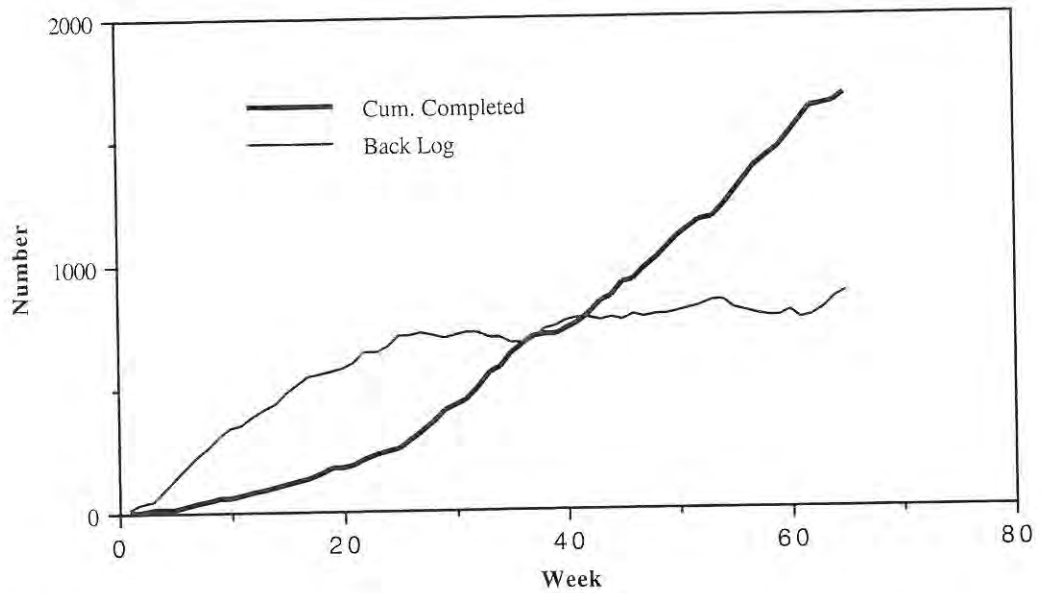
- Figure I indicates that the number of complaints received weekly shows no trend— that is, there is no tendency for this number to either rise or fall. The number of complaints completed, however, displays an upward trend. Both series illustrate a random variation, the receipts about a constant long term mean and the completions about an upwards trend.

**FIGURE 2 Back Log**



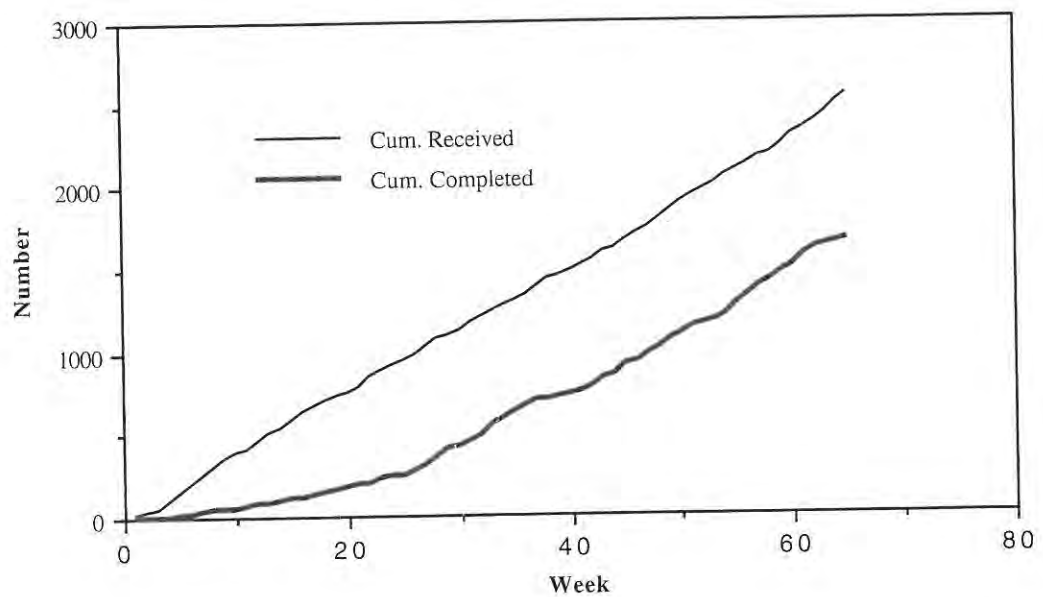
- Figure 2 shows the backlog increasing steadily until about the middle of the year, after which it exhibits a tendency to stability.

**FIGURE 3** Cumulative Received & Completed



- Figure 3 shows that the cumulative number of complaints received is almost exactly linear, which implies a constant weekly rate of receipt. Cumulative completions exhibit a quadratic trend, which implies a linear increase in the number of complaints completed per week over the period.

**FIGURE 4** Back Log & Cumulative Completed



- Figure 4 shows a backlog plot crossing the cumulative completion line just after the start of the fourth quarter. This, together with the constant rate of receipt of complaints implies that the backlog will be eventually wiped out.

## MULTI-DISCIPLINARY TEAMS

### Establishment

In carrying on the work of the Fitzgerald Inquiry, the OMD has inherited and progressively developed and modified the investigative teams constituted within the Fitzgerald 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.

In addition to the original areas, a new team has been set up to further the use of Proceeds of Crime legislation and carry out investigations in the area.

### Team Structure and Management

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 is a subordinate lawyer, a financial analyst who is a qualified accountant, most with previous experience in financial investigations, six or seven seconded police officers and a complement of support personnel. Criminal analysts are being recruited for attachment to the teams.

Three out of four team leaders worked with the Fitzgerald Inquiry and transferred to the Commission. As a result, there was a continuity of attention to Fitzgerald Inquiry matters which were taken over by the Commission, pursuant to the provisions of Section 2.20 of the Act.

The Team Leaders have a full once weekly meeting of the team, at which minutes are taken. These minutes are circulated to the Director of the Division for his review. Further, each team has been located in its own geographic area in the Commission's new accommodation at 557 Coronation Drive, Toowong. This has meant that the Team Leader has a much greater facility to manage the work of the team because of the his physical proximity to the members of the team. Previously the police investigators were accommodated as a group which cut across team function and the building of an appropriate rapport between the various disciplines. The present arrangement provides for a much greater level of continuing rather than periodic management.

The Director of the OMD holds a Team Leaders' Meeting daily at 8.30 a.m. where the principal work of all teams for that day is briefly reviewed. It also provides an opportunity for cross-pollination between the teams, and between the teams and the Complaints Section, Proceeds of Crime Unit, the Director of Operations, his two Superintendent deputies and the Chief Financial Analyst. The increase in co-ordination between the various units of the OMD which has resulted has been significant.

It provides an opportunity for the rationalisation of resources across the Division and for the various units to act in support of each other.

### Type of Investigations

The Commission's jurisdiction to conduct investigations is quite limited. The head of jurisdiction will be found in either or both of Sections 2.15 and 2.20 of the Act, namely:

- Official corruption—(Section 2.15(f)(iii));
- Official misconduct (and misconduct by members of the Police Service)—(Section 2.20);
- Organised or major crime—(Section 2.15(f)(iv)).

### The Source of Investigations

There have been five main sources of investigative work flowing to the Multi-disciplinary Teams.

#### (i) The Fitzgerald Inquiry

The Fitzgerald Report recommended that the Fitzgerald Inquiry should continue in being while the Commission was established, following which the Commission should take over the work of the Fitzgerald Inquiry. As recommended, the establishment of the OMD occurred against the background of the continuation of the work of the Fitzgerald Inquiry with an infrastructure of procedures, systems, methods, guidelines and training being put in place while the OMD continued with 50 investigations into matters as diverse as the bribery of public officials and large scale narcotics trafficking. Most Fitzgerald Inquiry matters have now been finalised. Some were wound up when they had proved unproductive or were too historical to justify their continuation against the background of the deluge of current matters received after 22 April 1990.

To date all but four of these Fitzgerald Inquiry investigations have been concluded. Of these, two are the subject of recommendations to the Commissioner of Police; one brief of evidence recommending charges is under consideration by General Counsel to the Commission; and one matter has been re-opened for further investigation on receipt of additional material.

#### (ii) The Complaints Section

The criteria for referral of matters from the Complaints Section are canvassed below. This is the source of the majority of work flowing to the Multi-disciplinary Teams.

#### (iii) Intelligence Division

As the targeting aspect of the work of the Intelligence Division develops and significant criminal activity is brought into focus, the investigative teams will move into more pro-active investigations rather

than reacting to complaints or information received by the Commission. The OMD has been structured on the basis that there will be a considerable flow of such work from the Intelligence Division.

(iv) **Referrals From Other Agencies**

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 New South Wales Crime Commission (NSWCC) and interstate police services and forces.

In accordance with the Commission's 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 (Section 2.15(l) of the Act), it has provided support to other agencies with law enforcement functions. These agencies have included the NCA, the NSWCC, the New South Wales Police, the Victoria Police, the Western Australia Police, the Northern Territory Police and the AFP. It has achieved this by providing operational support and disseminating information in accordance with the Act.

It has conducted joint operations with the QPS Drug Squad, the NSWCC, the Australian Federal Police, the New South Wales Police, and the Victoria Police.

The Commission has received commendations 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. In particular, it wishes to acknowledge the valuable assistance of the NCA, ICAC and the NSWCC in this regard.

(v) **Liaison with the Office of the Special Prosecutor**

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

**Criteria for Investigation**

As mentioned above, the majority of matters referred to the multi-disciplinary teams originate in the Complaints Section. In determining whether an investigation is undertaken by the Complaints Section or referred to a Multi-disciplinary Team, the following criteria are applied:

• **Complexity**

Does the complaint involve a series of incidents?

Does the complaint involve complex factual issues, and/or a large commitment of resources, and/or will the investigation be prolonged?

If the answer to these questions is yes, then the matter is likely to be referred to a Multi-disciplinary Team.

• **Resources Needed to Investigate**

Are there a large number of witnesses to be interviewed or will the matter need to be approached as a joint operation with the Queensland Police Service or some other body?

For example the incident at Inala involving large numbers of Aborigines and police, although a complaint about police behaviour, was referred for investigation to one of the Multi-disciplinary Teams as it involved the interviewing of more than 140 witnesses, both aboriginal and police.

• **Requires Static, Mobile or Electronic Surveillance**

Although this criterion is not a determinant in itself, it may well indicate that a matter is likely to be complex and to require a substantial commitment of resources over time. Once surveillance, either manual or electronic is committed to any investigation, it should only be used in conjunction with dedicated investigators. To be effective, it will need to operate beyond business hours, often on a 24 hour basis with crews working back to back. Surveillance is a tool of investigation and needs to be used as such. It is wrong to ask surveillance personnel to task themselves; they have by definition only a partial view of the whole investigation.

• **Requires Covert Investigation**

Where a matter requires the introduction of covert investigative techniques such as an undercover agent or the cultivation and use of a co-operating and perhaps criminally involved witness, there will be a clear need for dedicated surveillance and investigative backup which is beyond the capacity of the Complaints Section to provide.

• **Requires Witness Protection**

Again, this criterion is not a determinant, although where witness protection is justified it will usually indicate a substantial criminal investigation.

- **Requires Extensive Use of Hearing and Other Compulsory Powers**

The Complaints Section has been making increasing use of the hearing power to try to force a resolution to intractable investigations, for instance where the complainant and corroborating witnesses give one version of events, while the allegedly involved police officers provide another. From time to time, the use of the hearing power to examine the participants on oath has provided sufficient material to enable the Commission to determine the issue to its satisfaction, either by discrediting the complainant or sufficiently calling into the question the actions of the involved police as to justify the matter being placed before a Misconduct Tribunal.

However, where there is an extensive need to use hearing and other compulsory powers, this would normally indicate that the matter should be referred to a Multi-disciplinary Team. This is particularly so where the Commission determines that some form of public inquiry is justified. The intensity of preparation required for the extensive use of the hearing process, in particular a public hearing, would lead to a substantial disruption of the complaints process were it to be left with the Complaints Section (for example the Jury Tampering and Corrective Services Commission inquiries conducted by the Commission).

- **The Avoidance of Disruption to the Complaints Process**

In many ways this criterion summarises the basic consideration which underlies most decisions to refer investigations to the Multi-disciplinary Teams. It is recognised that the Complaints Section is under considerable workload and resource pressures. As at 30 June 1991 it has some 742 current investigations, and an investigative staffing of 17 Inspectors of Police (one quarter of whom are not available at any one time because of leave, courses, court commitments etc), albeit supported by lawyers and complaints officers. It has received in the first fourteen months of its operation nearly 2,500 complaints.

Although it has achieved an efficiency rating of between three and four times that maintained by the former Internal Investigations Section as judged by completed investigations per investigator, it is recognised that the process is delicately poised. Any substantial disruption to the work flow would lead to an exponential increase in the backlog in very short order. There is an acute consciousness of the imperative that this disruption should not occur.

### Conduct of Investigations

The mere fact that a matter satisfies the criteria for referral to a Multi-disciplinary Team by definition means that it will take significantly longer to investigate. The average time for the investigation of matters within the Multi-disciplinary Team is substantially greater than matters dealt with within the Complaints Section. However there is a marked disparity between the least and most complex matter within the teams. Further, in order to overcome the backlog of complaints in the latter half of last year, complaint matters were referred to the Multi-disciplinary Teams for investigation, which action prejudiced the work of the teams.

Currently the Multi-disciplinary Teams collectively are attending to 80 investigations. This number is far too great to provide for the appropriate investigation of the more significant matters.

Greater selectivity in investigating complaints will allow the number of investigations within the teams to be reduced, (at least after the accumulated backlog in the Complaints area has been fully addressed), and should allow the teams to concentrate on those matters requiring the full range of sophisticated investigative techniques available to the teams. Individual instances of official misconduct will be attended to by the investigative units attached to the Complaints Section.

### Investigative Techniques

The Multi-disciplinary Teams, because of their size and composition, have access to a greater range of investigative techniques than investigators attached to the Complaints Section. The majority of these techniques have been dealt with above in reviewing the criteria for determining whether an investigation is undertaken by the Complaints Section or the Multi-disciplinary Teams.

The essential difference between investigations undertaken by the Complaints Section and those undertaken by the teams can be reduced to the statement that Complaints Section investigations are part of a high volume process which basically entails the interviewing of witnesses and the occasional use of the hearing process. Investigation by the teams is more considered and creative. Given the nature of these investigations, there is greater justification for the application of more sophisticated and expensive techniques, in particular in terms of the allocation of resources and personnel.

### Public Inquiries

One of the investigative tools available to the Commission is the ability to hold an investigative hearing. Such hearings can, if thought necessary, be public hearings. The precedent for having such hearings in public is strong; Commissioner Fitzgerald Q.C. said that his inquiry could not have succeeded without the confidence, co-



operation and support of the public. The Commission likewise recognises that public confidence and accountability in its processes is vital to its continuing efficacy. It is also very conscious of the spectre of the trenchant criticism made of the NCA for its seemingly obsessive secrecy which, to a substantial degree, has resulted from its failure (largely resulting from the secrecy provisions in its legislation) to conduct any of its business in public. Australia is an open society, and Australian citizens do not accept with equanimity the operation of organisations in total secrecy.

On the other hand, the Commission is very conscious of the conundrum posed by the holding of public hearings, namely the risk of acting unfairly by the receipt of hearsay material and the resultant damage to the reputations of innocent persons. Consequently the public hearing process cannot be undertaken lightly and, in the Commission's view, should be reserved for serious matters of substantial public interest which go beyond the conduct of the individual and point out some issue of public principle.

In this context the Commission has undertaken three public inquiries to this time and commenced a fourth, namely:

1. The Jury Tampering Inquiry arising out of the trials of Austin and Herscu;
2. The Corrective Services Commission Inquiry arising out of allegations of the involvement of prison officers in prostitution and drug trafficking;
3. The Huey Diaries Inquiry arising out of the use by Channel 7 of extracts from the diaries of former Superintendent John Huey and their apparent misappropriation from the Property Office of the headquarters of the QPS; and
4. An inquiry concerning payments made to Aldermanic candidates and Councillors of the Gold Coast City Council.

A report of the first inquiry has been released publicly with an accompanying Issues Paper. A report is in the process of preparation in respect of the second inquiry which was quite massive in its extent.

In a real sense public inquiries undertaken by the Commission have all the indicia of a Royal Commission, from the framing of the terms of reference through to the preparation of a report for presentation to Parliament. They are very resource intensive. For example the inquiry into the allegations against officers of the Corrective Services Commission required intensive investigation by an internally constituted task force of ten investigators working continuous overtime for a period of three months. It is estimated that the inquiry absorbed 6,000 man hours of

investigation, four weeks of public hearings and the interviewing of 150 persons of whom 44 were called as witnesses.

### Organised and Major Crime Investigations

Investigations into organised and major crime are special on several levels, namely jurisdiction, philosophy and resources.

#### Limited Jurisdiction

The Commission's jurisdiction to pursue organised and major crime is limited in scope by Section 2.15(f) to matters which, "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". Further, in Section 1.3 which sets forth the Objects of the Act, it is clear that the Commission has only an interim responsibility to take measures to combat organised or major crime.

#### The Commission's Approach

The philosophy adopted by the Commission in fulfilling its statutory charter on organised crime has been:

- To undertake this function as far as possible in co-operation with the QPS, or other investigative agencies so as to enhance the capacity of law enforcement to deal with the challenge of organised or major crime;
- To act as a catalyst to the undertaking of more sophisticated investigations, using surveillance, electronic interception, undercover agents, co-operating witnesses and the long term commitment of resources in an attempt to ascend the ladder of organised criminal endeavour.

#### Limited Resources

Given the pressures of other work, the Commission has been in a position to commit the full time resources of only one team to this work, namely 6 to 8 investigators, one financial analyst, one lawyer and support staff with surveillance and technical unit support.

#### Examples of Organised Crime Investigations

These matters are either currently:

- Before the courts; or
- The subject of continuing investigation.

Given the public nature of this document, the information provided is therefore necessarily brief and has been treated in an anonymous way:

- To comply with the sub judice rules; and
- To preserve operational security.

**Operation A**

Targeted two significant heroin dealers. This led to the discovery of an ethnic group in New South Wales as the source of supply. The Drug Enforcement Agency of that State was approached to participate. The operation concluded with seven persons facing 22 charges relating to drug trafficking, being the original two Queensland targets and five members of a New South Wales based group.

**Operations B and C**

Operation B was undertaken in conjunction with the Drug Squad of the QPS and concentrated on the Gold Coast. The investigations gathered evidence of large scale narcotics trafficking in Queensland and New South Wales. The Commission obtained the assistance of the NSWCC when the investigation encompassed targets in New South Wales.

A similar but separate operation (Operation C) was commenced by the QPS and concentrated on significant drug trafficking in Brisbane. After a few months the QPS approached the Commission for assistance. The operation extended to the Gold Coast and later, the Northern Rivers District of New South Wales where assistance was obtained from the local Drug Squad. There was some cross over with the targets in Operation B.

Both operations were wound up simultaneously after 6 and 8 months respectively and led to the charging of 36 defendants with more than 200 charges for trafficking in heroin, cocaine and cannabis.

Some offenders have pleaded guilty, others are awaiting trial.

There is a confiscation of profits application for an amount in excess of \$1 million pending in respect of one of the major targets in New South Wales.

The operations utilised surveillance and electronic interception extensively, as well as investigators attached to the Commission, QPS, NSWCC, New South Wales Drug Enforcement Agency and a local Drug Squad in New South Wales. It was an excellent example of co-operation between law enforcement agencies transcending State boundaries.

**Operation D**

This operation concerned the sale in Queensland of motor vehicles stolen in New South Wales. An undercover agent was used to purchase a number of vehicles and to gather intelligence. Commission surveillance teams were utilised extensively during the operation.

Near the completion of the investigation, and at the stage when several arrests were imminent, the Commission received information that additional offences were being committed in New South Wales.

The Commission subsequently liaised with the New South Wales Police as it appeared public officials and a New South Wales police officer may have been involved in the car stealing scheme. A total of 1440 man hours of investigative and surveillance time was utilised during the operation.

As a result of Commission investigations and liaison with the New South Wales Police, the major participant in the scheme pleaded guilty with the result that to date 43 persons have been charged with offences relating to the unlawful issuing of New South Wales drivers licences and various conspiracies to defraud. It is expected that further arrests will be made.

**Operation E**

The Commission was approached by an interstate Drug Squad to assist with surveillance and the possible arrest of a drug trafficker who had previously absconded on bail and was believed to be resident in Queensland. Commission surveillance confirmed this suspicion and the suspect was arrested. At the time of his arrest a search warrant was executed and he was found to be in possession of 12 kilograms of cannabis and \$17,000 in cash at his premises. Documents located during this raid revealed that the offender had unencumbered assets totalling over \$400,000. Further inquiries have led to charges being laid under the Crimes (Confiscation of Profits) Act 1989-90 in respect of these assets.

The trafficking trial resulted in the accused being convicted of trafficking in 115 pounds of cannabis, largely due to circumstantial evidence produced by financial investigation. An application for retrieval of \$400,000 of assets based on this conviction is expected to be heard in October 1991.

**Operation F**

During Operation B, one of the targets was arrested in respect of several counts of trafficking in cocaine. After his arrest he approached the Commission and indicated that he would co-operate in obtaining evidence against his supplier in return for receiving the benefit of that co-operation at his sentencing. As a result, a joint operation was mounted with the AFP targeting the source of supply. After a six months operation, the supplier was arrested and charged with trafficking in a dangerous drug (cocaine).

**Operation G**

The Commission has been approached by the QPS for assistance in respect of the investigation of a suspected large scale money laundering operation.

A senior lawyer and senior financial analyst are working in conjunction with QPS and Telecom employees in this investigation, which has been under way for approximately five months. This operation entails the use of surveillance and extensive financial investigation.

#### Operation H

The Commission received information of possible police involvement in corrupt activities with persons operating in an industry which cannot be mentioned for operational security. After prolonged investigation which continued for approximately 12 months, the evidence gathered, although significant, was insufficient to enable prosecution action to be undertaken. The QPS was advised of the details of the racket and took steps to tighten procedures to prevent a repetition of this conduct. Information has come to the attention of the Commission that the illegal activity has recommenced, involving other police officers who apparently have overcome the safeguards put in place. The investigation has been re-activated.

#### Operation I

The Commission received information of a leading crime figure being involved in arms and drugs trafficking. A sophisticated operation was undertaken involving the use of surveillance and a co-operating informant to gather evidence for the purposes of prosecution. After intensive investigation extending over several months, the investigation was aborted because of a development external to the Commission which risked exposing the informant and jeopardizing his security.

#### Operation J

The Commission was approached by the AFP and the QPS to participate in a joint operation concerning the blackmail of a prominent businessman to raise money to finance a drug importation. The Commission agreed to support the operation by the commitment of its surveillance resources. The operation continued for nine months. Twenty-five arrests were made involving 70 charges including:

- Conspiracy to murder;
- Theft;
- Fraud;
- Importation of narcotics;
- Extortion.

#### Operation K

The Commission is presently involved with an interstate law enforcement agency in the conduct of a national investigation. The targets are well

known criminals from interstate, who have connections in Queensland. They each have a long and notorious criminal history. They have been the subject of numerous previous operations which have failed. The operation is likely to continue for some time. It is drug related. No further details can be given because security is of paramount importance.

#### The Organised Crime Task Force Proposal

As mentioned above, the Commission is empowered to perform such investigations to the extent that the QPS and other agencies are unable to do so. As the capability of the Police Service is extended, the Commission's current responsibilities are intended to accrue to that body. Accordingly, wherever possible, the Commission conducts such investigations on a co-operative basis.

To this end the Commission proposed to the QPS that a Standing Organised Crime Task Force be created to provide a progressive response to the challenge of organised crime, with its expertise growing with its exposure to the task. In this regard the Commission was conscious of the experience of leading overseas crime fighting organisations such as the US Federal Bureau of Investigation (FBI), the Organised Crime Division of which has made substantial inroads on the effectiveness of the Italian organised crime group La Cosa Nostra over a period of two decades.

To the Commission's knowledge, a number of ethnically-based and other organised crime groups are active in Queensland but have not previously been the subject of dedicated targeting on any continuing basis.

Overseas experience indicates that there is a long lead time in developing within law enforcement the expertise necessary to tackle such groups. The basic steps are:

- The collection and analysis of all information available throughout the law enforcement community;
- The establishment of an intelligence collection plan which actively seeks to capture intelligence on current criminal activities and to identify the principals involved in that activity;
- The design of an operational plan for the proactive investigation of the organisation, in particular by the use of surveillance (mobile and electronic), undercover penetration (by police agent—a very difficult long term endeavour), the discovery of informants and attempts to encourage co-operation by peripherally involved persons to gather evidence, the pursuit of the money trail by financial investigators, and the conduct of secret hearings.

- The progression from operation to operation, widening the net by targeting the organisation rather than individuals, gradually working to the top of the tree.

Although the whole endeavour can be simply stated, it is anything but simple in practice. It requires an understanding of the culture involved, including the language, the organisation, the attitudes, strengths and weaknesses of the principal players, infinite patience and a preparedness to commit resources for the long term. It is expensive of resources for no immediate return and therefore requires the understanding, support and commitment of the supervising body such as the Parliamentary Criminal Justice Committee and the Parliament.

When the FBI decided to undertake organisation based rather than individually based targeting, it was concerned that the necessary reduction in the "kill rate" would not be tolerated by its political masters. However the US Congress showed great maturity in accepting the change in direction as a necessary step, as a result of which the long term viability of the program was guaranteed.

As mentioned above, the Commission has the philosophy of acting wherever appropriate in combination with other law enforcement agencies, both local and interstate. It has formalised those arrangements with the QPS, the AFP, Victoria Police and the State Crime Commission of New South Wales through the execution of Memoranda of Understanding.

The typical Memorandum of Understanding requires the participating parties to act in support of each other wherever possible, to share intelligence material, and to provide for management of joint operations by the constitution of management and operational committees.

### **Complexity of Investigations**

A few examples of the range and complexity of matters handled by the multi-disciplinary teams and the resources required follow:

#### **Complaint of Excessive Force**

Complaints were received by the Commission of the use of excessive force by police in dispersing a gathering of aboriginals who attended a function at Inala. Further allegations were made concerning violence in the watchhouse towards arrested persons, victimisation of persons involved in the incident and a complaint related to a separate incident involving alleged violence by police towards aboriginals.

A Multi-disciplinary Team devoted four (4) investigators headed by an inspector for in excess of three months. Over 2,300 man hours (approximately one working year) were required to interview over 140 people. All interviews were tape recorded, transcribed and summarised, with signed statements being obtained from some persons. Apart from the initial complainants, aboriginal persons were not interviewed by the Commission at Commission premises, or a police station, or Government offices, to minimise the chance of witnesses being intimidated by their surroundings, although such a course was more time consuming than other forms of investigation. The final report with recommendations is in the process of being written.

#### **Corrupt Conduct by Local Authority Employee**

An investigation into allegations against a council employee for corrupt conduct required simultaneous approaches to be made to a council and a business to obtain documents relating to the purchasing of goods and services. Documentation from both the council and the business for a period of 26 months was taken. From this 1,200 records were generated by computer, each record encompassed plant and equipment details, order details, invoice and other details. Over 220 hours were required for entry and analysis of this information and the production of a detailed financial profile of the employee which extended over three years to identify expenditures in excess of his known income. A two day investigative hearing was held. In total approximately 500 man hours have been devoted to this investigation to date. A report is in the process of being drafted.

#### **The "D" List**

At the conclusion of the Fitzgerald Inquiry there were a substantial number of Police Officers against whom adverse allegations had been made. Some were the subject of investigation by the Special Prosecutor, others faced an uncertain future. The list of persons adversely mentioned who were not the subject of inquiry by the Special Prosecutor became known as the "D" list.

With the establishment of the Commission the holdings with respect to all police officers mentioned during the Fitzgerald Inquiry were passed to the new Commission.

It was unsatisfactory both from the point of view of the individuals concerned and the QPS that these officers should continue to serve in the Police Service whilst they were under a cloud.

Reviews were undertaken into the Commission's holdings with a view to either clearing those police officers so they could serve in the Police Service

with an unblemished record or taking disciplinary action where there was evidence to substantiate the allegations.

The Commission undertook this onerous task in addition to the substantial number of matters which it received from the Fitzgerald Inquiry and the flood of public complaints.

A senior lawyer of the Commission who served on the Fitzgerald Inquiry from its inception undertook this review. Many hundreds of man hours were expended in collating the Commission's holdings and reviewing the material whereupon reports were made to the Professional Standards Unit of the QPS either that the Commission would take no further action in respect of these allegations or that further investigations were warranted.

This process has been completed with respect to some 257 police officers and investigations are continuing with respect to a further 20 police officers. The remaining matters are complex and the material voluminous. The Commission has determined that some of the officers involved will be examined during a series of private hearings

#### **Rochedale Dump Inquiry**

The Commission commenced an investigation into the circumstances surrounding the granting of a Waste Disposal Tender to Pacific Waste Management Pty. Ltd. in early February 1991 following a series of complaints detailing alleged improprieties on the part of the Brisbane City Council being made to the Commission by Mr Jim Soorley, the recently elected Lord Mayor.

Investigations into these allegations were undertaken by a senior lawyer, the Chief Financial Analyst and police investigators attached to the Commission. Independent Queen's Counsel was briefed to review the findings of the Commission.

The Commission investigators were given complete access to, and inspected and copied, large quantities of relevant documents held in the possession of:

- (i) Brisbane City Council;
- (ii) Pacific Waste Management Pty. Ltd.;
- (iii) Blake Dawson Waldron (Solicitors for Pacific Waste Management Pty. Ltd.);
- (iv) Thiess Contractors Pty. Ltd.

Interviews were conducted and in most instances statutory declarations were compiled. Sixteen people were interviewed over a period of five weeks, with most interviews being relatively lengthy as the issues involved were complex. Approximately 550 man hours were devoted to the project. A letter of advice confirming the findings of the Commission following the full investigation, was forwarded to all interested parties on 19 March 1991. Due to the limited time within which the investigations

had to be completed and the interested parties advised, resources were diverted from other investigations which were temporarily suspended. A considerable portion of the time spent by investigators related to the perusal, identification and collation of Council documents dating from when the Council first identified in 1985 a need for the development of an alternative to the sanitary land-fill method of refuse disposal in the Brisbane area, until the awarding of the tender in February 1991. A report was presented in May 1991.

#### **Drug Trafficking Corruption**

In late 1989 the Commission received information via an informant that a senior serving police officer had corruptly received monies from a drug dealer in order to allow the drug dealer to operate with impunity. In excess of 90 persons were interviewed by Commission officers and 70 statements taken. Essentially, the investigation took some seven months and involved two police officers devoting their entire time in interviewing police, other witnesses, examining documents and corroborating an intricate circumstantial case. On 20 July 1990, the Commission forwarded a brief of evidence to the Special Prosecutor recommending for his consideration that the police officer concerned be charged with two offences of official corruption and one of perversely failing to carry out his duty.

#### **A Court Official and Others**

On 30 November 1990, the Commission forwarded a brief of evidence to the Office of the Director of Prosecutions recommending charges of false pretences against a Clerk of the Court, a junior public servant, a police officer and a businessman. On 12 April 1991, the Clerk of the Court was charged with false pretences.

The investigation was commenced in March 1990 and required the attention of a police investigator and support staff, supervised by a senior lawyer on a full time basis for the full nine month period. A document examiner expended approximately 30 hours of forensic examination time with total hours devoted to the operation approximating 1,500. Due to the serious nature of the complaints against the public servants involved, several meetings were held with the Director of Prosecutions and senior members of his staff to discuss the conduct of future criminal proceedings.

#### **Misconduct in Community Councils**

Numerous allegations of misconduct were made about three community councils in the Torres Strait Region. A preliminary investigation was conducted with one investigator travelling to the area to interview complainants and others.

Initially it was decided to allow the process of change and review taking place amongst the communities to run its course before proceeding

further. Members of the Parliamentary Committee expressed disappointment in such a course and an investigation was subsequently mounted.

Four investigators travelled to the region for two weeks. They travelled to six islands and interviewed approximately 100 people. Fourteen Notices or Authorities issued under the Act procured 45 boxes of documents which were returned to Brisbane. From these documents 2,344 computer entries have been made to date. The investigators spent 8 days on a Harbours and Marine vessel which supplied support whilst carrying out its normal duties. Approximately 550 man hours of investigators time have been devoted to this matter so far with an additional 130 hours devoted to the preparation and entry of computerised information for financial analysis. The investigation is continuing.

**Analysis of Multi-disciplinary Team Investigations**

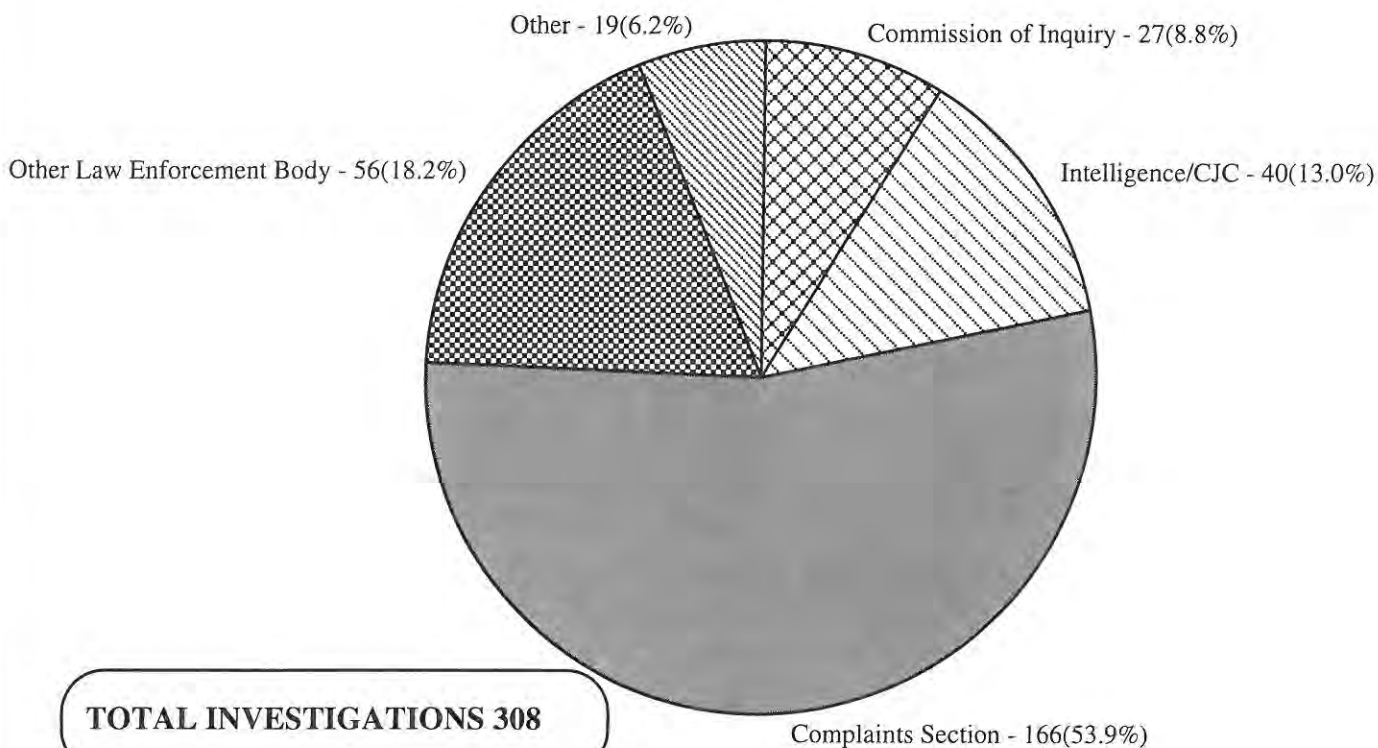
An analysis of Multi-disciplinary Teams' investigations is provided in the form of pie charts to show the following:

- Source of investigation;
- Category of investigation;
- Outcome of investigation;
- Current status of matters with positive recommendations.

A further diagram is provided in respect of the OMD (that is, the Multi-disciplinary Teams and the Complaints Section) indicating matters in which charges have been laid or disciplinary action taken.

**MULTI-DISCIPLINARY TEAMS INVESTIGATIONS  
(31 March 1990 to 30 June 1991)**

**1. SOURCE OF INVESTIGATION**

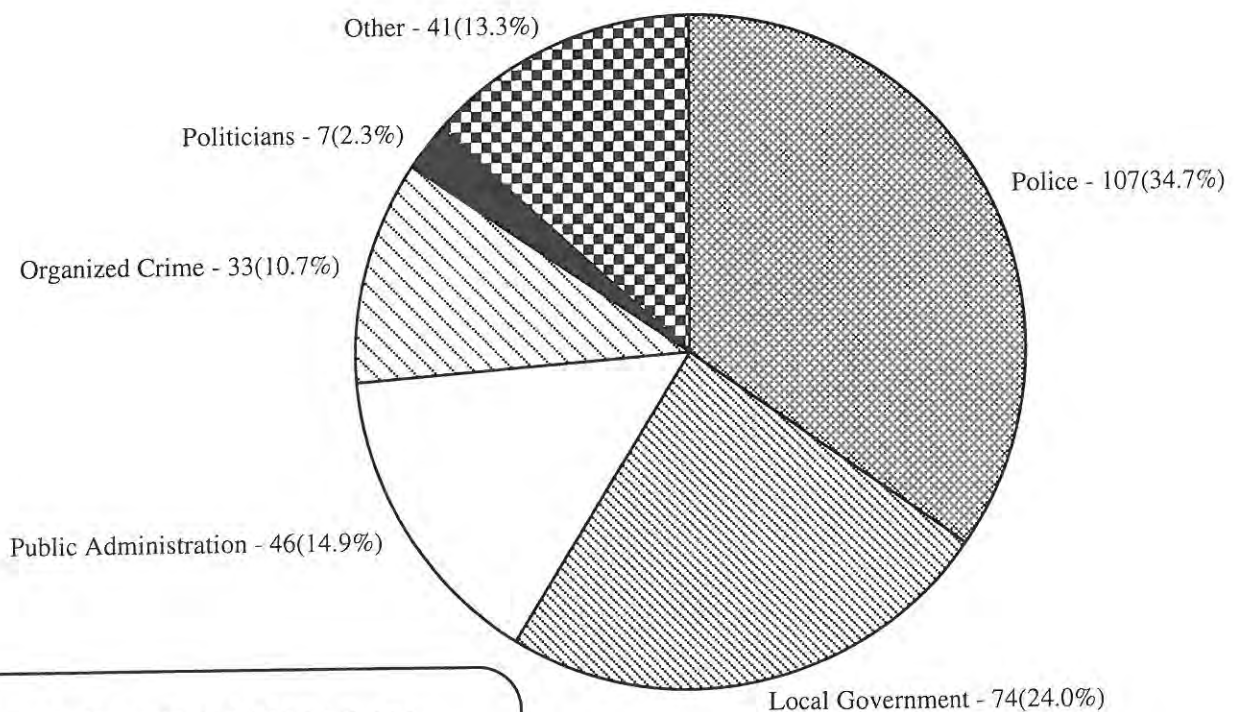


**EXPLANATORY NOTES**

|                       |   |
|-----------------------|---|
| Commission of Inquiry | Matters originating from Commission of Inquiry  |
| Intelligence/CJC      | Investigations initiated by CJC   |
| Complaints Section    | Investigations as a result of complaints from external sources including other law enforcement bodies |
| Other Law Enf. Body   | Investigation in co-operation with other bodies not initiated by external complaint                   |
| Other                 | Providing assistance to other bodies, incidents directly involving CJC personnel/property             |

## MULTI-DISCIPLINARY TEAMS INVESTIGATIONS (31 March 1990 to 30 June 1991)

### 2. CATEGORY OF INVESTIGATION



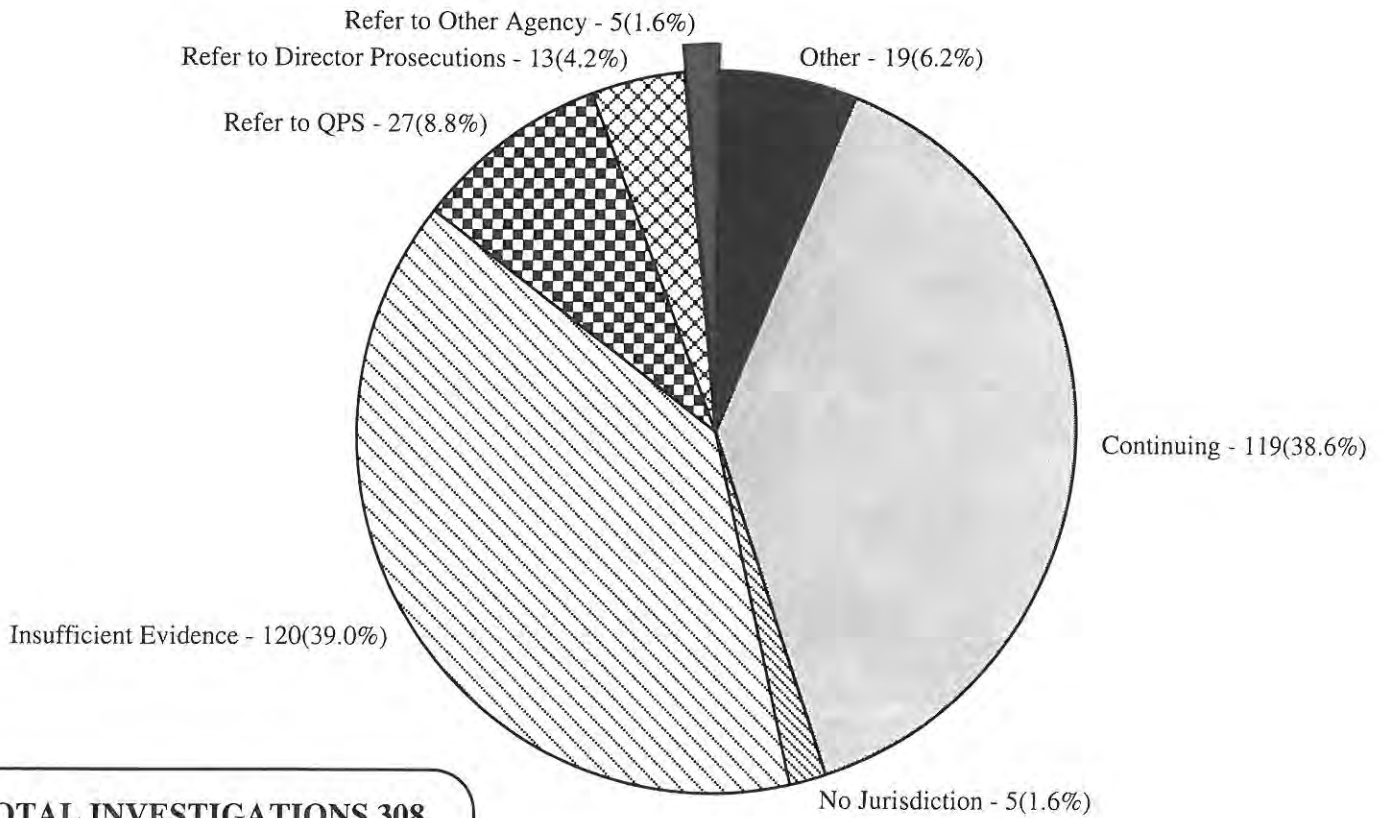
**TOTAL INVESTIGATIONS 308**

#### EXPLANATORY NOTES

|                       |  |
|-----------------------|--|
| Police                | Members of Queensland Police Service   |
| Local Government      | Elected Representatives and employees of Local Government  |
| Public Administration | All holders of office in Units of Public Administration excepting Local Government   |
| Organized Crime       | Organized criminal activity not involving allegations against Police   |
| Politicians           | Members of the Legislative Assembly  |
| Other                 | Includes investigations, surveillance for interstate bodies, information gathered and supplied to other bodies, offences detected against CJC personnel/property |

**MULTI-DISCIPLINARY TEAMS INVESTIGATIONS  
(31 March 1990 to 30 June 1991)**

**3. OUTCOME (as at 30 June 1991)**



**TOTAL INVESTIGATIONS 308**

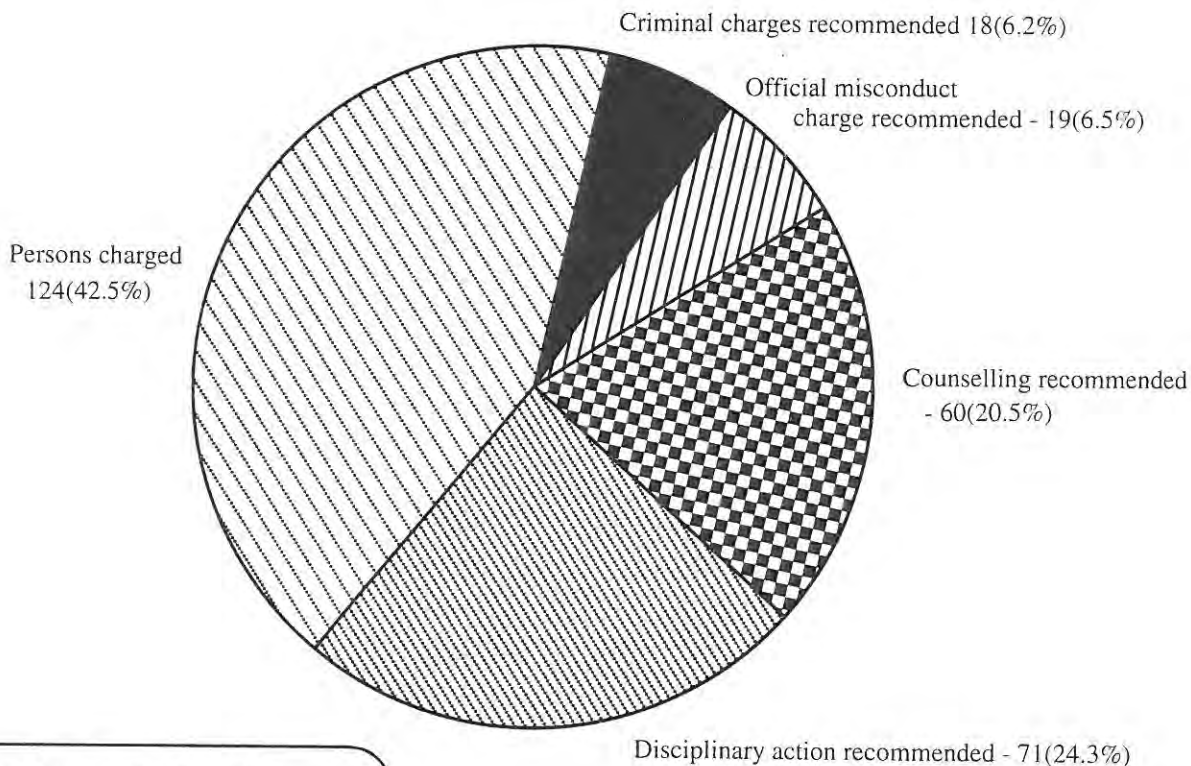
**EXPLANATORY NOTES**

|                                   |   |
|-----------------------------------|---|
| Continuing                        | not concluded, including further investigation or reports to be submitted                                   |
| No Jurisdiction                   | investigation conducted to point when determined no authority to deal with matter                           |
| Insufficient Evidence             | includes no evidence of misconduct/criminal offences  |
| Refer to QPS                      | recommend to Queensland Police Service for disciplinary action, further investigation, changes of procedure |
| Refer to Director of Prosecutions | recommendations for criminal prosecution or other action  |
| Refer to Other Agencies           | matters within jurisdiction of other bodies   |
| Other                             | includes recommendations by Teams for disciplinary/criminal proceedings by other CJC Sections               |



**MULTI-DISCIPLINARY TEAMS INVESTIGATIONS**  
(31 March 1990 to 30 June 1991)

**4. PERSONS CHARGED WITH CRIMINAL OFFENCE OR AGAINST WHOM CRIMINAL/DISCIPLINARY ACTION RECOMMENDED**



**TOTAL PERSONS 292**

**EXPLANATORY NOTES**

|                     |  |
|---------------------|--|
| Persons charged     | persons charged with criminal offence  |
| Criminal charges    | persons against whom criminal charges have been recommended to Special Prosecutor, Director of Prosecutions, Director of Public Prosecutions or Commissioner of Queensland Police Service (QPS)  |
| Official misconduct | persons against whom disciplinary charges of official misconduct under the Criminal Justice Act have been recommended  |
| Counselling         | persons against whom there have been recommendations for counselling to Commissioner, QPS or Departmental Heads  |
| Disciplinary action | persons against whom there have been recommendations to Commissioner QPS or Departmental Heads for disciplinary action including dismissal, demotion, transfer, close supervision, salary reduction/forfeiture, deferment of increment |

**Other Details Relating to Investigations Conducted by the OMD (that is, the Complaints Section and the multi disciplinary investigative teams)**

|   |       |
|---|-------|
| • Authority to enter public premises granted under S.3.2 of the Act ..                                    | 15    |
| • Notices to Furnish/Produce under S.3.1(1) of the Act .....  | 306   |
| • Public Hearings Conducted .....   | 4     |
| • Private Hearings Conducted .....  | 30    |
| • Pages of Transcript .....   | 7,472 |
| • Summonses to Attend issued under S.3.6(1) of the Act .....  | 375   |
| • Notices to General Manager of Corrective Centre re Attendance of Prisoner under S.3.13 of the Act ..... | 37    |
| • Witnesses Examined at OMD Hearings .....  | 333   |
| • Exhibits Received in OMD Hearings .....   | 990   |
| • Persons Charged as a Result of Commission Investigations # .....  | 124   |
| • Criminal Charges .....  | 419   |
| • Recommendations that disciplinary charges be laid .....   | 71    |

# Refers to both investigations conducted solely by the Commission and to investigations conducted in conjunction with other Agencies.

**CORRUPTION PREVENTION**

**A Statutory Function of the Commission**

Section 2.20(2)(f) of the Act makes it a function of the OMD to offer and render advice or assistance, by way of education or liaison, to law enforcement agencies, units of public administration, companies and institutions, auditors and other persons concerning the detection and prevention of official misconduct. Ways in which the Commission is fulfilling this function are detailed below:

**Addresses to Public Sector Officers**

- Officers of the Commission have addressed various public sector groups (including members and officers of Local Authorities) in relation to the responsibilities of management in respect of corruption prevention. Such addresses have also dealt specifically with the responsibilities of principal officers to report suspected official misconduct to the Commission pursuant to the Act.
- The Commission has also participated in seminars conducted by The Consultancy Bureau for officers of the public sector relating to their responsibilities. Eight seminars took place attended by, on average, 60 persons per seminar. Most of the persons who participated in these seminars can be categorised as middle

to senior management within the public sector. The Commission's sessions were presented by the Chairman, the Director of the OMD and the Chief Officer of the Complaints Section. The Commission's session dealt with responsibilities under the Act, examples of corruption within the public sector, the need for principal officers of units of public administration to implement effective internal reporting systems and protection given to whistleblowers. The Commission is of the view that these sessions though time-consuming were an effective way of communicating with a significant percentage of senior officers of the public sector.

**Corruption Prevention Officer**

The Commission is presently interviewing applicants for the position of Corruption Prevention Officer. This officer's principal duties will be:

- Direct and manage the Corruption Prevention Program;
- Develop and implement corruption prevention strategies;
- Undertake high level liaison with other authorities in relation to corruption prevention;
- Participate in the management of the Commission.

**Future Initiatives**

The concept of corruption prevention is based on the principle that prevention is better than cure. It is also based on the premise that corruption prevention is a managerial function. Administrative and managerial failures in an organisation are likely to present opportunities for those with a corrupt intent to exploit the system. Common features of managerial weaknesses conducive to corruption include lack of or poor policy, unenforceable legislation, inadequate instructions, excessive discretion, unnecessary procedures leading to frustrating delays and lack of effective supervision.

Corruption prevention aims to address these weaknesses by the introduction of administrative and managerial improvements to systems. With these principles in mind it is the intention of the Commission through its corruption prevention program to promote the view that corruption prevention is an integral part of good management. The Commission will also promote systems of accountability whereby persons are responsible for their own acts and those of the persons they supervise. The Commission intends to discharge this function by:

- Giving advice to principal officers on the basis of the analysis of complaints made to the Commission. It will frequently be necessary for the Commission's corruption prevention officer to follow-up such advice to assess whether the recommendations made have been effectively implemented.

- Bringing to the attention of principal officers the existence of the Commission's corruption prevention function and inviting them to seek advice from the corruption prevention officer in respect of situations susceptible to exploitation.
- The Commission's officers will continue to address seminars and other groups of public sector employees in relation to corruption prevention measures.
- The Commission also welcomes invitations from the public sector to participate in working parties dealing with codes of conduct and other corruption prevention measures.

## PROCEEDS OF CRIME

### The Rationale

The accumulation of assets and money by criminal activity has been practiced by criminals since time immemorial. Providing courts with the ability to retrieve those assets is new.

The American experience indicates that this legislation can result in large returns. However, this is but one aspect of its effectiveness because in attacking and destroying the criminal's motive it strikes at the very heart of criminal activity.

Further, through the sophisticated money tracing techniques which accompany this legislation, it greatly enhances the prospect of catching the "Mr Bigs" who were previously safely removed from the vulnerable forefront of criminal activity.

It is now generally agreed by law enforcement experts the world over that the tools of asset forfeiture and money tracing are extremely effective weapons in the fight against crime. The reasons for this were described by Royal Commissioner Frank Costigan Q.C. in 1983:

"The first thing to remember is that the organisation of crime is directed towards the accumulation of money and with it, power. The possession of the power that flows with great wealth is to some people an important matter in itself, but this is secondary to the prime aim of accumulating money. Two conclusions flow from this fact. The first is that the most successful method of identifying and ultimately convicting major organised criminals is to follow their money trails. The second is that once you have identified and convicted them you take away their money; that is, the money which is the product of their criminal activities."

Australia has in recent years enacted legislation:

Commonwealth: Proceeds of Crime Act 1987

Queensland: Crimes (Confiscation of Profits) Act 1989

All Australian states now have forfeiture legislation in some form.

Although the Australian experience is of short duration, it is very promising.

### Establishment of The Team

One of the responsibilities of the Commission involves the investigation of organised or major crime where that function is not appropriate to be, or cannot be, effectively discharged by the police force or other agencies. (Section 2.15 (f)(iv)).

Because of the opportunity presented by the Crimes (Confiscation of Profits) Act 1989-90 to retrieve substantial assets and to attack major crime, a Criminal Assets Section was established within the Commission.

The team consists of a lawyer and a financial investigator who together have over 30 years experience in criminal litigation and investigation. A tactical investigator is presently attached to this team because of present demands.

### Investigations

The team was established in September 1990. There are now thirteen matters under review. Some of these matters have their source in the QPS, others in the Commission. Eleven relate to drugs, one to illegal gambling and one to alleged fraud.

### Assistance to Queensland Police Service

In late 1990 it became apparent that the Drug Squad was in urgent need of assistance with potential assets forfeiture matters. The Director of Prosecutions Assets Team had not been established and the Drug Squad was without a financial analyst or legal adviser who could guide and assist them in a growing number of urgent assets matters.

A policy was devised whereby the Commission Assets Team would provide assistance when requested by the QPS in the following circumstances:

1. The matter must be substantial (so as to fall within the Commission's guidelines of "organised or major crime");
2. Only financial and legal assistance is provided (that is any police investigation required is conducted by QPS not the Commission);
3. Matters must have realistic prospects of success;
4. Commission work must take precedence.

The Director of Prosecutions now has an Assets Team but its function is to prosecute. The Commission function is to investigate. Because there is no blurring of roles a very good rapport has been developed with the Director of

Prosecutions Team as indicated by the frequent contact and interaction between the two teams which has achieved the present high level of efficient operation.

### Results

It should be noted that the relevant Queensland legislation (as well as the Commonwealth and all other state legislation except New South Wales) is conviction based. (That is, an application for forfeiture can only be made after the accused has been convicted of an offence from which the asset derived.) The first test of this legislation is almost completed. A drug trafficker was convicted of trafficking in 115 pounds of cannabis and it is expected that the forfeiture order to follow this conviction will result in the forfeiture of all of his assets, valued at some \$400,000. The offender, who had spent nine months in custody, was sentenced to five and a half years imprisonment with a recommendation for release after two years.

The legislation is already changing the approach of law enforcement and not only improving the potential for revenue retrieval, but also the prospects of conviction.

To date, the Commission has been responsible for freezing \$430,000 in assets. A further \$410,000 is expected to be restrained in coming months, making a total of \$840,000. Other matters appear promising and substantial although investigations are insufficiently advanced to predict amounts or outcomes.

To summarise, all indications, even at this early stage, are that the confiscation system is operating successfully. A good rapport exists between the Commission Assets Team and the Director of Prosecutions Assets Team, and requests for assistance from the QPS are directed to both Teams. By combining technology and experience and the willingness of other Commission lawyers or financial analysts to assist if necessary, a small team is able to handle the matters which have been referred to it.

## OFFICIAL MISCONDUCT DIVISION—THE PROBLEMS

Any treatment of the functioning of the OMD since the coming into force of the full provisions of the Criminal Justice Act on 22 April 1990 would not be complete without a reference to the problem areas which have created the greatest difficulty in meeting its statutory obligations.

### Effective Investigative Resources

The Division's greatest need is the constant demand for investigators at the work face to address the more than 800 current investigations. To determine to what extent the investigative establishment is

in fact available to undertake the work of the OMD, an exercise was conducted which reviewed a six month period from 1 October 1990 to 1 April 1991. In this period total available working days were 129. When down time due to recreation leave, sick leave, court commitments and official courses was taken into account, the percentage of days lost represented 27.45% of available working time. The result of this deprivation was to reduce the effective investigative strength within the Complaints Division from 17 to 13 Inspectors of Police.

This chronic situation has the potential to substantially depreciate the functioning of the OMD, given the pressures and workloads which are unlikely to diminish, but to the contrary, are likely to increase. One possible solution which has great attraction for the Commission is to follow in the footsteps of the ICAC in New South Wales and appoint civilian staff to one-third of its investigative positions. This would:

- Substantially reduce the leave and course component of unavailable down time;
- Provide a corps of investigative personnel who would act as a reservoir of accumulated expertise to brief QPS personnel upon secondment on Commission procedures, practices and techniques;
- Assist in overcoming a perceived lack of independence in investigating allegations against Queensland Police personnel; and
- Provide a healthy level of competition within the ranks of investigators (this has been the experience of the New South Wales ICAC).

It is envisaged that such so called civilian investigators would in fact be former police officers of at least 10 to 15 years service, of substantial investigative experience and of unblemished character, reputation and integrity. Indeed, the Commission has commenced a recruitment of such personnel, originally to perform the function of criminal analysts but in view of the quality of applicants, it has determined that those persons should be re-designated Tactical Investigators and assist in the actual investigation of Commission matters. They would suffer the restriction of not being sworn in as Constables of the QPS unless the Commissioner of the Police Service is prepared to have them appointed as Special Constables.

The advantage for the QPS would be the return to that Service of a substantial number of experienced investigators. Given the fact that the Commission has been accused from time to time (quite unfairly in its view), of taking the "cream of the Queensland Police Service" to the prejudice of the fight against general crime, the Commission would anticipate that such a proposal should receive widespread support within the Police Service.

### QPS Approach to Commission Police Contingent

Another difficulty is created by the seeming inability of the QPS to understand and accept that the police contingent attached to the Commission is totally separate from the QPS. This occurred on the recommendation of the Fitzgerald Inquiry and has the force of statute, in particular Section 2.56 of the Act. This section provides (in relevant part): "(2) In discharge of his duties an officer of the Commission: . . .

- (c) being any other officer, is subject to the direction and control of the Executive Director, the Director of the organisational unit in which the officer is employed, and any other officer of the Commission to whom he is for the time being made subject by such lastmentioned Director;

and not to any other person or authority that, but for this provision, might be taken to have had control and direction of him."

Despite the clear statutory intention there continues to be substantial interaction between members of the QPS contingent attached to the Commission and the wider Police Service, on occasions without reference to the Director of Operations, an Assistant Commissioner of the Police Service who is responsible for the supervision of the discipline and performance of duty of the Commission's police contingent.

Further, given the sensitivity of the work, the close vetting procedures for the recruitment of staff, the long lead times involved in the selection process and the relatively small number of police personnel attached to the Commission, there remains a high turnover rate of staff which acts to the considerable prejudice of the work at the Commission, in particular:

- The selection for promotion and transfer of seconded police staff within the secondment period;

- Their selection for courses and the requirement for them to be subject to general QPS directives such as the requirement of the Commissioner of the Police Service that all accumulated leave be taken within the next 18 months.

As pointed out above, this latter requirement will have a substantial prejudicial impact on the work of the Commission.

In the Commission's view, investigators seconded to the Commission should, except in exceptional circumstances, be seconded for the period and appropriate arrangements to prevent any prejudice to their careers should be made by police regulation.

### CONCLUSION

The OMD has implemented as far as is practically possible the full scheme of the Fitzgerald Report and has trialled it for a period of twelve months. Certain difficulties have been identified, in particular those relating to the volume of complaints and the inadequacy of current resources to deal with that volume. Further, the OMD is desirous of undertaking a new direction in the investigation of major or organised crime.

The Commission is acutely aware that any decisions it takes will impact upon the community. It has attempted to set forth in detail in this chapter the current situation, its historical context, the options available, the criteria for decision making and its preferred course in an endeavour to inform the Parliament and the community and maintain public confidence.

## 4. RESEARCH AND CO-ORDINATION

### ROLE AND FUNCTIONS

The Fitzgerald Inquiry appointed in 1987 to investigate possible illegal activities and associated police misconduct made a large number of significant recommendations. The recommendations in its Report concerning the organisation, management and discipline of the Queensland Police were, by any standard, far reaching. However, on matters such as law reform, the policing of offences concerning dangerous drugs, traffic policing, self-funding of law enforcement etc., the Fitzgerald Inquiry could not make specific recommendations for changes. This inability to make recommendations emerged primarily because it did not have the benefit of research material that would enable the drawing of conclusions and the making of suggestions. The Fitzgerald Inquiry reached the sensible conclusion that when "research does not allow a confident conclusion, it would be folly to make recommendations simply on the basis of convenience." Accordingly, these tasks were left to be dealt with by this Commission through its Research and Co-ordination Division.

These were not the only tasks that the Division was required to perform. The Act, instead of specifying the types of research or activities to be conducted, offered the Division a mandate to conduct research into the functioning and administration of criminal justice in the State. While broad in scope, such a delineation of functions placed extra responsibility upon the Division in defining research that was urgent and that which could be postponed. In broad terms, the Act prescribed the role and function of the Division as:

- To conduct research into issues confronting the administration of criminal justice in the State;
- To conduct research and review activities with a view to recommending law reform;
- To make known results of the research that the Division conducts;
- To review and monitor the working of various programs and methods of the QPS, including the implementation of recommendations of the Fitzgerald Inquiry, community policing and crime prevention, recruitment and training of police officers, etc; and
- To co-ordinate and to develop procedures and systems for co-ordinating the activities of the Commission and other criminal justice agencies in the State.

An examination of the Fitzgerald Report reveals that almost every aspect of the administration of crime and justice in Queensland lacks adequate,

balanced, systematic research. This meant that the Division needed not only staff trained in research methodology but, more importantly, a group of researchers with expertise in a number of disciplines and with adequate understanding of the role and functioning of the administration of justice in the State. As well as trained staff, an important activity like research requires an advisory or management body. It was not necessary to establish an independent advisory or management body because the very structure of the Commission enabled those functions to be carried out within the Commission. During the period under review the Division has had the benefit of advice and suggestions from the Chairman, the Commissioners, the Directors and the members of the Parliamentary Committee. It is perhaps this collection of expertise that has helped the Division to organise its research activity.

Early in 1991 when the new premises offered the opportunity, a new venture in the form of in-house seminars on major research issues was initiated. The main aim of these seminars has been to obtain feed-back from all parts of the Commission—lawyers, police officers, managers, support officers, etc. These seminars have contributed significantly to the Division's research program.

One point to be emphasised is that instead of concentrating on basic and fundamental research, the Division has made a conscious effort to see that all of its research has practical implications. Furthermore, as was recommended by the Fitzgerald Inquiry, the Division has, when practicable, consulted with various segments of the Queensland population either by way of submissions on particular issues or by way of expert advice from knowledgeable groups.

### ESTABLISHMENT

The Division is the smallest Division in the Commission and consists of a Director, seven (7) professional staff and five (5) support staff. Among the seven (7) professional staff there are three (3) lawyers and four (4) researchers trained in various social science disciplines. It has always been the intention of the Commission to maintain a small Research and Co-ordination Division. Realistically the Division cannot expect to attract and employ sufficiently qualified people in every aspect of research; there are not that many trained researchers available in Australia. Therefore, at the outset, the Commission decided that on particular issues individuals with known expertise be engaged on a contract basis to accomplish a task. The Division has been quite successful in pursuing this course of action.

## RESEARCH PRIORITIES

### Introduction

Given the enormity of tasks, it was necessary that the Division establish the list of priorities as:

- S.P. Bookmaking
- Police Education and Training
- Crime and Justice in Queensland
- Community Policing and Crime Prevention
- Prostitution
- Construction of a Criminal Justice Data Base

Although the priority projects were identified and completion dates were determined, it was not possible to maintain this as an exclusive or top priority list. During the year the Division has had to take up a number of additional projects considered urgent and which increased the workload very significantly, without increasing the staffing level. For example, the Division included in its work program the following topics:

- Monitoring Police Reform;
- Survey on the Attitude of the Public to Police Reform;
- Crime Victims Survey;
- Review of the QPS Information Bureau;
- Examination of Police Prosecution Functions;
- Alternative Sources of Funding for the QPS;
- Police Powers;
- Domestic Violence;
- Youth Crime;
- Profiling of Police Divisions and Districts;
- The Jury System in Criminal Trials in Queensland; and
- Community Service Orders.

A brief description of each of these topics will follow the description of the priority projects listed earlier.

Recognising the constant need for expertise outside the Commission, the Division, in association with the Australian Institute of Criminology, prepared a Directory of Researchers of Crime and Criminal Justice. This Directory was published in February 1991 and serves as a very useful tool in selecting experts in particular research issues.

### Research Projects

#### S.P. Bookmaking

This project was supposed to have been completed by October, 1990. However, once the investigation began it became apparent that this time frame could not be maintained. The topic involved not only theoretical work but much more importantly, it had to deal with a number of areas which

involved material not publicly available. Furthermore, since the subject matter was concerned with law reform the Division considered it important to seek views and opinions of the greater community in Queensland. An issues paper was released in November 1990 and public submissions were sought. The project also involved reviewing legislation in other major jurisdictions in Australia. It is only with such an approach that the Division could make appropriate recommendations.

The briefing paper on S.P. bookmaking includes definitions of S.P. bookmaking and organised crime, the history of S.P. bookmaking in Queensland, S.P. bookmaking and crime in the social context, the effects of S.P. bookmaking on the revenue, utilisation of Telecom facilities, etc. The briefing paper also includes the options available for Queensland and makes appropriate recommendations. The report of this research will be completed in August 1991.

#### Police Education and Training

The Fitzgerald Inquiry in its Report observed that pre and in-service training of Queensland Police Officers was totally inadequate. In order to change the basics of police culture, the Commission recommended that the entire education and training program for police officers be improved.

In July 1990 Sir Max Bingham Q.C., the Chairman of the Commission, in consultation with the Commissioner of Police, announced the formation of the Queensland Police Service Education Advisory Council (P.E.A.C.). The Council consists of members with a wide range of expertise and who represent interested groups. Professor Paige Porter, Dean of Education of the University of Queensland, was nominated as the Chairperson and the membership includes officers from the Commission, Department of Employment, Vocational Education, Training and Industrial Relations, Department of Education, QPS, Queensland Police Union, New South Wales Police Academy and the Australian Police Staff College.

The Council invited tertiary institutions in Queensland to make submissions with regard to training programs. After considerable discussion of the programs the Council recommended a two semester university-based comprehensive training program for new recruits. The two tertiary institutions that were chosen to provide part of the training were the Queensland University of Technology and Griffith University. This new training program began in February 1991 with the recruitment of about 400 new cadets and they were assigned to the two universities in equal proportions. According to the plan the recruits are expected to spend the first semester at the universities and the training program for the second semester is to be conducted at the Queensland Police Academy.

The Advisory Council also recommended a total restructuring of the Queensland Police Academy in order to facilitate the introduction of the new training program. However, it appears that the second semester training program at the Queensland Police Academy will not proceed as planned, at least for the first batch of recruits. The restructured academy is still awaiting the approval of the Minister for Police and Emergency Services. In the meantime a contingency plan was prepared and temporary training staff were engaged, on a full-time or part-time basis to begin the second semester training program on 24 June 1991. Since it is not yet certain whether the proposed restructuring of the Queensland Police Academy will take place, this contingency plan makes the assessment of the impact of this new education program extremely difficult.

### **Crime and Justice in Queensland**

The lack of a co-ordinated criminal justice information system makes it difficult to describe and project the nature, pattern and level of criminality in the State. Also, citizens do not appear to have a clear understanding of the justice system and its operation.

The study on Crime and Justice in Queensland therefore attempts to bring together a wide range of data from various criminal justice and other sources. It outlines the various stages of the criminal justice system from the commission of an offence to final release of an offender from prison or other correctional institution. The publication will be released in August 1991.

### **Community Policing and Crime Prevention**

The Division worked closely with the QPS in developing a community policing strategy for the State. As a first step the Division prepared a paper on community policing drawing experience from other jurisdictions within Australia and overseas. Jointly with the Australian Institute of Criminology, a national conference entitled "Police and the Community in the 1990s" was held in Brisbane in October, 1990. The conference was attended by, among others, a large number of police officers from Queensland and other jurisdictions.

### **Prostitution**

The topics which concern possible changes to the existing legislation had to be viewed from a number of perspectives. A major concern in such matters is to seek the input from the greater community. The research project on prostitution used this procedure and as a first step prepared a detailed Information and Issues Paper. Very often the members of the community are not well informed on issues which do not concern them in their day-to-day lives. The Division decided to prepare a paper which would inform the community not only of the problems but also the arguments for

and against issues that surround a topic like prostitution. Well over 100 submissions were received from individuals and organised groups.

The Division also sought the input of the wider community through a systematically selected sample of Queenslanders. A private marketing research company was contracted to conduct a survey of public attitudes towards prostitution in Queensland. As in the case of research on S.P. bookmaking, the study on prostitution also required that situations in other jurisdictions be studied. Therefore the public attitude survey was also conducted in Melbourne, where the law was changed in the mid-1980's, in order to compare the community's views after the changes.

The research on prostitution also involves a survey of sex workers within Queensland. For this purpose a detailed structured interview schedule was prepared and the Division's research staff and casual employees were used to interview sex workers in Brisbane and other major centres in the state.

Finally the Division also engaged scholars to assess the current situation concerning prostitution in Victoria, Western Australia and New South Wales. Written reports on these assessments constitute valuable documents.

Based on all the above and continuous exchanges of views with knowledgeable persons, the research draws conclusions and makes recommendations for action. The report of this research will be completed in August 1991.

### **Construction of a Criminal Justice Data-Base**

This is a long term project and requires the co-operation of a number of agencies within the State. The main aim of this project is the development of an integrated and complete body of statistics, covering crime, criminals, criminal justice, and correctional treatment at the state and local levels. It is envisaged that this plan for integrated statistics will be entrusted to a single agency.

### **Monitoring Police Reform**

In September 1990 the Division assumed the responsibility to monitor and review the implementation of the recommendations for police reform made by the Fitzgerald Inquiry. A senior staff member of the Division was engaged on a full time basis to undertake the task of monitoring well over 100 recommendations for reform.

### **Survey on the Attitude of the Public to Police Reform**

In November 1990 the Minister for Police and Emergency Services, at a joint meeting of the QPS and the Commission Executives, expressed the desire to gauge the views of Queenslanders toward police reform. With the help of a steering committee consisting of representatives from the Office of the



Minister for Police, the QPS and the Division, a survey was planned and a marketing research firm was hired to conduct the survey. The survey used both qualitative and quantitative methods and was completed in May 1991.

### Crime Victims Survey

This survey, conceived as a part of the development of integrated crime statistics, is a major project requiring substantial resources. Even after the development of integrated statistics such a survey on a regular basis, maybe every three years, will be very useful. Official crime statistics produced by the QPS do not reflect the true extent and nature of crime. Such statistics, therefore, are of limited value in so far as they constitute aids to management, operations and crime prevention.

The Commission, in association with the Government Statistician's Office, planned, designed and conducted a large scale crime victims survey in Queensland. This survey, preliminary results of which will be available in September 1991, will offer much needed information to help in:

- Designing management, operational and crime prevention strategies;
- Designing community policing strategies;
- Understanding the community's feelings and perceptions, and attitude to crime and crime prevention;
- Estimating the rates of crimes that are reported to police and reasons for not reporting certain crimes;
- Estimating risk of victimisation for specific demographic groups.

A final report on the survey findings is expected by the end of 1991.

### Review of the QPS Information Bureau

The Fitzgerald Inquiry considered the quality of information on crime produced by the QPS Information Bureau and found that the information produced was not adequate for any useful police function. In its Report, the Fitzgerald Inquiry made recommendations for this Commission to conduct a comprehensive review of the police information systems. Recommendations also emphasised that such a review was to take place in co-operation with specialist external consultants and officers of the QPS. The Commission has nominated a Committee consisting of experts and members of the QPS and the Commission. The Chairman of this Committee and some members visited New South Wales, Victoria, South Australia and Western Australia to examine information and statistical systems. These visits have been of significant value in the review process.

The Commission considers this review to be a co-operative venture and its primary aim is to assist the QPS to improve its information capability.

It is envisaged that following the completion of this review and issuance of a report, the Committee will continue to support and review the QPS in its activities. In this sense there will remain an ongoing monitoring function to assist the QPS. The Committee is to report the results of its review by 31 October, 1991.

### Examination of Police Prosecution Functions

One of the recommendations contained in the Fitzgerald Report was that action be initiated to remove, as far as is practicable, prosecution and legal advice responsibilities from the Police Service. The prosecution function of the Police was to become the responsibility of the Director of Prosecutions, in all but remote locations.

A working party comprising representatives of the QPS, Director of Prosecutions' Office, Attorney-General's Department and the Commission has been reviewing the police prosecution function. A proposal for phased implementation of the transfer of functions to the Director of Prosecutions' Office has been prepared. A pilot scheme for the first stage has been drafted and the Director of Prosecutions' Office is awaiting advice as to whether the funding required to implement the pilot scheme will be forthcoming.

### Alternative Sources of Funding the QPS

Work in this area is only in its early stages. Discussions have been initiated with various insurance companies. A consultant was engaged to prepare a paper as to how the needs of the insurance industry and the QPS can be effectively co-ordinated so that it is beneficial to both groups. This was followed by a workshop and discussions between the insurance companies and the QPS are continuing.

### Police Powers

Late in 1990 the Division began work on the issue of police powers in Queensland. The Office of the Minister for Police and Emergency Services was at that time engaged in preparing a paper justifying the need for extra powers to the police as investigative tools. It was agreed subsequently that a joint issues paper be prepared, by the Office of the Minister for Police and Emergency Services and the Commission, and be released calling for public submissions. The work is still in progress. The issues paper is expected to be released by September, 1991.

### Domestic Violence

It is a sad fact that violence can occur in the family home. Current data from around the country show that about 4 out of 10 violent offences reported to the police each year occur within the family home. In an overwhelming number of incidents the victims are women and children. Most of the States in

Australia have enacted legislation to deal with violence in the family; Queensland, in the latter half of 1989 enacted and implemented the Domestic Violence (Family Protection) Act.

Late last year the Division was approached by the QPS to assist them in evaluating the operation of the *Domestic Violence (Family Protection) Act 1989*. The records maintained by the Police Service and the Department of Family Services and Aboriginal and Islander Affairs of each application for orders under the Act constitute a valuable data bank. The Division, in spite of a heavy workload, considered this topic to be very important and contacted the Department of Family Services to assess their interest. The Act has been in operation since October 1989 but questions continue to be raised about its usefulness in protecting victims of domestic violence.

Input was also sought from the Women's Policy Unit of the Premier's Department and the Chief Stipendiary Magistrate in order to develop a unified approach to this problem. Significant progress has been made in the planning of the project and it is hoped, given the availability of resources and expected co-operation from the above departments, that the project will be underway by mid-1991.

### Youth Crime

The largest single impediment to our ability to cope with crime is the gap in our knowledge. This becomes evident as soon as we decide to implement new measures to deal with crime. Dealing with youth crime is no exception. While this is true, the last two decades have shown some encouraging progress. Research in North America, the United Kingdom and Scandinavia since the mid-1960s has led to the introduction of a number of intervention measures. The policy makers in these countries now know who commits a large portion of crimes. They know that a typical high rate offender is a young male who began his criminal career at an early age; he comes from a troubled, low income family, often with one natural parent and a history of criminality in the family; he has had troubles in school; and by the time he reaches adulthood he has had a number of contacts with the police and other criminal justice agencies.

The research referred to above is a longitudinal survey of crime which basically has two aims: the first is to ascertain the development of criminal careers, including an account of the nature and number of crimes at various ages, the age of onset of crime, how long this path to crime is followed, and when individuals desist from committing crime. The second aim is to identify the effects of specific events on the progression to the criminal career. These developments are measured through the study of a cohort, or in loose terms, a generation. A most common example of the sample is those born in a particular year. These studies use either an universe or a very large sample.

A longitudinal survey can be prospective or retrospective. That is, we can begin with all the children in Queensland who were born in, say, 1981 (currently 10 years old) and follow them regularly, maybe each year. Policy makers are generally unwilling to wait for a number of years to find out the results but the value of a prospective study is significant because it is close to the occurrence or otherwise of specific events. In retrospective longitudinal surveys, the researcher looks back to what happened several years back. A general starting point of such a survey is to select all those who are 17 years old and study their delinquency career. A major limitation of this survey is that one is asked to remember events in the past and the recollection may not be accurate. Both the prospective and retrospective surveys have merits.

Because these surveys gather information on a large number of variables and for several years, they provide points where significant events have occurred. Since in both types the study uses the same time period for each individual, it enables us to identify why individuals growing up in the same environment behave differently—why some choose a life of crime and others do not. One key element of such surveys therefore, is to offer points at which specific intervention strategies should be introduced. As an example, if a child shows a lack of motivation towards class work at a certain age, does it have any impact on his behaviour and if so, what can be done about it? Similarly, if one's family shows signs of dysfunction, intervention can be planned. Because these surveys include a large sample, generalisations of results are quite legitimate.

The utility of such surveys cannot be overstated. However, this type of research is painstaking, expensive, time consuming but path breaking. It requires the co-operation of a number of departments and agencies. The research is still in the planning stage. An issues paper is currently being prepared and it is expected that a decision on what kind of survey is to be carried out will be made in the near future. The issues paper will also examine the possibilities of the existence or otherwise of youth gangs and problems in the city malls.

### Profiling of Police Divisions and Districts

Communities in Queensland, as in other parts of Australia, vary widely. They vary in terms of physical geography, demography, economic activity, social cohesion, government infrastructure—health, education, welfare, recreation, community services, etc.—and they vary in the nature and severity of problems requiring attention. Yet communities vary little, if at all, in basic policing strategy.

During the last 12 months, the Chairman has made a number of visits to police stations in various parts of Queensland. Officers of the QPS have approached him for assistance in gaining an

understanding of the social, economic and other characteristics of the community they police. This Division has received similar requests from a number of police districts.

The Division has begun making plans for a research strategy. This research will develop detailed profiles of police districts and divisions complemented by an analysis of calls-for-service. This project will assist the QPS in the following manner:

- It will allow need-based allocation of police resources. Police response to problems should be modified according to community requirements. This will assist in freeing up police time for other activities. A system of variable police response could satisfy most citizens;
- This research will assist police in supervising street crimes in high crime and problem areas;
- This research could enable the police to make positive contributions in enhancing the quality of life of the neighbourhood; and finally
- It will enable police to develop alternative policing strategies and implement effectively the community policing strategy.

This work is being conducted in association with Professor John Western of the University of Queensland and the QPS. The work will require a significant amount of resources.

### The Jury System in Criminal Trials in Queensland

An issues paper, prepared in conjunction with the Commission's investigation into allegations of jury interference, examines aspects of the operation of the jury system in Queensland. It considers the question of jury vetting, the composition and selection of the jury panel, protection and privacy of jurors, etc. The paper was furnished to the Chief Justice in April 1991 pursuant to Section 2.19(1) of the Act together with the OMD "Report of an Investigative Hearing into Alleged Jury Interference".

### Community Service Orders

It was unfortunate that the Division could not invest substantial research resources in the area of corrections. However, after a series of discussions with interest groups it was decided to conduct a study of community service orders imposed by various courts in Queensland. The research is still in the planning stages and among other aspects it will examine the use of community service orders during the last 10 years. The study will compare the use of community service orders with other types of sentences, e.g. imprisonment, probation, fines, etc.

### Other Activities

#### In-House Seminars

Five in-house seminars on the following topics were held:

- S.P. Bookmaking
- Police Powers
- Progress of Implementation of Police Reform
- Prostitution Law Reform
- Crime Prevention Initiatives in Holland

In March 1991 the Division organised a special expert group workshop on youth crime. The workshop participants were noted Australian scholars and researchers from the Universities of Queensland and Melbourne, the Australian National University and the Australian Institute of Criminology. The workshop, which was addressed by the Chairman, Sir Max Bingham, Q.C. and the Chairman of the Parliamentary Committee, Mr. Peter Beattie, MLA, considered options for research on youth and crime in Queensland.

### THE LIBRARY

An organisation with a wide range of functions requires an efficient documentation service. This combines the functions of a library and an awareness service. The staff of the organisation, lawyers, police officers, intelligence and financial analysts, management officers and researchers require the most up-to-date developments in their field of interest. The establishment of a library with such diverse requirements and the demands of selective acquisition, efficient inter-library loan service and a good reader service required an experienced librarian.

A librarian with considerable experience was appointed in April 1990. The library is adequately resourced and currently engages a staff of one part-time and two full-time qualified librarians and one support officer.

The library has developed a collection of basic legal material and, through a selective acquisition policy, has established a collection of books, reports, etc. The Commission was very generously assisted by a number of libraries in Queensland and interstate through donations of spare volumes.

During the period under review, the estimated number of holdings in the library were:

|   |       |
|---|-------|
| Books and monographs . . . . .          | 2,200 |
| Pamphlets . . . . .                     | 350   |
| Loose Acts and Reprinted Acts . . . . . | 500   |
| Subscriptions/Periodicals . . . . .     | 270   |
| Loose-leaf Services . . . . .           | 50    |
| Annual Reports . . . . .                | 160   |

The library has an on-line catalogue. It accesses CINCH (the data-base of the Australian Institute of Criminology), the NCJRS (the U.S. National Criminal Justice Reference Service), the CJPI (the data-base of the Criminal Justice Periodical Index) and the ABN (the Australian Bibliographic Network) data-bases.

## CO-ORDINATION WITH OTHER AGENCIES

In most of our research activities it is essential that we consult with various government and other bodies within the State. This is primarily to obviate any duplication of work and at the same time to take into account the views and requirements of other departments in our work. The Division considers this a major co-ordinating role. The various projects cited above show the involvement of a number of departments in the Commission's activities, either through direct participation in research or through working parties, liaison committees, etc.

The Police Education Advisory Council, referred to earlier, is a useful illustration of the Commission's ability to act as a catalyst, bringing together interested and expert parties into a working group to accomplish a specific task. The Commission's ability to assemble such working groups is a powerful tool for useful and enduring change and it is one that the Commission is determined to use wherever appropriate. Other examples of its use to date are:

- **Domestic Violence**—a working group comprising representatives of this Division, QPS, Department of Family Services, the Magistracy and the Premier's Department has been planned.
- **Youth Crime**—an expert group has been convened to study the nature and prevalence of youth crime in Queensland. This group includes scholars from the Universities of Queensland and Melbourne, the Australian National University and the Australian Institute of Criminology.
- **Insurance Fraud**—a working group, including representatives of the insurance industry, has been convened to develop strategies for more effective ways of addressing this problem.
- **Review of QPS Information Bureau**—the working group includes academics from the University of Queensland and representatives of the Government Statistician's Office, the QPS and this Commission.
- **Crime Victims Survey**—the working party includes representatives from the Government Statistician's Office, the QPS and this Commission.
- **Prostitution Law Reform**—a working party on organised crime and prostitution includes

representatives of the QPS and the Commission, and a liaison committee with the Health Department has been established.

Furthermore, the Division is taking steps to consult with as many state government departments and other bodies as possible to identify their needs concerning research in the criminal justice area and their current activities in this area.

The Division is making a conscious effort to seek the assistance and co-operation of all interest groups.

## ASSISTANCE GIVEN BY THIS DIVISION TO OTHER AGENCIES

### Assistance to Royal Commission into Aboriginal Deaths in Custody

The Division developed and carried out, with the help of the QPS and the South Australian Police Service, a survey of police attitudes towards Aborigines and Torres Strait Islanders. The data gathered from these surveys have been incorporated into the final report of the Royal Commission into Aboriginal Deaths in Custody. The Division also submitted detailed comments on two major papers prepared by the Royal Commission.

### Assistance to Victims of Crime Association

The Queensland Victims of Crime Association sought and received assistance from the Division in developing a questionnaire to ascertain the knowledge about victims' assistance programs.

### Assistance to Other Institutions

The Division also assists by delivering lectures at the University of Queensland, Queensland University of Technology and the Queensland Police Academy. The Commission considers this a part of the community service role of the Commission. It is also a recognition of the officers of the Division and of their expertise.

## PARTICIPATION BY DIVISION STAFF ON EXTERNAL COMMITTEES

A number of Division staff have participated on external Committees, details of which are included in Appendix O.

## RATIONALISATION OF EFFORTS

The Division makes a conscious effort to rationalise resources and reduce costs. In the present environment of resource constraints it is important to constantly update the knowledge base. In the area of criminal justice, experiments, innovations

and replications abound, particularly in Western Europe and North America where a considerable amount of such activities originate. Contact with scholars and attendance at conferences provide an opportunity to learn the latest developments. The Division has successfully used two methods in rationalising resources:

- Sharing the cost of a project: During the year under review at least three projects were conducted in association with other bodies on a cost sharing basis:
  - A national conference in Brisbane on the Police and the Community in the 1990s, held jointly with the Australian Institute of Criminology;
  - The Directory of Researchers in Crime and Criminal Justice, published jointly with the Australian Institute of Criminology; and
  - Crime victims survey conducted jointly with the Queensland Government Statistician's Office.
- The Division encourages its staff to enhance their knowledge and ability. Often officers of the Commission, and particularly researchers, visit overseas on holidays or on sponsored travel. The Division takes advantage of the opportunity to organise attendance at conferences on relevant subjects, or visits to places which have attracted considerable interest because of their innovative measures and programs in criminal justice. A number of such arrangements were made during the year.
  - A Commissioner was invited to attend a conference in Geneva as a World Health Organisation Consultant. The Division used this opportunity and requested her to visit Holland to observe some of the new crime prevention programs. Upon her return she gave an in-house seminar on crime prevention initiatives in Holland for the benefit of the Commission staff.
  - A Research Officer, whilst holidaying in North America, attended a conference on behalf of the Division. The conference, "Pros and Cons of Community Policing: A National Debate" was held at the University of Texas, Dallas. Furthermore, he was asked to spend a day with the Edmonton Police Service which is known for its community policing innovations throughout the world.
  - One of the Principal Research Officers, whilst holidaying in Europe, attended a conference in Amsterdam organised by the Law and Society Association of the United States and the International Sociological Association.
  - The Director was invited by the Council of Europe to attend a conference on new strategies to prevent crime in Strasbourg. He was also invited to and attended an

expert group meeting on designing future surveys of world crime trends organised by the United Nations, in Rome, Italy.

## FUTURE DIRECTIONS

Social science research cannot ever produce finite results, no matter how sophisticated the techniques used to conduct such research. Yet time and again one is reminded that research must be objective, balanced, and scientifically replicable. The Fitzgerald Inquiry, in its Report, emphasised the need for balanced research. The Division makes every effort to follow this approach.

The Commission is in a unique position in that it is independent of any government instrumentality. Therefore, the research agenda of the Commission is not subject to any party's political influences or to vested interests. It is not only independent in determining its agenda but also in selecting methods of research, preparation of reports and papers and publishing recommendations. Regardless of whether or not the recommendations accord with government policy, the process by which the reports are tabled in the Parliament guarantees that the public of Queensland is afforded access to results of the research.

- To date the efforts of the Division have been largely directed towards addressing areas requiring urgent attention as highlighted in the Fitzgerald Report. In general, the research program was established having regard to the findings and recommendations of the Fitzgerald Inquiry and the provisions of the Act. However, the Division also had regard to debates in Parliament and the media, and discussions with the members of the Commission and various academics specialising in related areas. As a result of this a list of issues on which research was needed was produced and from this list a number of topics were selected as having some priority. However, it soon became evident that it was not possible to maintain this as an exclusive or top priority list. While it would have been convenient to ignore other demands, given the state of research in criminal justice in Queensland, it was not possible to disregard other emerging issues of importance and so the Division has had to take up additional work. The Division has already substantially completed all of the priority projects. It has commenced a number of important research projects which will hopefully have far reaching consequences for the shaping of social policy in Queensland.
- As a result of the Division's pre-occupation with priority research it could not devote as many resources as would be desirable to the co-ordination role. The Division now believes it is in a position to accelerate the co-ordination of agencies involved in criminal justice. In

this respect the Division has already initiated steps to address the problem in a number of ways.

- It has sought input from all government departments involved in the criminal justice system on initiatives proposed in their departments which impact upon the criminal justice system and on their views as to the areas in which co-ordinated research is required.
- A similar approach has been made to Universities and members of social science faculties.
- With the generous help of the Chairman of the Parliamentary Committee, the Division hopes to receive input in this area from the members of the Queensland Legislative Assembly.
- Whenever practicable the Division has sought the views of the wider community in Queensland. This has been achieved through the receipt of submissions from the public on specific issues and also through surveys seeking public views and attitudes. It is envisaged that in the future such surveys will be used as a major tool for input from the general public.
- One of the most significant outcomes of the activities of the Division has been to foster and encourage an environment to which the academic community in Queensland and

interstate look with some hope and support. This results not only from the research work of the Division but also from the work of the QPS Education Advisory Council in establishing the University-based police education.

The activities of the Division have attracted the interest of academics in Australia and overseas. This is exemplified by the growing number of visits to the Division by noted scholars in the area of criminal justice. Furthermore, much correspondence has been received from scholars and institutions, particularly in projects like youth crime, police education and domestic violence. The letters not only express the willingness of the authors to contribute to the research projects but also seek the contribution of the Division staff in their research endeavours.

In order to cement the Division's achievements to date and its program for the future, the Division will actively work towards establishing a consortium of Universities in Australia. A number of scholars in Queensland have embraced the idea of establishing a centre which draws together resources from a number of Universities and promotes a joint approach to policy-related research. Such a consortium will provide greater opportunities for the exchange of ideas and for a broader intellectual contribution to the criminal justice system in Queensland.

## 5. INTELLIGENCE DIVISION

The Intelligence Division functions as a professional and specialist criminal intelligence unit providing an effective criminal intelligence service. In particular, it facilitates an integrated approach to organised crime and major criminal activity transcending normal boundaries which are the subject of local police action.

### ROLE AND FUNCTIONS

The Division's functions include:

- The building of an intelligence database using information acquired from within the Commission and from external sources of the Commonwealth, State or Territory, and to disseminate such information as the Commission considers appropriate in the discharge of its functions and responsibilities;
- The securing of all intelligence data and records so as to restrict access to those with a legitimate need of access;
- The overseeing of the performance of the role of the QPS Bureau of Criminal Intelligence and the Police Service's liaison with other law enforcement agencies; and
- Subject to the Commission's approval, reporting to the Premier and the Minister for the Police Service on matters of criminal intelligence pertinent to the deliberations, policies and projects of the Government.

### ESTABLISHMENT

The Division has a small establishment of 19 consisting of the Director, three Principal Analysts, eight Analysts and seven support staff. The Division has been fortunate in attracting analysts with considerable experience, language skills and knowledge from both law enforcement and military intelligence areas. In addition to the recruitment of suitably qualified staff, the establishing of a new intelligence function involved the setting in place of a structure, systems, procedures, training and liaison channels to ensure the Division's statutory obligations were met.

### INTER-AGENCY CO-OPERATION

The Commission recognises the importance of sharing intelligence in the furtherance of law enforcement objectives, and places great importance on the exchange of intelligence that may assist in such objectives. As such the Division has established liaison arrangements with law enforcement agencies throughout Australia and in particular the Commission has entered into Memoranda of

Understanding for the exchange of information with the Australian Bureau of Criminal Intelligence (ABCI), the AFP and the NSWCC.

In furtherance of these liaison arrangements, members of the Division have attended a number of intelligence meetings and conferences, locally, interstate and nationally. The Division is also represented at the bi-annual Heads of Criminal Intelligence Agencies Conference convened by the ABCI.

The Division is now well established in the Australian and international intelligence communities. Some uncertainty, however, still remains under the Act as to the Commission's status as a law enforcement agency, and this has had some effect on the Division's ability to access some information. In order to put this matter beyond doubt, recommendations have been made for amendments to the Act.

As part of its function of overseeing the BCIQ, the Division conducted a detailed assessment of the BCIQ and prepared a report recommending significant changes to the Bureau's structure, procedures and relations with other sectors of the Police Service. This report was accepted in its entirety by the Police Service and is now in the process of being implemented. This implementation process is being monitored through close liaison. The Division has also liaised closely with the BCIQ in connection with the preparation of target proposals and the strategic projects currently underway, and in the development of the Queensland Intelligence Database (QUID) for use by the Police Service's intelligence network.

The Division has responsibility for monitoring the relationship between the QPS and the Australian Security Intelligence Organisation (ASIO). A recent report indicates that the Commonwealth authorities are well pleased with the way that relationship is functioning, and an audit, by the Division, found the Service's Counter Terrorism Section to be functioning in accordance with its Charter.

### INTELLIGENCE DATABASE

The Act requires the Division to establish a database of information on criminal activity in its area of responsibility and to apply that information as appropriate to law enforcement operations. An interim computerised database has been established within the Division and additional analytical tools acquired. However, the acquisition of a permanent computer database with analytical capability is seen as vital to the efficient functioning of the Commission. To assist in the identification of the most suitable database for use by the Division, a small working party has been established to examine databases currently in use by other agencies with particular emphasis on security and compatibility.

In accordance with the Act, the Division also reviewed all data and records accumulated by the Fitzgerald Inquiry and secured those of intelligence value with the balance being transferred to possession and control of the Information Manager, Corporate Services Division, in accordance with the Chairman's direction.

## PROJECTS

During the year, the Division has provided the OMD and the QPS Task Force with a number of intelligence reports concerning criminal activity and personalities involved in such. However the main effort of the Division has been in a number of strategic intelligence studies into specific crime concerns and ethnically based criminal activities or concerns. These strategic studies are aimed at a broad perspective of traditional organised crime areas where such activity may exist in Queensland.

Such projects, especially those in relation to ethnically based criminal activity, are a sensitive issue. The mere acknowledgment that the study is being conducted has in the past resulted in grossly exaggerated and often speculative reports under prominent headlines in the media. Examples of this have been seen in the latter part of 1990 when the Commission acknowledged it was conducting an examination of the possibility of Queensland being susceptible to Japanese organised crime activity. The Intelligence Division is currently continuing with this examination as well as examinations of similar possibilities in respect of other ethnic groups.

The Division was also given the responsibility of vetting all staff of the Commission to a high standard, including the provision by staff members of declarations of personal particulars and financial interests. The initial vetting procedures were completed and an ongoing program now exists for all new staff joining the Commission. Staff are also required to notify any significant changes in their status under these declarations. With the need to monitor high standards of security not only in respect of the Commission staff but also for the physical security of the Commission, the Division also prepared detailed proposals for the Commission's security guidelines.

The Division, to address the legitimate community concerns about intelligence gathering operations, formulated *and released publicly* the guidelines under which it would operate. All staff have been trained and examined in the use of these guidelines. To the best of the Commission's knowledge, this is the first time an Australian criminal intelligence organisation has taken such a step. The guidelines anticipate the introduction of Freedom of

Information and Privacy legislation and incorporate the principles of such legislation, using Commonwealth requirements as a guide.

The guidelines for intelligence gathering and dissemination also establish specific procedures to ensure the security of information and correct handling, storage and retrieval. This is a significant measure to enhance accountability in a difficult area developed and adopted by the Commission on its own initiative. These guidelines, in a slightly amended format have also been adopted as the basis for operations in this area by the QPS Bureau of Criminal Intelligence.

Recognising the importance of ongoing training, the Division conducted a two-day seminar on the use of intelligence in police work, attended by over 50 officers from both the Commission and the Police Service. The Division also developed and conducted a three week Intelligence Analyst Training Course with attendees from the Commission, the Australian Federal Police, the QPS, the Australian Customs Service and the Corrective Services Commission. The Division has also assisted the QPS with an Intelligence Analyst Training Course by providing a full-time instructor and course material.

## FUTURE DIRECTIONS

The Division has recently provided two Intelligence analysts to work with specific OMD investigations to provide operational intelligence support. It is intended to increase the number to four on a rotational basis as resources become available. This initiative is designed to provide valuable intelligence analytical support to major investigations, whilst at the same time increasing the flow of information between the two Divisions.

A priority of the coming year will be the acquisition and installation of a suitable permanent database for the Division. Progress in this area is now well advanced and it is anticipated that initial procedures will be available in September 1991 with the permanent database becoming functional six months later. With a fully computerised database in place, the Division will be able to back capture existing data and that of the Fitzgerald Inquiry and thus enhance analytical capabilities especially in the areas of target development and support to investigations.

Training will continue to be an important issue in the coming year and in this respect the Division will be working with the QPS to produce a standard Analyst Training Course for Queensland as well as developing an Advanced Analyst Training Course.



## 6. WITNESS PROTECTION DIVISION

### ROLE AND FUNCTION

The Witness Protection Division is the primary role and function of the Director of Operations.

This incorporates responsibility and accountability for the protection of certain persons in the interests of law enforcement in Queensland, as laid down by the Act (in particular, Sections 2.50, 2.51, 2.52 and 3.32).

The Fitzgerald Inquiry, from whose recommendations the Act was drawn, identified the need for Witness Protection in a progressive criminal justice system and that legislation was necessary to that end.

#### Witness Protection—Overview

The need to protect persons who provide information and evidence to law enforcement authorities is a recent international phenomenon, which identifies with the emergence of those members of society who plan and commit crime as a business, for profit (organised crime—by any definition).

It is now a fact of life that the significant financial power and influence generated by organised crime, is clearly capable of purchasing the silence, by one means or another, of those who might seek to stand in its way. This has not been foreign to our own country in recent years. Indeed, there have been many instances where people have been corrupted, or frightened, or harmed in order to prevent them from providing information or evidence.

Crime, both nationally and internationally, is having a dramatic effect on the quality of life and is of serious concern to both Government and the great majority of society. In order to combat crime and its effects, those involved with criminal justice and law enforcement need to seek out and identify initiatives to counteract the ever changing face of crime which is influential, mobile, and self perpetuating through its own initiatives for survival.

Commissioner Tony Fitzgerald, Q.C., in his Report, recognised the benefits for witnesses, the criminal justice system and the community generally, for Witness Protection responsibility to be shouldered at a national level. However, support for such a proposal is receiving little more than "lip-service" at this time resulting in various Australian States setting up Witness Protection operations on a needs basis and generally learning from their own experience.

Witness Protection is a labour and resource intensive activity fraught with potential pitfalls. There will be both real and perceived failures which, however justified, are almost guaranteed

adverse publicity. On the other hand, success conversely can be guaranteed nearly total anonymity. This fits any definition of an intrinsically thankless activity.

Prior to the Fitzgerald Inquiry, Queensland, like most other States and Territories, had not previously had any systematic approach toward providing a structured form of Witness Protection. This Commission inherited from the Fitzgerald Inquiry, both witnesses requiring protection and the ad hoc procedures adopted for their protection.

The provisions of the Act now ensure that Queensland will be a leader in this field, at the same time seeking to promote and assist with what will hopefully become a national criminal justice system initiative.

### PROCEDURES

#### Progress to Date

There is a lot to be learned. Mistakes will be made. However, this will not be through a lack of enthusiasm or endeavour to provide the people of Queensland with a highly professional, and above all safe, Witness Protection Program.

To date the following issues have been, or are being, addressed with an emphasis on flexibility at this time:

- (i) A major independent review has taken place and recommendations made.
- (ii) A formal structure and charter is being formulated.
- (iii) The Division has been staffed and includes a female component.
- (iv) A Witness Protection Committee is in place.
- (v) Policy has been set.
- (vi) Procedural difficulties are continually being identified and counteracted.
- (vii) Decisions of the Witness Protection Committee are ratified by the Chairman.
- (viii) Resource considerations to date include:
  - Staffing
  - Transportation
  - Data processing and recording
  - Communications
  - Defence and safety equipment
  - Electronic surveillance aids
  - Funding with an emphasis on cost effectiveness.

- (ix) Documentation has been drawn for:
- Witness Protection Register
  - A Memorandum of Understanding (MOU) between the Commission and law enforcement agencies requesting threat assessment
  - Criteria for consideration of entry into program
  - Threat assessment
  - MOU re offer of protection (including indemnity)
  - MOU re entry into program
  - MOU re exit from program (including temporary exit)
  - Notice of breach by witness
  - Notice of expulsion from program
  - Documentation re change of identity
  - Voluntary withdrawal from program
  - Witness contact records
  - A critique document for use by witnesses
  - "User pays" policy is being addressed.
- (x) Liaison and certain reciprocal arrangements are in place with interstate and federal law enforcement counterparts and assisting agencies.
- (xi) Liaison is in place and the Commission is represented on a National Witness Protection Pilot Committee.
- (xii) Recruitment, selection and rotation of staff is ongoing.
- (xiii) Training of staff in personal protection skills and danger identification skills has taken place.
- (xiv) Specialised driver training, firearms training, report writing and threat assessment skills are being addressed.
- (xv) A Witness Protection Manual is being developed.
- (xvi) Court security operations are currently undertaken by the Commission with the assistance of QPS (although responsibility for this function has not been finally determined).
- (xvii) The Commission is particularly proud for Queensland that:

- It assisted with a National Witness Protection Course (1991) in Western Australia (the second such course).
- It has independent secure premises for temporary witness protection under the absolute control of the Commission.
- It has a 24 hours Operations Room and Communications Centre from which immediate response can be generated.
- In conjunction with QPS, it has a professional rescue capacity.
- It is a leader in the psychological and medical examination of persons entering the program and is researching the psychological testing of staff involved in the program.

## OPERATIONS

During the previous 12 months, 41 new applications for protection were made to this Division.

Of these, 21 were accepted as in need of protection and were provided with various levels of response. These ranged from 24 hour close personal protection for an extended period, to an "on call" status where the witness was provided with the 008 number of the Commission Communications Room as a result of the low threat level.

A further 17 witness protection operations have continued from the period prior to the last 12 months.

At the present time 33 persons are receiving witness protection at varying levels.

Throughout the 12 month period, 11 operations have been provided with 24 hour close personal protection for varying lengths of time.

A 24 hour Communications Room was commenced in October 1990. This centre has been maintained as a point of contact for witnesses on a 24 hour basis.

Based on statistics held at the Witness Protection Division, court security has been provided for court appearances of witnesses and for Commission hearings for an average of 60 staff days per month for the preceding 12 months.

During the early part of 1991, a number of staff from this Division provided assistance on both a part time and full time basis, to the investigation into the Corrective Services Commission. This assistance took the form of both formal investigations and the service of associated documents.

Pursuant to the training functions of the Division, two members attended a Witness Protection Course in Perth, Western Australia from 25 February to 8 March 1991.

During the last 12 months, training for staff members from within the Division has accounted for an average of 26 staff days per month.

## **FUTURE DIRECTIONS**

In the next 12 months the Witness Protection Division will:

- (i) Complete a Witness Protection Manual;
- (ii) Provide a Witness Protection Course to train present and future staff;
- (iii) Provide regular training for staff within the Division;
- (iv) Update and obtain further equipment to support operational requirements.

## 7. CORPORATE SERVICES DIVISION

### ROLE AND FUNCTIONS

Given the Commission's responsibilities in investigating official misconduct by other units of public administration, it is crucial that the Commission itself pays close attention to its mechanisms of internal and external accountability. The Commission takes the view that it should itself be a model organisation, particularly having regard to its education and corruption prevention role.

The major responsibility for the establishment of internal accountability mechanisms within the Commission is assigned to the Corporate Services Division.

The Division is responsible to the Commission through the Executive Director and, as its title suggests, supports the operational functions of the Commission and performs all personnel, administration, information and financial management functions. The requirement for optimum accountability is paramount in the provision of all the Division's services.

### ROLE OF EXECUTIVE DIRECTOR

The role of the Executive Director incorporates four main areas of responsibility within the Commission:

- (a) To ensure the required quality of service delivered is maintained in administrative and support systems;
- (b) To develop recommendations regarding organisation, staffing and overall budget requirements;
- (c) To assist the Chairman and Directors to co-ordinate the activities of the various Divisions thus ensuring a unified approach to the tasks undertaken by the Commission; and
- (d) To assist the Commission and part-time Commissioners with the conduct of Commission business.

As the Commission approaches its full operational strength, greater emphasis is being placed on the need for overall co-ordination as suggested in (c) above. A key aspect of this co-ordination role is to establish and maintain a network of computing, financial and administrative systems necessary to provide adequate logistical support to the operational divisions of the Commission. This necessitates the co-ordinating and directing of appropriate resources to meet Commission priorities.

### FINANCIAL SERVICES

At the time of commencement of the Commission's operations, all payments, payroll and ancillary financial services were carried out with the assistance of the Department of Justice and Corrective Services. Since that time, key roles have been defined and filled with appropriately qualified staff in order to establish and develop an independent financial function for the Commission.

The Commission now has a fully functional Financial Services Section responsible for:

- An autonomous payroll system;
- A computerised financial accounting package covering all requirements in accordance with the *Financial Administration and Audit Act 1977-1988*;
- A comprehensive system of computer generated internal management reports for the Executive, reporting all expenditure by program and activity level;
- A system of budget reviews in order to control financial expenditure and ensure financial responsibility; and
- A set of internal procedures and controls to ensure integrity and accuracy of all financial records and practices.

### PERSONNEL SERVICES

The Personnel Services Section has been extensively involved in the development and implementation of systems, procedures and policies designed to ensure the Commission maintains its commitment to efficiently utilise its human resources and provide professional development and training opportunities to its officers. A major function of the Personnel Services Section over the preceding twelve months has been the co-ordination of the task of recruiting suitably qualified staff to fulfil the variety of roles within the Commission. All selections have been made in accordance with the recruitment and selection standards issued by the Public Sector Management Commission.

The following areas required extensive development to provide proper management of the Commission's human resource complement:

- A computerised leave management system;
- Setting appropriate salary ranges based on public sector relativities on comparison with related and similar agencies;
- Formalisation of the staff establishment by allocation of position numbers and the creation of position description forms identifying major duties, qualifications and experience required for all positions;

- Establishing appropriate and comprehensive personnel records; and
- Putting in place and issuing guidelines on personnel policy matters on a variety of matters relevant to the employment of staff.

### Performance Evaluation

The Commission's employment policy includes the evaluation of work performance by all employees. To this end, a Performance Planning and Review Scheme is being developed by the Personnel Services Section with annual performance reviews to commence early in the new financial year. To ensure this sensitive issue is properly conducted, all employees and supervisors will be provided with appropriate training.

### Staff Development and Training

The Commission acknowledges the need to provide professional development and training of staff via attendance at external courses, conferences, workshops, seminars etc and by conducting in-house courses developed internally or by employing specialist course convenors. The Commission has executed its requirements in terms of dollars spent on training under the Training Guarantee Act. Further, the implementation of a computerised training management package will assist in ensuring training and development is offered in an equitable fashion as well as linking it to the Commission's Performance Planning and Review Scheme.

### Policies and Procedures

Policies and procedures have been developed progressively, in particular by the Personnel Services and Administrative Services Sections, and

disseminated to all staff by way of a formal circularisation process. All policies and procedures relating to terms and conditions of employment have been developed on the basis that they should, where appropriate, mirror terms and conditions offered to employees of the Queensland public sector generally.

### ADMINISTRATIVE SERVICES

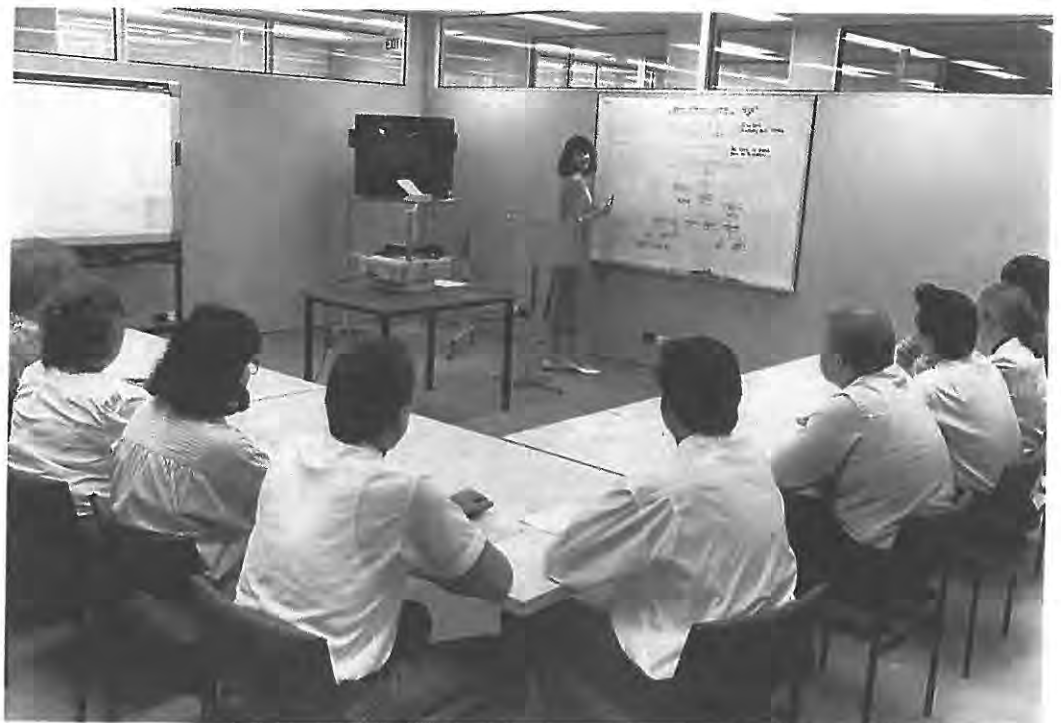
The charter of this Section is to provide assistance to all areas of the Commission by ensuring effective and efficient mechanisms are available to complement their day to day operational requirements.

Some initiatives introduced by the Section to date include a computerised retrieval system developed to control the movements of the thousands of assets of the Commission, many of which were acquired during the Fitzgerald Inquiry. All of these have now been located, identified and marked.

In addition to the Commission's property management, this Section is responsible for the purchasing of furniture and fittings, plant and equipment and also co-ordinating the operation of the Commission's fleet of vehicles.

A computerised vehicle management system has been developed (in-house) and introduced to monitor and control the Commission's fleet which will replace the existing manual motor vehicle records system and ensure greater efficiency and accountability in the use of vehicles by the Commission. Extensive inquiries during the Commission's establishment phase were unable to find any similar systems in existence in the public sector and accordingly the Commission's initiative may form a model for other organisations.

*An induction training course for officers of the Commission being conducted by Personnel Services Section*



## ACCOMMODATION

At the time the Commission was established, accommodation was provided at 160 Ann Street in the central City. These premises were less than satisfactory for a number of reasons, the two most significant being:

- The layout of the building was such that members of homogeneous work groups were physically located on different floors; and
- As the building was also occupied by a number of other tenants, security continued to be of concern to the Commission.

In mid 1990, the Administrative Services Department recommended that the Commission be re-located to a new building at Toowong. The recommendation stated that the cost of re-location would be approximately the same as that required to refurbish the premises at 160 Ann Street, which would have been necessary but still not have eliminated all of the areas of concern.

On 10 December 1990 the Commission moved to its current premises (as sole tenants) at 557 Coronation Drive, Toowong. The new premises resolved all of the concerns which previously existed. Administrative officers within the Commission were heavily involved in the planning and design process in preparation for the Commission re-location.

It is important to note however, that the Commission has maintained a small office in the City (Level 8, 160 Ann Street) for the independent Misconduct Tribunals Unit and the Commissioner for Police Service Reviews.

## INFORMATION MANAGEMENT

### *Records/Exhibit Control*

The growth of Commission holdings of internal and external correspondence and original material acquired by way of the provisions of the Act has been controlled with the assistance of application software (RECFIND).

Control and tracking of the above information is critical. The following broad statistics give an indication of the holdings:

- 50,000 documents on 10,000 files;
- 5,500 audio and video tapes;
- 733 notices issued under the Act (including Notice to Produce, Notice of Summons) and the associated material acquired; and
- 7,472 pages of transcript from the 34 public and private hearings held under the Act to date.



*The Hon The Premier, Mr Wayne Goss, Sir Max Bingham QC, Chairman, and Mr Ross Dunning, Director-General, Administrative Services Department attending the official opening of the Commission's premises in January 1991*

In addition to the above, voluminous material acquired by the Fitzgerald Inquiry continues to be the subject of access in supporting prosecutions undertaken by the Office of the Special Prosecutor.

Several projects are continuing to examine the Fitzgerald Inquiry material to determine return/disposal/ retention.

An information retrieval role which provided details of holdings (both internal and external) has assisted the investigative areas of the Commission. This role was transferred to the Intelligence Division in June 1991.

### *Information Technology*

The 1990/91 Computer Strategic Plan highlighted the critical need to balance the development of specific applications with the need to establish a proper integrated computing environment.

A Computer Steering Committee was formed in October, 1990 under the Chairmanship of Commissioner John Kelly. The Committee supervises priorities, progress and expenditure related to specific computing projects.

Of 37 projects planned for 1990/91, 23 were completed, 9 have been commenced and are continuing, 2 were discontinued and 3 were not commenced.

The significant achievements include the following:

- Networking—the disjointed stand-alone environment has been converted to an integrated network of over 150 personal computers, 60 printers and 50 laptop computers for field use;
- Complaints Recording and Monitoring System—database facilities for the Complaints Section are in place with up-to-date information on over 2,200 complaints lodged.

The system provides a statistical base whilst enabling proper management functions;

- Intelligence Database Facilities—a working group has prepared 2 submissions on this major project which will be the central focus for 1991/92;
- Relocation—the transfer to Toowong premises was a significant change for both internal and external communications;
- Administrative Applications—implementation and enhancement of several applications for the Corporate Services Division has assisted the operation of the Division. These included:
  - Accounting System
  - Motor Vehicle Fleet Management
  - Staff Establishment
  - Asset Register
  - Records Management

## OPERATIONAL AUDIT AND MANAGEMENT SERVICES

In August 1990, an Operational Audit and Management Services function was established in accordance with the Part 6 Division 1 of the Public Finance Standards. Having a dual role, the function reports directly to the Chairman, as the Chief Executive, in respect of operational audit matters and to the Executive Director in relation to management services matters.

Operational Audit involves conducting operational audits of the Commission's accounting systems, management information systems and administrative procedures. The principal objective of these reviews is to evaluate the efficiency of the delivery systems and formulate recommendations which will assist the Commission achieve its policy objectives, and the ongoing enhancement of its systems.

The Management Services function involves the provision of specialist administrative expertise to line managers so that they may fulfil their legislative management and developmental responsibilities.

Apart from certain specific requirements and duties placed upon the internal audit function by Division 1, Part 6 of Public Finance Standards, there is considerable discretion as to the manner in which internal (operational) audits are performed. The audit methodology employed by the Commission is known as systems-based audit.

Systems-based auditing can be briefly described as a process of achieving audit objectives by planned, logical analyses of the various management information systems, and systems of internal control. The main thrust of the audit is required to be directed to areas of materiality, risk and control weaknesses and precludes preoccupation with matters of a trivial nature.

During the period under review, internal audit activity has been directed towards the evaluation of the maturing management information systems and administrative procedures. Audit activity has sought to identify potential areas of concern, thereby preventing the introduction of inappropriate management and procedural practices.

It is the responsibility of Operational Audit and Management Services to research and prepare the Corporate Plan, and to facilitate the development of procedural manuals and the like to assist Commission staff in the efficient and effective execution of their duties. In essence, the Management Services function seeks to provide an efficient administrative support service so that the maximum resources of the Commission may be directed towards its statutory responsibilities.

## OVERSEAS TRAVEL

During the year, two (2) senior officers of the Commission travelled to the United States of America and Canada to look primarily at computer support for the investigative processes. Another senior officer attended the South Pacific Regional Convention of the Institute of Internal Auditors in New Zealand. Also other staff have undertaken official duties whilst overseas on recreation leave and this included countries such as the United States of America, United Kingdom, Hong Kong and Canada. These officers have also returned with material such as computer software and reports that have been of great assistance to the Commission in the discharge of its functions.

## CONSULTANCIES/CONTRACT SERVICES

The Commission engages external consultants when specialist skills or knowledge are required and this expertise is not available within the Commission and when particular services are required over a defined period. Attached, as Appendix F, is a schedule of consultancies engaged during the year under review.

## 8. OFFICE OF GENERAL COUNSEL

### ROLE AND FUNCTIONS

The Office of General Counsel derives not from any provision of the Act but from the Commission's need for a permanent senior legal adviser. The Office has an independent role within the Commission and is not part of any organisational unit. It provides advice on request of the Chairman and the organisational units and has a particular role in respect of the Misconduct Tribunals.

The more important functions in respect of the Commission are to:

- Advise the Commission, and where appropriate, other agencies, on more complex legal and policy issues;
- Represent the Commission in legal proceedings to which it is a party;
- Assist the Commission in its more significant or difficult hearings;
- Constitute the Commission for the purpose of conducting some of its hearings in the discharge of its functions;
- Settle more important briefs of evidence before they are furnished to prosecution authorities or principal officers of units of public administration;
- Advise on the need for amendment to the Act and other legislation pertinent to the administration of criminal justice;
- Co-ordinate and prepare responses to issues papers and draft legislation pertinent to the administration of criminal justice;
- Oversee procedural matters in respect of the Misconduct Tribunals;
- Provide counsel to assist in the original jurisdiction of the Misconduct Tribunals;
- Provide a focal point for liaison with the Office of the Special Prosecutor (OSP) and other agencies with particular reference to the dissemination of information;
- Represent the Commission on working parties and committees concerned with the administration of criminal justice; and
- Deliver public addresses on behalf of the Commission.

The Office also plays a role in advising on whether the Commission should conduct investigations in respect of certain information and complaints coming to its attention.

### Staffing

Because of the extent of these functions, the Office has evolved to six personnel. In addition to General Counsel there are three other barristers. The remaining staff are an executive secretary and one (1) support officer. Two of the barristers have been attracted from the private bar.

### Secondment of Barrister to assist Police Service

In February 1991, an Office lawyer was assigned to work with the QPS for six months to assist in implementing the new disciplinary procedures required by the *Police Service Administration Act 1990*. This Commission initiative has highlighted the need for a permanent independent legal adviser to the Police Service.

### Legal Advice

During the year under review the Office has provided advice on a wide range of issues including administrative, industrial and criminal law. It has also carried out significant drafting responsibilities in respect of contracts and forms required for use by the Commission. It has advised on in excess of 150 matters.

The Commission's employment contracts and declarations of personal particulars and private interests and associations, which were referred to at page 14 of the 1989-1990 Annual Report have been fine tuned during the period of this Report. The contracts give effect to the Minister's requirement that public service award conditions form the basis of employment conditions and entitlements and a Cabinet decision on superannuation entitlements of Commission staff.

The declarations are required to be completed by all staff. All persons under consideration for employment are required to complete a declaration of personal particulars and are carefully vetted before being offered employment. Confidentiality of all such information is assured.

These declarations have formed the basis of the Register of Pecuniary Interests and Record of Personal and Political Associations which have been completed by all Commissioners in accordance with Section 7.3(1) of the Act.

An undertaking of confidentiality has been drafted for all staff to acknowledge their obligations under the Act in this regard.

Some other issues on which advice has been given are referred to below.



### Court Appearances

The Office has been involved in significant legal proceedings concerning the Commission:

- The Queen—v—Criminal Justice Commission, Ex Parte Ainsworth Nominees Pty. Limited and Ainsworth [OSC No. 28 of 1990];
- Thiess—v—TCN Channel Nine Pty. Ltd. and Woodham [No. 4150 of 1989];

Reference will be made to the decisions in these matters in Chapter 11 of this Report—"Hearings, Reports and Litigation".

### Legislative Amendment

Through the Office of General Counsel the Commission has contributed to the reform of the criminal justice system by responding to requests for advice on the content of proposed legislation or recommended legislative amendment, including:

- *Whistleblowers (Interim Protection) and Miscellaneous Amendments Act 1990*;
- *Police Service Administration Act 1990* and Regulations;
- *Evidence Act 1977*;
- *Health Act 1937*;
- *Cash Transaction Reports Act 1988 (C'wlth)*;
- *Income Tax Assessment Act 1936 (C'wlth)*;
- Proposed Local Authority Enterprise Legislation;
- Draft Stipendiary Magistrates Bill;
- Draft Bill to Provide for Regulation and Control of Gaming Machines and for Purposes Connected Therewith;
- *Liquor Act 1912*; and
- *Oaths Act 1867*.

The Office has also prepared recommendations for the amendment of the Act on behalf of the Commission. These are referred to in Chapter 12 of this Report—"Legal Change". Further reference is made to the *Whistleblowers [Interim Protection] and Miscellaneous Amendment Act 1990*, the *Cash Transaction Reports Act 1988* and the *Income Tax Assessment Act 1936* in that Chapter.

The essence of submissions on some of the other legislation is set out in Chapter 13 of this Report—"Submissions on Criminal Justice Issues".

### Issues Papers

The Commission is also frequently requested to comment on issues papers concerning proposed reforms to the administration of the criminal justice system and the public sector in Queensland. During the period of this Report, the Office of General Counsel has prepared Commission responses on the following issues papers:

- EARC Issues Paper on Freedom of Information Legislation;
- EARC Issues Paper and Draft Bill on Judicial Review of Administrative Action;
- EARC Issues Paper on Public Sector Auditing in Queensland;
- EARC Issues Paper on Whistleblower Protection;
- PSMC Issues Paper on Appeal Rights in Queensland Public Sector Employment; and
- Government Response to the Parliamentary Joint Committee review of the National Crime Authority.

The essence of the Commission's response in respect to each of these papers is set out in Chapter 13 of this Report—"Submissions on Criminal Justice Issues".

Recommendations for legislative change and comments on issues papers have been made in a total of 22 cases.

### Forms and Procedures

In addition to the forms and procedures referred to in the 1989-1990 Annual Report, the Office has developed forms and supporting documentation for the exercise of the Commission's statutory powers in respect of:

- Authorisation to enter public premises (Section 3.2 of the Act);
- Search warrants (Section 3.3 of the Act); and
- Attendance of prisoners before the Commission (Section 3.13 of the Act).

Documentation has also been prepared for applications for the issue of a notice under Section 3.1 or a notice of summons under Section 3.6 of the Act in circumstances where the person to be served is under a duty or obligation to maintain confidentiality in relation to the information, record or thing to which it relates (Section 3.7 of the Act).

All forms and procedures issued are continually reviewed in light of experience.

As a consequence of the work completed in this area to date, no process is issued in the exercise of the Commission's statutory powers unless supporting documentation is completed setting out the reasons for doing so and these reasons are accepted by the Chairman or his delegate. This has been initiated by the Commission to ensure accountability in the exercise of these powers through the existence of a permanent record of any such decision. Similarly, permanent records have been created of decisions to disseminate information.

The Office also maintains and updates an operational procedures manual, a copy of which has been provided to the Parliamentary Committee.

**Working Parties/Review Committees**

Staff of the Office of General Counsel represent the Commission on the following review committees and working parties:

- The Criminal Code Review Committee;
- The Police Prosecutions Functions working party (referred to in Chapter 4 of this Report—"Research and Co-Ordination Division");
- The Queensland Corrective Services Legislation Review Committee;
- QPS Review of Policy and Procedures [liaison and advisory capacity];
- Illicit Drug Study Project;
- Telecommunications [Interception] Bill working party; and
- Committals working party.

The first interim report of the Criminal Code Review Committee was released in June 1991.

The Commission representative chairs the Police Prosecutions Functions working party and the Illicit Drug Study Project.

At the request of the Minister for Justice, the Commission has undertaken to co-ordinate the establishment of a committee to review the execution of warrants of commitment in correctional centres.

**Liaison with Other Agencies**

In addition to its role which is referred to in Chapter 14 of this Report—"External Liaison", the Office has prepared Memoranda of Understanding for:

- exchange of information between the Commission and the New South Wales Crime Commission;
- and
- exchange of intelligence information between the Commission and the Australian Bureau of Criminal Intelligence.

**FUTURE DIRECTIONS**

The aim of the Office will continue to be that of providing a high standard of independent advice on legal and policy issues to the Commission, its organisational units and other agencies as expeditiously as possible.

It will also continue the provision of independent assistance to the original jurisdiction of the Misconduct Tribunals.

In addition, it will strive to effectively fulfil its role as a focal point of liaison with other agencies, the legal profession and the community.

## 9. MISCONDUCT TRIBUNALS

The Fitzgerald Report recommended the establishment of Misconduct Tribunals 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."

The Misconduct Tribunals (the Tribunals) are independent of the QPS and other units of public administration and are an organisational unit established under the Act. Its members must not hold office in any unit of public administration (other than an office held *ex officio*) or in the Commission. By virtue of the insertion of Section 2.32(1A) in the Act at the Commission's request, since 2 November 1990, an educational institution is no longer a unit of public administration for this purpose. Each tribunal is constituted by one member nominated by the Chairman.

The Commission has completed the establishment of the Tribunals since the first Annual Report.

### JURISDICTION

The Tribunals have original jurisdiction to investigate and determine every charge of a disciplinary nature of "official misconduct" made against a "prescribed person" and 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".

The Act only prescribes one class of person to be subject to 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.

As indicated in the first Annual Report, it is understood that no Order will be made except on a case by case basis upon the acceptance by the Government of the Commission's recommendation. No such recommendation has been made to date.

### PANEL OF MEMBERS

On 9 August 1990, seven persons were appointed to the inaugural panel of the Tribunals. These included three (3) Queens Counsel, two (2) of whom were retired Supreme Court judges. For a variety of reasons, including the subsequent appointment of a member as a Judge (Ms M. McMurdo) and the ineligibility of two members because of appointments to offices in units of public administration, it became apparent early this year that further Tribunal members were needed. In addition, Mr R. N. Chesterman Q.C. was appointed to assist the Carter Commission in Tasmania.

Another member advised that he would not be comfortable about constituting a Tribunal while the legislation remains in its present form.

As the majority of members will always be experienced and busy lawyers, it is desirable to have a sufficiently large panel upon whom to call to give flexibility in assigning matters.

For these reasons the Commission nominated further persons to the Premier for appointment. On 14 March 1991 the Governor-in-Council appointed a further seven persons to the panel of the members of the Tribunals, including two Queens Counsel and a university law lecturer.

Subsequent to the first Annual Report, members of the legal profession outside the Brisbane metropolitan area have expressed interest in appointment to the panel. Although as indicated in that Report the Commission proposes to sit from time to time in regional areas, it has preferred to await an indication as to the source of matters within the Tribunal's jurisdiction, before making appointments outside Brisbane. As all matters arising to date could be most conveniently dealt with in Brisbane, no such appointments have been made.

Appendix J describes appointments and resignations of the Members of the Misconduct Tribunals.

### REGISTRAR

A Registrar was appointed on 30 April 1990. The office of Registrar is not statutorily recognised. For reasons connected with the independence (and perceived independence) of the Tribunals and their practical administration, the Commission has recommended, as forecast in its first Annual Report, the legislative creation of this office.

### Staffing

During the period of this Report the Registrar's support staff has increased from one to two. An assistant to the Registrar will be appointed shortly. This reflects not only the anticipated increase in the Tribunal's workload in the next financial year, but also the Registrar's responsibilities as Secretary to the Commissioner for Police Service Reviews.

### INDEPENDENCE

As the Commission stated in the first Annual Report, it has great difficulty with the Tribunals being established as part of the OMD under the control of its Director as a consequence of Section 2.31 of the Act.

The seven (7) foundation members of the Tribunals shared this view. They have stressed to the Commission their concern that their independence (and perceived independence) be ensured by the amendment of Section 2.31 of the Act to remove them from their current status as part of the OMD.

As has been stated, one member has advised of his difficulty in constituting a Tribunal while this remains the position.

For these reasons, the Director of the OMD willingly surrendered any active day to day involvement with the Tribunals before their first hearing. The role of establishing the infrastructure and procedures for the Tribunals passed to General Counsel and the Registrar.

To emphasise the independence of the Tribunals, the Registrar and two support officers are accommodated with hearing rooms in premises separate from the Commission.

In addition to the recommendation that the office of the Registrar be statutorily recognised, the Commission has suggested legislative change to ensure independence of the Tribunals.

## CONDUCT OF PROCEEDINGS

In consultation with the Tribunal members, the Registrar of the Tribunals and General Counsel drafted rules to govern the practice and procedure (including forms and notices to be used by parties) of the Tribunals. Copies were supplied to the firm of solicitors retained to represent members of the Police Service and Union. The firm expressed appreciation and advised that the rules provide a proper basis for the disposal of matters before the Tribunals. No request has been made for the Governor-in-Council to make these regulations pursuant to Section 7.11(b) and (c) of the Act. This is to enable them to be developed in light of experience. To date the Tribunals have adopted these rules for purposes of regulating their proceedings pursuant to Section 2.43(1) of the Act which empowers a Tribunal to "inform itself on any matter and conduct its proceedings as it thinks proper". The rules are currently under revision.

A Tribunal is authorised to conduct hearings for the purpose of exercising its jurisdiction and to receive evidence on oath or affirmation, or by way of statutory declaration. Such hearings shall be open to the public.

The Tribunal's original jurisdiction is exclusive. A person aggrieved by a decision of a Misconduct Tribunal exercising original jurisdiction may appeal to a Supreme Court Judge on the grounds of denial of natural justice, error of law or manifest excessiveness of penalty.

While the appellate jurisdiction is not exclusive, decisions are final and conclusive. In exercising this jurisdiction a Tribunal is required to inform itself of the facts and determine the issue afresh.

Prescribed persons are entitled to legal representation in both jurisdictions. A barrister from the Office of General Counsel appears to assist the Tribunals in the original jurisdiction. This assistance is provided in the traditional sense of counsel assisting an investigative body such as a commission of inquiry. An officer of the Police Service represents the respondent in the appellate jurisdiction.

In proceedings initiated in either of its jurisdictions, a Misconduct Tribunal may remit any matter to the Director of the OMD for the making of investigations, or further investigations, with a view to the taking of criminal proceedings, or for any other purpose, and may adjourn its proceedings until those investigations are completed.

## Hearings

As the Misconduct Tribunals are a unique body and are breaking new ground, it has taken some time to have them fully operational. However the first hearing in the Tribunals—in the appellate jurisdiction—was held on 28 November, 1990 and by judgment delivered on 3 December, 1990 the Tribunal member affirmed the decision of the Commissioner of the Police Service to dismiss the appellant from the QPS.

The first matter in the original jurisdiction came before the Tribunal in May 1991. The member found two (2) charges proved and the officer was dismissed from the QPS.

It is considered that with the Complaints Section becoming fully operational during the period covered by this Report, that the Tribunals will gain momentum and the number of matters coming before them will increase.

A schedule of matters initiated in both the original and appellate jurisdictions are set out below:

### Schedule of Matters Initiated in the Original Jurisdiction of the Misconduct Tribunals

|  |   |          |
|--|---|----------|
| Matters abandoned                        | — | 1        |
| Matters heard                            | — | 1        |
| Matters assigned a hearing date          | — | 1        |
| Matters to be assigned a hearing date    | — | 2        |
|  |   | —        |
| <b>TOTAL NUMBER OF MATTERS INITIATED</b> |   | <b>5</b> |

**Schedule of Appeals Lodged in the Appellate Jurisdiction of the Misconduct Tribunals**

|  |   |          |
|--|---|----------|
| Heard  | — | 2        |
| Awaiting determination of writ of certiorari challenging Commissioner's power to dismiss | — | 1        |
| Abandoned by appellants  | — | 2        |
| Assigned a hearing date  | — | 2        |
| Awaiting to be assigned a hearing date   | — | 2        |
| <b>TOTAL NUMBER OF APPEALS LODGED</b>  |   | <b>9</b> |

A detailed schedule of matters before the Tribunals is set out in Appendix K.

**FUTURE DIRECTIONS**

Although the Tribunals are at an early stage of their operational development, the Commission is concerned that they may become too legalistic and mirror the procedures of a court. The Commission will be making recommendations for legislation to the Parliamentary Committee with a view to ensuring that any such tendency is inhibited.

Associated with this matter is an aspect which previously may not have received much consideration. This relates to the costs involved in operating the Tribunals. These costs may include accommodation, attendance and travelling allowances of witnesses, members' fees, orderlies'

fees, recording and transcribing evidence, photocopying and the very considerable amount of time counsel assisting spends in preparation for the hearing and his appearances before the Tribunals.

To date, members have been directing that documents be discovered to appellants in the appellate jurisdiction and respondents in the original jurisdiction. It has fallen to the Commission to absorb the cost of photocopying documents required after perusal. Frequently, the documents involved are voluminous files.

Present indications are that the preparation and presentation of matters in the original jurisdiction will be a full-time job and as the number of such matters increase, it will require more than one lawyer to attend to them.

If the prediction of an increase of hearings in the original jurisdiction of the Tribunals is correct, it is unlikely that lawyers from the Office of General Counsel will be able to continue to assist the Tribunals in all proceedings. To do so will reduce the ability of the Office to provide the wide range of other services that are necessary. This will inevitably result in a need to brief private counsel to assist the Tribunals and thus generate more expense.

It is considered that the Tribunals have a real potential to impose a considerable burden in both time and resources on the Commission.

## 10. COMMISSIONER FOR POLICE SERVICE REVIEWS

### FUNCTIONS

The Commissioner for Police Service Reviews (the Review Commissioner) hears applications under the *Police Service Administration Act 1990* (the PSA Act) and the *Police Service (Review of Decisions) Regulations* by members of the Police Service who are aggrieved by decisions relating to:

- Promotions;
- Transfers;
- Stand down or suspensions;
- Dismissals (other than a dismissal pursuant to a finding of misconduct);
- Imposition of a disciplinary sanction (other than one imposed pursuant to a finding of misconduct or official misconduct); and
- Appointment of an officer as a staff member.

This is an entirely new process which provides an informal mechanism to review such decisions. It replaced the former Appeal Board described in the Fitzgerald Report as "overly formal, legislative and cumbersome".

### COMMISSIONERS

By virtue of Section 1.4 of the PSA Act, the Chairman of the Commission is empowered to nominate any member of the Commission as a Review Commissioner. A Review Commissioner is therefore independent of the Police Service.

Pursuant to his powers, the Chairman in June last year nominated Dr Janet Irwin to be a Review Commissioner and appointed the Registrar of the Misconduct Tribunals to be also the Secretary to the Commissioner for Police Service Reviews. As the volume of work has increased dramatically this year, the Chairman, in February, nominated Mr John Kelly as a second Review Commissioner.

### CONDUCT OF REVIEWS

Procedures had to be developed for the conduct of the informal administrative proceedings which were envisaged by the Act and in the Fitzgerald Report. The Director, Grievance Hearings, Public Sector Management Commission was consulted and, in general, the procedures adopted mirror those of the Public Sector Management Commission for the hearings of appeals against administrative actions in the public sector. These guidelines were published by the Police Service as a Commissioner's Circular (89/90). In consultation with the Police Service, the Secretary is presently considering some "fine tuning" to these guidelines. It was always

envisaged that as this was a new procedure, some adjustments would be required after a period of time in light of experience.

The review process is based on an exchange of written submissions prior to the hearing with a purpose of the actual hearing being primarily to clarify and highlight matters of concern in respect of the selection process and/or the relative merits of the parties in the case of promotion. The overwhelming majority of applications received deal with promotion. It is not intended that parties to the review recite their written submissions as these have been read beforehand. Usually the hearings do not extend beyond an hour's duration. A report setting out the Review Commissioner's reasons for the decision is sent to the parties within seven to ten days of the hearing.

The Public Sector Management Commission consented to the review hearings being held at its premises in the Executive Building Annex. When the Commission's headquarters moved to Toowong in late 1990, it was decided that it would be more convenient to hold the review hearings at the Commission's city offices at 160 Ann Street. This is in keeping with the intention expressed in the first Annual Report that the Review Commissioner be demonstrably independent from the Commission in the exercise of functions.

Generally each Review Commissioner sits once a week and, with two Commissioners sitting, seven to nine applications are dealt with each week. Reviews are conducted either by the parties being physically present or by telephone conference facilities.

In accordance with the legislation the review process is conducted having regard to the following principles:

- A review is an administrative proceeding of a non-adversarial nature;
- Proceedings on a review should be informal and simple; and
- Legal representation is not permitted to any persons concerned in a review.

The present legislation has extended review rights of decisions relating to promotions to all police officers other than the Commissioner and Executive Officers (who are appointed by Governor-in-Council). Previously police officers could appeal only against appointment to the rank of Sergeant and appellants were required to hold the rank immediately below that to which the appointment was made. No appeals were available against promotions to any commissioned officer rank,

which were recommended by the Commissioner to the Minister and Cabinet, and approved by the Governor-in-Council.

Significantly, a Review Commissioner is only empowered to make recommendations to the Commissioner of the Police Service (the Police Commissioner). However, there is a requirement upon the Police Commissioner to provide a brief summary of reasons why any recommendation of the Review Commissioner is not accepted. To date the Police Commissioner has accepted all the Review Commissioners' recommendations on promotions.

From late December 1990 the Police Service commenced to fill positions in the Service which had been vacant for some time. This has stimulated a dramatic increase in the volume of applications for review. A factor in the increase of applications is that the merit principle is now enshrined in legislation and promotions in the Police Service are now competitively sought. It may be reasonably concluded that officers who would have expected promotion under the previous seniority principles now find themselves left in the wake of more meritorious applicants. Further, the review process is still in its early days and it may be that some officers who have been unsuccessful in promotion are seeking redress through the Review Commissioner if only to "try out the system".

### Staffing

In the role as Secretary to the Review Commissioners, the Registrar of the Misconduct Tribunals is assisted by his two support officers.

## LEGISLATIVE AMENDMENTS

The Commission has recommended legislative amendment to its Parliamentary Committee in respect of one area. It is to be noted that the Fitzgerald Report, after mentioning that the Inquiry received submissions which claimed that there had been cases where officers were selectively posted to the country for the sole purpose of creating a vacancy in Brisbane, so that it could be filled by a person favoured by a senior officer, concluded that:

"Appeals against transfer decisions are not considered appropriate. Officers will be expected to serve in the Force according to organisational priority and interests of the community, subject to the greatest possible consideration of individual circumstances."

The Police Service has expressed concern to the Commission as to this right of review. Its concern stemmed from a number of applications for review received from officers who at the threshold of their careers received their first posting to the Police Communications Centre at Police Headquarters in Brisbane.

It is quite conceivable that this particular right of review could cause considerable interference with the Police Commissioner's statutory responsibility for the efficient and proper administration, management and functioning of the Police Service.

Therefore it has been submitted to the Parliamentary Committee that it may be appropriate to restrict this right of review by amending the legislation to enable only those officers actually transferred to seek a review against their own transfer for reasons that they claim are unfair or personally punitive, rather than for organisational priorities. Officers are expected to serve anywhere in Queensland and this principle should be maintained in the interest of effective policing.

### Schedule of Reviews before the Commissioner for Police Service Reviews, July 1990—30 June 1991

|  |   |     |     |
|--|---|-----|-----|
| Matter heard   |   |     |     |
| Affirmed   | — | 139 |     |
| * Set Aside/Varied                                       | — | 38  |     |
| Awaiting Decision  | — | 4   | 181 |
| Matters withdrawn  |   |     | 182 |
| Matters not within jurisdiction/<br>received out of time |   |     | 16  |
| **Matters awaiting hearing                               |   |     | 121 |
| Total Number of Reviews Lodged                           |   |     | 500 |

\* This includes recommending that a new selection panel be convened to reconsider applications.

\*\* These matters are in various stages of readiness with only a small proportion actually ready for hearing.

|                         |     |
|-------------------------|-----|
| PROMOTION               | 433 |
| TRANSFER                | 37  |
| STAND DOWN OR SUSPEND   | 6   |
| DISMISSAL               | 1   |
| DISCIPLINARY SANCTION   | 15  |
| APPT. AS A STAFF MEMBER | 0   |
| UNAPPLIED FOR TRANSFER  | 8   |

Further statistics are provided in Appendix L.

## FUTURE DIRECTIONS

It is the aim of the Review Commissioners that applications be dealt with expeditiously. To achieve this objective requires the co-operation of all parties to the review, including the applicant, the appointee and the selection panel convenor who prepares a report on the selection process. While the volume of applications received put a strain on the present process, it is generally considered that it is working well and is favourably regarded by those who have had contact with it.

## 11. HEARINGS, REPORTS AND LITIGATION

### CONDUCT OF HEARINGS— PROCEDURES

Sections 3.20, 3.21(1), 3.21(2), and 3.23(1) of the Act prescribe the procedures for taking evidence in both private and public hearings.

### PUBLIC SITTINGS

The Commission has undertaken to develop procedures which have general application to all its public hearings. A more extensive discussion of these procedures is provided on pages 154-158 of the Commission's Submission on Monitoring of the Functions of the Commission dated April 1991.

### SUMMARY OF HEARINGS

During the period under review the Commission conducted 34 hearings of which four were public.

### REPORTS

The Commission's preferred procedure for the preparation of research reports, agreed with the Chairman of the Parliamentary Committee, is that at some suitable stage in the research process an issues paper is released and submissions invited from interested parties and the public generally. These submissions are then taken into account in the preparation of the final report. The

Commission's report is in turn examined by the Parliamentary Committee which may hold public hearings on the issue before making its own recommendations to Parliament.

In addition to the reports of Research and Co-ordination Division, there are a number of other reporting obligations imposed by the Act which are relevant to the discharge of functions allotted to the OMD. Sections 2.18, 2.19, 2.24(1), 2.24(2), and 2.30 of the Act specify the reporting obligations of the OMD.

### LITIGATION

The Commission was represented in the following litigation:

**The Queen—v—Criminal Justice Commission, Ex Parte Ainsworth Nominees Pty. Limited and Ainsworth [OSC No. 28 of 1990].**

In the Commission's report on **Gaming Machine Concerns and Regulations** which was furnished to the Parliamentary Committee on 1 June 1990 it recommended amongst other things that "the Ainsworth Group of companies not be permitted to operate in the gaming machine industry in Queensland". Ainsworth Nominees Pty. Limited and its Managing Director, Mr Leonard Hastings, Ainsworth (the prosecutors) applied to the Queensland Full Court for writs of *certiorari* and *mandamus* against the Commission. The basis of the application was that the findings were reached

*The Criminal Justice Commission is empowered to hear evidence regarding matters under investigation, in either private or public hearings*





in proceedings which denied them natural justice, insofar as they were not informed that the proceedings were taking place, nor informed of the case against them, nor given the opportunity to answer the case. It was further argued that the Commission failed to fulfil its statutory obligations under Sections 2.14 and 3.21 of the Act.

It was sought to quash all the findings in the report which related to the prosecutors or the Ainsworth Group; that the Commission be required to disclose all evidence before it, touching them or that Group; that it permit them to appear before it by solicitor or counsel; to cross examine those giving direct evidence concerning them; to make written or oral submissions; and to provide in its report an objective summary and comment on matters pertinent to its recommendation.

During the proceedings it was suggested, in the alternative, that the Court make declarations that the Commission had failed to give the prosecutors natural justice and to comply with its obligations under the Act. On 5 September 1990 the Court (McPherson, McKenzie and Lee JJ) delivered judgement refusing to make the orders sought.

The Court concluded that neither of the statutory provisions relied on, nor the general law conferred on, the prosecutors the right they claimed of being afforded an opportunity of being heard, before the Commission adopted and furnished its report, or imposed upon the Commission a corresponding duty of affording such an opportunity.

Further, it did not consider that the prosecutors had any "legitimate expectation" that was liable to be adversely affected by the performance of the Commission's research and reporting function unless they were accorded procedural fairness. Nor did the evidence show that any reputation or goodwill that attached to the prosecutors in Queensland had been placed in jeopardy by the Commission's report, so as to import such a requirement.

At pp 24-25 of his judgement, McPherson J with whom Lee J agreed, said:

"To require that as an inflexible rule the Commission should, before furnishing its report in accordance with Section 2.18(1), first provide those affected by its conclusions or recommendations with an advance opportunity of knowing what was going to be said about them and the information on which it was based, as well as of making representations to the Commission on the subject, will certainly tend to promote delay and may indirectly circumscribe the debate in Parliament. Having regard to the range of criminal activities that the Commission is required to keep under

review, insisting on such a course could be expected not only to close off useful sources of information otherwise available to the Commission, but to frustrate the Commission's discharge of its statutory functions and responsibilities. That is a factor of some importance in circumstances in which the function of inquiring and reporting or recommending is undertaken: *National Companies and the Securities Commission—v—News Corporation Limited* (1984) 156 C.L.R. 296, at 313, 316, 323-324; *Maxwell—v—Department of Trade and Industry* [1974] Q.B. 523, at 534 and 542., Performance of such a function is not to be confused with the duty to hear and determine, which is what Courts and similar Tribunals are required to do."

The Court refused to give the prosecutors the relief sought and ordered that they pay the Commission's costs to be taxed.

On 7 December 1990 the High Court (Mason C J and Toohey J) granted the prosecutors special leave to appeal from this decision. The appeal was heard on 25 and 26 June 1991 and judgement was reserved.

**Thiess—v—TCN Channel Nine Pty. Ltd. and Woodham [No. 4150 of 1989]**

This concerned subpoenae served on the Commission to produce to the Supreme Court, information obtained by the Commission in the exercise of its investigative powers.

In response, the Commission produced 21 boxes of information to the Court. It objected to producing other documents on the basis of public interest immunity, i.e. people would not assist the Commission if their confidentiality could not be assured.

Mr. Justice Williams ruled that information obtained by the Commission in the exercise of its investigative powers came within the scope of this doctrine.

The whole process involved the equivalent of 21 days work by Commission staff.

This exercise demonstrated how time consuming it will be in the future for the Commission to respond to subpoenae duces tecum. It is anticipated that this will be the first of many subpoenae which will be served upon the Commission for the production of documents believed to be in its possession in actions to which it is not a party.

Subpoenae are usually served with little or no notice and divert resources from other work.

## 12. LEGAL CHANGE

### CRIMINAL JUSTICE ACT

In September 1990 the Commission wrote to the Premier seeking the inclusion of a package of amendments to the Act in addition to those which it was proposed to include in the *Whistleblowers [Interim Protection] and Miscellaneous Amendment Bill 1990*.

The Commission also advised at that time that further amendments to the Act may be required and anticipated that a further package would be presented in the new year. The majority of these proposed amendments were foreshadowed in the Commission's first Annual Report.

In his reply, the Premier expressed a preference that all further proposed amendments to the Act be considered together by the Government. Additionally, he expressed his preferred view that before further substantial amendments were made to the Act, the proposed amendments should also be considered by the Parliamentary Committee and the Commission may wish to refer the first set of proposed amendments to it while preparing the further package.

The Commission has complied with this request and is currently preparing a further package of amendments for consideration by the Parliamentary Committee.

### WHISTLEBLOWERS (INTERIM PROTECTION) AND MISCELLANEOUS AMENDMENTS ACT 1990

This legislation was proclaimed on 2 November 1990. Inter alia, it amended the Act:

- To provide interim protection for "whistleblowers", pending the detailed research project and report from EARC; and
- To enable Commission reports to be provided to the Government Printer in advance of their being furnished to the Chairman of the Parliamentary Committee, the Speaker of the Legislative Assembly and the Minister, as required by Section 2.18(1) of the Act.

The legislation also contained an amendment requested by the Commission to Section 2.32 of the Act by the insertion of a new Sub Section (1A) to ensure that persons are not disqualified from appointment to the panel of Misconduct Tribunal members because they hold an appointment in an educational institution. As a consequence it has now been possible to appoint an experienced law lecturer to the panel of members of the Misconduct Tribunals.

### OTHER LEGISLATION

#### *Comments upon State Legislation*

During the period under review, the Commission has commented upon existing and proposed legislation, including:

- The *Police Service Administration Act 1990* and Regulations;
- The *Health Act 1937*;
- The *Evidence Act 1977*;
- The *Liquor Act 1912*;
- The *Oaths Act 1867*;
- The Draft Bill to Provide for Regulation and Control of Gaming Machines and for Purposes Connected Therewith;
- The Draft Stipendiary Magistrates Bill; and
- The proposed Local Authority Enterprise Legislation.

#### *Submissions Made by the Commission in Respect of Federal Legislation*

##### Cash Transaction Reports Act 1988 (C'wlth)

At the request of the Commission through the Premier, the Federal Government supported an amendment to Cash Transaction Reports Act to give the Commission access to such information as is authorised by the Director of the Cash Transaction Reports Agency.

The criminal intelligence able to be provided by the Agency will greatly enhance the Commission's investigations in such areas as police and public sector corruption and major and organised crime.

There will be safeguards attached by the Agency to the provision of any such information. Firstly, by the Commission agreeing only to use such information for the objectives of the Cash Transaction Reports Act 1988 and secondly, by logging access to all such information.

##### Telecommunications (Interception) Act 1979 (C'wlth) and Income Tax Assessment Act 1936

During the course of the Fitzgerald Inquiry, amendments were made to the abovementioned Federal legislation to enable certain information to be passed to the Inquiry. Access to such information was valuable to it. There is no doubt that it would be of similar value to the Commission in its investigations of corruption and organised criminal activity.

## LEGAL CHANGE

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However, the Commission has no similar authority to receive such information from Telecom, the Commissioner of Taxation, or the Fitzgerald Inquiry.

It has asked the Premier to seek amendment of this legislation to put it in the same position as the Fitzgerald Inquiry. It is understood that this is under consideration.

It is emphasised that the amendment sought to the *Telecommunications (Interception) Act* is to enable the Commission to obtain what is known as call charge record information—the existence of a communication, the date, time and duration of the call and the identity of the services involved. It would not include the contents of any conversation.

### 13. SUBMISSIONS ON CRIMINAL JUSTICE ISSUES

The Commission received frequent requests to provide comment on issues papers and proposed legislative changes relating to the administration of criminal justice. During the period under review the Commission prepared responses in relation to:

- **The EARC Issues Paper on Freedom of Information Legislation**
- and
- **EARC Issues Paper and Draft Bill on Judicial Review of Administrative Action**

The Commission supported such legislation. Contrary to some reports it did not seek a blanket exemption from its application. It suggested that it should contain a carefully drafted provision to enable each request to be considered on an individual basis. It was considered that this will be sufficient to protect the confidentiality of information received in its investigations.

- **EARC Issues Papers on Whistleblower Protection**

The Commission has submitted that “whistleblower protection” should be the subject of a unified code of legislation and that it is the appropriate body to administer it.

It emphasised that contrary to a recent report, the Commission has *not* called for extra powers for this purpose. It has simply suggested that it would be counter-productive to establish another body to do this. The Commission will have contact with most of the people that will require protection. It would use its existing statutory powers in support of the legislation.

- **EARC Issued Paper on Public Sector Auditing in Queensland**

The Commission has made recommendations to enhance the independence and reporting functions of the Auditor-General.

- **PSMC Issues Paper on Appeal Rights in Queensland Public Sector Employment**

The Commission has agreed with the tenor of the recommendations. However, it has recommended that the QPS be exempted from any appeal mechanism established for the public sector.

- **Government Response to the Parliamentary Joint Committee Review of the NCA**

The Commission provided a submission to the Premier’s Department to assist it in any response it may consider appropriate to make in respect of this review.

## 14. EXTERNAL LIAISON

### SPECIAL PROSECUTOR

The Commission has maintained its close liaison with the Office of the Special Prosecutor throughout the period of this Report. The Office of General Counsel has remained the focal point in providing the Special Prosecutor with support and assistance in respect of his investigation and prosecution functions arising from the Fitzgerald Inquiry.

### OTHER AGENCIES

The Commission stated in its first Annual Report that it considers itself to be part of the national fabric of the administration of criminal justice. For this reason it has continued to foster close working relationships with other agencies having common functions, responsibilities and goals. Because the Commission is required to discharge the functions and responsibilities usually undertaken by a number of different agencies, the list of such agencies is extensive. In addition to the QPS, the agencies with which it has established a close liaison to date have included the NCA, the ICAC, the NSWCC, the Cash Transaction Reports Agency, the AFP, the ABCI, other State and Territory police and intelligence agencies, the new Australian Securities Commission, the Australian Custom Service and the Department of Immigration, Local Government and Ethnic Affairs.

In accordance with its responsibility for taking such action as it considers necessary or desirable in respect of such matters as are in its opinion pertinent to the administration of criminal justice, the Commission has provided operational support and disseminated information to these other agencies.

#### Director of Prosecutions (Qld)

Full and frank discussions have been had with the Director of Prosecutions about issues of mutual interest.

The Commission has adopted the Director's requirements as to the principles applying when considering whether to give a potential witness an opportunity to seek an indemnity and the form of application which should be made through the Director to the Attorney-General.

#### South Australian Anti Corruption Authority

The South Australian Anti Corruption Authority advised that as the result of a meeting with the Commission, it had introduced a number of new concepts.

#### Liaison with Units of Public Administration

Liaison meetings have been held with Principal Officers of units of public administration (in addition to the QPS) as to their obligations under the Act and their interaction with the Commission.

### DISSEMINATION OF INFORMATION

The Intelligence Division has important external liaison functions which are referred to in Chapter 5 of this Report—"Intelligence Division".

Section 6.7 of the Act provides for confidentiality to be maintained for information that has come into the possession of the Commission or staff of the Commission in the course of discharging a function under the Act.

The Commission however considers itself to be part of a national law enforcement effort and recognises the need for close working relationships and exchange of information in accordance with, and for the purposes of, the Act.

#### Memoranda of Understanding

The Commission has entered into Memoranda of Understanding with the following agencies in respect of joint operations and information sharing:

- Queensland Police Service
- Victoria Police Service
- NSW Crime Commission
- Australian Federal Police

In addition, there is a Memorandum of Understanding with the Australian Bureau of Criminal Intelligence about the dissemination of criminal intelligence.

#### Membership of Committees and Working Parties

The Office of General Counsel represents the Commission on a number of review committees and working parties as referred to in Chapter 8 of this Report—"Office of General Counsel".

The Research and Co-ordination Division is represented on seven (7) similar bodies.

The Acting Director of the Intelligence Division attends meetings of the QPS Counter Terrorism Section Control Committee and sits on the Committee reviewing the operations of the QPS Information Bureau. Also, the Intelligence Division is represented on the Steering Committee for development of a Queensland Intelligence Database (QUID).

A full list of external committees and working groups is given in Appendix N.

## 15. PUBLIC EDUCATION

### MEDIA RELATIONS

The Commission's Media Liaison Officer dealt with hundreds of calls from the media over the last 12 months.

Many were in relation to investigations being carried out by the Commission and consequently were subject to the confidentiality provisions of the Act.

Those that were not were dealt with as expeditiously and fully as possible.

Since the first public hearing of the Commission was held in October 1990, the media has been in regular attendance, with all hearings receiving wide publicity, and the Commission giving whatever assistance it could.

It is fair to say a significant degree of trust has been established between the Commission and the media, through the Media Liaison Officer, in the last 12 months.

The very nature of the role and activities of the Commission, and its confidentiality provisions, creates a delicate balance in its relations with the media, and it is vital that it be maintained.

The Commission believes this has been achieved.

### COUNTRY CIRCUITS

The Chairman and senior officers of the Commission visited a number of regional centres during the period under review. Officers attached to the Complaints Section also undertook, in the course of their investigative duties, to visit the regional centres of rural Queensland. The Commission intends to maintain this very important link in the future.

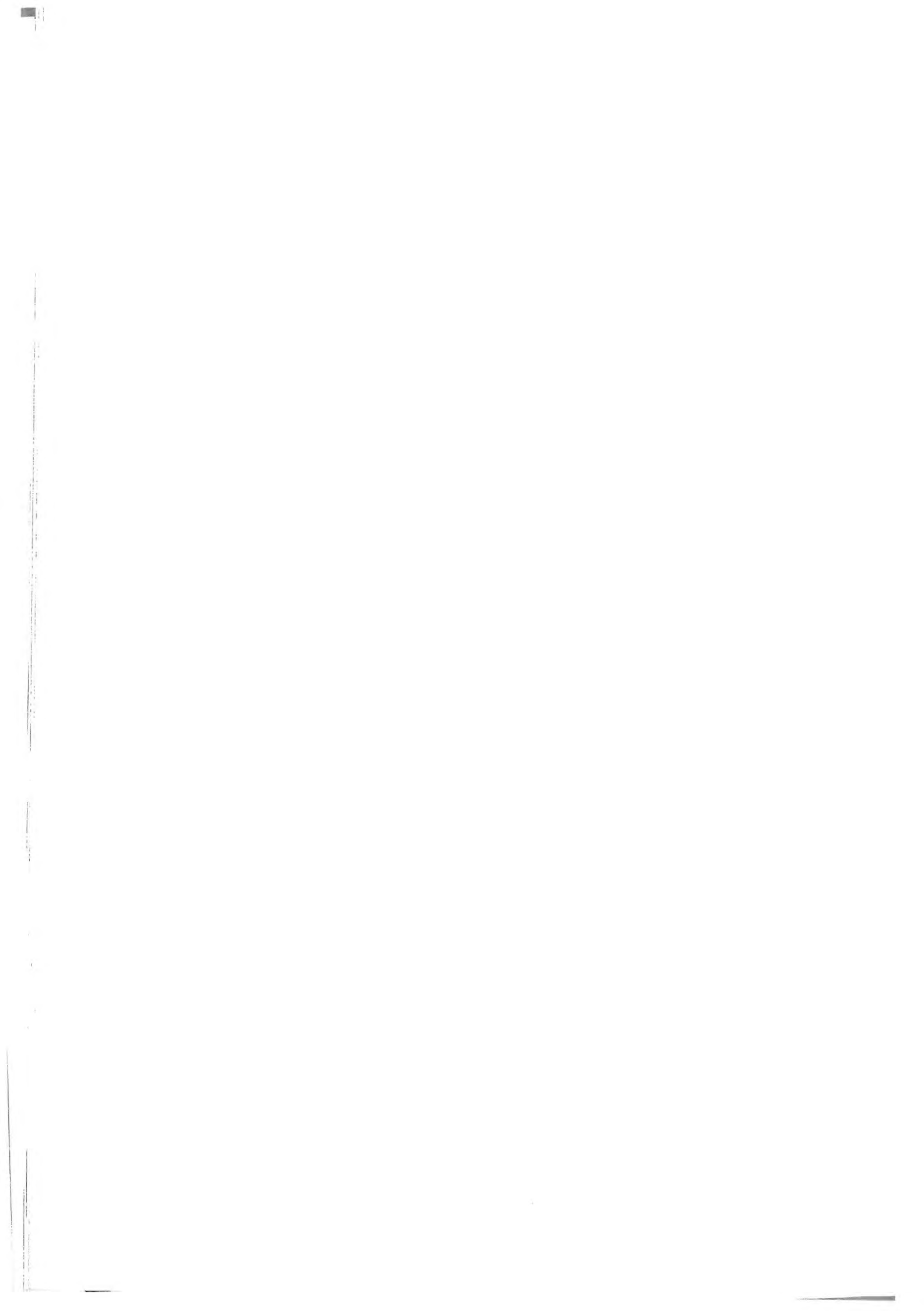
### COMMISSION PUBLICATIONS

A list of Commission publications is given in Appendix M.

In addition, a number of confidential Reports, originating in the complaints and official misconduct areas, were forwarded to principal officers of various units of public administration in respect of investigations.

### PUBLIC ADDRESSES

A list of addresses presented by officers of the Commission is attached as Appendix C.



## **APPENDICES**





## FUNCTIONS AND RESPONSIBILITIES

As stated in Section 2.14(1) of the Act, the **functions** of the Commission are 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, or cannot be effectively discharged, by the Police Force or other agencies of the State.”

The Commission’s **responsibilities**, as enunciated in Section 2.15 of the Act, are listed as follows:

- “(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, organised 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; and
  - (iv) Investigation of organised 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 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, organised 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 Fitzgerald Report 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.”

## KEY DEFINITIONS

There are a number of terms used in Section 2.15 which are defined in the Act. To appreciate the ambit of 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".

### Official Misconduct

"Official Misconduct" is defined by Sections 2.22 and 2.23 of the 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 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.

### Unit of Public Administration

Section 1.4(1) of the 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.

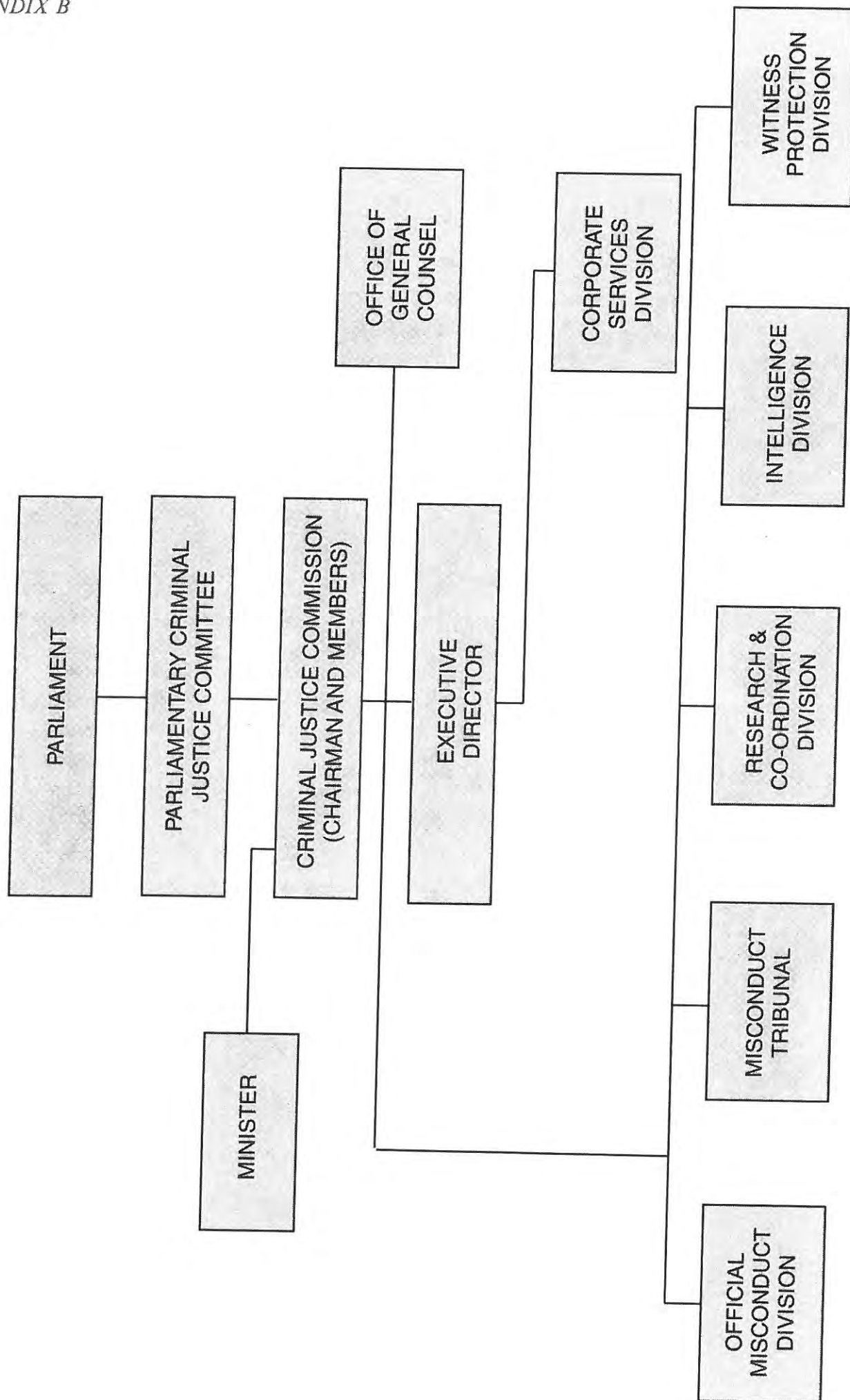
### **An Appointment in a Unit of Public Administration**

Section 1.4(2) of the Act 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. 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.

# ORGANISATIONAL STRUCTURE OF THE CRIMINAL JUSTICE COMMISSION



## PUBLIC ADDRESSES

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

John Barry Memorial Lecture  
"Regulating Morality—  
Roles of the Qld CJC"  
21 August 1990

"Challenge of Change"  
L.G.A.Q. Conference  
Rockhampton  
12 September 1990

"The CJC—Has it changed Local  
Authority Operations?"  
The Institute of Municipal Management  
40th Annual Conference  
15 October 1990

Launch of the Queensland Chapter of the  
International Association of Arson  
Investigators  
16 October 1990

Opening of Community Policing  
Conference  
23 October 1990

Launch of Book by Dr Mukherjee at  
Community Policy Conference  
23 October 1990

Speech at the Queensland University of  
Technology  
05 November 1990

Official Opening of CJC Premises  
24 January 1991

Association of Consulting Engineers  
18 April 1991

EARC Seminar on "whistleblowers"  
19 April 1991

Queensland Justices Association Conference  
25 May 1991

Various Working Parties and Workshops

Various Lectures at:

University of Queensland  
Queensland University of Technology  
Police Academy  
Police College  
Police Establishments

**MR MARSHALL P. IRWIN  
GENERAL COUNSEL**

"Criminal Justice Commission"  
Rockhampton CIB  
1 August 1990

"The CJC Interface with Financial  
Institutions"  
Fraud Liaison Association Limited  
Queensland  
19 September 1990

"Police Accountability and Control  
A CJC Perspective"  
Australian Public Sector Management  
Conference  
Griffith University  
29 September 1990

"Personal Liability of Accountants  
and Administrators in Government—  
The CJC Perspective"  
Public Sector Accounting Committee  
of the Australian Society of  
Certified Practising Accountants  
10 October 1990

"Personal Liability of Accountants  
and Administrators in Government  
The CJC Perspective"  
South East Queensland Electricity  
Board  
7 November 1990

"The Criminal Justice Commission and  
The New Accountability"  
Australian and New Zealand Association  
of Psychiatry,  
Psychology and the Law  
24 November 1990

"The Criminal Justice Commission and  
The New Accountability"  
Long Island University New York  
11 December 1990

"The Criminal Justice Commission  
Role and Functions"  
Public Law Week Seminar  
Brisbane  
1 May 1991

- "The Criminal Justice Commission  
 Its Implications for  
 Professional Engineers"  
 Association of Professional  
 Engineers, Queensland Branch  
 20 May 1991
- "The Criminal Justice Commission  
 Roles and Functions of the CJC"  
 Municipal Officer's Association  
 of Australia  
 22 May 1991
- DR SATYANSHU K. MUKHERJEE**  
**DIRECTOR RESEARCH &**  
**CO-ORDINATION**  
 "The State of Crime and Justice"  
 University of Queensland  
 12 September 1990
- "Criminal Justice Research and Law  
 Reform"  
 University of Queensland  
 10 October 1990
- "Evaluation Process"  
 Queensland Police Academy  
 14 March 1991
- Keynote Speech "Confronting Crime—  
 An Evaluation of Australia's  
 Crime Problems and Consideration  
 of Crime Control Strategies"  
 The Second Melbourne Criminal  
 Justice Symposium  
 University of Melbourne  
 16 March 1991
- "Measuring Crime and Trends in  
 Criminal Behaviour"  
 University of Queensland  
 19 March 1991
- "Victims of Crime"  
 University of Queensland  
 26 March 1991
- "Research in Law Reform"  
 Faculty of Law  
 University of Queensland  
 8 April 1991
- "Creating Just Communities"  
 Queensland University of Technology  
 (2 lectures)  
 7 May 1991
- MR JACK MORRIS**  
**DIRECTOR INTELLIGENCE**  
**DIVISION**  
 "The Origins of Intelligence"  
 "The Intelligence Process"  
 "How Intelligence Differs from other  
 forms of Police Work"  
 "The Consumers of Intelligence"  
 Criminal Justice Systems Class—  
 Queensland University  
 29 August 1990
- "The Status of Police Intelligence  
 Services in the USA and in Australia"  
 "The Problem Areas with Intelligence"  
 "The Issues Regarding Right to Privacy  
 and Intelligence"  
 "The Intelligence Trend Here and  
 Abroad"  
 "Police Intelligence and the College  
 Graduate"  
 Criminal Justice Systems Class—  
 Queensland University  
 5 September 1990
- MR GRAHAM M. BRIGHTON**  
**EXECUTIVE DIRECTOR**  
 "Role and Functions of the  
 Criminal Justice Commission"  
 Australian Public Administration  
 Class—Department of Government  
 Queensland University  
 3 June 1991
- DR. JANET IRWIN**  
**COMMISSIONER**  
 In-House Seminar—"Crime Prevention Initiatives  
 in Holland"  
 16 May 1991
- MR PETER D. KELLY**  
**LEGAL ADVISER**  
 "Queensland Public Sector Fraud—  
 Fitzgerald Inquiry Then and the  
 CJC Now" EARC Public Seminar  
 7 May 1991

**MR FORBES H. SMITH  
LEGAL ADVISER**

North Queensland Local  
Government Association  
Cairns

2 November 1990

North Queensland Branch of the  
Institute of Municipal Management  
Bowen

23 November 1990

"The CJC's Impact on Local Government  
and Statutory Authorities"  
Municipal Officers Association  
South East Queensland

22 May 1991

**MR LYTTON WELLINGS  
PRINCIPAL INTELLIGENCE  
ANALYST**

"The Role of the CJC, the  
Intelligence Division"  
QPS District Intelligence  
Officers Course

29 May 1991

**MRS SUSAN JOHNSON  
PRINCIPAL RESEARCH OFFICER**

In-House Seminar—Police Powers

28 February 1991

"Trends in Sentencing—the Use of  
Community Based Orders and the  
Sentencing of Juvenile Offenders"  
Queensland Stipendiary Magistrates  
Conference  
Pius XII Seminary Banyo

5 June 1991

**MR IAN ROBINSON  
PRINCIPAL RESEARCH OFFICER**

"Community Policing: Where Will it  
Lead Us?"  
Neighbourhood Watch Queensland State  
Conference  
Brisbane

24 November 1990

"The Fitzgerald Report: What's in it  
for Murriss?"  
Queensland Aboriginal Law and  
Spirituality Conference  
"Two Laws"

5-8 December 1990

In-House Seminar—"Monitoring  
Implementation of Reform of the  
Queensland Police Service"

21 March 1991

**MS GLENDA WARING  
PRINCIPAL RESEARCH OFFICER**

"Overview of Community Policing"—  
The Police and the Community in the  
1990s  
Brisbane

23-25 October 1990

**MS ANNE PHILTRIP  
SENIOR RESEARCH OFFICER**

In-House Seminar—"Aspects of  
Prostitution Law Reform"

11 April 1991

**MR JON MOORE  
SENIOR RESEARCH OFFICER**

"Data Correlation"—Intelligence Analyst  
Course

7 May 1991

**MS DIANNE BENNETT  
RESEARCH OFFICER**

"Frequency Distribution (Statistics)"—  
CJC Intelligence Analyst Course

7 May 1991

**MR ANDREW McLEAN WILLIAMS  
RESEARCH OFFICER**

"The Criminal Justice Commission: Its  
Relevance to Other States and its Role in  
Criminal Justice Education"  
Australasian Association of Criminal  
Justice Educators  
Griffith University Mt. Gravatt Campus

27 September 1990

In-House Seminar—"SP Bookmaking"

7 February 1991

**WORKSHOPS**

"Management Obligations in the  
Public Sector" —A series of workshops at which  
Messrs. Mark Le Grand and David Bevan presented  
sessions

February, March 1991

Insurance Fraud Prevention

6 March 1991

"Social Engineering Queensland Style"  
The Association of Consulting  
Engineers, Australia  
Queensland Chapter

18 April 1991

QPS—Gold Coast—Beenleigh

19 February 1991

Queensland Justices Association  
Regional Conference, Rockhampton

25 May 1991

EARC Conference—Whistleblowers

19 April 1991



## MEDIA STATEMENTS

- |   |                  |
|---|------------------|
| Statement that the Chairman regretted any misconception which may have been gained through published comments in the <i>Bundaberg News Mail</i> in relation to a Bundaberg City Council Investigation | 14 August 1990   |
| Statement advising comments in the <i>Gold Coast Bulletin</i> did not come from a CJC official  | 4 December 1990  |
| The Chairman welcomed aspects of the proposed Liquor Act as a significant development in implementing the recommendations of the Fitzgerald Inquiry   | 19 December 1990 |
| Statement by the Chairman saying a Channel 7 news program in relation to Mr J W Huey contained significant errors   | 12 March 1991    |

## PUBLIC SITTINGS

| MATTER NAME & NUMBER                                  | DATE COMMENCED | NO. OF DAYS | PRESIDING CHAIRMAN                | DATE OF REPORT | COUNSEL ASSISTING   |
|---|----------------|-------------|-----------------------------------|----------------|---|
| 8/90 Jury Interference                                | 14.12.90       | 5           | Sir Max Bingham                   |                | Cedric Hampson Q.C.<br>Forbes Smith                         |
| 1/91 Corrective Commission Services                   | 22.01.91       | 19          | Sir Max Bingham                   | July 1991      | Cedric Hampson Q.C.<br>Kerry Copley Q.C.<br>Steve Lambrides |
| 15/91 Channel 7 Allegations                           | 15.03.91       | 3           | Sir Max Bingham & 4 Commissioners |                | Marshall Irwin<br>Cedric Hampson Q.C.                       |
| 18/91 Receipt of Monies by GCCC Aldermanic Candidates | 16.04.91       | 16          | Sir Max Bingham<br>Mark Le Grand  |                | Cedric Hampson Q.C.<br>Peter Kelly                          |

## CONSULTANCIES ENGAGED DURING 1990/91

During the 1990/91 financial year the following consultancies have been engaged by the Commission:

| <i>Category</i>                          | <i>Expenditure</i><br>\$ |
|--|--------------------------|
| Management (Note 1) .....                | 51,212                   |
| Human Resource Management (Note 2) ..... | 1,000                    |
| Information Technology (Note 3) .....    | 11,533                   |
| Professional/Technical (Note 4) .....    | <u>548,270</u>           |
| <b>TOTAL</b> .....                       | <b>\$ <u>612,015</u></b> |

|   | \$      |
|---|---------|
| (1) <i>Management</i>   |         |
| • Comprehensive review of the Witness Protection Division ..... | 34,565  |
| • Assistance for Intelligence Division .....                    | 16,647  |
| (2) <i>Human Resource Management</i>                            |         |
| • Recruiting .....  | 1,000   |
| (3) <i>Information Technology</i>                               |         |
| • Contract Programming .....                                    | 11,533  |
| (4) <i>Professional/Technical</i>                               |         |
| • Legal Fees .....  | 249,550 |
| • Forensic Document Examination .....                           | 46,638  |
| • Contracted Research .....                                     | 244,310 |
| • Expert Examinations and Reports .....                         | 7,772   |

## COMPLAINTS STATISTICS—SUPPORTING NOTES

## GRAPH 3(b)—TYPES OF ALLEGATION

|                           |   |   |
|---------------------------|---|---|
| Assaults                  | — | Common  |
|                           | — | Serious   |
|                           | — | Weapon  |
| Behaviour                 | — | Incivility, Verbal Abuse, Aggression                      |
|                           | — | Incivility/Verbal Abuse/Aggression                        |
|                           | — | Intoxication  |
|                           | — | Inconsiderate   |
| Corruption, Favouritism   | — | Receipt of Monies   |
|                           | — | Giving Favours/Bias                                       |
|                           | — | Gaining Advantage   |
| Drugs                     | — | Protection  |
|                           | — | Direct Involvement  |
|                           | — | Planting  |
|                           | — | Misappropriation  |
|                           | — | Cultivation   |
| Evidence                  | — | Fabrication of, inc. Verballing, Perjury etc.             |
|                           | — | Improperly Obtaining                                      |
|                           | — | Destruction/Tampering with                                |
| Firearms                  | — | Display of  |
|                           | — | Discharge of  |
| Goods and Property        | — | Wrongful Seizure  |
|                           | — | Failure to Return   |
|                           | — | Damage to Seized Property                                 |
|                           | — | Improper Use of Property of Unit of Public Administration |
| Harassment                | — | Threats   |
|                           | — | Excessive Attention                                       |
|                           | — | Sexual  |
| Information Breaches      | — | Disclosure of Confidential                                |
|                           | — | Refusal to Disclose                                       |
|                           | — | Giving Incorrect  |
| Dealings With: Juveniles/ | — | Conduct of Interview                                      |
| Disabled/Aborigines       | — | Wrongful Detention  |
| Custody Matters           | — | Refusal of Legal Representation                           |
|                           | — | Refusal to Provide Necessities/Medical                    |
| Attention                 | — | Refusal to Allow Contact                                  |
| Failure to Perform Duties | — | To Investigate/Properly Investigate                       |
|                           | — | By Police to Report Offence                               |
|                           | — | Failure to Identify (Name, station, Reg. No. etc.)        |
|                           | — | Not performing statutory duty                             |
| Misuse of Powers          | — | Involvement in Civil Dispute                              |
|                           | — | Exceeding Powers  |
| Arrest/Detention          | — | Wrongful  |
|                           | — | Street Offences   |
|                           | — | Reason Not Given  |
|                           | — | Unnecessary Force During                                  |
|                           | — | Entrapment  |
|                           | — | Instead of Summons  |

|   |   |
|---|---|
| Organised Crime                         | — Gaming  |
|   | — Drugs   |
|   | — Prostitution  |
|   | — Money Laundering  |
| Prosecutions/Judiciary                  | — Failure to Properly Present Prosecution                     |
|   | — Wrongful  |
|   | — Inappropriate Judicial Conduct                              |
| Criminal Act or Omission                | — Stealing  |
|   | — Other Dishonesty Offences                                   |
|   | — Sexual Offences   |
|   | — Leading to Death  |
| Searches                                | — Wrongful Drug Investigation Search                          |
|   | — Other Wrongful Search                                       |
|   | — Search Occasioning Damage                                   |
| Traffic                                 | — Issuing of T.O.N.s  |
|   | — Manner of Use of Vehicles of Units of Public Administration |
| Unrest                                  | — Riot  |
|   | — Street Disturbance  |
| Victimisation                           | — Victimisation of whistleblowers/complainants                |
| Warrants of Commitment/<br>Apprehension | — Improper Execution  |
| Zoning/Development                      | — Delays in Execution   |
| Miscellaneous                           |   |

**GRAPH 4(a)—FULL WORDING OF OUTCOMES**

Not in Jurisdiction

Frivolous

Vexatious

Insufficient Evidence

No Evidence

Referred/has to be referred to Misconduct Tribunals

Referred to Principal Officer (other than Commissioner QPS)

Referred to Commissioner QPS to investigate minor misconduct or breach of discipline

Recommend to Commissioner QPS criminal charge

Recommend to Commissioner QPS disciplinary action for misconduct or breach of discipline

Recommend to Commissioner QPS counselling

Referred to Director of Prosecutions

Referred to Other Prosecution Authority

Referred to Other Agency

Other

**GUIDELINES ISSUED BY THE CRIMINAL JUSTICE  
COMMISSION TO THE COMPLAINTS SECTION, OFFICIAL  
MISCONDUCT DIVISION, PURSUANT TO THE CRIMINAL  
JUSTICE ACT 1989-1990 ON 5 OCTOBER 1990**

Pursuant to Section 2.29 of the *Criminal Justice Act 1989-1990* the Criminal Justice Commission issues the following guidelines in respect of the discharge by the Complaints Section and the Chief Officer, Complaints Section, Official Misconduct Division of the functions imposed by that Section:

1. Interpretation. In these guidelines, unless a contrary intention appears:
  - “Chief Officer” means the Chief Officer of the Complaints Section;
  - “complaint” means a complaint or information concerning suspected misconduct furnished to the Complaints Section of the Official Misconduct Division from any source, including any anonymous source; the term includes any matter involving suspected misconduct referred to the Complaints Section;
  - “Director” means the Director of the Official Misconduct Division.
  
2. Where further action by Commission not desirable. If, upon assessing the substance of any complaint, the Chief Officer determines that no further action by the Commission is necessary or desirable in respect of the complaint, the Chief Officer shall dismiss the complaint.
  
3. Complaints against police not constituting official misconduct. If, upon assessing the substance of any complaint against a member of the Police Service, the Chief Officer determines that the conduct complained of, if substantiated, would not constitute official misconduct but would constitute sufficient cause for the taking of disciplinary action for misconduct or a breach of discipline, he shall cause the complaint to be referred to the Commissioner for such investigation and disciplinary action as the Commissioner considers appropriate.
  
4. Complaints against persons in units of public administration not constituting official misconduct. If, upon assessing the substance of any complaint against a person who holds an appointment in a unit of public administration other than the Police Service, the Chief Officer determines that the conduct complained of, if substantiated, would not constitute official misconduct but would constitute sufficient cause for the taking of disciplinary action against the person, he shall cause the complaint to be referred to the principal officer of the unit of public administration for such investigation and disciplinary action as the principal officer considers appropriate.
  
5. Chief Officer not required to report to the Director in certain cases.
  - (1) Where the Chief Officer dismisses a complaint pursuant to clause 2 or causes a complaint to be referred to the Commissioner or other principal officer pursuant to clause 3 or 4, then, notwithstanding Section 2.29(c), he is not required to submit the complaint or make observations thereon to the Director, unless the Director otherwise directs.
  - (2) In any such case the Chief Officer shall keep appropriate records concerning the complaint, including his assessment thereof.

**SIR MAX BINGHAM Q.C.**  
Chairman

## GUIDELINES AND DIRECTIONS ISSUED TO COMMISSIONER, QUEENSLAND POLICE SERVICE

### GUIDELINES AND DIRECTIONS ISSUED BY THE CRIMINAL JUSTICE COMMISSION TO THE COMMISSIONER OF THE QUEENSLAND POLICE SERVICE PURSUANT TO THE CRIMINAL JUSTICE ACT 1989-1990 ON 20 JULY 1990

The Criminal Justice Commission repeals the guidelines issued on 4 May 1990 to the Commissioner of the Queensland Police Service (referred to in this document as the Commissioner) under the

*Criminal Justice Act 1989-1990* and issues the following guidelines and directions under that Act:

1. Matters investigated and disposed of before 22 April 1990. The Commissioner shall not refer to the Commission complaints of, or matters involving, suspected misconduct by members of the Police Force investigated by members of the Police Force and disposed of before 22 April 1990 unless he believes that any such matter:
  - (a) Involves official misconduct or a criminal offence; and
  - (b) Has not been disposed of in an appropriate manner,in which case he shall furnish to the Commission, as soon as is practicable, all information relevant to the complaint or matter.
2. Matters under investigation but not disposed of before 22 April 1990. The Commissioner shall not refer to the Commission complaints of, or matters involving, suspected misconduct by members of the Police Force that, immediately before 22 April 1990:
  - (a) Had been investigated by members of the Police Force but not disposed of; or
  - (b) Were being investigated by members of the Police Force,unless he believes that any member of the Police Force may be guilty of official misconduct or a criminal offence, in which case he shall furnish to the Commission, as soon as is practicable, all information relevant to the complaint or matter.
3. Minor matters of complaint.
  - (1) The Commissioner shall investigate, determine, and where appropriate, take disciplinary action in respect of, all complaints of, or matters involving, suspected misconduct of a minor nature by members of the Police Force:
    - (a) That are referred to him by the Commission; or
    - (b) That come to his notice from any other source unless, in any such case, the Commission requests that the complaint or matter be referred for its determination.
  - (2) As soon as is practicable after making his determination in respect of any complaint or matter of a minor nature referred to him by the Commission, the Commissioner shall notify the Commission of that determination and of any disciplinary action taken or to be taken against any member of the Police Force.
  - (3) Nothing in this clause affects the duty imposed on any officer or staff member (within the respective meanings or those terms in the *Police Service Administration Act 1990* by Section 7.2 of that Act to report the occurrence of misconduct to the Complaints Section of the Official Misconduct Division.
4. Commissioner to investigate serious complaints in certain cases.
  - (1) The Commissioner shall investigate any complaint of, or matter involving, suspected misconduct by a member of the Police Force:
    - (a) If required to do so by the Commission, in which case he shall investigate the complaint or matter in accordance with any directions given by the Commission; or
    - (b) If he believes such investigation to be necessary in order to obtain evidence that the Commission would not otherwise be able to obtain or would not readily be able to obtain.
  - (2) As soon as is practicable after investigating any such complaint or matter, the Commissioner shall furnish to the Commission, all information relevant to the complaint or matter.

SIR MAX BINGHAM Q.C.  
Chairman

## MISCONDUCT TRIBUNALS APPOINTMENTS/ RESIGNATIONS

### APPOINTMENTS

The undermentioned persons were appointed Part-time Members of the Misconduct Tribunals of the Criminal Justice Commission for a period of three (3) years:

#### 9 August 1990

Sarah BRADLEY—Solicitor  
Lorenzo BOCCABELLA—Barrister-at-Law  
The Honourable Douglas Malcolm CAMPBELL Q.C.  
The Honourable William Joseph CARTER Q.C.  
Richard Noel CHESTERMAN Q.C.  
Martin Robert MORIARTY—Barrister-at-Law  
Margaret Anne McMURDO—Barrister-at-Law

#### 14 March 1991

Dr John Robertson Stephen FORBES—Barrister-at-Law  
Phillip Stevenson HARDCASTLE—Barrister-at-Law  
Robert Neilson WENSLEY—Barrister-at-Law  
Charles Francis BAGLEY—Barrister-at-Law  
Francis Joseph GAFFY Q.C.  
James Geoffrey CROWLEY Q.C.  
Michael Joseph HALLIDAY—Barrister-at-Law

### CESSATION OF MEMBERSHIP

#### 29 January 1991

Margaret Anne McMurdo, appointed a Judge of the District Court

#### 11 February 1991

The Honourable William Joseph CARTER Q.C. resigned



**STATISTICS ON MISCONDUCT  
TRIBUNALS' HEARINGS**

**ORIGINAL JURISDICTION—SCHEDULE OF MATTERS**

| <b>NO.<br/>ORIGINAL<br/>JURISDICTION</b> | <b>NAME<br/>OF<br/>PERSON<br/>CHARGED</b>           | <b>DATE<br/>REPORT<br/>RECEIVED<br/>BY<br/>REGISTRAR</b> | <b>DATE<br/>NOTICE<br/>OF CHARGE<br/>LODGED<br/>WITH<br/>DIRECTOR<br/>(S.2.40)</b> | <b>DATE RECEIPT<br/>BY DIRECTOR<br/>OF<br/>NOTIFICATION<br/>OF SERVICE<br/>(S.2.42)</b> | <b>COUNSEL<br/>APPOINTED<br/>BY CHAIRMAN<br/>(S.2.17(5)(A))</b> | <b>MEMBER<br/>NOMINATED<br/>BY<br/>CHAIRMAN<br/>(S.2.35)</b> | <b>DATE OF<br/>HEARING</b>                         | <b>RESULT</b>  |
|--|---|--|--|---|---|--|--|--|
| 1/90                                     | HALL, Kevin<br>Edward                               | 13/11/90   | 20/11/90<br>10/5/91—<br>further charges  | 23/11/90<br>10/5/91   | J.S Gordon  | 1. Mr Moriarty<br>2. Mr Gaffy<br>QC                          | 20 & 21/5/91<br>27, 28 &<br>29/5/91<br>(2 charges) | 1. Charges<br>dismissed<br>21/5/91.<br>2. Charges<br>proved—<br>HALL<br>dismissed<br>from QPS<br>3/6/91. |
| 2/90                                     | CROUGH,<br>Paul Denis                               | 13/11/90   | 20/11/90   | Received  | J.S Gordon  | Mr Moriarty  | —  | Notice<br>of<br>abandonment<br>filed<br>1/3/91.  |
| 1/91                                     | KEATING,<br>Daniel James<br>LEE, Graham<br>Meyrick  | 25/1/91  | 1/2/91   | 12/2/91   | J.S Gordon  | Mr Gaffy QC  | 15,16,17/7/91                                      | Charge<br>dismissed 17/<br>7/91  |
| 2/91                                     | RILEY,<br>Stephen Charles<br>IFOPO, Feleti          | 6/2/91   | 13/2/91  | 8/3/91<br>29/4/91   | J.S Gordon  |  |  |  |
| 3/91                                     | MORROW,<br>Gregory Allen<br>FLYNN, Peter<br>Francis | 6/2/91   | 13/2/91<br>13/2/91   | 5/3/91<br>6/3/91  | J.S Gordon  |  |  |  |

# APPELLATE JURISDICTION—SCHEDULE OF MATTERS

| NO. APPELLATE JURISDICTION | NAME OF APPELLANT           | DATE APPEAL LODGED | MEMBER NOMINATED BY CHAIRMAN                         | DATE OF HEARING                            | DATE OF JUDGMENT                               | RESULT   |
|----------------------------|-----------------------------|--------------------|--|--|--|--|
| 1/90                       | VEIVERS, William Robert     | 17/7/90            | Mr Chesterman QC                                     | 16/1/91                                    | 1/2/91   | Reinstated at reduced rank                       |
| 2/90                       | STALLING, James Bruce       | 24/7/90            | Mr Chesterman QC                                     | 28/11/90                                   | 3/12/90  | Dismissal affirmed                               |
| 3/90                       | DOWNS, Barry Joseph Vincent | 29/8/90            |  |  | C.A.V.<br>Supreme Court (F.C.) O.S.C.<br>36/90 |  |
| 4/90                       | BLIGHT, Lester              | 7/11/90            | Ms Bradley (1/3/91)                                  | Directions Hearing 19/3/91, 2/4/91         | —  | Notice of Abandonment filed 7/5/91               |
| 5/90                       | MARTIN, Barry Walter        | 7/11/90            | Ms Bradley (1/3/91)                                  | Directions Hearing 19/3/91, 2/4/91         |  |  |
| 6/90                       | O'CONNOR, Philip John       | 4/12/90            | Ms Bradley (1/3/91)                                  | 23/7/91; 6/8/91                            | 23/7/91  | Reinstated at reduced rank                       |
| 1/91                       | DUNCAN, Peter Michael       | 2/1/91             | Mr Gaffy QC (7/5/91)                                 | 8/7/91                                     | 9/7/91<br>Further consideration 19/7/91        | Reinstated at reduced seniority; fined \$750.00. |
| 2/91                       | KOLENCE, John Charles       | 10/5/91            | Mr Crowley QC  | Directions Hearing 4/7/91 22, 23/7/91      | C.A.V.   |  |
| 3/91                       | MOSKWA, Steven Patrick      | 22/5/91            | Mr Bagley (14/6/91)—revoked<br>Mr Halliday (25/7/91) | Directions Hearing 24/6/91 26/7/91         | C.A.V.   |  |
| 4/91                       | PEGG, Geoffrey Clarence     | 28/6/91            | Mr Halliday (19/7/91)                                | Directions Hearing 23/7/91, 31/7/91 1/8/91 |  |  |
| 5/91                       | McAULLY, David William      | 10/7/91            |  |  |  |  |

STATISTICS ON POLICE SERVICE  
REVIEW HEARINGS

| MONTH OF APPLICATION | NUMBER OF APPLICATIONS | NUMBER HEARD | NUMBER WITHDRAWN | NO JURISDICTION OUT OF TIME | NUMBER AWAITING HEARING |
|----------------------|------------------------|--------------|------------------|-----------------------------|-------------------------|
| July 1990            | 47                     | 17           | 30               |                             |                         |
| August 1990          | 5                      | 2            | 2                | 1                           |                         |
| September 1990       | 11                     | 9            | 2                |                             |                         |
| October 1990         | 12                     | 6            | 3                |                             | 3                       |
| November 1990        | 4                      | 1            | 1                | 2                           |                         |
| December 1990        | 29                     | 16           | 12               | 1                           |                         |
| January 1991         | 140                    | 77           | 57               | 3                           | 3                       |
| February 1991        | 72                     | 25           | 37               | 8                           | 2                       |
| March 1991           | 23                     | 15           | 7                |                             | 1                       |
| April 1991           | 34                     | 10           | 15               | 1                           | 8                       |
| May 1991             | 38                     | 3            | 12               |                             | 23                      |
| June 1991            | 85                     |              | 4                |                             | 81                      |
| <b>TOTALS</b>        | <b>500</b>             | <b>181</b>   | <b>182</b>       | <b>16</b>                   | <b>121</b>              |

| APPLICATIONS | RESULT |          |           | WAITING DECISION | WAITING HEARING | NO JURISDICTION OUT OF TIME | WITHDRAWN |
|--------------|--------|----------|-----------|------------------|-----------------|-----------------------------|-----------|
|              | HEARD  | AFFIRMED | SET ASIDE |                  |                 |                             |           |
| <b>TOTAL</b> |        |          |           |                  |                 |                             |           |
| 500          | 181    | 139      | 38        | 4                | 121             | 16                          | 182       |

## PUBLICATIONS

- November 1990 SP Bookmaking and Other Aspects of Criminal Activity in the Racing Industry—An Issues Paper
- January 1991 A Submission to the Division of Racing, Department of Tourism, Sport and Racing, in Response to a Green Paper Entitled “The Development of the Racing Industry in Queensland”
- February 1991 Directory of Researchers of Crime and Criminal Justice—*Prepared in conjunction with the Australian Institute of Criminology*
- March 1991 Review of Prostitution-Related Laws in Queensland—An Information and Issues Paper
- March 1991 The Jury System in Criminal Trials in Queensland—An Issues Paper
- March 1991 Report on an Investigative Hearing into Alleged Jury Interference
- April 1991 Submission on Monitoring of the Functions of the Criminal Justice Commission—*A submission to the Parliamentary Criminal Justice Committee in relation to its review of the functions of the Commission*
- May 1991 Report on the Investigation into the Complaints of James Gerard Soorley Against the Brisbane City Council
- June 1991 The Police and the Community, Conference Proceedings—*Prepared in conjunction with the Australian Institute of Criminology following the conference held 23-25 October 1990 in Brisbane*

## EXTERNAL COMMITTEES

| <b>Committee</b>  | <b>CJC Representative</b>                              |
|---|--|
| Committals Working Party  | Jim Gordon   |
| Criminal Code Review Committee                                      | Marshall Irwin   |
| Illicit Drug Study Project  | Steve Guttridge  |
| Liaison Committee with Health Department                            | Anne Philtrip,<br>Amanda Carter<br>Satyanshu Mukherjee |
| Organised Crime and Prostitution Working Group                      | Anne Philtrip<br>Amanda Carter                         |
| Police Prosecution Function Working Party                           | Jim Gordon<br>Susan Johnson                            |
| Police Reform Implementation Sub-Committee                          | Ian Robinson<br>Satyanshu Mukherjee                    |
| Queensland Corrective Services Legislation Review Committee         | Jim Gordon   |
| Queensland Police Service Education Advisory Council                | Satyanshu Mukherjee                                    |
| Queensland Police Service Interim Education Management Project Team | John Kelly   |
| Queensland Police Service Review of Policy and Procedures           | Steve Guttridge  |
| Review of QPS Information Bureau                                    | Jon Moore, Tracey Stenzel<br>Satyanshu Mukherjee       |
| Steering Committee on National Crime Survey                         | Satyanshu Mukherjee                                    |
| Telecommunications (Interception) Bill Working Party                | Marshall Irwin   |

**ANNUAL FINANCIAL STATEMENTS**

**FOR THE PERIOD**

**1 JULY 1990 TO 30 JUNE 1991**

## 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*.

The Financial Statements have been prepared pursuant to Section 46F of the *Financial Administration and Audit Act 1977*, the transitional arrangements of Public Finance Standard 501(3) and having regard to 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 year ended 30 June 1991 and the general state of affairs at the end of the year.

# INCOME AND EXPENDITURE ACCOUNT

FOR THE YEAR ENDED 30 JUNE 1991

|   |      | 1991           |                  | 1/4/90-<br>30/6/90 |
|---|------|----------------|------------------|--------------------|
|   | NOTE | \$             | \$               | \$                 |
| <b>INCOME</b>   |      |                |                  |                    |
| This was earned from—                                   |      |                |                  |                    |
| Grant from Consolidated Revenue .....                   |      | 20,000,000     |                  | 5,000,000          |
| Interest .....  |      | 665,699        |                  | 24,225             |
| Other income .....                                      | 1    | <u>220,321</u> |                  | <u>—</u>           |
| <b>TOTAL INCOME</b> .....                               |      |                | 20,886,020       | <u>5,024,225</u>   |
| <b>EXPENDITURE</b>                                      |      |                |                  |                    |
| This consisted of—                                      |      |                |                  |                    |
| Salaries and Related Expenses .....                     | 2    | 10,811,751     |                  | 941,868            |
| Administration Expenses .....                           | 3    | 3,821,420      |                  | 711,519            |
| Operational Expenses .....                              |      | 280,909        |                  | 475,215            |
| Consulting Expenses .....                               | 4    | 612,015        |                  | 35,977             |
| Transfers to Provisions .....                           | 5    | 396,757        |                  | 22,883             |
| Loss on disposal of Fixed Assets .....                  |      | <u>7,696</u>   |                  | <u>—</u>           |
| <b>TOTAL EXPENDITURE</b> .....                          |      |                | 15,930,548       | <u>2,187,462</u>   |
| Resulting in an operating surplus for the year of ..... |      |                | 4,955,472        | 2,836,763          |
| <b>Abnormal Items</b>                                   |      |                |                  |                    |
| Depreciation Expense .....                              | 6    |                | (311,013)        | —                  |
| Write Offs .....  | 7    |                | (119,480)        | —                  |
| <b>Extraordinary Items</b>                              |      |                |                  |                    |
| Transfer to Provisions .....                            | 5    |                | —                | (239,258)          |
| Assets Acquired .....                                   | 8    |                | <u>918,999</u>   | <u>—</u>           |
| <b>Balance transferred to Accumulated Funds</b> .....   |      |                | <u>5,443,978</u> | <u>2,597,505</u>   |



## BALANCE SHEET

AS AT 30 JUNE 1991

|                                       | NOTE | 1991             | 1990             |
|---------------------------------------|------|------------------|------------------|
|                                       |      | \$               | \$               |
| <b>CURRENT ASSETS</b>                 |      |                  |                  |
| Cash at Bank or on Hand .....         |      | 5,241,520        | 1,861,422        |
| Interest Receivable .....             |      | 47,267           | 24,225           |
| Sundry Debtors .....                  |      | 29,466           | —                |
| Prepayments .....                     |      | <u>7,500</u>     | <u>816,582</u>   |
|                                       |      | 5,325,753        | 2,702,229        |
| <b>NON-CURRENT ASSETS</b>             |      |                  |                  |
| Fixed Assets .....                    | 9    |                  |                  |
| Office Machines and Equipment .....   |      | 462,482          | 197,048          |
| Operations Equipment .....            |      | 669,574          | 16,165           |
| Furniture and Fittings .....          |      | 130,780          | 675              |
| Computing Equipment .....             |      | 1,268,391        | 245,139          |
| Motor Vehicles .....                  |      | 1,253,811        | 22,611           |
| Less Provision for Depreciation ..... |      | <u>(649,651)</u> | <u>—</u>         |
|                                       |      | 3,135,387        | 481,638          |
| <b>TOTAL ASSETS</b> .....             |      | 8,461,140        | 3,183,867        |
| <b>CURRENT LIABILITIES</b>            |      |                  |                  |
| Sundry Creditors .....                |      | 8,343            | 325,420          |
| Provisions .....                      | 10   | <u>411,314</u>   | <u>260,942</u>   |
|                                       |      | 419,657          | 586,362          |
| <b>TOTAL LIABILITIES</b> .....        |      | <u>419,657</u>   | <u>586,362</u>   |
| <b>NET ASSETS</b> .....               |      | <u>8,041,483</u> | <u>2,597,505</u> |
| <b>EQUITY—</b>                        |      |                  |                  |
| Accumulated Funds .....               | 11   | <u>8,041,483</u> | <u>2,597,505</u> |
| <b>TOTAL EQUITY</b> .....             |      | <u>8,041,483</u> | <u>2,597,505</u> |

# STATEMENT OF SOURCES AND APPLICATIONS OF FUNDS

FOR THE YEAR ENDED 30 JUNE 1991

|  | 1991<br>\$ |                  | 1/4/90—30/6/90<br>\$ |                  |
|--|------------|------------------|----------------------|------------------|
| <b>Sources of Funds</b>                        |            |                  |                      |                  |
| <b>Funds from Operations (A)</b>               |            |                  |                      |                  |
| Inflows of funds from operations               |            |                  |                      |                  |
| Income .....                                   | 20,886,020 |                  | 5,024,225            |                  |
| Other Income                                   |            |                  |                      |                  |
| Proceeds from sale of non-current assets ..... | 13,100     | 20,899,120       | —                    | 5,024,225        |
| Outflows of funds from operations .....        | 15,185,147 | 5,713,973        | 2,164,579            | 2,859,646        |
| Reduction in Assets                            |            |                  |                      |                  |
| Current Assets                                 |            |                  |                      |                  |
| Prepaid expenses .....                         |            | 809,082          |                      |                  |
| Increase in Liabilities                        |            |                  |                      |                  |
| Current Liabilities                            |            |                  |                      |                  |
| Sundry creditors .....                         |            | —                |                      | 325,420          |
|  |            | <u>6,523,055</u> |                      | <u>3,185,066</u> |
| <b>Application of Funds</b>                    |            |                  |                      |                  |
| Increase in Assets                             |            |                  |                      |                  |
| Current Assets                                 |            |                  |                      |                  |
| Cash at bank .....                             | 3,380,098  |                  | 1,861,422            |                  |
| Sundry debtors .....                           | 29,466     |                  | —                    |                  |
| Interest receivable .....                      | 23,042     |                  | 24,225               |                  |
| Prepaid expenses .....                         | —          | 3,432,606        | 816,582              | 2,702,229        |
| Non-current Assets                             |            |                  |                      |                  |
| Office machines & equipment ..                 | 140,306    |                  | 197,048              |                  |
| Operations equipment .....                     | 215,459    |                  | 16,165               |                  |
| Furniture & fittings .....                     | 128,581    |                  | 675                  |                  |
| Computing equipment .....                      | 811,493    |                  | 245,139              |                  |
| Motor vehicles .....                           | 1,231,148  | 2,526,987        | 5,959,593            | 22,611           |
|  |            |                  | 481,638              | 3,183,867        |
| Recreation leave paid .....                    |            | 240,371          |                      | 1,199            |
| Long service leave paid .....                  |            | 6,014            |                      | —                |
| Decrease in Liabilities                        |            |                  |                      |                  |
| Current liabilities                            |            |                  |                      |                  |
| Sundry creditors .....                         |            | 317,077          |                      | —                |
|  |            | <u>6,523,055</u> |                      | <u>3,185,066</u> |

**NOTES**

A Reconciliation of operating surplus with funds from operations is as follows:

|  |         |                  |        |                  |
|--|---------|------------------|--------|------------------|
| Operating result .....                         |         | 4,955,472        |        | 2,836,763        |
| <i>Add:</i> Depreciation .....                 | 340,948 |                  | —      |                  |
| Provision for long service leave .....         | 17,296  |                  | —      |                  |
| Provision for recreation leave .....           | 379,461 |                  | 22,883 |                  |
| Loss on disposal of non-current assets .....   | 7,696   |                  | —      |                  |
| Proceeds from sale of non-current assets ..... | 13,100  | 758,501          | —      | 22,883           |
|  |         | <u>5,713,973</u> |        | <u>2,859,646</u> |

## SUMMARY OF ACCOUNTING POLICIES

### (a) Basis of Accounts

The accounts have been prepared on an historical cost basis, consistent with the basis applied in the previous financial period. Income and expenditure are brought to account on an accrual basis.

It should be noted for comparative purposes that the previous financial period covered the three months from 1 April 1990 to 30 June 1990.

### (b) Fixed Assets

Fixed assets are included in the accounts at cost less accumulated depreciation.

Ownership of fixed assets of \$1,053,562 purchased during the Commission of Inquiry was transferred to the Criminal Justice Commission. Additional items were subsequently transferred, the total value being \$1,069,532.

A review of assets transferred including a complete stocktake and search for items listed but not located was carried out during the current financial year.

This review resulted in software and small items totalling \$46,932 being expensed and other items totalling \$69,706 being written off.

Assets with a cost value of \$150,532 have not been located and as yet have not been brought to account in the financial records of the Commission until further investigation. It is believed that upon cessation of the Commission of Inquiry some of these assets may have been transferred to other State Government Departments.

In addition to the assets transferred from the Commission of Inquiry a stocktake and thorough search located many additional assets. These assets have been labelled and recorded in the Asset Register. Further investigations are to be carried out during the 1991-92 financial year to obtain source and costs in order that such assets are brought to account in the financial records.

### (c) Accommodation

Rental for office accommodation is provided free of charge by the Department of Administrative Services. The Commission is responsible for the lease of the basement facilities of the building.

### (d) Depreciation

Depreciation is provided on all assets acquired since 1 April, 1990 using the straight line method.

Depreciation on fixed assets purchased during the Commission of Inquiry and for which ownership was subsequently transferred to the Criminal Justice Commission has been brought to account as an abnormal expense item in the Income and Expenditure Account.

### (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 approximately \$129,000 exist at 30 June 1991 consisting of outstanding purchase orders.

### (g) Operational Expenses

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

## NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

|   | 1991              | 1/4/90-<br>30/6/90 |
|---|-------------------|--------------------|
|   | \$                | \$                 |
| <b>Note 1 Other Income</b>  |                   |                    |
| Proceeds from the sale of assets purchased during the Commission of Inquiry and disposed of prior to being brought to account in the financial records of the Criminal Justice Commission |                   |                    |
| — Office Machines & Equipment   | 8,202             | —                  |
| — Motor Vehicles  | 143,719           | —                  |
| Sundry Income   | 68,400            | —                  |
|   | <u>220,321</u>    | <u>Nil</u>         |
| <b>Note 2 Salaries and Related Expenses</b>   |                   |                    |
| Salaries, Wages and Allowances  | 8,460,923         | 774,001            |
| Overtime  | 1,124,880         | 93,436             |
| Payroll & Fringe Benefits Taxes   | 581,910           | 60,304             |
| Superannuation Contribution   | 642,894           | 14,127             |
| Workers' Compensation   | 1,144             | —                  |
|   | <u>10,811,751</u> | <u>941,868</u>     |

Salaries and Related Expenses for the period 1/4/90—30/6/90 do not include any expenditure for the Police establishment. These costs were met by the Treasury Department and the Queensland Police Service.

|   |                  |                |
|---|------------------|----------------|
| <b>Note 3 Administrative Expenses</b>         |                  |                |
| Airfares, Taxis, Hire Cars, Travel Allowances | 412,952          | 101,534        |
| Telephones, Pagers, Facsimile                 | 258,492          | 47,308         |
| Postage and Petty Cash                        | 14,670           | 4,121          |
| Advertising                                   | 87,250           | 26,746         |
| Subscriptions, Books                          | 123,996          | 126,182        |
| Stores and Stationery                         | 127,558          | 56,729         |
| Printing and Publication                      | 46,220           | 12,438         |
| Petrol, Maintenance, Registration             | 277,168          | 71,084         |
| Computing Expenses & Software                 | 215,239          | 104,697        |
| Witness Security & Expenses                   | 47,556           | 47,573         |
| Transcription                                 | 105,208          | —              |
| Audit Fees                                    | 5,400            | —              |
| Recruitment & Training                        | 208,605          | —              |
| Accommodation                                 | 1,393,436        | —              |
| Security & Maintenance                        | 35,416           | 65,286         |
| Depreciation                                  | 340,948          | —              |
| Other Expenses                                | 121,306          | 47,821         |
|   | <u>3,821,420</u> | <u>711,519</u> |

Accommodation includes a payment to the Department of Administrative Services for the establishment of the Commission's premises.

Consulting and Legal Fees previously classified as a separate category within Administrative Expenses are now recorded independently as Consulting Expenses (see Note 4). As Consulting and Legal Fees have increased substantially, an analysis by category is now provided in respect of the 1990-91 expenditure.

|                                       |                |               |
|---------------------------------------|----------------|---------------|
| <b>Note 4 Consulting Expenses</b>     |                |               |
| Legal Advice and Representation       | 249,550        |               |
| Contracted Research                   | 244,310        |               |
| Forensic Document Examination         | 46,638         |               |
| Review of Witness Protection Division | 34,565         |               |
| Assistance for Intelligence Division  | 16,647         |               |
| Contract Programming                  | 11,533         |               |
| Expert Examinations & Reports         | 7,772          |               |
| Recruiting                            | 1,000          |               |
|                                       | <u>612,015</u> | <u>35,977</u> |

**NOTES TO AND FORMING PART OF THE FINANCIAL  
STATEMENTS—continued**

|  | 1991             | 1/4/90-<br>30/6/90 |
|--|------------------|--------------------|
|  | \$               | \$                 |
| <b>Note 5 Transfers to Provisions</b>  |                  |                    |
| Long Service Leave .....   | 17,296           | 138,695            |
| Recreation Leave .....   | 379,461          | 123,446            |
|  | <u>396,757</u>   | <u>262,141</u>     |
| <br><b>Note 6 Abnormal Item—Depreciation Expense</b>   |                  |                    |
| Depreciation relates to assets purchased during the Commission of Inquiry for which ownership was subsequently transferred to the Criminal Justice Commission and brought to account in the financial records during the current financial year. |                  |                    |
| <br><b>Note 7 Write Offs</b>   |                  |                    |
| This includes the cost of many small items and software transferred from the Commission of Inquiry and subsequently expensed and fixed assets written off.   |                  |                    |
|  | <u>119,480</u>   | <u>Nil</u>         |
| <br><b>Note 8 Assets Acquired</b>  |                  |                    |
| These assets were purchased during the Commission of Inquiry and transferred to the Criminal Justice Commission.   |                  |                    |
|  | <u>918,999</u>   | <u>Nil</u>         |
| <br><b>Note 9 Fixed Assets</b>   |                  |                    |
| Office Machines & Equipment .....  | 462,482          | 197,048            |
| Less Provision for Depreciation .....  | 82,418           | —                  |
|  | <u>380,064</u>   | <u>197,048</u>     |
| Operations Equipment .....   | 669,574          | 16,165             |
| Less Provision for Depreciation .....  | 182,004          | —                  |
|  | <u>487,570</u>   | <u>16,165</u>      |
| Furniture & Fittings .....   | 130,780          | 675                |
| Less Provision for Depreciation .....  | 2,733            | —                  |
|  | <u>128,047</u>   | <u>675</u>         |
| Computing Equipment .....  | 1,268,391        | 245,139            |
| Less Provision for Depreciation .....  | 241,484          | —                  |
|  | <u>1,026,907</u> | <u>245,139</u>     |
| Motor Vehicles .....   | 1,253,811        | 22,611             |
| Less Provision for Depreciation .....  | 141,012          | —                  |
|  | <u>1,112,799</u> | <u>22,611</u>      |

**NOTES TO AND FORMING PART OF THE FINANCIAL  
STATEMENTS—continued**

|                |  | 1991             | 1990             |
|----------------|--|------------------|------------------|
|                |  | \$               | \$               |
| <b>Note 10</b> | <b>Provisions</b>  |                  |                  |
|                | Long Service Leave .....                                     | 149,977          | 138,695          |
|                | Recreation Leave .....                                       | 261,337          | 122,247          |
|                |  | <u>411,314</u>   | <u>260,942</u>   |
|                | <b>Movements in Provisions</b>                               |                  |                  |
|                | (i) Long Service Leave                                       |                  |                  |
|                | Balance 1 July .....   | 138,695          | —                |
|                | Add—   |                  |                  |
|                | Provision made .....   | 17,296           | 138,695          |
|                |  | <u>155,991</u>   | <u>138,695</u>   |
|                | Less—  |                  |                  |
|                | Long Service Leave paid .....                                | 6,014            | —                |
|                | Balance 30 June .....  | <u>149,977</u>   | <u>138,695</u>   |
|                | (ii) Recreation Leave  |                  |                  |
|                | Balance 1 July .....   | 122,247          | —                |
|                | Add—   |                  |                  |
|                | Provision made .....   | 379,461          | 123,446          |
|                |  | <u>501,708</u>   | <u>123,446</u>   |
|                | Less—  |                  |                  |
|                | Recreation Leave paid .....                                  | 240,371          | 1,199            |
|                | Balance 30 June .....  | <u>261,337</u>   | <u>122,247</u>   |
| <b>Note 11</b> | <b>Accumulated Funds</b>                                     |                  |                  |
|                | Balance 1 July .....   | 2,597,505        | —                |
|                | Add Balance transferred from Income & Expenditure Account .. | 5,443,978        | 2,597,505        |
|                | Balance 30 June .....  | <u>8,041,483</u> | <u>2,597,505</u> |

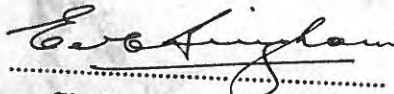
# CERTIFICATE OF THE CRIMINAL JUSTICE COMMISSION

We have prepared the foregoing Financial Statements pursuant to the provisions of the *Financial Administration and Audit Act 1977* 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 statements have been drawn up in accordance with the transitional arrangements of Public Finance Standard 501(3) so as to present a true and fair view of the transactions of the Criminal Justice Commission for the year ended 30 June 1991, and of the financial position as at 30 June 1991.

13.9.91

Dated



Sir Max Bingham Q.C.  
Chairman



G. M. Brighton  
Executive Director

## AUDIT CERTIFICATE

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

- (a) I have received all the information and explanations which I have required;
- (b) the foregoing Income and Expenditure Account, the Statement of Sources and Applications of Funds and the Balance Sheet are in agreement with those accounts; and
- (c) in my 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 statements have been drawn up in accordance with the transitional arrangements of Public Finance Standard 501(3) so as to present a true and fair view of the transactions of the Criminal Justice Commission for the period 1 July 1990 to 30 June 1991, and of the financial position as at 30 June 1991.



B. O. Treloar  
Assistant Auditor-General  
(As delegate of the Auditor-General)

