



Criminal Justice Commission

Annual Report

Year Ended 30 June 1992

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*, we submit to you for presentation to Parliament, the 3rd Annual Report of the Criminal Justice Commission, which formally embraces the period 1 July 1991 to 30 June 1992.

A handwritten signature in black ink, appearing to read 'Max Bingham'.

Sir Max Bingham QC
Chairperson

A handwritten signature in black ink, appearing to read 'Dr J Irwin'.

Dr J Irwin AM
Commissioner

A handwritten signature in black ink, appearing to read 'J Western'.

Professor J Western
Commissioner

A handwritten signature in black ink, appearing to read 'J Kelly'.

Mr J Kelly
Commissioner

Purpose of the Report

The Commission serves and is accountable to the people of Queensland through the Queensland Parliament. This is accomplished through carefully engineered reporting mechanisms that involve Commissioners and senior Commission officers and the Parliamentary Criminal Justice Committee, which represents the Parliament.

This annual report holds a key place in the range of reports prepared by the Commission. It is the Commission's third annual report and the second covering a full year of operations. It presents a summary of the Commission's operations during 1991/92, as well as audited financial statements for the same period. It is designed to give the Parliament and the people of Queensland a consolidated picture of the actions that the Commission has taken on their behalf.

The Report's Readers

The Commission's annual reports have a very wide, diverse audience. They are distributed to members of Parliament, to members of the Queensland public, to public and private sector organisations in Queensland, to individuals and organisations throughout Australia and even overseas.

The Commission is a statutory body; much of its operations are based on the law and concern the enforcement of law. The Commission is aware that many people may not understand legal terminology. In preparing this report Commission staff have tried to write without recourse to legal jargon and in a style that is immediately accessible to the Queensland public.

Criminal Justice Commission

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Chairperson's Introduction to Annual Report

The information in this report paints a picture of an active, dynamic, complex organisation discharging a variety of statutory functions.

All of the Commission's functional Divisions (and the Office of General Counsel) have continued to refine and develop their operations, and some of their achievements are noted in the pages that follow. Highlights would include the very successful restructuring of the Complaints Section and the increasing sophistication of the measures being taken in relation to organised crime. The integration of the Intelligence Division operation with the work of the Official Misconduct Division is significant in this context. But the other components of the Commission have also had their successes, and it is unfair not to acknowledge them all.

One result of this progress has been that the Commission is seen to be a national leader in a number of areas of activity.

I think the members of the Commission and its staff can be justly proud of what has been accomplished.

During the year under review Jim Barbeler ceased to be a member of the Commission by the expiration of the term of his appointment. It is appropriate to acknowledge his contribution; his cheerful presence has been missed.

I wish to repeat my compliments of last year to the Queensland Police Service and to the Parliamentary Criminal Justice Committee on their respective achievements.

Because this will be the last annual report to which I shall contribute, I take the opportunity also to express my gratitude to my fellow Commissioners and to the staff of the Commission for their tremendous loyalty and dedication. It has been a privilege to have served with them.

Sir Max Bingham QC

Table of Contents

1. The Commission	1
Legislation and History	1
Commission Membership	1
Goals of the Commission	2
Functions and Responsibilities of the Commission	3
Organisation and Staffing	3
Executive Management	3
2. Accountability	5
External Review and Accountability	5
Internal Accountability	9
Complaints Against the Commission and Commission Officers	10
Preparation for Freedom of Information	10
Judicial Review	10
Role of the Minister	10
Summary	11
3. Official Misconduct Division	13
Functions	13
Powers	14
Structure of the Division	15
Complaints Section	16
History	16
Legislation, Role and Functions	16
Assessment of Complaints	17
The New Assessment Process	17
The Assessment Committee	18
The Assessment Unit	19
The Review Unit	20
The Complaints Teams	20
Final Assessment of Complaints	21
Recommendations for Procedural Changes	22
Debriefing of Complainants	24
Analysis of Work	25
Finalisation of Complaints	30
Initiatives of Complaints Section	32
Audit of Complaints	34
Multi-disciplinary Teams	34
Background	34
Team Structure	34
Functions of the Multi-disciplinary Teams	34
Organised Crime Team	35
Other Multi-disciplinary Teams	36
Source of Investigations	36
Resources	37
Examples of Major or Organised Crime Investigations	37

Examples of Investigations into Allegations Against Public Officials	39
Statistical Analysis of Work of Multi-disciplinary Teams	41
Public Reports	42
Financial Analysis Group	43
Proceeds of Crime Team	45
Corruption Prevention Section	46
Whistleblowers Protection	48
Surveillance Section	48
Technical Unit	49
Future Directions	49
4. Research and Co-ordination Division	51
Legislation and History	51
Role and Functions	51
Organisation and Staffing	52
Major Achievements	52
Problems Encountered	64
Future Directions	64
5. Intelligence Division	67
Legislation and History	67
Role and Functions	67
Organisation and Staffing	67
Intelligence Database	68
Major Projects	69
Inter-Agency Co-operation	69
Problems Encountered and Initiatives Taken	70
Future Directions	70
6. Witness Protection Division	73
Legislation and History	73
Role and Functions	73
Organisation and Staffing	73
Development of Procedures	73
Review of Operations	74
Inter-Agency Co-operation	75
Problems Encountered and Initiatives Taken	75
Future Directions	76
7. Corporate Services Division	77
Legislation and History	77
Role and Functions	77
Role of the Executive Director	77
Divisional Organisation	77
Operational Audit	79

Overseas Travel	80
Future Directions	80
8. Office of General Counsel	81
Role and Functions	81
Organisation and Staffing	81
Secondment of Barrister to Assist Police Service	82
Review of Workload	82
Liaison with Other Agencies	85
Problems Encountered and Initiatives Taken	85
Future Directions	86
9. Misconduct Tribunals	87
Legislation and History	87
Jurisdiction	87
Panel of Members	87
Management and Staffing	87
Legislative Change	88
Future Directions	88
10. Commissioner for Police Service Reviews	89
Role and Functions	89
Commissioners	89
Staffing and Accommodation	89
Problems Encountered and Initiatives Taken	89
Review of Workload	90
11. Human Resources	91
Staffing Overview	91
Performance Assessment, Training and Development	92
Code of Conduct	92
Equal Employment Opportunity	92
Union Access	92
Occupational Health and Safety	93
12. Reform of the Queensland Police Service	95
Role and Functions of the Commission	95
The Monitoring Process	95
Problems Encountered and Initiatives Taken	97
Future Directions	98

13. Legal Issues 99

Criminal Justice Act 1989 99
Other Legislation 101
Litigation Involving Commission 103
Judicial Decisions Affecting the Commission 105

14. Public Awareness 107

Media Relations 107

Appendices

Appendix A - Functions and Responsibilities 110
Appendix B - Commission Publications, 1991/92 113
Appendix C - Guidelines and Directions Issued by the Criminal Justice Commission
to the Commissioner of the Queensland Police Service Pursuant to the
Criminal Justice Act on 20 July 1990 114
Appendix D - Guidelines Issued by the Criminal Justice Commission to the Complaints Section,
Official Misconduct Division, Pursuant to s. 2.29(7) of the Criminal Justice Act 116
Appendix E - Types of Allegations 119
Appendix F - Lectures, Addresses and Presentations by the Commission
Chairperson and Officers 121
Appendix G - Criteria for Determining Whether Complaints Should Be
Investigated by Complaints Team or Multi-disciplinary Team 129
Appendix H - Misconduct Tribunals Appointments/Resignations 131
Appendix I - External Committees 132
Appendix J - Financial Statements 135

1. The Commission

The Criminal Justice Commission (the Commission) is a unique organisation in Queensland, and indeed Australian, public life. First, as a direct descendant of the Fitzgerald Commission of Inquiry, it was constituted with the express ideal of being free from Executive control and primarily accountable to Parliament. Second, there is no other justice agency operating in Australia with its sweep of responsibilities and functions.

The Commission is still a very young organisation, and this has generated both internal and external challenges. It has been given a very broad legislative mandate that is to be accomplished with finite resources and staffing complement. But perhaps more importantly, the Commission's operations are to a large extent both prescribed and circumscribed by its legislation. Understanding the purpose and findings of the Fitzgerald Commission of Inquiry and their subsequent expression in the *Criminal Justice Act 1989* (the Act) is critical to understanding why and how the Commission pursues its objectives. It provides an extremely important context to this annual report.

This first chapter of the annual report gives an overview of the legislative background, history, organisation, functions, and purpose of the Commission as a whole.

Legislation and History

The Commission was established in response to the recommendations of the Fitzgerald Commission of Inquiry, which was appointed following media revelations on crime and corruption in Queensland. The Fitzgerald Report recommended the creation of a new public entity, to be known as the Criminal Justice Commission, which would be permanently charged with monitoring, reviewing, co-ordinating and initiating reform of the administration of criminal justice and fulfilling those criminal justice functions not appropriately carried out by the police or other agencies.

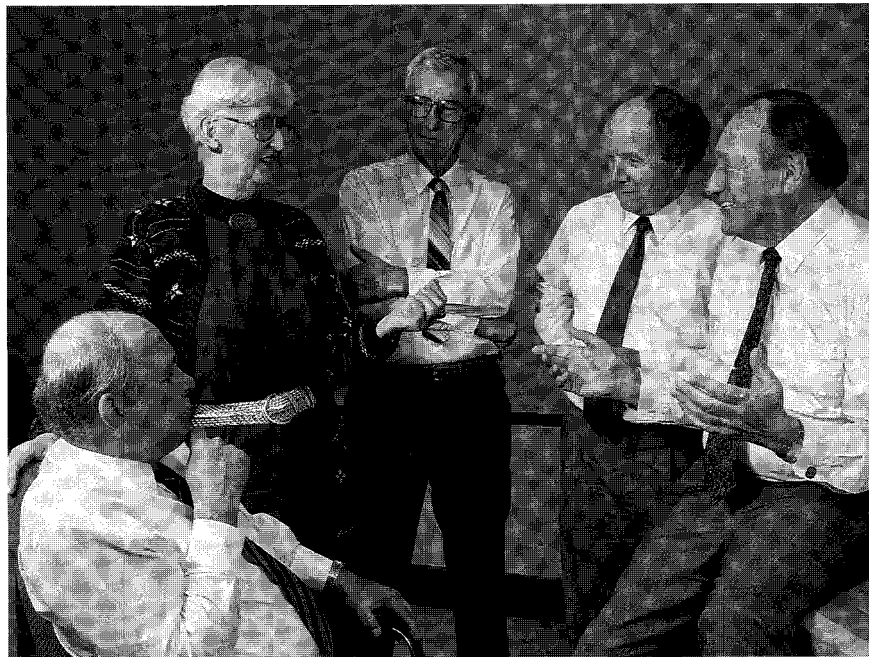
These recommendations of the Fitzgerald Commission of Inquiry constituted a large part of the Act, which received Royal Assent on 31 October 1989. The proclamation of the Act may be

considered the starting point for the Commission. However, major parts of the Act did not take effect until 22 April 1990, when the Commission began operations. The Commission has therefore been fully operative for just a little over two years.

Commission Membership

The Commission has five members: a Chairperson and four Commissioners. They are appointed by the Governor-in-Council on the recommendation of the Minister.

The Commissioners bring a broad range of professional and practical experience to the Commission. Each plays an active role in advising and assisting the Commission's Chairperson and staff, especially within their primary areas of responsibility. The Commission's membership (and the members' areas of responsibility) is as follows:



The Chairperson and Commissioners (l to r): Mr Jim Barbeler; Dr Janet Irwin, AM; Mr John Kelly; Professor John Western; Sir Max Bingham, QC.

The Commission

Chairperson:

Sir Max Bingham, QC

Commissioners:

Mr Jim Barbeler, LLB, Operations and General Counsel matters (Mr Barbeler's two-year appointment concluded on 8 March 1992; he did not seek re-appointment);

Dr Janet Irwin, AM, MB, ChB, Misconduct Tribunals and Police Reform;

Mr John Kelly, BSc (For), Complaints and Corporate Services;

Professor John Western, PhD, Intelligence and Research.

The Commissioners meet frequently with Commission officers working in these areas. They also participate in a range of other activities of the Commission.

During the 1991/92 financial year, the Commissioners met formally on 25 occasions to

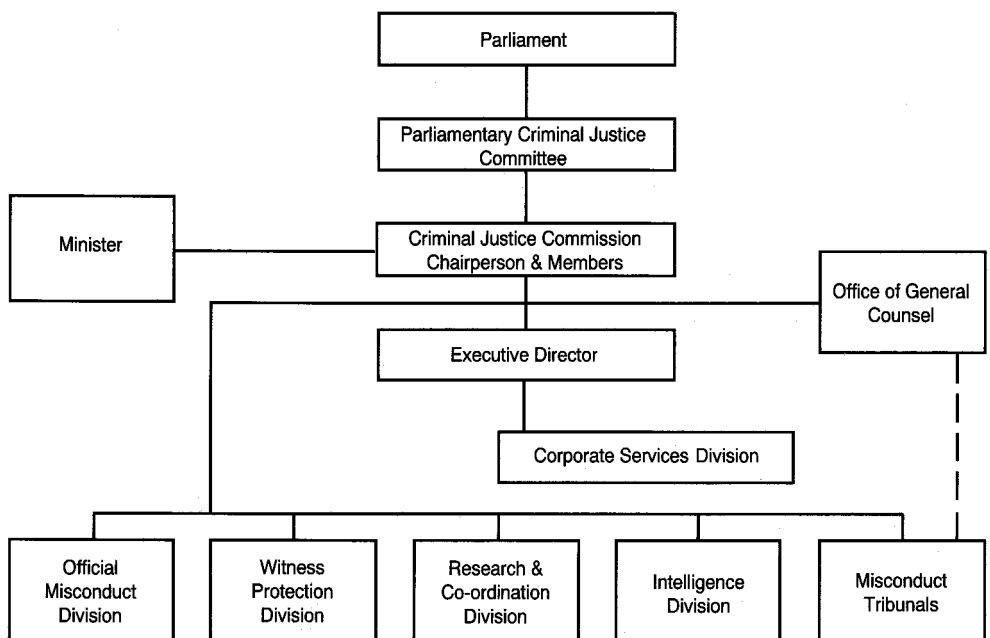
transact Commission business. Regular meetings were scheduled for the first and third Friday of each month, during which time Directors and other senior staff reported and were questioned on the activities of their areas of responsibility. From time to time extraordinary meetings were held to deal with specific issues.

Goals of the Commission

The goals of the Commission, which were set forth in its *Corporate Plan, 1991-1993*, published in November 1991, are:

- to promote and encourage a public sector environment in which malpractice is unacceptable and appropriate levels of accountability prevail;
- to facilitate reforms which improve fairness, effectiveness, and accountability within the criminal justice system;
- to make an effective contribution in combating organised and major crime;

Organisational Structure of the Criminal Justice Commission



- to assist the Queensland Police Service in the completion of the reform process;
- to increase public awareness and recognition of the Commission's role; and
- to maintain the independence and impartiality of the Commission.

Functions and Responsibilities of the Commission

The Commission's functions and responsibilities are a matter of law. They are at once extremely diverse and specific. Because summarising them risks the loss of accuracy and precision, they are presented in detail in Appendix A.

Organisation and Staffing

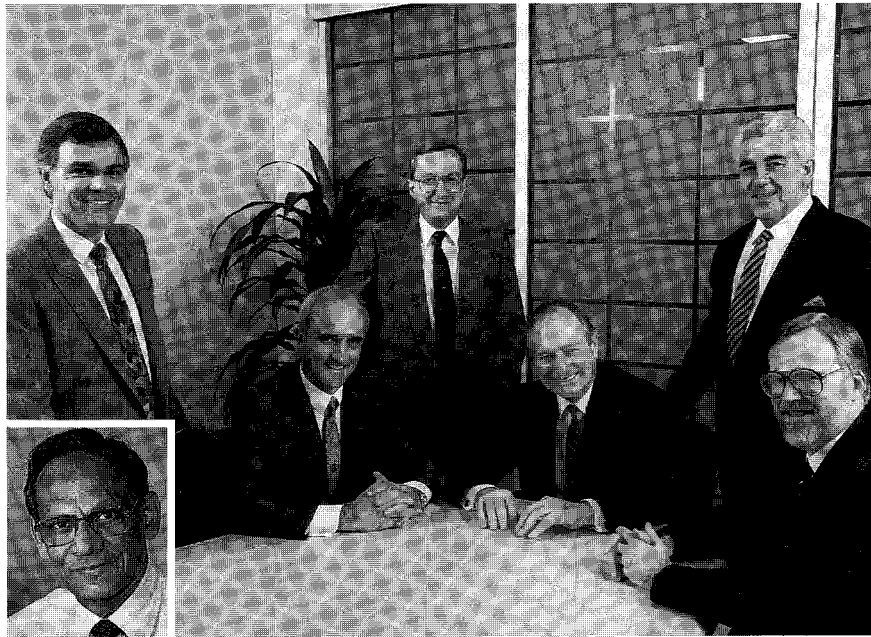
The Commission's organisational structure (see p. 2) is comprised of an Executive and six divisions, assisted by an Office of General Counsel, which has been given administrative responsibility for the Misconduct Tribunals.

As of 30 June 1992, the Commission's establishment comprised 263 staff whose expertise and experience complement the wide range of Commission responsibilities.

The Official Misconduct Division, with an establishment number of 134, accounted for the majority of Commission staff; the Research and Co-ordination Division had an establishment number of 17; the Intelligence Division 24; the Witness Protection Division 29, including the seven-member Operations directorate; the Corporate Services Division 43; the Office of General Counsel seven; the Misconduct Tribunals four; and the Executive five.

Executive Management

The Executive Management Group, which comprises the Chairperson, 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 issues papers produced by the Commission.

The Directors of the Commission are:

Mr Mark Le Grand
Director, Official Misconduct Division

Assistant Commissioner Carl Mengler
Director of Operations and Witness Protection Division

Dr Satyanshu Mukherjee
Director, Research and Co-ordination Division

Mr Paul Roger
Director, Intelligence Division

Mr Marshall Irwin
General Counsel

Mr Graham Brighton
Executive Director

The Executive Management Group (l to r):
Mr Graham Brighton;
Mr Mark Le Grand;
Mr Paul Roger;
Sir Max Bingham, QC;
Assistant Commissioner Carl Mengler;
Mr Marshall Irwin.
Inset: Dr Satyanshu Mukherjee.

2. Accountability

Fitzgerald QC showed that public institutions in Queensland were often neither accountable nor effective. Against this background, the Commission was made independent of the Executive and given extraordinary powers to use in discharging its role and responsibilities.

Independence is a cornerstone of the Commission's effectiveness in post-Fitzgerald Queensland; accountability is an important and necessary counterbalance. Using its independence and extraordinary powers in the public interest requires a delicate balance of the sometimes competing issues of accountability and confidentiality, and openness and secrecy.

Given the circumstances of its establishment and its legal heritage, the Commission strives to be a model agency in terms of accountability. This has implications for both the external and internal scrutiny of its operations.

But the Commission's position in public life requires more than a passive adherence to its legal responsibilities. The Commission must fulfil its functions within both the letter and the spirit of the law. This chapter describes the systems in place to effect that accountability and the way they have worked.

External Review and Accountability

Consistent with the underlying philosophy of the Fitzgerald Report, the Act makes the Commission closely accountable to Parliament, the community, and the courts. Foremost in this formal review structure are the Commission's responsibilities to the Queensland Parliament and the Parliamentary Criminal Justice Committee (PCJC).

Parliamentary Criminal Justice Committee

Like the Commission, the PCJC was established under the Act. It is the Commission's direct link to Parliament and, ultimately, the people of Queensland.

Legislation and History

The PCJC and the Commission came into operational existence at about the same time. The range of matters the PCJC has dealt with encompasses the broad spectrum of issues that have fallen to the Commission.

The Commission's responsibility to report to the PCJC is set forth very succinctly in s. 2.14(2) of the Act.

Membership and Staff

During the 1991/92 financial year, the members of the PCJC were:

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

Hon W A M Gunn, MLA, Member for Somerset (Deputy Chairperson)

Mr K H Davies, MLA, Member for Townsville

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

Hon N J 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

Mr Davies was appointed in April 1992, after the resignation of Mr Schwarten.

Mr T Woodyatt was the Committee's Research Director. Mr D Wright served as Research Assistant. Ms Luisa Pink served as Research Assistant after Mr Wright's resignation.

The Commission submits written reports to the PCJC each month. These reports, which the Committee has characterised as "extremely

Accountability

detailed and wide-ranging", cover the operations of each of the Commission's Divisions and are submitted prior to the regular monthly meeting between the Commission and the Committee.

The Committee may request oral presentations by both Commissioners and Division Directors on specific issues raised in the monthly reports. Given the confidential nature of the operations and material discussed at these briefings, these reviews are not always made public.

During the 1991/92 financial year, the Commission met formally with the PCJC on 13 occasions.

submissions made by members of the public; Part B analysed those submissions and that of the Commission itself in the context of the PCJC's evaluation of the Commission's achievements during its first year of operation.

The report considered a wide range of issues and made numerous suggestions and recommendations concerning the structure, powers, functions, and priorities of the Commission. Its overall evaluation of the Commission's performance was very positive. In May 1992, Parliament passed an amendment to the Act giving the Commission discretion in investigating complaints. This was recommended by the PCJC. However, to date, the full implications of the report have not been debated in Parliament.

The PCJC gives close attention to the Commission's operations. Although much of the material it handles cannot be made public because of its confidential nature, the PCJC may hold public hearings on issues relevant to the Commission. During the 1991/92 financial year, the PCJC held two public hearings. The first was held during August 1991 to address media reports after publication of the Commission's report on its investigation into the complaint of The Hon T R Cooper, MLA, then Leader of the Opposition, against The Hon T M Mackenroth, MLA, Minister for Police and Emergency Services. The second public hearing was convened in June 1992 to examine allegations made by Mr R N Chesterman QC, past-member of the Misconduct Tribunals, in *The Courier-Mail* and *The Australian* on 23 June 1992.

Parliament as a whole may also consider the Commission's work. During this reporting period, aspects of the Commission's work received considerable attention during Parliamentary debate. Perhaps understandably, the matter that Members raised most frequently by far was the Commission's report on Parliamentary travel entitlements. Other matters that received attention included the Misconduct Tribunals and the Commission's report on prostitution.



The Parliamentary Criminal Justice Committee (left to right):
Mrs M R Woodgate
Mr K A Davies
Mr S Bantock
Mrs W J Edmund
The Hon W A Kirk Garrin
The Hon N J Harper
Mr R D Beattie
Chairperson
Inset: Mr P E Schwartz

Parliamentary Review

On 3 December 1991 the PCJC published its first major review of the Commission, the most comprehensive assessment of the Commission's actions and achievements to date. This report, *Review of the Committee's Operations and the Operations of the Criminal Justice Commission*, consisted of two parts. Part A presented the

Judicial Review and Supervision

The Commission's discharge of its functions and responsibilities under the Act is monitored by the PCJC and is also subject to the scrutiny of the courts and other independent entities such as the Misconduct Tribunal, for example:

- The Commission must apply to a judge of the Supreme Court for approval to exercise a number of its statutory powers; namely, the issue of a search warrant (s. 3.3), apprehension of a witness (s. 3.11) and authority to use listening devices (s. 3.14). In addition, the Commission must apply to the Supreme Court for approval to issue a notice (s. 3.1) or notice of summons (s. 3.6), if the person on whom such a process would be served is under a duty or obligation imposed by an Act or law or oath to maintain confidentiality in relation to its subject matter.
- The Commission's powers are subject to the claim of privilege on the following grounds:
 - legal professional privilege;
 - Crown privilege or other public interest; or
 - Parliamentary privilege.

Such a claim will be determined by a judge of the Supreme Court (s. 3.9).

- The Commission is subject to the courts in relation to the fairness of its procedures and the extent of its powers.
- Under s. 2.25, an application may be made to the Supreme Court for an injunction in respect of an investigation by the Official Misconduct Division on the basis that:
 - it is being conducted unfairly; or
 - the complaint or information on which the investigation is being, or is about to be, conducted does not warrant an investigation.

- The Commission is subject to the *Judicial Review Act 1992* (see Chapter 13).
- The Commission and its staff may be served with subpoenas to give evidence and produce documents to a court. Although the Commission will object to this where necessary on the grounds of public interest immunity, in particular to protect the confidentiality of sources of information, this too is the subject of judicial scrutiny.
- A significant number of the Commission's investigations result in recommendations that charges of criminal offences or official misconduct be preferred. When such charges are brought, the Commission's investigations are subject to the public scrutiny of the court and the Misconduct Tribunal, as the case may be.

Accountability to Complainants

The Complaints Section of the Official Misconduct Division receives, assesses and in the exercise of its discretion, investigates alleged or suspected misconduct by members of the Queensland Police Service (QPS) and official misconduct by other persons holding appointments in units of public administration.

The Act ensures accountability by requiring the Director of the Official Misconduct Division to cause a response to be given to the complainant that states:

- if no action has been taken on the complaint, the reason for the inaction;
- if action has been taken on the complaint, what that action is, and the reason why 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. This notification is provided in writing.

In addition, from the inception of the Complaints Section, the Commission has conducted a program in which complainants are debriefed by

Accountability

Complaints Officers. This program is working extremely well.

A more detailed discussion of the Official Misconduct Division's complainant debriefing program is presented at page 24 of this report.

Accountability to the Public

The Commission's accountability to the people of Queensland is fulfilled primarily through its responsibilities to the Parliament and the courts. However, the Commission believes that it has a responsibility, where and when appropriate, to keep the public informed of the Commission's work and to facilitate the public's participation in the Commission's work. The following are some of the mechanisms by which this is achieved.

Public Hearings

The Commission is aware of the importance of public hearings in post-Fitzgerald Queensland. They are a potent reminder of the necessity for and utility of openness by public sector organisations. During the 1991/92 financial year, the Commission conducted public hearings as part of the Research and Co-ordination Division's review of police powers. It has also made certain investigative hearings open to the public.

The Act imposes a prima facie obligation upon the Commission to hold open hearings. Section 2.17(4) of the Act states that a hearing shall as a general rule be open to the public. But if, having regard to the subject matter of the investigation or the nature of the evidence expected to be given, the Commission considers it preferable in the public interest to conduct a closed hearing, it may do so.

In its December 1991 review of operations, the PCJC endorsed a list of matters that the Commission takes into account in determining whether hearings should be public or private. These matters include whether to do so would be unfair to any person (see, for example s. 3.21(2)(b) of the Act).

In addition, the Commission considers all applications for the suppression of evidence of the name of any person and/or any other evidence which is likely to lead to his/her identification during a hearing.

Public Submissions

Accountability to the public is also ensured through release of issues papers, reports and research papers. Through their responses to the Commission's issues papers, members of the public and interest groups have made valuable contributions to Commission reports and recommendations.

Availability of Commission Reports

In keeping with its philosophy of accountability to the people of Queensland, with limited resources the Commission has pursued an aggressive publications program. During the 1991/92 financial year, the Commission published 12 reports and/or issues papers (see Appendix B). These have been given wide distribution throughout Queensland, other Australian States and overseas. Many are available for purchase at a nominal price.

Direct Contact with the Public

The Commission is expected to play a leading role in many aspects of criminal justice in Queensland. For example, it has a key role in co-ordinating reform of the administration of criminal justice and in promoting accountability and fair play by public agencies.

The past two years have also pointed to the need for more pro-active work on the Commission's part to educate the public on the role of the Commission itself. To complement its public hearings and publications programs, the Commission has encouraged staff to make themselves available for public addresses and seminars. As noted later in this report, the Chairperson and Commission officers have built a

substantial record of contact with government agencies, educational institutions, and community groups (see Chapter 14).

Relations with the Media

The Commission recognises that accountability to the people of Queensland is also expressed through the media.

During the 1991/92 financial year, the Commission's work has been the centre of several major media reports. As the PCJC rightly pointed out, the Commission should not be immune from detailed and searching media criticism. But there has been some concern that the media, like other sectors of the public, have sometimes shown a limited knowledge of the Commission's role, powers and jurisdiction.

The Commission has a responsibility to make sure that the media get its message to the public in as effective a manner as possible. It has taken a more assertive stance both in informing the media of its work and in responding to media inquiries (see Chapter 14).

Internal Accountability

The Commission's profile within the spectrum of agencies that comprise the Queensland public sector requires a strong commitment to accountability by the organisation as a whole and the individuals who comprise or work for it. The Commission has taken great pains to implement procedures that meet or exceed existing guidelines. Some of the more significant of these measures are discussed below:

Declarations of Personal Particulars and Private Interests and Associations

The Chairperson, Commissioners, and all Commission staff are required to complete statutory declarations disclosing their personal backgrounds and business and financial interests.

These statutory declarations must be updated as individual circumstances change.

Register of Pecuniary Interests and Record of Personal and Political Associations

Commissioners are required to provide summaries of their pecuniary interests and personal and political associations. These summaries must be updated annually.

Confidentiality Agreement

When they begin their appointment, each member of staff, the Chairperson, and Commissioners are required to sign a document which confirms and strengthens their obligations and responsibilities with respect to confidentiality under s. 6.7 of the Act.

Forms and Procedures for the Exercise of Statutory Powers

Fitzgerald cautioned that the standard of control on the exercise of these powers must be unreservedly high; and that the circumstances of and the need for the exercise of those powers must be recorded, even when it touches on confidential or sensitive matters.

In keeping with this, the Commission has initiated internal forms and procedures for the exercise of its statutory powers. They are an important part of the Commission's operational procedures manuals. No process is issued in the exercise of the Commission's statutory powers unless supporting documentation is completed setting out the reasons for the exercise of the power and these reasons are accepted by the Chairperson or delegate. This increases the Commission's accountability in the exercise of these powers by ensuring the existence of a permanent record of any such decisions. This record is available for auditing by the PCJC and, where necessary, by the courts.

Accountability

Often the procedures go further than required by the Act. For example, when the Commission receives Supreme Court approval for use of a listening device (ss. 3.14 and 5.5 of the Act), the Commission provides a report to the Court on how that listening device was used, even though there is no requirement to do so.

In its December 1991 report, the PCJC gave due credit to the system of documentation and procedures the Commission has set in place.

Complaints Against the Commission and Commission Officers

It is inevitable, though regrettable, that complaints will be made against the Commission and its officers. Perhaps more importantly, because the Commission aspires to be a model of accountability, those complaints should be rigorously and independently examined.

After discussions with the Attorney-General, the Director of Prosecutions, and the Commissioner of the Police Service, a mechanism has been established whereby complaints against Commission officers are investigated by a senior Crown prosecutor (nominated by the Director of Prosecutions) and a senior police officer or officers (nominated by the Commissioner of the Police Service). They report to the Commission Chairperson, the Attorney-General, and the Minister for Police and Emergency Services.

Preparation for Freedom of Information

The Commission welcomes the introduction of freedom of information (FOI) legislation to Queensland. That said, the Commission has examined the legislation in some detail and is aware of the potential for conflict between the principles of FOI and the Commission's statutory mandate to maintain confidentiality. Although FOI legislation strengthens the accountability of the Commission, as with other agencies, it also brings

with it the need to resolve the competing considerations of openness and need for confidentiality.

Against the background of an ever-increasing number of complaints being received, the finalisation of over 5,000 complaints already, and the custody of the whole of the Fitzgerald Commission of Inquiry material, the Commission is concerned that FOI is likely to have a disproportionate, and perhaps severe, impact on its operations. Preparing for the introduction of FOI legislation has involved much effort by the organisation. Its introduction is expected to have severe consequences for the workload of the existing staff because no additional resources will be allocated to the Commission to assist with the inevitable high demand for information.

Judicial Review

The Commission has supported the introduction of the Judicial Review Act which is designed to streamline and simplify the judicial review of administrative decisions. The Commission is subject to the legislation except in relation to providing reasons for decisions it makes in discharging its investigative, intelligence and witness protection functions. This is to prevent the legislation being used to prejudice Commission operations.

Role of the Minister

The Commission was established with the express intent that it be accountable to Parliament rather than the Executive. It was to be free of Executive control. In accordance with the Fitzgerald Report, the role of the Minister is limited to what is necessary to finance the Commission, provide administrative and resource needs, and that necessary for public financial and other accounting purposes. The Act does, however, provide a role for the Minister (currently the Premier) in relation to the development and maintenance of the infrastructure of the Commission and an obligation on the part of the Commission to provide certain

information on its work. For example, certain reports prepared by the Intelligence Division, are furnished to the Minister, as are annual reports.

Summary

The Commission is presently one of the most scrutinised agencies in Queensland. It consistently receives close attention from the media, interest groups, the Parliament and the public, and is subject to very strong oversight and accountability measures set by legislation.

Throughout the year the Commission has taken great care to fulfil, if not exceed, its responsibilities as an organisation accountable through the Parliament to the people of Queensland. This, after all, is in the spirit of the reform process that the Commission seeks to promote.

3. Official Misconduct Division

The Official Misconduct Division (OMD) is the investigative unit within the Commission. It operates on its own initiative as well as in response to complaints or information received concerning misconduct (s. 2.20(1) of the Act). The OMD's four major areas of activity are complaints processing and investigation; the investigation of organised and major crime; the confiscation of criminal assets; and corruption prevention.

During the 1991/92 financial year, the Complaints Section was restructured to take account of proposed amendments to the Act which enabled the Section to more efficiently deal with the ever increasing flow of complaints. The success of the restructuring is reflected in the following statistics:

- 3,123 complaints were registered during the year under review, a 63 percent increase over the previous year.
- 3,416 complaints were finalised, an increase of almost 100 percent over the finalisation rates for the previous year. This led to a net reduction of 293 in the accumulated backlog.
- 30 criminal charges were recommended.
- 203 disciplinary charges were recommended.

With the co-operation of the Attorney-General's Department and the QPS, the Complaints Section initiated a system for referring complaints of a minor nature to the Community Justice Program for mediation.

The Division's Multi-disciplinary Teams, which investigate the more complex complaints matters and organised and major crime, undertook 315 investigations, as a result of which:

- 325 criminal charges were recommended;
- 9 disciplinary charges were recommended; and
- drugs, with an estimated street value of \$2.2 million, were seized.

The Multi-disciplinary Teams significantly increased their endeavours in investigating organised and major crime targets pro-actively identified in conjunction with the Commission's Intelligence Division.

The efforts of the Division's Proceeds of Crime Team have resulted in the restraining of \$7.5 million in assets.

The Division's corruption prevention initiatives concentrated on training seminars and workshops for chief executives, senior staff and middle managers in the public sector, culminating in conferences in Brisbane and regional areas focusing on corruption prevention and fraud risk assessment in the public sector.

Functions

The principal functions of the Division are to:

- investigate the incidence of official misconduct generally in Queensland;
- further the investigative work commenced by the Fitzgerald Commission of Inquiry;
- investigate 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; and
- provide 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 (see s. 2.20(2) of the Act).

Furthermore, as the Commission's investigative unit, the Division discharges the Commission's responsibility under s. 2.15(f)(iv) to investigate organised or major crime. However, this responsibility of the Commission is limited to functions which, in its opinion, are not appropriate to be discharged, or cannot be effectively discharged, by the QPS or other agencies of the State.

Official Misconduct Division

Table 1: Public Investigative Hearings Held During the 1991/92 Financial Year

Number & Matter	Dates of Hearing	Presiding Chairperson	Counsel Assisting
15/91 Channel 7 Allegations (continued)	12/12/91	Mr P M Le Grand	Mr M T O'Sullivan Mr F H Smith
16/91 Landsborough/Maroochy Water Board	08-09/08/91	Mr P M Le Grand	Mr F H Smith
18/91 Gold Coast City Council (continued)	22/10/91	Sir Max Bingham QC	Mr S H Lambrides Mr P D Kelly
16/92 Kelvin Ronald Condren	13-16/04/92; 21-24/04/92; 30/04/92; 01/05/92; 15-16/05/92	Sir Max Bingham QC	Mr R S O'Regan QC Mr M T O'Sullivan

The Commission does not have a prosecuting function. When an investigation reveals evidence of the commission of a criminal offence, the Director of the OMD reports on the matter to the Chairperson, who may authorise the forwarding of the reports to the Director of Prosecutions, the Commissioner of the Police Service, or another appropriate prosecuting authority for such prosecution proceedings as that authority considers warranted.

Powers

Hearings

For the purpose of discharging the functions or responsibilities of the OMD, the Commission may conduct a hearing at which evidence may be received orally or in writing, on oath or affirmation, or by way of statutory declaration (s. 2.17 of the Act).

During the 1991/92 financial year, the Commission held 54 hearings.

Although s. 2.17(4) provides that hearings of the Commission shall as a general rule be open to the public, most hearings were conducted in private, as

the persons constituting the Commission for the purpose of the hearings believed that, having regard to the subject matter of the investigation or the nature of the evidence expected to be given, it was preferable in the public interest to conduct a closed hearing. The matters which particularly weighed on the Commission in making these determinations were:

- its duty to act fairly to persons who may later be the subject of criminal prosecutions;
- the need to avoid prejudice to the reputation of persons against whom an allegation is made; and
- the need to avoid prejudice to investigations by premature disclosure.

However, the Commission also held four public hearings during the 1991/92 financial year, as shown in Table 1.

Other Investigative Powers

The Commission has also made frequent use of its powers to:

- require persons to furnish to the Commission statements of information relevant to an investigation of the Commission;
- compel the production of records and things relevant to an investigation of the Commission; and
- authorise its officers to enter public premises to search records.

The Powers of Police Officers

Officers of the Commission who are serving police officers seconded to the Commission remain members of the QPS and retain all powers and authorities which they possess as such members (s. 2.56(3)). These officers may exercise their powers when carrying out investigations on behalf of the Commission.

Structure of the Division

The OMD consists of the following organisational units:

- the Directorate, consisting of the Director of the Division and support personnel. The position of Deputy Director of the Division was approved during the year to assist the Director in discharging his functions.
- the Complaints Section, consisting of the Chief Officer, the Assessment Unit, three Complaints Teams, the Review Unit, a senior Financial Analyst and support personnel.
- four Multi-disciplinary Teams, which investigate the more complex complaints and undertake investigations of a pro-active nature into major or organised crime. One of these teams is devoted exclusively to the continuing investigation of organised crime groups.

- the Financial Analysis Group.
- the Proceeds of Crime Team.
- the Corruption Prevention Section.
- the Surveillance Section.
- the Technical Unit.

The Police Establishment

The police contingent within the Division constitutes more than half of its personnel. Sixty-nine of the 92 police attached to the Commission are deployed within the OMD. They form the investigative core of the Division, whether attached to the Complaints Section, Multi-disciplinary Teams, the Surveillance Section or the Technical Unit.

In its last report, the Commission drew attention to the difficulties it was experiencing in maintaining its full investigative complement because of such factors as:

- the necessity to allow officers to attend training courses run by the QPS and other institutions to enhance their expertise and promotional prospects; and
- the decision of the Commissioner of the Police Service that all outstanding leave must be taken before the end of 1992.

These factors have continued to have a substantial impact on the Commission's operations during the year. The Commission estimates that these same factors will result in one quarter of the OMD's police establishment being unavailable during the second half of 1992.

Operational Ratio

The Division has achieved a high operational-to-support staff ratio in the order of 3:1. This compares more than favourably with agencies similar to the Commission.

Official Misconduct Division

The Commission has endeavoured to maintain its investigative complement by engaging former police officers as civilian investigators. These officers comprise approximately 25 percent of the Commission's investigative personnel. Furthermore, during the year the Commission engaged former experienced police officers to fill casual vacancies, particularly during the protracted process for the selection and secondment of serving police officers. These temporary investigators were deployed in areas of the Commission with the greatest workload and their contribution has significantly reduced the backlog of matters to be investigated by the OMD.

Complaints Section

History

The Fitzgerald Report recognised independence as being fundamental to a body charged with responsibility for investigating misconduct by public officials.

The background against which the Complaints Section was established was the absence of such independence in the disciplinary processes across the Queensland public sector, in particular within the Queensland Police Force, as highlighted by the Fitzgerald Report, which was scathing in its criticism of the then-Internal Investigations Section.

Legislation, Role and Functions

Section 2.27 of the Act provides for the establishment of the Complaints Section. All complaints or information concerning misconduct brought to the notice of the Commission must be communicated to the Complaints Section.

While any person may furnish a complaint or information concerning alleged or suspected official misconduct, each principal officer, other than the Commissioner of the Police Service, in each unit of public administration is required by s. 2.28 of the Act to refer to the Complaints Section all cases of suspected official misconduct brought to his or her attention. The Commissioner of the Police Service, on the other hand, must refer to the Complaints

Section all matters involving suspected misconduct, including official misconduct, by members of the QPS.

Insofar as it relates to the investigation of misconduct by public officials, the jurisdiction of the Commission is limited to matters which reasonably raise a suspicion of "official misconduct", as defined in the Act. Essentially, that limits the investigative jurisdiction of the Commission to instances in which the conduct complained of:

- is not honest or impartial;
- involves a breach of the trust placed in a person by reason of their holding a position in a unit of public administration; or
- involves the misuse by any persons of information or material acquired in, or in connection with, the discharge of their functions or exercise of their powers of authority.

Furthermore, the conduct will not amount to official misconduct unless it constitutes a criminal offence or a disciplinary breach that provides reasonable grounds for termination of that person's services (see Appendix A).

This duty cast upon the Commissioner of the Police Service has been modified by guidelines and directions issued by the Commission on 20 July 1990 pursuant to s. 2.28(5) of the Act (see Appendix C).

These guidelines and directions enable complaints involving misconduct of a minor nature or a breach of discipline by members of the QPS to be investigated by the Commissioner of the Police Service on behalf of the Commission. The Commissioner may investigate more serious matters:

- 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 (e.g, where a complainant alleges assault, a medical examination needs to be organised and photographs need to be taken).

Assessment of Complaints

Prior to 13 May 1992, the OMD was required to investigate all complaints other than those dismissed by the Chief Officer of the Complaints Section as frivolous or vexatious.

The Commission had continuously drawn to the PCJC's attention the fact that the rate of receipt of complaints had increased by approximately 60 percent per annum since the establishment of the Complaints Section. The Commission had also advised the PCJC that it could not cope indefinitely with the ever-increasing workload without a substantial increase in staff (which the Commission was not seeking) and that the only alternative was to amend the Act to empower the Complaints Section to determine whether, and to what extent, a matter should be investigated.

Amendments

Those amendments were eventually passed by the Parliament and came into effect on 13 May 1992. They authorise the Section to refer complaints not involving official misconduct directly to the Commissioner of the Police Service and other principal officers of units of public administration.

Restructuring of the Complaints Section

Although the amendments allow the Complaints Section to be more selective and reduce the number of complaints investigated, all complaints still require assessment and processing.

Before the restructuring of the Complaints Section, the initial processing and preliminary investigation of complaints was carried out by the Section's four Teams, each comprising lawyers, investigators,

complaints receipt officers and support staff. With each Team handling concurrently around 150 complaints, it was clear that the Teams had become over-burdened.

A large proportion of matters with the Teams required preliminary inquiries only. Compounding the workload was the continuing receipt of an average of 60 new matters each week, most of which were distributed to the Teams for attention. The consistently high volume of new work flowing to the Teams frustrated their ability to deal with the more substantial matters.

A major restructuring of the Complaints Section has now taken place. The emphasis of this restructuring has been the re-allocation of resources to the initial assessment process so that only the substantial matters requiring thorough investigation are now referred to the investigative Teams.

The restructured Complaints Section is comprised of the following functional units:

- the Assessment Committee,
- the Assessment Unit,
- the Review Unit,
- three Complaints Teams, and
- the Registry.

This restructuring facilitated a new assessment process, which commenced on 16 March 1992.

The New Assessment Process

Many complaints are disposed of without full investigation by the Commission because they:

- relate to persons who do not hold a position in a unit of public administration;
- allege conduct which, even if substantiated, would not constitute misconduct or official misconduct;

Official Misconduct Division

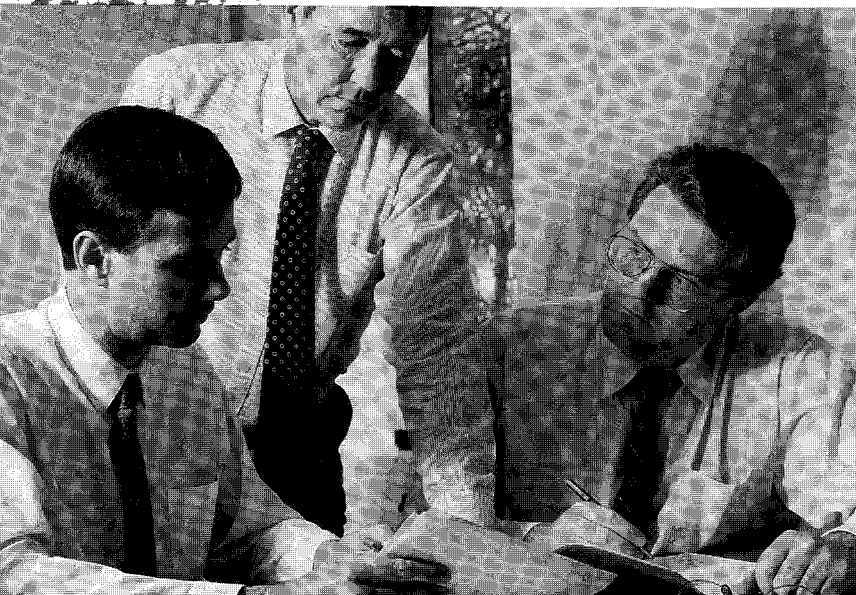
- are minor matters to be referred to the QPS; or
- are not capable of being productively investigated.

Often, complaints cannot be so identified until the Commission undertakes some initial inquiries or conducts a legal analysis. The new structure enables this to happen soon after receipt without hindering the continuing investigation of matters of substance. The new process is statutorily underpinned by the recent amendments to s. 2.29 of the Act, which gives the Commission a discretion at two points in the complaints process, namely:

- an initial discretion not to investigate at all; and
- a subsequent discretion not to investigate further.

The latter is the operative discretion which has facilitated the restructuring of the Complaints function. Because the Act defines “to investigate” as “to examine and consider” matters, the assessment and preliminary inquiry steps may well be construed as “investigation” for the purposes of the Act. In any event, the Commission has long held the view that some investigation of all matters referred to it, even if peremptory, is far preferable to no investigation at all.

The Assessment Committee meets daily to review new complaints. The Commission receives an average of 6-9 new complaints each day.



Preliminary Assessment

There are several ways in which complaints are received at the Complaints Section, namely:

- through the mail,
- by personal interview upon presentation at the Commission,
- by telephone call to a Complaints Officer, and
- after-hours referral through the Commission's 24-hour Communications Room.

The Principal Complaints Officer reviews all complaints upon receipt to see if any require urgent attention (such as serious recent assaults). These are attended to without going through the normal assessment process.

Registration

The Principal Complaints Officer prepares a schedule listing new matters. Upon registration each matter is allocated an identification number. The schedule shows the date of receipt and the name of the complainant and includes a precis of the allegations. It provides a useful tracking mechanism until files are made up and details recorded in the database.

The Assessment Committee

Composition

The Assessment Committee comprises a Deputy Chief Officer, the Superintendent of Police attached to the Complaints Section, the Principal Complaints Officer and, at least once per week, the Chief Officer, Complaints Section, and the Director or Deputy Director of the OMD.

Role and Function

The Committee meets every day in the late morning. The Committee applies the criteria which have been agreed upon by the Commission and the PCJC to determine whether a matter

should be investigated (see Schedule 1 of Appendix D). If the Committee considers that a matter clearly requires investigation, it will be referred directly to a Complaints Team. This, however, will occur very infrequently as some preliminary inquiries almost inevitably need to be made. These inquiries are made by the Assessment Unit.

The Assessment Unit

Composition

The Unit comprises a Deputy Chief Officer, who is the senior lawyer in charge of the Unit, four investigators, a legal officer, four complaints officers and two support officers. The Deputy Chief Officer has responsibility for matters referred to the Unit by the Assessment Committee and for the allocation of the work in the Unit.

Role and Function

The primary function of the Assessment Unit is to conduct preliminary inquiries. In many instances, further information is required by the Assessment Committee to enable it to make a proper assessment as to whether a thorough investigation is warranted. The Unit therefore provides a dynamic working mechanism to quickly discover information to enable the Assessment Committee to make determinations. Where necessary, the Committee makes suggestions to the Assessment Unit concerning what preliminary inquiries need to be made.

Approximately 90 percent of all matters assessed by the Committee are referred to the Assessment Unit for attention. This attention includes the making of preliminary inquiries, the assessment of more difficult questions of jurisdiction, the examination of documentation and, if necessary, the request for and examination of further material. The Unit's inquiries may include accessing QPS files or court transcripts, telephone inquiries, face-to-face interviews or, as a last resort, inquiries by correspondence. The Unit also attends to the administrative referral of matters to other agencies, including the QPS, for investigation. The Unit,

therefore, attends to a large quantity of correspondence.

A majority of matters referred to the Unit are finalised within the Unit. If, however, the Unit believes that a more thorough investigation is required, it refers the matter back to the Assessment Committee. If that Committee agrees, the matter is referred to a Complaints Team through the Chief Officer, Complaints Section.

A large number of the matters received are either outside the Commission's jurisdiction or do not reasonably raise a suspicion of misconduct or official misconduct. These matters are finalised in the Assessment Unit. This disposition is approved by the Deputy Chief Officer under guidelines of the Commission issued under s. 229 of the Act (see Appendix D).

A significant number of matters received alleging misconduct are finalised as not substantiated on the basis of preliminary inquiries. Such matters are presented to the Chief Officer, Complaints Section, for approval, but otherwise are effectively finalised within the Assessment Unit.

A number of matters continue to be identified as matters which can be referred to the QPS for investigation, either as matters of suspected minor misconduct (which, at the conclusion of the investigation, the QPS returns to the Commission for determination) or matters of possible breaches of discipline (which the QPS investigates and determines). These matters are referred to the QPS by officers of the Assessment Unit, thereby by-passing the Complaints Teams.

Assessment Unit investigators and the Deputy Chief Officer heading the Unit report daily, or as necessary, to the Assessment Committee to enable it to further consider how matters should be dealt with, in light of the results of the preliminary inquiries.

When preliminary inquiries indicate large-scale, complex or ongoing misconduct, reports are prepared with a view to having the matter referred

Official Misconduct Division

to a Multi-disciplinary Team for investigation. Other matters shown to be of substance are referred to Complaints Teams for investigation. The process of obtaining the information necessary for the Assessment Committee's determinations has facilitated a quicker resolution of most matters.

The Review Unit

When the Assessment Unit assesses a complaint against a police officer as involving alleged misconduct, as defined by s. 14 of the *Police Service Administration Act 1990*, it can refer the matter to the QPS for investigation if it is of a minor nature. When these minor matters have been investigated by the QPS, a report is forwarded to the Commission for review and assessment. These reviews are conducted by the Review Unit.



The Review Unit has been established to review the completed investigation of such matters. The Review Unit monitors these minor complaints and advises QPS on policy and procedural problem areas. This Unit ensures civilian oversight of matters not investigated by the Commission and is a source of advice as to how QPS investigations can be improved and complaints reduced.

On 7 May 1992, the QPS introduced new procedures concerning complaints involving breaches of discipline only. The Commission is still notified of the nature of the complaint. If the Commission agrees that the matter involves only an allegation of a breach of discipline, it is investigated and determined by officers of the QPS. The Commission also refers such matters received directly by its own officers to the QPS for investigation.

The Complaints Teams

Three Complaints Teams now conduct investigations into matters referred to them by the Assessment Committee. Team 1 is the largest Team; it is headed by a Deputy Chief Officer. Like the Deputy Chief Officer in the Assessment Unit, this person also has the authority to refer and finalise minor matters under guidelines issued by the Commission.

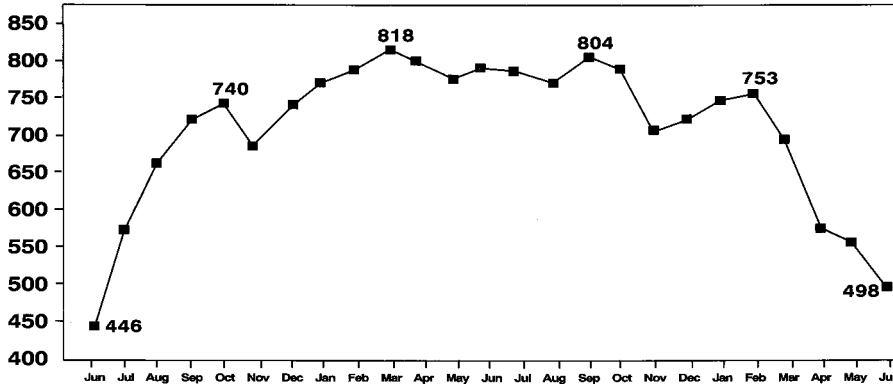
In essence, the emphasis of the restructuring has been the re-allocation of resources to the assessment process so that only substantial matters requiring thorough investigation are now passed to the investigative Teams.

The Commission anticipates that this new assessment process will allow the Complaints Teams to reduce their workload and maintain their number of current investigations at around 40 per Team. All matters with the Teams will be matters of substance, requiring thorough investigation. This will minimise the need to prioritise matters for investigation, as the Commission believes that the Teams can effectively manage this number of matters simultaneously.

In the first two months that the new assessment process was operating, the Assessment Committee assessed some 533 complaints. Of these, only 44 were referred to the Complaints Teams for investigation. Previously, most of those assessed would have gone directly to the Complaints Teams. This significant reduction permitted the disbandment of the fourth Complaints Team, with the staff being redeployed in the Assessment Unit and the three remaining Teams. This has

Complaints officers handle many of the thousands of telephone inquiries the Commission receives each year. However, not all inquiries may lead to formal complaints.

Graph 1: Number of Incomplete Complaints June 1990 to June 1992



permitted the Complaints Teams to productively pursue the more substantial investigations.

If the rate of receipt of complaints does not rise substantially, the Complaints Section expects to shortly have no actual backlog, with all current matters requiring investigation being actively pursued. The dramatic reduction in the Complaints Section's backlog in so short a time, as evidenced in Graph 1, reflects great credit to the staff of the Section.

Final Assessment of Complaints

Every complaint investigated within the OMD, by investigators within either the Complaints Section or 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 s. 2.29 of the Act and the guidelines issued by the Commission.

Cases assessed as involving official misconduct or criminal conduct are referred to the Director of the

OMD, who in turn reports to the Chairperson in respect of each matter. With the Chairperson's approval, the 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; or
- to the principal officer of the unit of public administration concerned with a view to disciplinary action being taken.

Misconduct Tribunals have jurisdiction in relation to official misconduct by police officers. In relation to other public officers, 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. Upon receiving from the OMD a report stating that a matter involves official misconduct, a

Official Misconduct Division

principal officer must charge a prescribed person who is the subject of the report with the relevant official misconduct by way of a disciplinary charge. When no such prescription has been made, the report may be referred to the principal officer concerned for the taking of appropriate internal disciplinary action.

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

Recommendations for Procedural Changes

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 administrative changes be implemented or that certain directions be issued in order to obviate the occurrence of future complaints of a similar nature.

In many instances, the Commission regards the making of these recommendations as being a more significant outcome than any individual prosecution or disciplinary action. Some examples of these recommendations follow.

Recommendations to Directors-General

Failure to Declare Pecuniary Interests

The Commission investigated allegations that certain elected members of a local authority had contravened s. 14(4) of the *Local Government Act 1936* in that they had failed to declare their pecuniary interest in matters coming before Council meetings. At those meetings, the Council approved expenditure in favour of businesses in which the members were concerned. This case highlighted unsatisfactory statutory provisions relating to conflicts of interest. It was quite clear

that the Act did not effectually enforce the duty on councillors to act impartially. The case also highlighted the difficulties in prosecuting breaches of the existing provisions of the *Local Government Act*. The Commission was aware that the Electoral and Administrative Review Commission (EARC) was examining proposals for a code of conduct for public officers. The Commission referred the matter to that body as a case study for its consideration in drafting the code of conduct.

Alleged Misuse of Credit Cards by Officers of a Local Authority

The Commission investigated allegations that senior officers of a local authority had misused official credit cards. As a result of its investigation, the Commission recommended that the Council formulate guidelines regulating the use of official credit cards and that it implement more stringent controls in the area of entertainment expenses. The Commission also recommended that the Council maintain an assets register and that the Council dispense with the practice of spending ratepayers' monies on "thank you" lunches, and on lunches and dinners attended only by Council members and officers.

Tendering Practices

During an investigation of allegations made against a joint local authority board, the Commission was informed that the board was not calling for tenders for professional services as opposed to works, goods or materials. The board believed that it was not obligated to call for tenders in such cases. Although the Commission found no evidence to substantiate any criminal or disciplinary offence, it drew the matter to EARC's attention for its consideration in formulating recommendations for a code of conduct for public officers.

During another investigation, the Commission found that when officials of a local authority opened tenders, they did not sign or stamp the tender documents. As a result, it was impossible to ascertain if the tender documents on file were, in fact, the same tender documents examined on the day that the tenders were opened. The

Commission recommended that the Department of Housing and Local Government examine this aspect of the tendering process with a view to addressing an issue which was clearly likely to give rise to complaints of corruption in the tendering process.

Magistrates Court Transcripts

The Commission was advised that the Department of Justice had implemented a policy whereby individuals and organisations other than government departments funded from consolidated revenue are charged fees for the supply of transcripts of Magistrates Court proceedings. The Commission was of the view that this policy disadvantaged defendants of limited means. This may be contrasted with the prevailing policy in District and Supreme Courts where, in all but the rarest of instances, transcripts are supplied free of charge to accused persons. The Commission considered that many defendants could be disadvantaged, particularly in view of the increasing number of criminal offences dealt with summarily. The Commission recommended that the cost of transcripts be shared on an equitable basis by the parties requesting a transcript and that, in the interests of justice, an accused person should not be disadvantaged by genuine inability to pay.

Recommendations to the Commissioner of the Police Service

Failing to Record Refusal of Bail

As a result of an investigation conducted by the Commission, it was discovered that police officers were failing to properly record the reason for refusal of bail and that established procedures were inadequate. The Commission recommended that, in order to comply with the requirements of the *Bail Act 1980*, officers be instructed that the reasons for refusal of bail should be noted in the appropriate place on the watchhouse charge sheet or other appropriate documentation.

Police Assistance to Civilian Process Servers/Inquiry Agents

The Commission received a number of complaints alleging misconduct on the part of police officers while accompanying civilian process servers/inquiry agents. Allegations were made that police actions had gone beyond simply preserving the peace and the police had failed to act impartially. The complaints seemed to have resulted from a widespread belief held by police officers that, whenever they are requested to do so, it is appropriate for them to accompany repossession agents, inquiry agents or process servers in order to "keep the peace".

While it is recognised that preserving the peace is an important duty of police officers, there appeared to be no specific guidelines available to police when considering requests for or providing assistance to commercial agents. These cases showed that police officers were unaware of the extent to which they should become involved in such cases. The Commission made the following recommendations:

- a police officer should not accompany commercial agents when serving process unless the officer reasonably believes that there is a real danger that a breach of the peace will arise;
- police officers should be made aware of alternatives to personal service, thereby avoiding conflict with an unwilling recipient of process;
- police officers who consider it necessary to accompany commercial agents on to premises should not become involved in the actual service of the relevant document; and
- police officers should leave promptly when requested to do so by the occupier, unless their presence is otherwise authorised by law.

Confiscation of Syringes

The Commission received a complaint from the Queensland Intravenous AIDS Association, expressing concern that QPS officers had confiscated clean, unused needles and syringes from drug users during searches of premises. *The Drugs Misuse Act 1986* has been amended so that the possession of needles is no longer an offence. This amendment was made to reduce the likelihood of drug users sharing syringes and using old syringes. The Commission recommended that instructions be given to police, drawing this very important amendment to their attention.

Traffic Offences by Off-Duty Officers

A complainant who had been apprehended for speeding and issued with a Traffic Offence Notice, alleged that a police officer, who had also been apprehended while travelling in a private vehicle at about the same speed, had not been issued with a Traffic Offence Notice. Investigations by the Commission established that the driver of the second vehicle was an off-duty police officer, that he was travelling to a medical appointment and had been exceeding the speed limit. This excuse had been accepted by the apprehending officer, who indicated that he exercised his discretion in favour of the off-duty officer and warned him that he had exceeded the speed limit.

The Commission recommended that the apprehending officer be corrected by way of guidance for not submitting a breach report in respect of the off-duty police officer's violation, and his reasons for not issuing a Traffic Offence Notice. The Commission recommended that the Commissioner of the Police Service issue a direction to all members of the QPS that, where an off-duty officer is apprehended for a traffic violation and the apprehending officer believes that a reasonable excuse has been furnished by the offending officer for the violation, the apprehending officer must submit a breach report outlining the circumstances to the officer-in-charge so that a proper consideration of the situation can be made before a final determination is reached.

High-Speed Police Pursuits

The Commission investigated an incident in which civilians had been killed in a traffic accident arising from a police pursuit. The Commission examined the existing guidelines governing such situations, which clearly give a discretion to the pursuing police officers as to whether they initiate a pursuit and discontinue a pursuit. The Commission was of the view that the guidelines were very wide and offered little practical assistance. It felt that while such a wide discretion exists, individual police officers could make inappropriate judgments with potentially life threatening consequences. The Commission recommended that the guidelines should include examples of cases not regarded as sufficiently serious to warrant pursuit.

Debriefing of Complainants

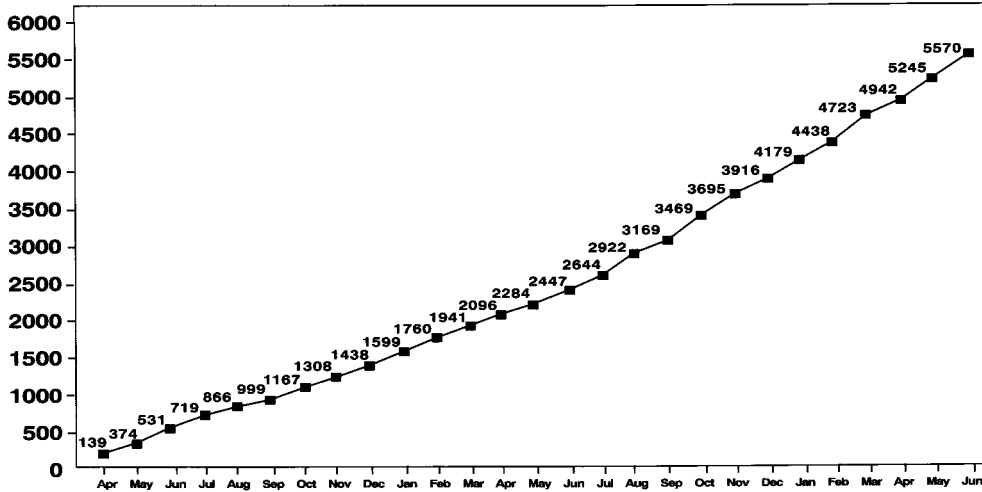
Although s. 67 of the Act ensures that the confidentiality of investigations is maintained, s. 2.24(4) requires that the complainant be given an account of:

- if no action has been taken on the complaint, the reason for inaction;
- if action has been taken on the complaint, what that action is and the reason why that action is appropriate in the circumstances of the case. The result of that action, if it be known at the time of making the response, will also be conveyed to the complainant. This notification is provided in writing.

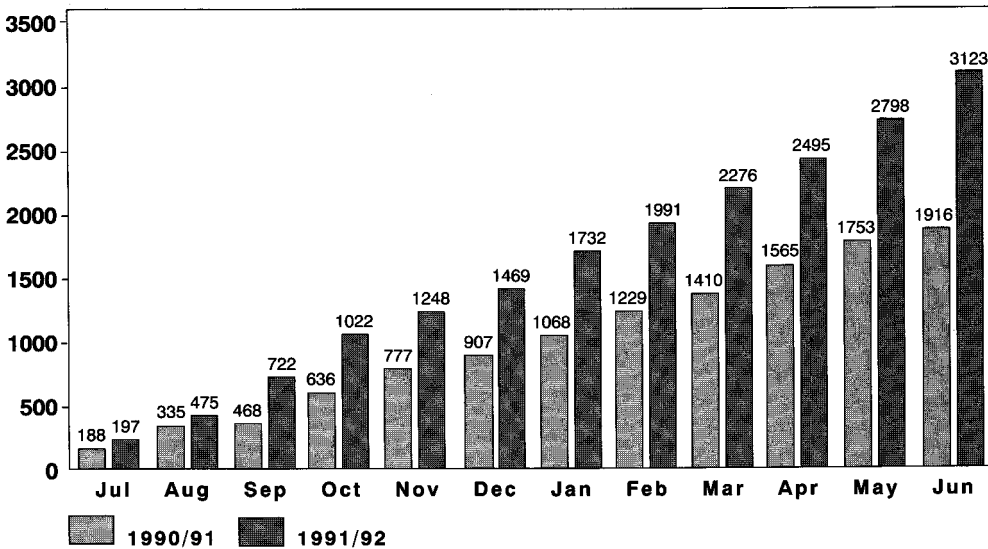
In addition, wherever practicable, complainants are debriefed by complaints officers. The debriefing usually takes the form of a telephone call. When that is not possible, the Commission's letter to the complainant under s. 2.24(4) invites him/her to contact the Commission if further explanation is desired.

Although there is some variation in complainants' reactions to the Commission's debriefing efforts, the majority welcome the opportunity to discuss their complaint and aspects of the investigation with the action officer.

Graph 2: Cumulative Total of Complaints Received April 1990 to June 1992



Graph 3: Comparison of Cumulative Totals of Complaints Received During 1990/91 and 1991/92



The Commission does not debrief complainants who wish to have no further contact with the Commission after lodging their complaint or where it appears that the debriefing process may inflame prolonged unproductive contact. The decision to not debrief complainants is taken neither lightly nor frequently.

Analysis of Work

Complaints Received

Since its establishment in April 1990, the Complaints Section has received 5,570 complaints encompassing 11,031 allegations of misconduct. Graph 2 shows the progressive receipt of complaints throughout that period and Graph 3 shows a progressive comparison of 1990/91 and 1991/92 figures.

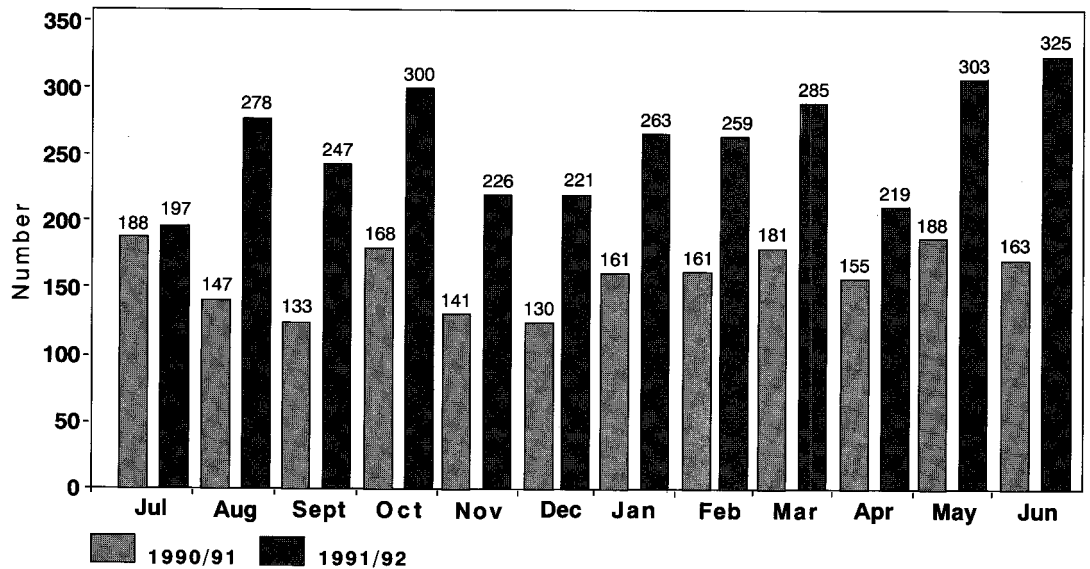
Official Misconduct Division

The significance of those figures is illustrated by Graph 4, which compares the rate of receipt of complaints by month since July 1990. The number of complaints received in 1991/92 exceeded that received in the previous year by 63 percent. Nearly twice as many complaints were received in June 1992 as in the corresponding month the previous year.

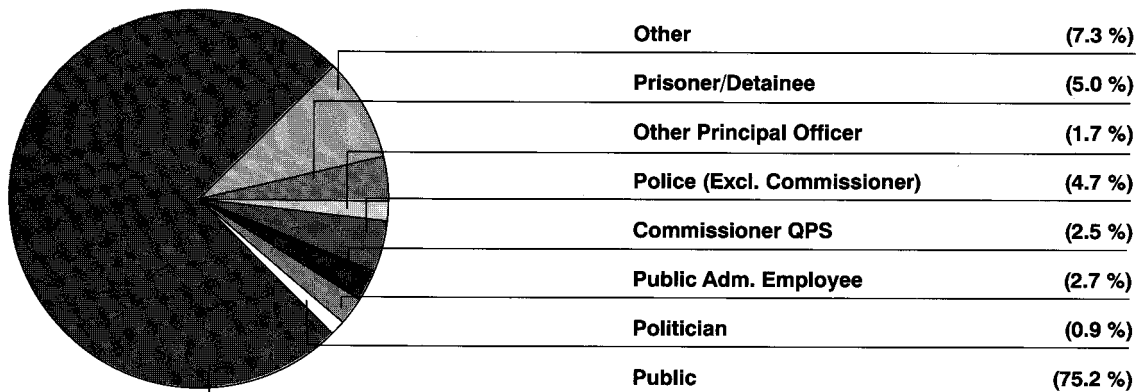
Source of Complaints

As indicated by Graph 5, complaints by members of the public have accounted for more than three quarters of all complaints received by the Commission since the establishment of the Complaints Section in April 1990.

Graph 4: Comparison of Monthly Totals of Complaints Received During 1990/91 and 1991/92

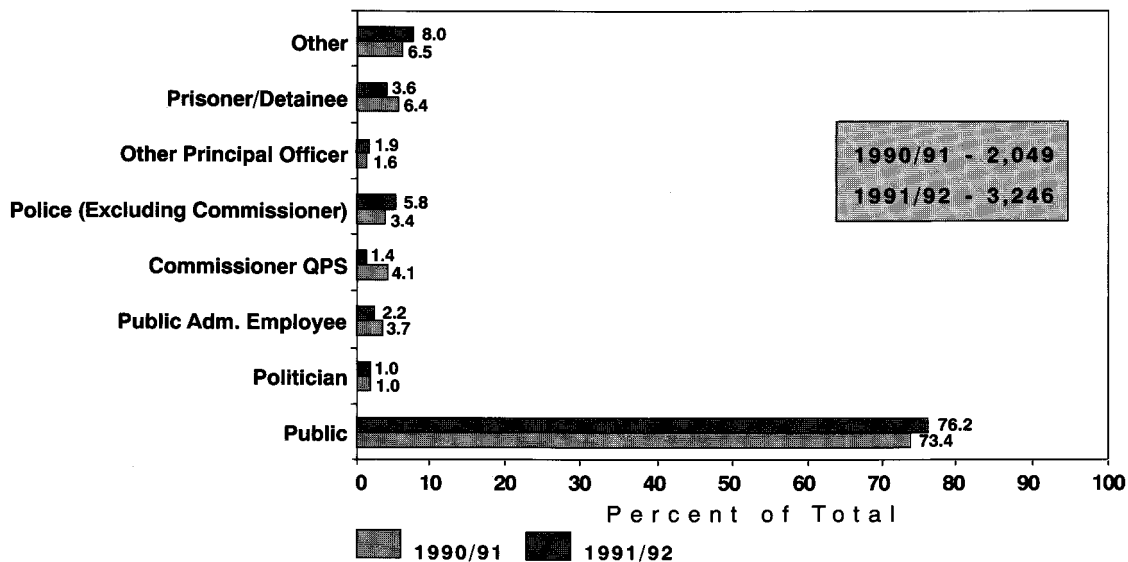


Graph 5: Categories of Complaints April 1990 to June 1992



No. of Complaints - 5, 570; no. of Complainants - 5, 862. A complaint may be brought to the Commission's attention by more than one complainant

Graph 6: Comparison of Categories of Complainants During 1990/91 and 1991/92



Graph 6 compares the categories of complainants in 1990/91 with 1991/92. One of the most significant features is the increase in the proportion of complaints lodged by police officers in the last financial year. In 1991/92, police officers (excluding the Commissioner) accounted for 5.8 percent of complaints made to the Commission, whereas in the previous year, the figure was 3.4 percent.

The Commission interprets this increase as a healthy sign that police officers are accepting their statutory duty to report improper conduct on the part of other officers. Those figures are supported by anecdotal evidence received by officers of the Commission. The Commission believes that the figures may indicate that the negative aspects of the police culture condemned by Fitzgerald QC are weakening, and that the reform process is gathering pace. Further support for this view is provided by the significant decrease in the proportion of complaints lodged by prisoners. Most of the prisoners' complaints relate to the conduct of police officers. In 1991/92, complaints by prisoners accounted for 3.6 percent of complaints received by the Commission compared with the previous year, in which the figure was 6.4 percent.

Anonymous Complaints

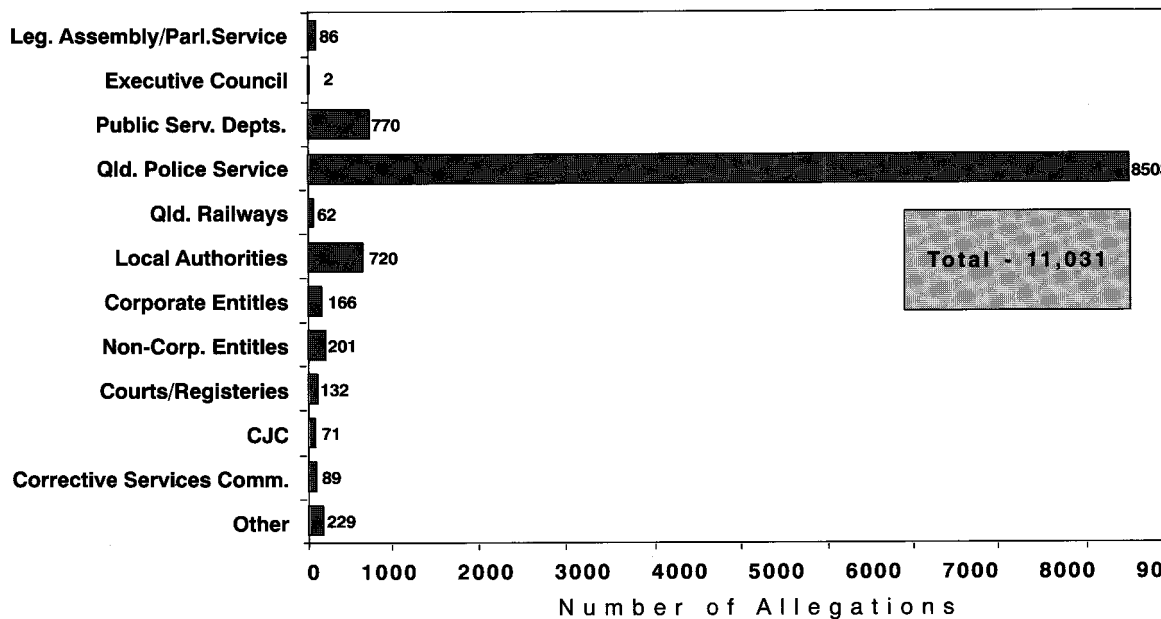
The proportion of anonymous complaints received has increased marginally during the last financial year (5.8 percent of complaints received in 1990/91 were anonymous compared with 7.1 percent in 1991/92). The rate of substantiation of anonymous complaints is very low. The Commission is mindful that a genuine complainant may not wish to be identified for fear of reprisal. At the same time, the Commission has always treated anonymous complaints with a high degree of circumspection, because they could be motivated by malice or vengeance. The Commission's concerns in this regard were recognised by the Parliament in the *Criminal Justice Amendment Act 1992*, which came into effect on 13 May 1992 and provides in a new s. 229 that the Complaints Section must not investigate a complaint from an anonymous source which lacks substance or credibility.

Subjects of Complaints

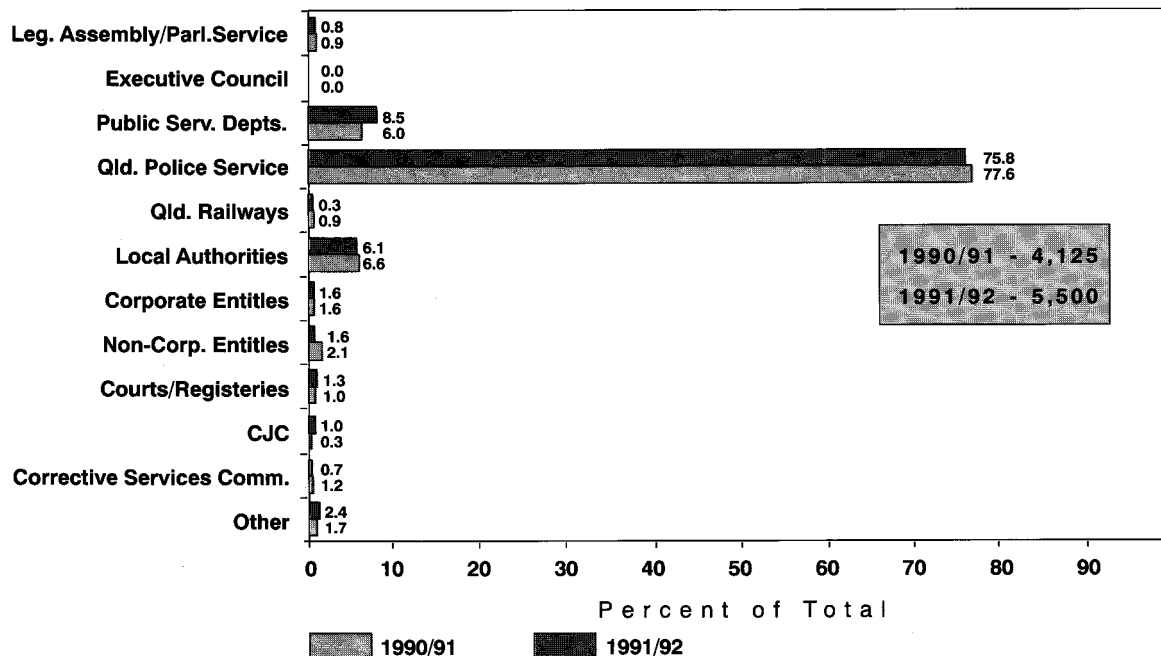
Police officers were the subject of over three quarters of the allegations contained in complaints received by the Complaints Section. This year

Official Misconduct Division

Graph 7: Subjects of Allegations Received April 1990 to June 1992



Graph 8: Comparison of Subjects of Allegations Received During 1990/91 and 1991/92



there was a slight reduction in the percentage of allegations against police officers (although the actual number of allegations against officers increased substantially in line with the 63 percent increase in complaints received) and a corresponding increase in the proportion of complaints against persons holding positions in

other public bodies. Graph 7 examines the subjects of allegations contained in complaints received since April 1990. Graph 8 compares the subjects of allegations contained in complaints received during the 1990/91 and 1991/92 financial years.

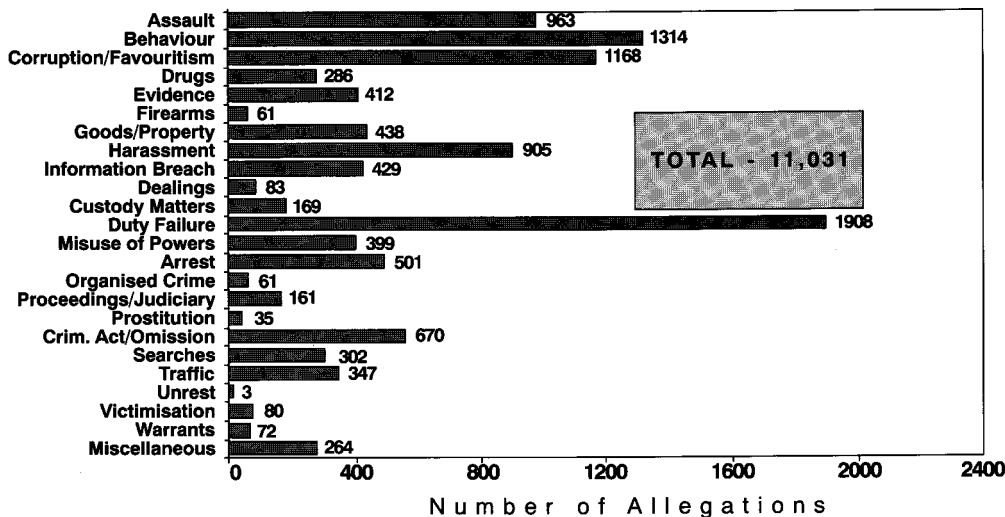
Types of Allegations

The allegation made most frequently is that police officers or other public officers have failed to properly perform their duties. Such complaints, alleging for example, a failure of police officers to properly investigate offences or a failure of local authorities to take action against persons breaching by-laws, accounted for 17 percent of all allegations contained in complaints (see "duty failure", Graph 9). Twelve percent of complaints related to perceived incivility or other inappropriate behaviour of police or other public officers (see "behaviour", Graph 9). The fourth most common allegation was assault.

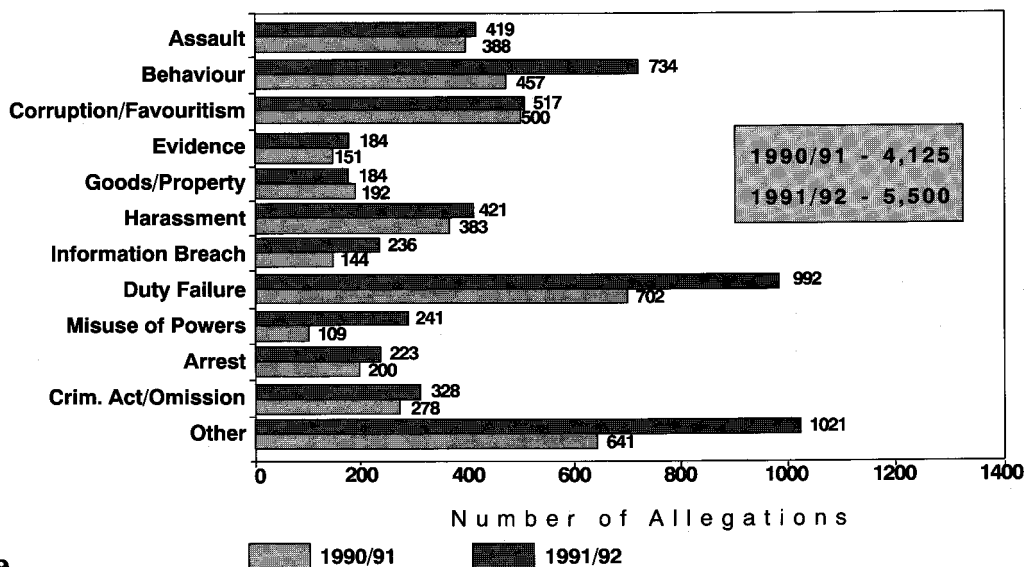
A comprehensive breakdown of the allegation details is contained in Graph 9. A full explanation of the types of allegations is annexed to this report as Appendix E.

Graphs 10 and 11 compare the type of allegations received this year with the preceding year. While it is apparent from Graph 10 that the number of complaints alleging assaults increased during the last year, Graph 11 shows that the proportion of complaints alleging assault decreased significantly during the same period. However, it is difficult to draw the conclusion that there has been any significant change in police behaviour.

Graph 9: Types of Allegations Received April 1990 to June 1992

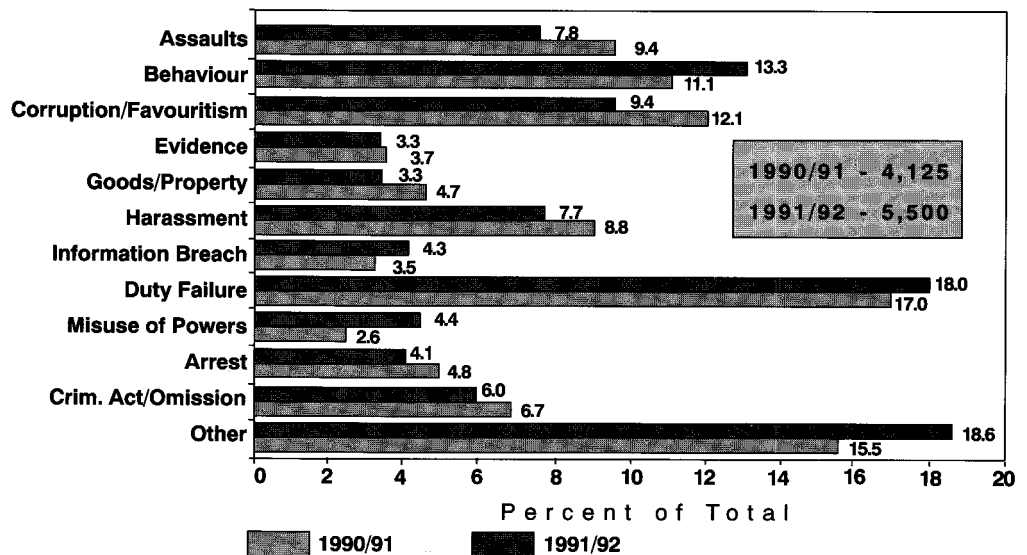


Graph 10: Comparison of Types of Allegations Received During 1990/91 and 1991/92

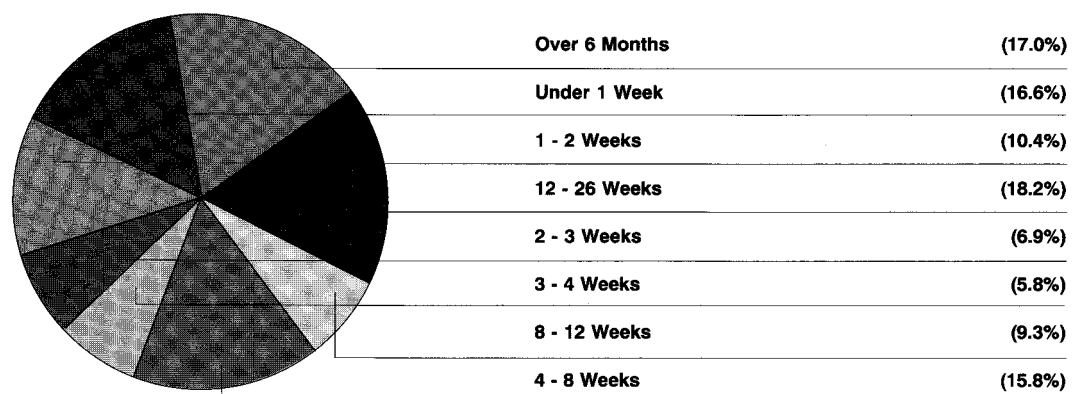


Official Misconduct Division

Graph 11: Comparison of Types of Allegations Received During 1990/91 and 1991/92



Graph 12: Time Taken to Finalise Complaints April 1990 to June 1992



No. of Finalised Complaints - 5,072

Finalisation of Complaints

Despite receiving over 5,500 complaints since the establishment of the Complaints Section, fewer than 500 had not been finalised as at 30 June 1992. Since April 1990 almost 40 percent of complaints have been finalised within a month of receipt and 65 percent have been finalised within three months (see Graph 12).

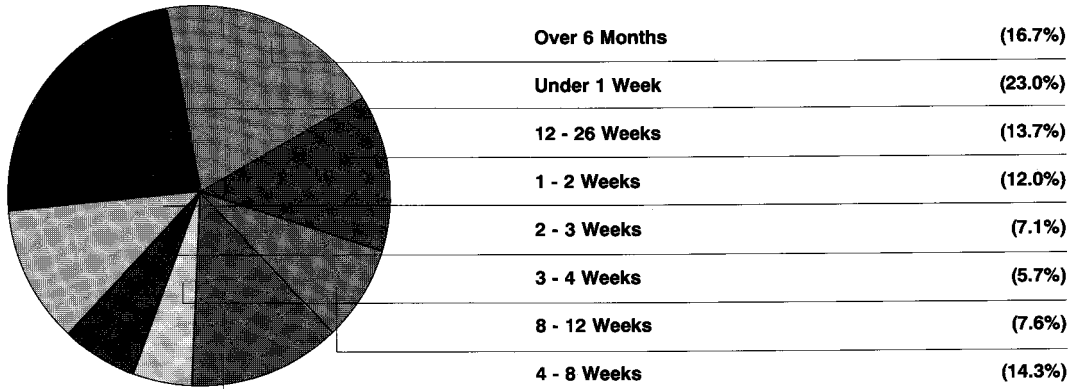
Almost half of the complaints finalised during 1991/92 had been lodged within the previous four

weeks and 70 percent were finalised within 12 weeks (see Graph 13).

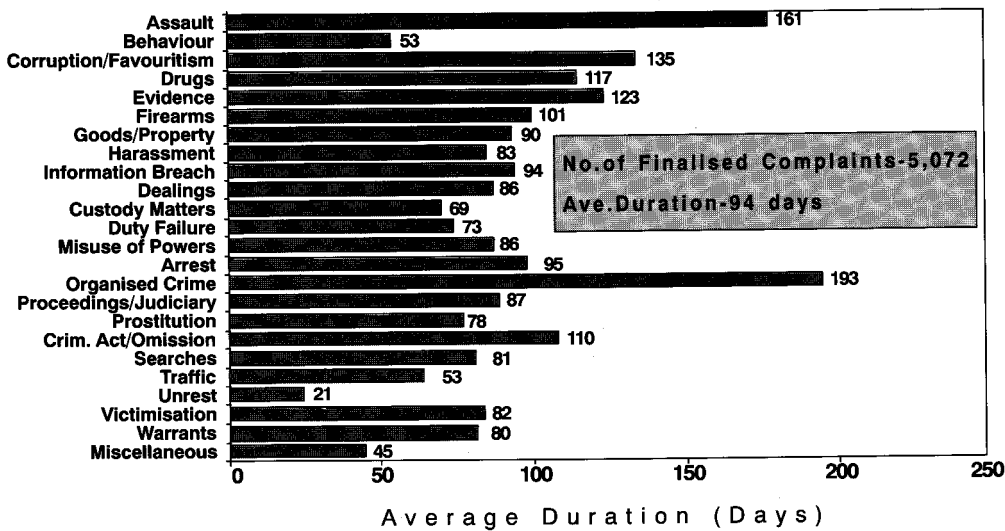
Since the restructuring of the Complaints Section in early 1992, the average finalisation time has decreased further. Obviously, it is in the interests of all concerned that allegations are resolved as speedily as possible. The Commission continues to deal with complaints as expeditiously as personnel and resources permit.

Graph 13: Time Taken to Finalise Complaints July 1991 to June 1992

No. of Finalised Complaints - 3,416



Graph 14: Average Time Taken to Finalise Various Types of Complaints April 1990 to June 1992



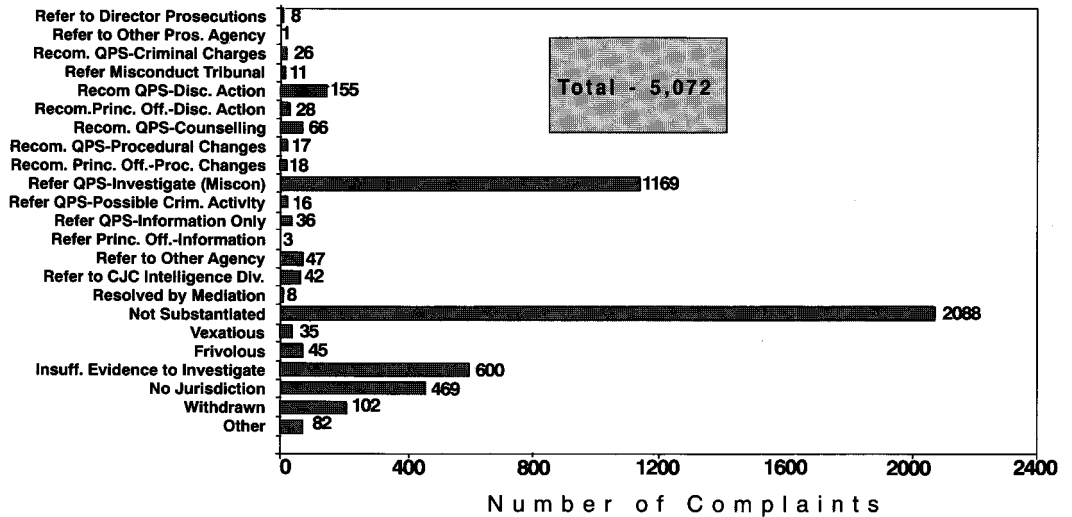
Different allegations require different investigation strategies. Inevitably, some types of complaints take longer to investigate. Graph 14 shows that organised crime complaints and complaints of assault take, on average, the longest time to investigate (193 and 161 days, respectively). The former category reflects the complexity of the investigation. The latter reflects a continuing refusal by many police members to co-operate with Commission investigations and the necessity for the Commission to exercise its compulsory powers of summons and examination.

Outcomes

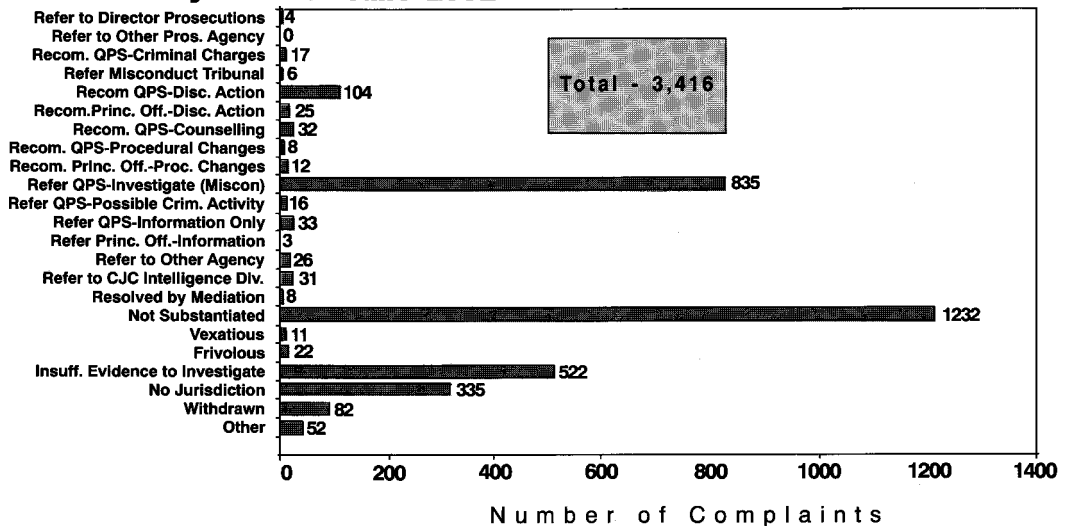
The Commission referred 30 charges to the Director of Prosecutions or another prosecuting authority with a view to such prosecuting proceedings as they considered warranted. In 155 cases recommendations for disciplinary action and in 66 cases recommendations for counselling were made to the QPS; and in 28 cases disciplinary action was recommended in relation to other public officers.

Official Misconduct Division

**Graph 15: Disposition of Finalised Complaints by Major Allegation
April 1990 to June 1992**



**Graph 16: Disposition of Finalised Complaints by Major Allegation
July 1991 to June 1992**



In 2,088 cases (or 41 percent), after investigation, the Complaints Section concluded that the allegation had not been substantiated. Approximately 25 percent of all complaints received were referred to the QPS for investigation, as they had been assessed by the Complaints Section as raising allegations of minor misconduct or a breach of discipline only. Graph 15 provides details of the outcome of the matters that have been finalised since the Complaints Section was established. Graph 16 provides details of outcomes for this year.

Initiatives of Complaints Section

Police Action Involving Serious Injury to Civilians

During the 1991/92 financial year, the Complaints Section investigated, or supervised the investigation of, a number of cases in which civilians had been killed or injured as a result of police action. In one case, a police officer shot dead a person who attacked him with a machete. In other cases,

civilians were killed when they lost control of their vehicles while being pursued by police officers.

In all of these cases, the Commission found that the officers concerned were not guilty of any misconduct. However, in view of the serious nature of the incidents and the prospect of real public concern if the investigation of such incidents was conducted internally by the QPS, the Commission determined that procedures for the Commission's involvement in those investigations should be standardised.

The Commission, therefore, proposed to the QPS that in such cases, or in any case in which a prisoner dies while in police custody, the Commission should be advised immediately. In every case, upon being notified, the Commission itself would either investigate the matter or oversee the conduct of the investigation by the QPS. In appropriate cases, s. 228(6) of the Act empowers the Commission to take over responsibility for investigations.

Mediation

The Commission and the Community Justice Program in the Attorney-General's Department jointly considered the possibility of mediating complaints against police. In February 1992 a six-month pilot program was initiated with the co-operation of the Commission, the Community Justice Program and the QPS. It involved the active consideration of the alternative of mediation by both the QPS and the Complaints Section when determining what action should be taken concerning a complaint against a member of the QPS. As of 30 June 1992, 20 complaints had been referred for mediation. Only 3 did not proceed, because of unwillingness on the part of the complainant or the officer complained against to participate in mediation. Of the remaining matters, eight have been successfully mediated with no further disciplinary action being taken; only one matter was not resolved. The remaining five matters are awaiting mediation.

The Commission anticipates that the number of matters being submitted for mediation will

increase during the remaining months of the pilot program.

Informal Resolution

The Commission is examining the feasibility of a system of informal resolution of minor complaints along similar lines to the system currently operating in the United Kingdom. In England and Wales some 25 percent of complaints received are resolved in this way. Basically, the system devolves responsibility for dealing with minor complaints to the local police supervisor. The system's success relies heavily upon training and the inculcation of a responsible and mature attitude among supervisors.

Education

Apart from its investigative role, the OMD has a vital educative and liaison role, generally performed by officers of the Complaints Section.

Most complaints are against more junior officers. Among these ranks, considerable hostility and animosity towards the Commission continues. The Commission has sought to counter this by frequently sending senior legal officers and commissioned police officers from the Complaints Section to meetings with junior QPS officers. At those meetings Commission staff explain the functions of the Commission and try to negate the malicious rumours that from time to time circulate about the way the Commission operates.

Additionally, staff of the Complaints Section have given lectures to, and conducted seminars for, students in the two undergraduate university courses designed for police recruits: Bachelor of Arts (Justice Studies) at the Queensland University of Technology (QUT) and Bachelor of Arts (Administration of Justice) at Griffith University. Staff also address on a regular basis meetings of Commissioned officers and other ranks. Appendix F presents a listing of those and other addresses given by Commission officers during the year.

Audit of Complaints

As the amendments to the Act which took effect from 13 May 1992 allow the Complaints Section to be more selective in the matters to be investigated and the extent of investigations, the Commission has introduced safeguards to ensure that all complaints are assessed objectively and fairly. The procedures incorporating these safeguards are as follows:

1. The Chief Officer, Complaints Section, and the Director of the OMD are briefed daily by way of a schedule summarising all matters that have been registered and the results of the Assessment Committee's assessments.
2. The Chief Officer and the Director or Deputy Director of the OMD attend the Assessment Committee's meetings once per week.
3. The Director of the OMD or the Deputy Director attends weekly meetings of the Complaints Teams and Multi-disciplinary Teams and reviews all files held by each Team. As a result of this review priority matters as determined by the Director or Deputy Director are given particular scrutiny.
4. The Chief Officer, Complaints Section, raises matters of sensitivity with the Director and Chairperson as a matter of course. These matters include:
 - very serious matters,
 - politically sensitive matters,
 - matters referred by Directors-General or other principal officers of units of public administration,
 - matters the subject of substantial media or public interest, and
 - matters referred by the PCJC.
5. The OMD reports through the Director of the OMD to the Commissioners on a fortnightly basis.
6. Matters can be finalised only with the approval of the Chief Officer or, in the case of minor complaints, a Deputy Chief Officer.

Multi-disciplinary Teams

Background

The OMD has embraced the concept of multi-disciplinary investigative teams. During the 1991/92 financial year, the Commission has continued to develop and modify the concept. There are currently four OMD Multi-disciplinary Teams, one of which is devoted to the continuing investigation of organised crime groups.

Team Structure

The Commission remains committed to the team structure, which maximises cohesiveness and co-operation among the various disciplines. The basic structure of the Team has not altered, with each Team being headed by a Team leader who is either an experienced criminal lawyer or an Inspector of Police. Investigative personnel are assisted by financial analysts and support personnel.

Functions of the Multi-disciplinary Teams

As a general rule, the Multi-disciplinary Teams undertake:

- investigations of the more complex complaints matters; and
- investigations of organised and major crime.

Under s. 2.15(f)(iv) of the Act, the Commission's responsibility to investigate organised or major crime is limited to cases which, in the Commission's opinion, are not appropriate to be investigated, or cannot be effectively investigated, by the QPS or other agencies of the State. Furthermore, s. 1.3 of the Act stipulates that the Commission's role in combating organised and major crime is an interim one only. The OMD has

endeavoured to discharge the Commission's responsibility in this area by:

- acting as a catalyst to the undertaking of more sophisticated investigations directed towards identifying and targeting the principals engaged in organised crime activity; and
- working with other law enforcement agencies by way of joint operations.

Unfortunately, approaches by the Commission to the QPS for participation in joint strategies against organised crime have not always met with a favourable response from the QPS. For example, the Commission invited the participation of the QPS in a strategy whereby major organised crime groups would be identified and targeted by way of a State-wide intelligence and investigative initiative to be conducted by a joint Organised Crime Task Force. The Task Force would use the technique of concentrating on the organisation rather than the individual offenders. The response of the QPS was that it would not participate in such a project until such time as specific targets had been identified. The Commission's only alternative was to carry on alone. The Commission assigned one of its Multi-disciplinary Teams, supplemented by dedicated Intelligence Division analysts, to the project.

Organised Crime Team

As mentioned in last year's annual report, the Commission's proposal to set up a standing Organised Crime Task Force in conjunction with the QPS was born of a need for a progressive response to the challenge of organised crime with the Task Force's expertise growing with experience. This proposal was also born of a consciousness of the experience of leading overseas crime fighting organisations such as the US Federal Bureau of Investigation (FBI), with its successful attack on the Italian organised crime group, La Cosa Nostra. To the Commission's knowledge a number of organised crime groups, some based on particular ethnic groups, are active in Queensland but have not previously been the subject of dedicated targeting on any continuing basis.

Indeed, when this proposal was rejected by the QPS the Commission considered it had a statutory obligation to undertake the task using its own resources with a view to demonstrating to the QPS and to Government the need for, and the potential success of, such an initiative.

In undertaking this initiative in 1991, the Commission first sought to develop an appropriate database by amalgamating Intelligence Division and OMD resources into an Organised Crime Team. It set about the task of collating and analysing all relevant information available through the law enforcement agencies. Frankly, the Commission was faced with a virtual desert when it came to exploring what was available by way of collected, collated and analysed material, and the program effectively had to start from scratch. Hundreds of thousands of entries accumulated by the Information Bureau of the QPS over the past five years were manually searched with a view to extracting relevant information on a range of ethnic-based and other criminal groups. The information was collated and analysed before establishing an active collection plan which sought to capture criminal intelligence with a view to identifying the principals involved in those activities. The Commission has reached a position where it is currently undertaking limited operations designed to identify and apprehend principals, thereby proving the whole hypothesis.

In undertaking this task, the Commission has sought access to the FBI's years of accumulated expertise in this area. An approach was made to the Director of the FBI, Judge Sessions, with a view to a visit by FBI personnel to advise the Commission on its operations. Subsequently, two undercover experts addressed the Commission and the QPS in January 1992.

The FBI Director later referred the Commission to the former head of the FBI Organised Crime and Drug Programs, Mr Sean McWeeney. Following an approach by the Commission, Mr McWeeney visited the Commission in late June 1992 and reviewed the Commission's operations in this area. He reported:

My general conclusions are that the Criminal Justice Commission Organised Crime Investigative and Data Collection (Intelligence) Programs are very well directed and thought out. I am particularly impressed with your data collection plans and the awareness by the investigators that to be successful, the battle plans must be pro-active and geared for the long haul . . . I would encourage the Criminal Justice Commission to stick to the plans and not opt for the quick and easy "score", unless same is part of the larger plan, to wit, the development of an informant to lead to more important Organised Crime figures.

The Commission was much encouraged by Mr McWeeney's report, as he is an acknowledged international expert. Because of Mr McWeeney's experience in undercover operations, the Commission subsequently made him available to the Commission of Inquiry, Operation Trident being conducted by Commissioner Carter QC. Mr McWeeney gave evidence to that inquiry on 4 June 1992.

Other Multi-disciplinary Teams

The three other Multi-disciplinary Teams are involved in investigating the more complex complaints matters and in pro-actively investigating major and organised crime, in particular drug trafficking, money laundering, corruption and fraud. A significant part of the Teams' resources has been expended in the investigation of unlawful drug-related activity. The Commission has concentrated on identifying and targeting major suppliers and traffickers rather than street-level dealers.

The Commission's operations (including joint operations) since establishment have resulted in the seizure of drugs with an estimated street value of approximately \$2.2 million. Table 2 shows the value of drugs seized, with calculations based on price guides provided by the Australian Bureau of Criminal Intelligence (ABCI) and the Drug Price Evaluation Formula used by the QPS.

Table 2: Value of Drugs Seized by the Commission

Type of Drug	\$ Value*
Heroin	2,017,300
Cocaine	64,000
Amphetamine	28,800
Cannabis	79,800
LSD	12,000

* Value is rounded to the nearest hundred

Source of Investigations

The Commission maintains a close liaison with the Office of the Special Prosecutor and continues to provide it with support and assistance in respect of its investigation and prosecution functions. As its work draws to a close, many matters investigated by that Office have been forwarded to the Commission for consideration as to disciplinary charges of official misconduct.

The main sources of investigative work undertaken by the Multi-disciplinary Teams are:

- **the Complaints Section:** the criteria for referral of matters from the Complaints Section to the Multi-disciplinary Teams for investigation appear in Appendix G. The Complaints Section remains the source of most of the work flowing to the Multi-disciplinary Teams.
- **the Intelligence Division:** as the targeting aspect of the work of the Intelligence Division has developed and significant criminal activity has been identified, the investigative teams have moved into more pro-active investigations rather than reacting to complaints or information received by the Commission.

- **referrals from other agencies:** the Commission has continued to work closely with other investigative agencies such as the QPS, the Australian Federal Police (AFP), the NSW State Crime Commission (SCC), the National Crime Authority (NCA), the NSW Independent Commission against Corruption (ICAC) and the Victoria Police Service.

Resources

The Commission is profoundly aware of the impact that organised criminal activity can have on the well-being of the community and has increased its resources throughout the year in respect of undertaking investigations into both major and organised criminal activity.

Examples of Major or Organised Crime Investigations

The following are examples of the Commission's investigations of organised and major crime. They reflect the operating principles of the Commission, which are:

- to undertake investigations 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; and
- to act as a catalyst to the undertaking of more sophisticated investigations, using surveillance, undercover agents, co-operating witnesses and the long-term commitment of resources in an attempt to ascend the ladder of organised criminal endeavour.

Because a number of persons arrested during the investigations are awaiting trial, and in other cases, investigations are continuing, the examples provided here do not contain any references to specific persons or things.

Operation A

This operation targeted a major criminal group headed by a person who came to prominence during the Fitzgerald Commission of Inquiry. In recent years this person and his associates had been unsuccessfully investigated by various law enforcement agencies on several occasions.

The operation was based upon an intelligence profile compiled by the Intelligence Division. The opportunity for pro-active investigation of the group arose after the Commission received information concerning the existence of a drug distribution network centred in a Brisbane nightclub.

The investigation quickly confirmed the accuracy of the information and, accordingly, an undercover operative was introduced to the principal of the drug distribution ring. The agent was then able to obtain quantities of amphetamines and other unlawful drugs from the target. In addition, the Commission obtained considerable evidence through the use of authorised listening devices and surveillance, both static and electronic.

After five months the operation concluded with the arrest of five individuals on a total of 41 charges including trafficking in dangerous drugs laid under the Drugs Misuse Act.

Operation B

This operation was also based upon an Intelligence Division report. The Intelligence Division had carefully built up a comprehensive picture of substantial drug trafficking by a group operating in south-east Queensland over a period of 12 months.

The Commission invited other interested agencies, in particular the QPS and the AFP, to a meeting during which it presented the results of its intelligence probe and invited their participation in a joint operation to target the activities of the group. As a result of this initiative, a joint operation was established between the Commission and the AFP.

The operation at first relied upon evidence of trafficking obtained using a covert police agent to penetrate the group. Subsequently, the agent was withdrawn. However, the investigation continued through the use of visual surveillance and authorised listening devices.

Of the seven people charged at the conclusion of the operation, five were charged with trafficking in a dangerous drug. A total of 119 charges under the Drugs Misuse Act were preferred, including 102 charges of supplying a dangerous drug.

At the date of this report, the operation has entered a second phase, which is also being conducted jointly with the AFP. The aim of the second phase is to identify the source of drug supply outside the State. Substantial quantities of heroin have been seized.

Operation C

This operation was conducted jointly with the QPS. It centred on allegations of large-scale drug production and distribution by a particular group. The Commission successfully introduced two undercover operatives at two different locations. However, one of those operatives was withdrawn from the operation because of concerns for his safety.

The remaining agent made significant purchases of dangerous drugs and, by surveilling the agent's supplier, the Commission was able to establish links to the targeted group.

Following the execution of nine search warrants by the QPS and Commission personnel, eight people were arrested on a total of 27 offences, including 15 charges of supplying a dangerous drug.

The operation was only partially successful, with the targeted group proving very difficult to penetrate. The members of the group demonstrated an acute awareness of investigation techniques and engaged in extensive counter-surveillance.

Operation D

This operation commenced after the Commission was approached by a man who alleged that several people purporting to be police officers were attempting to extort \$30,000 from him. The informant, who confessed to prior involvement in the drug trade in Sydney, had been told that if he did not provide the money demanded he would be injured or falsely charged.

After the matter was brought to the Commission's attention, telephone calls to the complainant were monitored and arrangements were made with the extortionists to collect the sum of money demanded from the informant. Subsequently, when the extortionists attempted to collect the money, they were arrested by Commission officers. Neither man was, nor had been, a police officer and both had extensive criminal histories. They were later convicted and sentenced to lengthy terms of imprisonment.

Operation E

Operation E began after the Commission was approached by NSW police seeking assistance in pursuing investigations into Queensland. In conjunction with the NSW police, the Commission undertook investigations and under the authority of search warrants raided premises on the north side of Brisbane, where officers discovered 12 kilograms of processed cannabis. The occupant was subsequently charged with a number of offences, including trafficking in a dangerous drug under the Drugs Misuse Act.

Investigations continued in an effort to establish the financial position of the defendant and to discover the benefit derived by him from his involvement in drug trafficking over time.

Ultimately, a number of assets including the premises raided, two motor vehicles, a luxury catamaran and a \$13,000 cheque were restrained under the *Crimes (Confiscation of Profits) Act 1989*.

Subsequently, the defendant was convicted of trafficking and other serious drug-related offences, and sentenced to a lengthy term of imprisonment. To a great extent the conviction in relation to the charge of trafficking was secured on the basis of evidence of expenditure by the defendant which could not be supported by lawful income.

In October 1991 after a Brisbane Supreme Court hearing, the defendant was ordered to pay a pecuniary penalty order in the sum of \$865,000. Furthermore, a ruling was made that the residential property, the motor vehicles, the cheque and the boat could be used to satisfy that order.

Operation F

This operation was undertaken with the QPS. It centred upon an alleged large-scale SP bookmaking enterprise which encompassed several States. The principals of the enterprise had been the subject of unsuccessful previous attempts to investigate their activities.

Several investigative techniques were pioneered during this operation, including the use of the Commission's powers to compulsorily examine associates to obtain evidence against the principals, and the use of advanced information technology to manage the large number of financial transactions traced by the Commission.

At the completion of the investigation, charges against the principal targets were preferred, including charges of money laundering under the Crimes (Confiscation of Profits) Act and the *Racing and Betting Act 1980*.

As it is alleged that the defendant derived a substantial benefit from his unlawful activities, restraining orders under the Crimes (Confiscation of Profits) Act were also obtained over the defendant's substantial property holdings.

All those who were charged have been committed for trial.

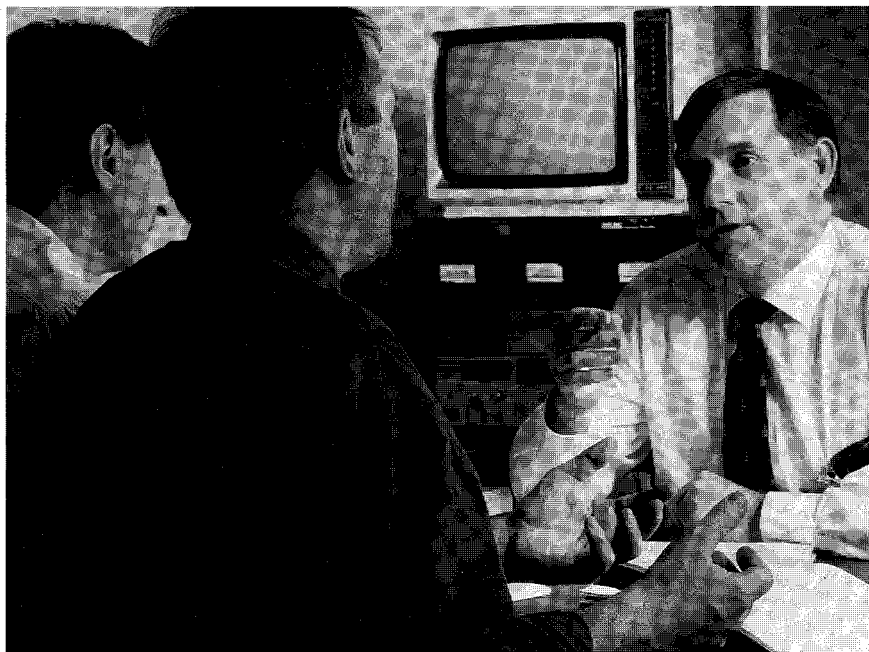
Examples of Investigations into Allegations Against Public Officials

In the 1991/92 financial year, approximately 21 percent of complaints received by the Commission concerned allegations against persons holding positions in units of public administration, e.g. State and local government departments, the Queensland Legislative Assembly, shire councils, and corporate and non-corporate government entities. Because in the main they involve complex, lengthy investigations and financial analysis, a significant number of these complaints are referred to the Multi-disciplinary Teams. During the 1991/92 financial year, more than two thirds of the Multi-disciplinary Team investigations focused on allegations against public officials.

The nature of allegations varied, but generally fell into the following categories:

- favouritism in awarding contracts;
- conflict of interest;
- favouritism in dealing with applications for local authority approvals;

The Commission regularly uses its facilities to record interviews with suspects and witnesses on audio or video tape. During the 1991/92 financial year, the Multi-disciplinary Teams undertook 315 investigations.



- misuse of funds, including false claims for remuneration;
- misuse of confidential information; and/or
- theft or misappropriation of property.

On occasions suspicions were rightly aroused because of the manner in which decisions were made by public officials. Upon close scrutiny, however, it was found that officials were acting honestly but inappropriately, due to their outdated systems and attitudes. In these cases, the Commission was able to make recommendations which, if implemented, would reduce the likelihood of such conduct in the future, whilst at the same time resolving the dispute between the complainant and the public authority.

Although the Complaints Section investigated most of these allegations, those of a complex nature were investigated by the Multi-disciplinary Teams. These investigations are inevitably resource intensive and generally require detailed financial analysis. Some examples follow.

Investigation A

This investigation concerned an allegation that a senior council official had misappropriated in excess of \$25,000 of council funds by misuse of his official credit card. There were other allegations of fraudulent conduct by the officer to obtain other benefits in excess of \$35,000.

The investigation involved a lengthy analysis of financial records held by the council and on behalf of the Council by other financial institutions and also the financial position of the officer. Interviews were necessary with more than 50 witnesses. The investigation was complex and made more difficult by the absence of appropriately enforced internal controls and guidelines regulating the council's practices and procedures.

The investigation has been completed, and a report concerning some of the alleged misconduct is being compiled for the Chairperson's consideration for referral to the Director of Prosecutions.

Investigation B

This investigation concerned an allegation that a joint local authority board had improperly favoured one of its members by granting the member's firm a portion of a major works program valued at \$40 million. It was alleged that the board had engaged the firm without calling for tenders or seeking competitive quotes. These allegations were not substantiated, however the investigation disclosed that more than \$220,000 was paid to the firm in question.

Although the Commission's investigation did not substantiate the allegation of favouritism, in the view of the Commission the board failed to carry out proper and reasonable inquiries in relation to the qualifications and fees of firms expressing an interest in the work. In this regard, the Commission's investigations established that:

- the time taken by the board to consider the allocation of work was extremely limited;
- no opinions on the qualifications of those submitting an expression of interest in the work were sought from any expert; and
- no interviews were conducted with any representatives of the firms expressing an interest in the work.

This matter was also referred to the EARC for consideration in connection with its work on a draft Code of Conduct for public sector officers.

Investigation C

This investigation concerned allegations by two women that a driver's licence examiner suggested that he would issue them with licences in return for sexual favours.

The matter has previously been the subject of investigation by a government department and no action had been taken against the officer.

The Commission conducted an investigation and the officer was subsequently charged with official

misconduct after his position was declared by Order-in-Council to be subject to the jurisdiction of a Misconduct Tribunal. The hearing of the matter has not been determined.

Investigation D

A brief was sent to the Director of Prosecutions last year recommending charges of false pretences against a Clerk of the Court, a police officer and another person. They were charged in relation to false entries made to assist with an insurance claim.

The Clerk of the Court was tried in the District Court and found guilty of the offence and ordered to perform 240 hours of community service. The police officer has since left the QPS and has been committed for trial on this offence.

Statistical Analysis of Work of Multi-disciplinary Teams

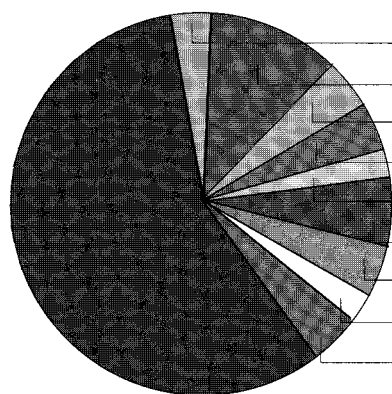
Graph 17 shows the source of matters investigated by the Multi-disciplinary Teams. The graph shows that:

- elected representatives in State and local government account for 9.2 percent of investigations; and
- investigations referred from the Fitzgerald Commission of Inquiry account for only 1 percent of investigations. During 1990/91, the corresponding figure was 8.8 percent.

Graph 18 categorises the subjects of Multi-disciplinary Team investigations. The most significant features of this graph are that:

Graph 17: Source of Multi-disciplinary Team Investigations July 1991 to June 1992

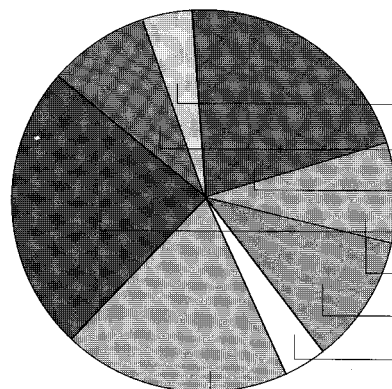
Total Investigations - 315



Other - 20	(2.9%)
Politician (State, Local Govt) - 19	(9.2%)
Commissioner QPS - 11	(3.5%)
Police (excl Commissioner) - 9	(2.9%)
Prisoner/Detainee - 4	(1.3%)
Principal Officer (excl Comm QPS) - 18	(5.7%)
Public Admin Employee - 8	(3.2%)
Fitzgerald Commission of Inquiry - 3	(1.0%)
CJC Intelligence Division - 12	(3.8%)
Public/Public Source - 211	(66.7%)

Graph 18: Subjects of Multi-disciplinary Team Investigations July 1991 to June 1992

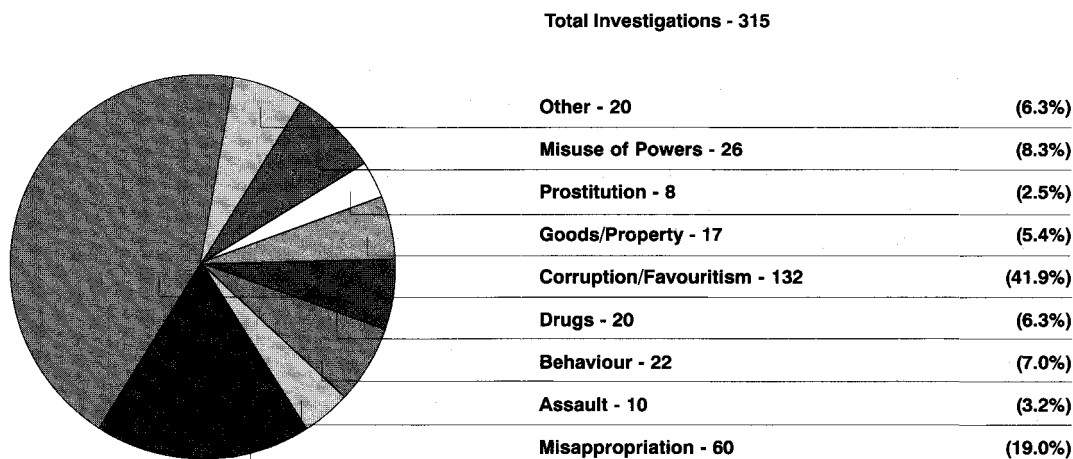
Total Investigations - 315



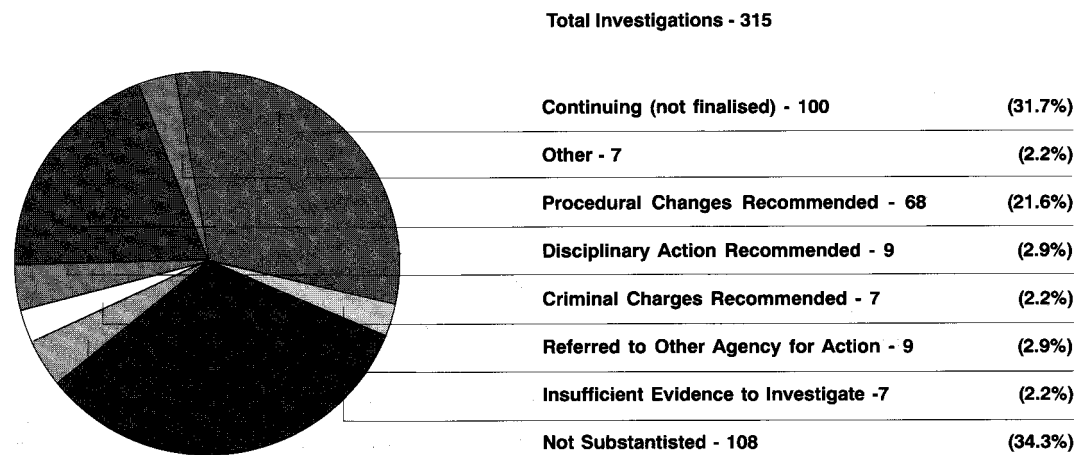
Other - 8	(2.5%)
Organised/Major Crime - 18	(5.7%)
Qld Police Service - 76	(24.1%)
Politicians (Local Govt) - 81	(25.7%)
Public Service Depts - 22	(7.0%)
Local Authorities - 40	(12.7%)
Aboriginal Councils - 4	(1.3%)
Politicians (State) - 66	(21.0%)

Official Misconduct Division

Graph 19: Types of Allegations Investigated by Multi-disciplinary Teams July 1991 to June 1992



Graph 20: Outcomes of Multi-disciplinary Team Investigations July 1991 to June 1992



- elected representatives at the local government level were the subjects of investigations in 25.7 percent of cases; and
- complaints against officers and employees of local authorities accounted for another 12.7 percent of investigations.

Graph 19 analyses the major allegations associated with the 315 Multi-disciplinary Teams investigations. The graph shows that allegations of corruption or favouritism constituted the largest category.

Graph 20 analyses the most significant outcomes from each of the 315 Multi-disciplinary Teams investigations. The percentage of investigations resulting in a recommendation for disciplinary action or for criminal charges corresponds with the results of similar bodies in other jurisdictions.

Public Reports

During 1991/92, the Commission published five investigative reports based on investigations by Multi-disciplinary Teams. Three of these concerned the conduct of elected members and officers in local and State government:

- investigations into complaints against elected local government officials and employees in a number of local councils. The allegations concerned misuse of position; favouritism in awarding council work; false pretences; and misuse of council funds. [*Complaints Against Local Authorities—6 Case Studies* (July 1991)].
- an investigation into allegations that Gold Coast land developers had made confidential payments of election campaign expenses incurred by candidates in the Gold Coast City Council election and sought or received benefits by the developers in return. [*Report on a Public Inquiry into Payments by Land Developers to Aldermen and Candidates for Election to the Council of the City of the Gold Coast* (November 1991)].
- an investigation into allegations that members of the 1986-1989 Queensland Legislative Assembly had used Parliamentary travel entitlements for private purposes unconnected with Parliamentary business. [*Report on an Investigation into Possible Misuse of Parliamentary Travel Entitlements by Members of the 1986-1989 Queensland Legislative Assembly* (December 1991)].

The other reports related to:

- investigations into allegations that employees of the Queensland Prison Service and its successor, the Queensland Corrective Services Commission, were involved in corrupt activity within Queensland prisons and that the organisation covered up this activity. [*Report on Public Inquiry into Certain Allegations Against Employees of the Queensland Prison Service and its Successor, the Queensland Corrective Services Commission* (July 1991)].
- investigations into allegations that a large number of police had used excessive force in dispersing a gathering of Aborigines who attended a function at Inala and that the Police set up this situation and had subsequently assaulted and victimised Aborigines involved in this and a later incident. [*Report on an Inquiry*

into Allegations of Police Misconduct at Inala in (November 1990)].

Each report contained substantial recommendations for change in the areas considered. In a number of cases, briefs of evidence for prosecution were referred for consideration to the Director of Prosecutions.

At the request of the Auditor-General, copies of *Complaints Against Local Authorities—Six Case Studies* were distributed to appointed auditors throughout the State to assist them in identifying undesirable or improper practices during their audits of local authorities.

The reports exemplify the Commission's attitude to reform in the public sector, namely, that provided some lessons can be learned from the process, it is not necessary that prosecutions must follow an investigation before an investigation be considered worthwhile.

Financial Analysis Group

Functions

The OMD has concentrated on recruiting financial analysts who are at once suited to the team-based investigative work undertaken by the Division and able to bring expertise in a broad range of specialised skill areas, e.g., internal and external accounting, investigations and prosecution support, management and public accounting, and banking and information technology.

The Group comprises eight financial analysts and a support officer. Six financial analysts work in Multi-disciplinary Teams, while the chief financial analyst, assistant financial analyst and support officer maintain a large-case workroom and central support facility.

The Financial Analysis Group provides a professional resource and management structure that complements that of the Multi-disciplinary Teams. The Group focuses on maintaining professional standards, improving skills, developing new investigative methods and techniques, and

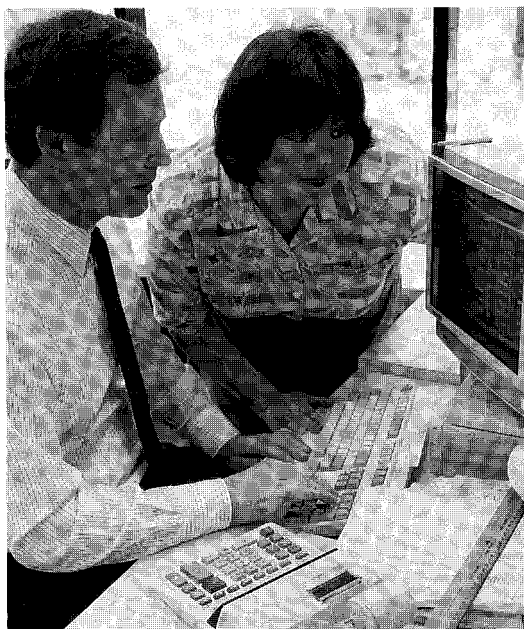
Official Misconduct Division

generally serving as a source of expert advice on the many complex matters that its members often handle.

The Group's strong commitment to professional standards is emphasised by active membership in the major professional bodies and participation in the continuing professional development requirements of the Australian Society of CPAs, the Institute of Chartered Accountants, and the National Institute of Accountants.

Approach

The use of information technology and advanced computer-based techniques is an important part of the Division's investigative work. During the period under review, a bank transaction analysis system developed by the Group was used to



The Financial Analysis Group used its bank transaction analysis system to examine some 40,000 transactions from over 100 bank accounts. The vast majority were connected with major and organised crime targets.

examine some 40,000 transactions from over 100 bank accounts, the majority of which were associated with major and organised crime targets. Australian and overseas agencies have expressed a great deal of interest in the analytic techniques developed by the Group.

The Multi-disciplinary Teams often make use of the Group's strength in the use of computers and

information technology. During the year under review, the Group developed and maintained 14 investigation-support databases. These databases were generally used to summarise large numbers of documents including charge sheets, invoices and diaries. On some occasions, the Commission received information in electronic format.

Financial analysts working within the Multi-disciplinary Teams have adopted a non-traditional, "hands-on" approach to their involvement in the investigative work of the Division. In line with the strategy fostered by the OMD, they are involved in most aspects of investigative field work. Their attendance and participation in search and seizure actions have been vital to the successful collection of evidence for major crime prosecutions and proceeds of crime applications. Similarly, their involvement in the interviewing of witnesses and offenders, which runs counter to the traditional law enforcement approach, has significantly enhanced the progress of other investigations.

Acknowledged as one of the best co-ordinated and most innovative groups of investigative accountants in the national law enforcement arena, the Group is frequently asked to contribute to national forums on the development and review of law enforcement functions and investigative techniques. During the 1991/92 financial year, the Group made significant contributions to the ongoing debate on ways to reduce the cost and duration of complex white collar crime investigations and prosecutions. The Group also contributed significantly to the development of law enforcement initiatives in the area of proceeds of crime investigations and prosecutions.

External Liaison

The Financial Analysis Group is the focal point for a number of important liaison functions of the Commission. The Commission relies heavily on the co-operation of financial institutions during the course of major and organised crime investigations. Consistent with internationally recognised "best practice", all OMD contact with these institutions is channelled through the OMD financial analysts.

With fewer and more consistent lines of communication between the Commission and these institutions, the Commission, as the requesting authority, can alleviate some of the difficulties created by the demands it places on financial institutions.

The group also provides a liaison point with Australian Transaction Reports and Analysis Centre (AUSTRAC) (formerly the Cash Transaction Reports Agency (CTRA)). This financial year saw the signing of a Memorandum of Understanding between AUSTRAC and the Commission. Under this Memorandum of Understanding, the Division's financial analysts, along with three intelligence analysts, are authorised to use the on-line inquiry service provided by AUSTRAC.

AUSTRAC maintains a computer database of cash transactions at its Sydney headquarters. Financial analysts make use of this facility in searching for money trails in relation to major and organised crime investigations. Recently, advanced analysis techniques pioneered by AUSTRAC have verified cash transactions associated with a major drug dealer in Brisbane. The Commission is co-operating with AUSTRAC in applying its skill and information to the detection and prosecution of other major crime figures in Queensland. The Commission anticipates that the reporting of international funds transfer instructions to AUSTRAC will greatly aid organised crime investigations in Queensland.

Proceeds of Crime Team

Functions

The Proceeds of Crime Team was formed as a separate team within the OMD in September 1990. Although part of the Commission's overall strategy against organised crime, it has the following specific goals:

- to confiscate all substantial assets derived from criminal activity investigated by the Commission;

- to bolster cases against Commission-investigated targets using money-tracing and other powers provided by the Criminal Justice Act and the Crimes (Confiscation of Profits) Act; and
- to assist the QPS in confiscation matters.

The Team operates as an integral part of the Commission's major or organised crime investigations. The majority of its work arises from referrals by the Division's Multi-disciplinary Teams. The Team is advised of all major OMD investigations from their commencement, so that submissions for the restraining of assets are prepared in time to be served during the arrest of persons charged with major crimes.

In accordance with the Crimes (Confiscation of Profits) Act, the Team's role is investigative only. After consultation with members of the investigating Team, the Proceeds of Crime Team prepares briefs, which are forwarded to the Director of Prosecutions. Members of the private bar may be briefed to represent the Director of Prosecutions in asset forfeiture matters, particularly in relation to the civil aspects of prosecutions. The Team has developed a close working relationship with the Director of Prosecutions' Proceeds of Crime Unit.

Given the robust powers provided by the Criminal Justice Act and the Crimes (Confiscation of Profits) Act (e.g., restraining an accused person's assets before conviction, obtaining financial records, monitoring bank accounts, examining witnesses before Commission investigative hearings and conducting oral examinations in court), the Team ensures that those powers are exercised fairly.

Assistance to the Queensland Police Service

When resources permit, the Team supplements the work of the QPS Proceeds of Crime Unit by responding to the QPS Drug Squad's requests for assistance in major crime investigations. The Team lent assistance in three investigations during this financial year. A joint operation with QPS involving allegations of large-scale unlawful

bookmaking and money laundering is currently the subject of prosecution in the District and Supreme Courts.

The Commission's support in proceeds of crime actions has contributed to a productive relationship between the Commission and the QPS.

Achievements

Assets totalling \$7.5 million from seven investigations into drug trafficking, money laundering, and/or SP bookmaking are currently "frozen" as a result of restraining orders prepared by the Commission.

Operations E and F, cited earlier as examples of the Commission's major or organised crime operations, highlight the Team's success in obtaining admissible evidence vital to prosecution and supporting successful applications for restraint and forfeiture of assets.

The Commission believes that the Crimes (Confiscation of Profits) Act has proved to be as effective as overseas experience predicted it would be. Public satisfaction with the recovery of assets derived from criminal activity has been highlighted by the strong media interest in the progress of cases.

In September 1991 the Attorney-General of Queensland formed the Confiscation Legislation and Education Review Committee to review the Crimes (Confiscation of Profits) Act. The Commission's Proceeds of Crime Team Leader was named a member of the Committee. The Committee's report, handed to the Attorney-General in February 1992, resulted in a draft Bill to amend the Crimes (Confiscation of Profits) Act. The draft Bill contained 12 recommended amendments, including the following:

- reversal of the onus of proof regarding the property of convicted drug traffickers (i.e., the convicted trafficker must show that the property was "lawfully" obtained);

- a requirement for the Attorney-General's consent before proceeding with money laundering prosecutions;
- expansion of the definition of money laundering;
- improvements to the provisions for following money trails; and
- general fine-tuning of some sections, including those pertaining to "tainted property".

Corruption Prevention Section

Section 2.20(2)(f) of the Act requires the Commission 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 concerned with the detection and prevention of official misconduct.

The Commission's Corruption Prevention Program commenced in August 1991 with the appointment of the corruption prevention officer.

The Corruption Prevention Strategy

The Commission's corruption prevention strategy is founded on three principles:

- corruption prevention is more efficient and more cost effective than reactive measures against corruption;
- corruption prevention is primarily the responsibility of managers; and
- managers must be held accountable for both their own activities and that of the staff under their supervision.

The Commission's corruption prevention strategy has two major components: liaison with

management in public sector agencies; and education.

Liaison with Public Sector Agencies

The Corruption Prevention Program has developed a three-phased approach to its public sector liaison activities:

- **Phase 1—Management Training**

Workshops: The Program conducts training workshops for chief executives, management boards, regional directors, senior departmental staff and managers of corporate, financial, and personnel departments. The corruption prevention officer explains the role and functions of the Commission and, in particular, the Corruption Prevention Program. He may also discuss specific aspects of corruption prevention, e.g, corruption indicators, employee profiles, organisational strengths and weaknesses.

Since its inauguration, the Program has conducted 32 such seminars, culminating in major conferences for senior public sector managers in Brisbane, Rockhampton, Townsville, Cairns and Roma.

The Program has now developed a network of officers who are appointed by their respective departments to serve as liaison with the Commission. Through ongoing contact with these officers, the Commission has been able to provide advice and recommendations with respect to specific problems that departments have brought to its notice.

- **Phase 2—Teaching Corruption Risk**

Assessment: The second phase of the Program's liaison activities focuses on developing practical corruption risk assessment techniques that will assist managers in approaching corruption prevention in a systematic way.

The Program has developed a *Corruption Prevention Practices Manual*, a powerful

resource and reference for managers and administrators interested in introducing corruption prevention measures in their departments. The manual was finalised after review by the Institute of Internal Auditors and the Fraud Liaison Association.

Application of the Manual to specific departments will be the subject of a series of workshops. Four workshops have already been held.

- **Phase 3—Developing Corruption**

Prevention Strategies: In the projected third phase of its public liaison activities, the Corruption Prevention Program will seek to assist managers in developing corruption prevention strategies specific to their organisations.

Education

The second major component of the Corruption Prevention Program is education. The Commission has developed four public education initiatives:

- **Electronic Media:** The first initiative was to produce a series of 30-second television and radio announcements. Produced in Queensland by the Corruption Prevention Officer, they were televised on Channels Nine, Ten and Two in Brisbane, on the QTV and WIN TV networks in regional Queensland, and broadcast on 15 metropolitan and 21 regional radio stations. The announcements were run by the respective stations free of transmission costs. The Commission gratefully acknowledges those stations' assistance.

The Corruption Prevention Program also produced a series of television announcements for the NSW ICAC.

- **Posters and Brochures:** The Program's second initiative saw the development and production of a poster and brochure. To coincide with the broadcast of the first television and radio advertisements, 100,000 brochures and 10,000 posters were distributed

to schools, libraries, local government offices, government departments and community groups.

Launch of the media campaign was supported by a wide range of radio and television appearances in Brisbane and the regions by the corruption prevention officer. These interviews highlighted the importance of public support in watching for and reporting corrupt conduct.

Lectures and Presentations: The third initiative has involved lectures and presentations by the corruption prevention officer and other Commission staff to community service organisations, education institutions, and conferences and seminars organised by professional associations (see, for example, Appendix F).

Liaison with Educational Institutions: The Commission considers that corruption prevention should be firmly placed on the formal education agenda of Queensland's educational institutions. Its fourth public education initiative has focused on the development of material that can be incorporated into school and university curricula.

To assist primary and secondary teachers, teachers' notes and lesson plans have been developed and made available for comment. They cover issues such as:

- how to define corruption,
- the causes of corruption,
- the effect of corruption on the public sector, and
- the Commission role in the fight against corruption.

The corruption prevention officer has been holding discussions with the QUT, Griffith University, and the University of Southern Queensland concerning the introduction of corruption prevention units into Justice Studies, Accountancy, and Ethics courses. He is

frequently asked to serve as guest lecturer for the Justice, Management, and Ethics courses at Griffith University and the QUT.

Whistleblowers Protection

The Commission is well aware that people will be reluctant to report corrupt conduct or other misconduct if they believe reporting will lead to possible prejudice to their own careers or other adverse treatment. Therefore, the Commission actively encourages and provides assistance to public sector agencies to implement effective internal reporting systems which must include assurances of confidentiality to persons who report misconduct on the part of fellow officers.

The Commission's endeavours in this area are backed by the whistleblowers protection provisions of the Criminal Justice Act. However, legislation cannot completely address the fear that subtle adverse pressure will be brought to bear on those reporting misconduct of fellow officers. Following a meeting with public sector human resource managers co-ordinated by the Public Sector Management Commission, the Commission received positive feedback regarding the need for further effort in this area and is presently considering how that can be best accomplished.

Surveillance Section

During the 1991/92 financial year, the Surveillance Section conducted 25 operations, some in conjunction with the AFP and the QPS. Nearly all of the operations referred to earlier as examples of the OMD's organised and major crime investigations involved intensive surveillance support.

The Surveillance Section is presently divided into two teams, whose team leaders also serve as training officers. When operational requirements permit, the Section conducts practical training exercises that incorporate the kinds of situations encountered during operations.

During the reporting period, two Section members lent their experience and expertise as instructors to

the second surveillance course sponsored by the QPS Task Force.

Technical Unit

The Technical Unit was established in September 1990 as a unit distinct from the Surveillance Section. During the 1991/92 financial year, the Unit provided technical support to almost every operation in which the Surveillance Section was involved. The Unit also provided support to the Witness Protection Division and participated in the Commission's joint operations with the AFP and the QPS.

The Unit is skilled in adapting new technology for use in the Commission's operations, and staff attend training courses and lectures to obtain information on technological developments. The Unit's activities, particularly in the installation of authorised listening devices, have resulted in several persons being charged with serious offences.

Future Directions

There is a degree of artificiality about predicting future directions which, of necessity, are based on certain factual assumptions (which may or may not be valid). Some of those assumptions are that:

- the current workload of the Commission will remain stable (against a background of a 60 percent per annum increase in the receipt of complaints since the establishment of the Commission);
- the funding and resources available to the Commission will be pegged at present levels; and
- the Commission will retain in current form each of the major functions referred to above.

Acting on these assumptions, the Commission suggests the following future directions for the OMD.

Official Misconduct

The amendment of s. 2.29 of the Act, which was assented to on 13 May 1992, has had a major impact upon the investigation of complaints of official misconduct. As reviewed above, the Commission now has the discretion either not to investigate a complaint or information at all or to discontinue the investigation. For the first time since its establishment, the Commission has the capacity to bring its workload into balance with the available resources. In one month, the backlog of complaints investigations, which had accumulated over two years of operating against a burgeoning level of receipts, has been significantly reduced. The Commission has every reason to expect that this progress will continue with the virtual elimination of any significant backlog within the next six months. This should enable the freeing up and redeployment of resources to other areas of need within the OMD, in particular to the organised crime and corruption prevention functions. Further, the elimination of the backlog will enable the Commission to give greater emphasis to the investigation of matters of substance.

As well as increasing the selectivity of investigations, the Commission has taken other initiatives to ease the burden which has fallen upon the QPS. Matters referred to the QPS represent approximately 25 percent of matters received, although many are breaches of discipline which need not have been referred to the Commission in the first place.

The first initiative was a pilot mediation scheme running in south-east Queensland under the auspices of the Community Justice Program of the Attorney-General's office. Although 30 to 40 complaints are expected to be resolved through mediation by the end of the project, the Commission is aware that some complainants and police officers are reluctant to enter the scheme, possibly because they fear a process they do not understand or they want to avoid confrontation.

The Commission is working on a second initiative. This involves trialing a system of informal resolution which has been practised with success in

the United Kingdom for many years. In essence, this program would devolve responsibility for dealing with minor complaints to properly trained local police supervisors. It will permit the speedy resolution of complaints while enhancing the management role of line supervisors. However, the Commission believes that the program should be introduced only after participating line supervisors have received an appropriate level of training and certification in mediation/conciliation skills. Further, the program should be monitored carefully through a random or universal review of cases.

In the United Kingdom an estimated 25 percent of complaints against police are dealt with in this way. Given that 75 percent of complaints received by the Commission are complaints against police, this initiative has the potential to radically alter the profile of the official misconduct function. However, the Commission must stress that although the potential benefits are great, they will be realised only if such a scheme incorporates appropriate training and supervision.

Organised Crime

Shortly after its establishment, the Commission identified the need for a more innovative approach to the organised crime problem consistent with the observations that Fitzgerald QC made at page 164 of his report:

Organised crime has never, anywhere in the world, been brought under control by a piecemeal process. An integrated, comprehensive and wide range of corrective measures have to be made available.

Fitzgerald QC clearly saw the need for continuity and co-operation. The Commission has adopted Fitzgerald's view as its philosophy in discharging its functions in the area of organised crime, in co-operation with other agencies, in particular the QPS. It has never been the philosophy of the Commission to seek exclusive jurisdiction or to act in isolation, save and except where it is enjoined by its legislation to do so.

The Commission's Organised Crime Team provides a progressive response to the challenge of organised crime, with its expertise growing with its exposure to the task. In this regard the Commission is conscious of the experience of leading overseas crime-fighting organisations such as the FBI, the Organised Crime Division of which has made substantial progress in combating the Italian organised crime group La Cosa Nostra over a period of two decades.

To the Commission's knowledge, a number of organised crime groups, some based on particular ethnic 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 Commission has been in a position to commit the full-time resources of only one team to this work: six to eight investigators, four intelligence analysts, one financial analyst, one lawyer and support staff. Surveillance and technical support has been provided. However, the restructuring of the complaints function should free up other resources in time.

The Commission has recently undertaken operations based upon its analysis and profiling work. Its adoption of the FBI model of "Racketeering Enterprise Investigation" is, even at this early stage, providing indications that it could reap significant results. The Commission is attempting to discover the whole structure of a criminal organisation rather than simply targets who represent the tips of the iceberg.

4. Research and Co-ordination Division

Among the Division's significant achievements during the 1991/92 financial year were the publication of the Commission's report on prostitution, the completion of Queensland's first crime victims survey, a review of the QPS Information Bureau, the development of a confidential briefing paper on SP bookmaking, and the preparation of a detailed description of the Queensland criminal justice system, *Crime and Justice in Queensland*.

Division reports have addressed a wide range of law reform and criminal justice administration issues, offering both research findings and recommendations for change in policy and practice. The public reports in particular have greatly contributed to public awareness of criminal justice issues, as reflected in numerous public debates.

Although it has been functioning for only a little over two years, the Division has now completed the majority of projects that were given priority when the Commission was established.

Legislation and History

The Fitzgerald Report recommended that a separate Division be established within the Commission to undertake research and monitor reforms in specified areas. The formal direction to implement this recommendation was incorporated in s 2.45 of the Act. Neither the Fitzgerald Report nor the Act prescribed specific research activities that the Division should conduct but, rather, issued directives to examine issues of serious concern.

The Fitzgerald Report's disappointment with the level and nature of research on the Queensland criminal justice system is evident in almost every chapter. While mindful of its primary responsibility to investigate corruption in the then Police Force, Fitzgerald QC was conscious of the fact that the police are part of the State's criminal justice *system* and reforming the QPS would necessarily affect procedures and practices of other segments of that system.

The breadth of the Fitzgerald Report's recommendations, and their incorporation in the

Act, offers a mandate for research that is uncommon, if not unprecedented in its scope. While emphasising research and review in the police area, the Act very clearly mandates research on law reform pertinent to criminal justice, on reform of the processes of enforcement of the criminal law, on the administration of justice, and on the development of compatible systems to facilitate co-ordination of research activities among criminal justice agencies. The Act also prescribes review and evaluation of the effectiveness of QPS programs, particularly those programs concerning crime prevention, community policing, and the education and training of the members of QPS.

Role and Functions

In broad terms, the Act prescribed the role and functions of the Division as:

- to conduct research into issues confronting the administration of criminal justice in the State;
- to conduct research and make recommendations on law reform pertinent to criminal justice and the reform of processes of enforcement of the criminal law;
- 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 Commission of Inquiry, community policing and crime prevention, and recruitment and training of police officers; 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.

In discharging its role and functions, whenever practicable the Division consults with individuals and agencies who have expertise relevant to the matters it is studying. It also actively seeks the input of Queenslanders from every walk of life by inviting submissions through advertisements placed

Research and Co-ordination Division

in the print media and appearances by staff on radio and television. In preparing reports and papers, the Division makes every effort to present a balanced and fair view of submissions received.

Organisation and Staffing

The Division's establishment comprises the Director, nine research staff, three support officers and three library staff. Of the nine research staff, four are lawyers and five are social scientists from various disciplines. In a Division of this size it was considered unnecessary to establish sub-structures; rather, the emphasis was on a multi-disciplinary approach.

The Division also uses consultants on specific research projects.

Major Achievements

The Division's role and functions cover an area which does not easily lend itself to measurement. It is difficult to measure the impact of programs. It is even more difficult to assess the impact of a particular research report (though perhaps one measure would be the extent of public debate and discussion generated after publication). Rather than an assessment of the impact its reports and

papers have had on criminal justice in Queensland, the achievements listed below are, therefore, more a reflection of what the Division has accomplished during the 1991/92 financial year—the projects it has completed and new tasks it has commenced.

Crime and Justice in Queensland

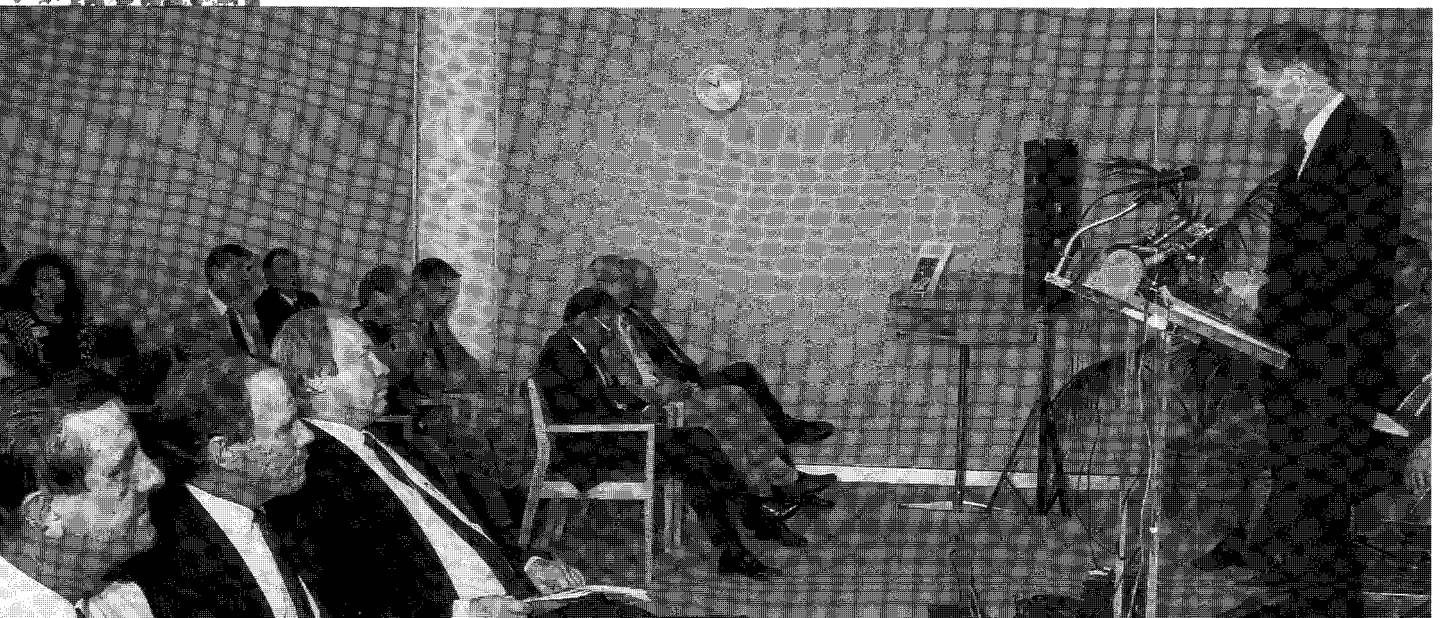
This publication was officially launched by The Hon Wayne Goss, Premier and Minister for Economic and Trade Development and Minister for the Arts, on 29 August 1991.

This document fills a gap in the information on crime and the Queensland criminal justice system. Illustrated with carefully designed graphics and written in a simple, accessible style, it provides Queenslanders with a very readable text on the nature and extent of reported crime in Queensland, how crime comes to the attention of police, and how offenders are processed through the State's criminal justice system. A second edition of the publication will be prepared in 1993.

Police Powers

In September 1991 the Commission released an issues paper, *Police Powers in Queensland*, jointly

The Premier of Queensland, The Hon Wayne Goss, launched *Crime and Justice in Queensland* at a press function at the Commission in August 1991. Seated in the front row (l to r): Deputy Commissioner Jim O'Sullivan, QPS; The Hon W. Mackenroth, MLA; Mr P O Beattie, MLA; Chairperson of the PCJC, Dr Savarshi Mukherjee; Director, Research and Co-ordination Division, Mr John Kelly; Commissioner



prepared by the Office of the Minister for Police and Emergency Services and the Commission. The paper raised issues concerning both the need for and utility of existing and additional police powers.

Constraints on the time and resources of the Division did not permit an exhaustive examination of all police powers, so the issues paper concentrated on a representative sample, e.g., the power to demand name and address, move-on powers, the power of arrest, identification procedures, search warrants and electronic surveillance. The Commission solicited the community's views on each of the powers discussed in the issues paper, asking interested individuals and organisations to consider questions such as:

- is there a demonstrated need for the use of the power?
- if there is a demonstrated need for the power, how serious must a crime be in order to justify the use of the power?
- at what stage of the investigative process should the power be available?
- who should be able to authorise the use of the power—a senior police officer, judicial officer, etc.?
- what procedures and safeguards should accompany the granting of the power?
- what should be the consequences of a failure to comply with the procedures set down?

Police powers currently derive from numerous pieces of legislation, so the Commission was also keen to examine how they might be consolidated into one piece of legislation.

Over 100 submissions were received from individuals and interest groups. Following the analysis of these submissions, the Commission held a public hearing on 10 and 11 June 1992. A number of individuals and interest groups were invited to appear before the hearing.

The Commission expects to release its final report on police powers in late 1992.

Prostitution

A final report, *Regulating Morality? An Inquiry into Prostitution in Queensland*, was tabled in Parliament on 2 October 1991. As expected, the report generated extensive debate, with ABC television and radio in the forefront. The report was the subject of an entire *Couchman* program broadcast from Brisbane. The *7.30 Report* and *Lateline* programs allocated a significant amount of time to it. Commercial television and radio networks have covered the report on a number of occasions. Newspaper reporting, both in Queensland and interstate, has also been extensive.

Most of the public discussion and debate concerned the findings of the public opinion survey and the recommendations included in the report. The Commission hopes that the final report and its recommendations will be debated in Parliament in the near future.

The report was the product of several distinct research strategies:

- a review of the literature on prostitution in Australia;
- an examination of current laws and their operation in other jurisdictions in Australia, Canada, the United Kingdom and other countries;
- development and publication of an Information and Issues paper;
- meetings and seminars involving individuals and interested organisations;
- review and analysis of 117 submissions received from individuals and interest groups;
- a survey of public attitudes towards prostitution in Queensland and Melbourne;

- a survey of sex workers in Brisbane, Cairns, the Gold Coast and Townsville; and
- a workshop involving academics, lawyers, health professionals, public servants, police and researchers.

Highlights of these activities are discussed below.

Issues Paper

Prostitution poses complex legal and public health problems for society. Many view it as having important implications for the status of women. It raises intense moral and religious concerns. While the Commission thought it important to seek the views of the wider community, at the same time it was also aware of the importance of developing an issues paper that would inform public opinion by presenting a balanced set of facts and points of view.

The issues paper was prepared in consultation with various government departments and scholars. Over 1,000 copies of the paper were distributed. Well over 100 submissions were received from individuals and organisations.

Review of Prostitution-Related Legislation

Two well-known Australian scholars were engaged as consultants to provide the Division with a review of prostitution-related laws and their application in New South Wales, Victoria and Western Australia, States which had made significant changes to their legislative or policy approach to prostitution during the 1980s. These analyses served as a good backdrop for analysing Queensland data and formulating the Commission's policy recommendations.

Survey of Sex Workers

The Commission felt that while it was important to canvas the general community's attitudes towards prostitution-related activities, it was also necessary to seek sex workers' views. The Division conducted a survey of 73 sex workers (66 female, five male, and two transsexuals) to learn why they entered the profession, how many clients they saw, how much money they earned and how they viewed various aspects of their profession, including the operation and enforcement of the current laws and their relationships with the police.

The sex workers gave various reasons for engaging in prostitution-related acts (see Graph 21). A substantial number entered sex work because they needed money to live; the next most common reason given was few job skills.

The survey showed that a large number of women entered sex work at a relatively early age. More than a quarter were married or in a de facto relationship.

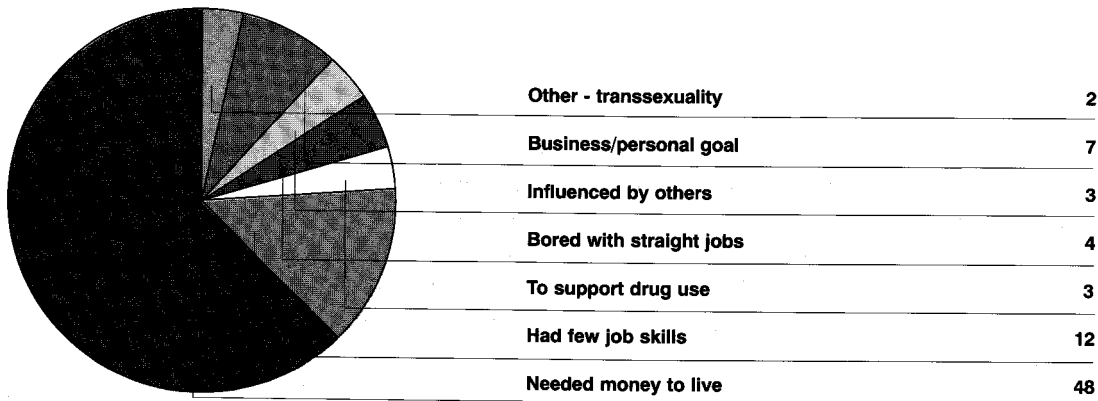
Survey of Public Attitudes

Finally, the Commission's report on prostitution was also influenced by the responses of a survey of a representative sample of 1,500 Queenslanders 18 years and older. Approximately two out of three respondents were in favour of prostitution in brothels being decriminalised (see Table 3).

The Commission held a Public Meeting on police powers in Parliament House on 10-11 June 1992. Members of the panel were: Mr John Kelly, Commissioner; Ms Susan Johnson, Deputy Research Officer; Dr Janet Wain, AM, Commissioner; Mr Marshall from General Counsel; and Dr Satyanshi Mukherjee, Director, Research and Co-ordination Division.



Graph 21: Reasons for Entering Prostitution



Note: There were 73 respondents; however, respondents could give more than one reason

Table 3: Queenslanders' Attitudes Towards Prostitution-Related Activities

	Should it be Against the Law ...		
	Yes %	No %	Don't Know %
... to sell sex from home?	53	44	3
... for a person to sell sex from a brothel?	34	63	3
... for a person to attract clients in a public place?	83	14	3

Development of Recommendations

In developing the recommendations included in the report, the Commission had regard to important policy goals toward which changes in law should aim. In particular, the Commission believed that any attempt to reform law relating to prostitution-related activities should bear in mind the following policy goals:

- the reduction and, if possible, eradication of prostitution;

- the protection of children from exploitation and coercion;
- the prevention of criminal involvement in prostitution;
- the prevention of corruption in the QPS and other government agencies;
- the minimisation of public nuisance;
- the maintenance of proper accountability and monitoring of the sex industry;
- the protection of sex workers and their clients (and thereby the community) against health risks;
- the prevention of exploitation of sex workers; and
- the use of cost-effective measures for dealing with prostitution.

The Commission's review identified four options, some overlapping, which could address the above policy goals. These were:

- strict enforcement of the criminal law;
- no application of the criminal law;

- partial application of the criminal law; and
- regulation of prostitution-related activities by means other than the criminal law.

The Commission considered the estimated costs of the strict enforcement option prohibitive and its likely consequences undesirable. Similarly, the Commission discarded the option of putting prostitution and related activities completely outside the reach of the criminal law.

The Commission's preferred option was partial decriminalisation and the establishment of a system of regulation. It recommended the retention of a number of criminal sanctions for activities associated with the industry, proposing, for example, that there be heavy penalties for prostitution activities that involve children under the age of 18 and certain disadvantaged groups, and similarly, heavy penalties where prostitution involved coercion, intimidation or fraud.

SP Bookmaking

Research on SP bookmaking was one of the first projects undertaken by the Division. It involved a review of the history of SP bookmaking in Queensland, an examination of race-fixing, and an assessment of the utilisation of Telecom facilities by SP bookmakers and punters. The Division hoped to be able to publish a report identifying options for reform in the laws regulating SP bookmaking.

However, because of certain legal issues, the Commission's report could not be publicly released. The Commission therefore made the findings of this research available to the Premier in the form of a confidential briefing paper. The Commission hopes that the legal obstacles will be removed in the near future and the results of the research will be made public.

Review of the QPS Information Bureau

The Fitzgerald Report recommended that the Commission conduct a comprehensive review of QPS information systems. The recommendations also emphasised that such a review was to take place in co-operation with specialist external consultants and QPS officers. The Commission constituted such a committee in February 1991.

The main purpose of this review was to assist the QPS in improving the quality of their statistical information on crime and offenders. The Review Committee's Terms of Reference required it to examine the following issues:

- legislation affecting the functioning of the Information Bureau;
- the use and integration of information systems within the QPS;
- the development and operation of statistical systems within the QPS;
- the levels of staff and resources required for the Information Bureau;
- the dissemination policy of the Information Bureau;
- the introduction of a more realistic fees-for-service policy; and
- a system to ensure confidentiality and security of data.

The Committee's review identified four major deficiencies in the operation of the Information Bureau's functions:

- inadequate computer resources;
- lack of integration of computing resources;
- poor co-ordination between the needs of operational police and information systems; and

- limited dissemination of data held by the Information Bureau.

The Committee submitted its report in January 1992. The report contained 29 specific recommendations, all of which were accepted by the Minister for Police and Emergency Services and the Commissioner of the Police Service. The Committee recommended the formation of an advisory group that would oversee implementation of the recommendations over a two-year transition period. It also proposed that the recommendations be revisited at the end of that period in order to assess how they had been implemented.

Crime Victims Survey

A crime victims survey, jointly funded by the Commission and the Government Statistician's Office, was conducted in 1991. The main objective of the survey was to extend the range of data on the characteristics of crime and crime victims in Queensland.

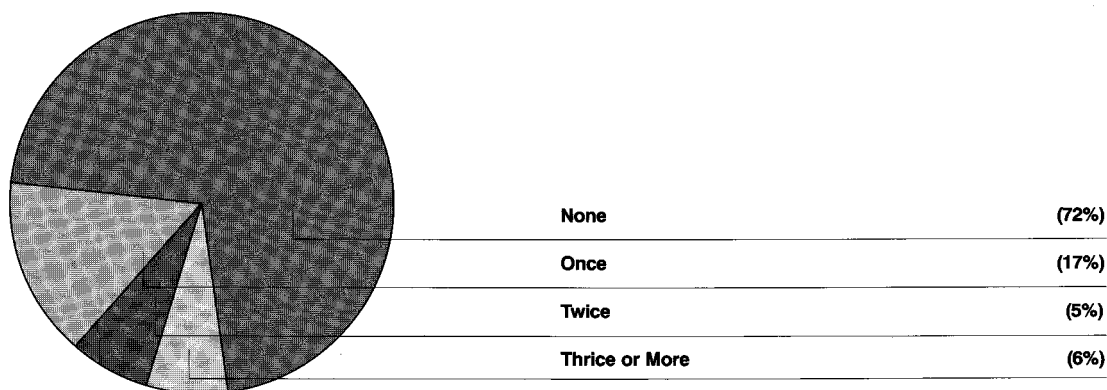
Crime victims surveys have become a widely used tool in estimating the true nature and extent of crime. The results of such surveys serve to

complement official statistics on crime produced by police services. They assist decision makers in formulating policy, planning law enforcement strategies, and designing victim assistance support and compensation schemes. They also inform the community of the risk of victimisation for particular parts of the population, e.g, women, children, youth, and the elderly.

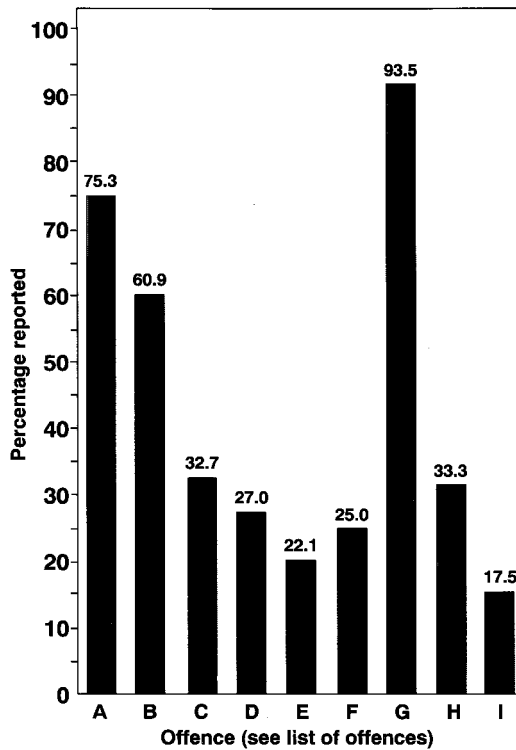
Crime victims surveys are most effective in obtaining valuable information on crimes that occur with great frequency—assault, robbery, personal and household theft, break and enter, motor vehicle theft, and vandalism. Such surveys are not as effective in measuring the true trend of offences like rape, kidnapping and terrorism, and they have not, generally, been directed towards white collar crime victimisation, which is a serious concern in many societies.

The Queensland Crime Victims Survey included questions on both household and personal victimisation. Unlike surveys in other jurisdictions, it also asked respondents questions concerning their attitudes towards various aspects of criminal justice administration, e.g, the punishment of offenders, the installation of security devices, and reporting or non-reporting of crimes.

Graph 22: Frequency of Household Victimisation in Queensland



Graph 23: Household Crimes Reported to Police



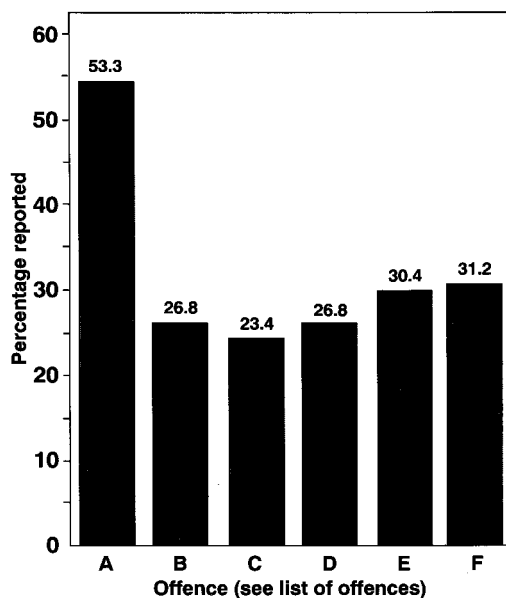
The survey showed that of the estimated 1,008,800 households in Queensland more than one in four—or 279,000—households experienced at least one property offence during the 12 months prior to the survey (see Graph 22). Over 20 percent of the victimised households had been victimised more than once.

The survey also showed an estimated 360,200 people aged 15 years or older were victims of at least one personal offence other than verbal abuse. The majority of household as well as personal crimes were never reported to the QPS (see Graphs 23 and 24).

Youth Crime

Youth crime is a matter of serious public concern requiring urgent attention. As the first step in a comprehensive review of youth crime in Queensland, the Division prepared *Youth Crime and Justice in Queensland: An Information and Issues Paper*, which was released in March 1992. The paper canvassed issues such as the structure and operation of the State's juvenile justice system; correlates of youthful offending; the treatment of juvenile offenders by the police and courts; juvenile sentencing and detention; the cost of juvenile crime; and frameworks of responsibility.

Graph 24: Personal Crimes Reported to Police



There is currently little reliable information on the extent and nature of juvenile crime, and it is difficult to say what proportion of crime is committed by youngsters. However, data available from the QPS, the Children's Court and the Department of Family Services and Aboriginal and Islander Affairs (DFSIAIA) indicates that juveniles are involved by and large in crimes such as break and enter, shop stealing and stealing in general (see Graph 25).

Available data shows that among juveniles who came into contact with the police, boys outnumbered girls four to one. Among girls under the age of 17 who came into contact with police, two-thirds were involved in shop stealing.

Relatively few girls were placed under detention. The majority of boys and girls who were incarcerated came from the age group 15 to 16 years.

The Commission advertised widely the availability of the issues paper and called for public submissions. By the end of June 1992 more than 2,000 copies of the paper had been distributed and more than 100 submissions had been received from individuals and interest groups.

The Division is currently considering options for longitudinal research in this area.

Police Education and Training

In July 1990, the Commission, in consultation with the Commissioner of the QPS, constituted the Police Education Advisory Council (PEAC), which included the Chairperson of the Commission and the Director of the Research and Co-ordination Division.

In late 1990, PEAC provided the QPS with a detailed set of recommendations for a new education and training program for recruits, and in January 1991 the first new QPS recruits entered the new program. Under the new scheme, recruits

spend the first semester at either the QUT or Griffith University. The second semester is taught at the Queensland Police Academy.

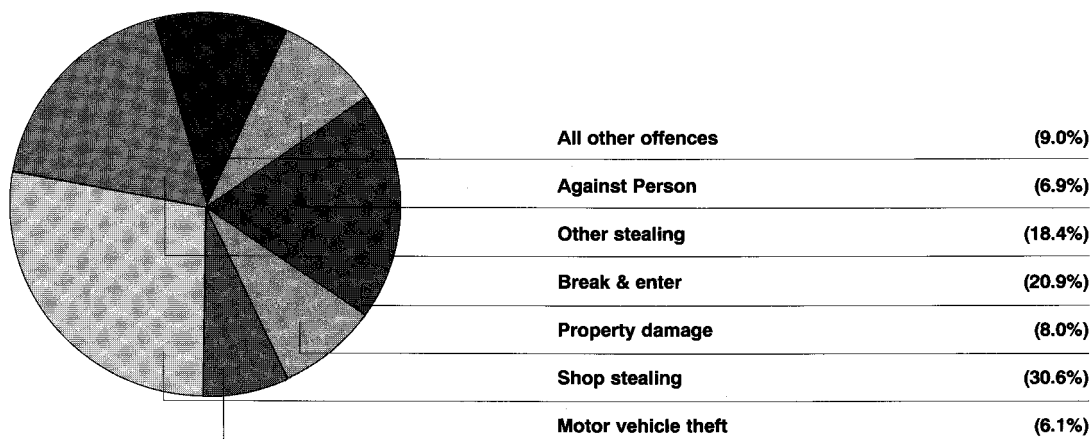
The courses in the first semester fall into four major areas:

- the legal system,
- issues in Australian society,
- ethics and accountability, and
- communication.

The second semester at the Academy includes courses in:

- personal and inter-personal relationships in policing,
- foundations of crime and policing,
- organisational theory and management in policing, and
- police professional studies.

Graph 25: Juvenile Offences 1990/91



The first groups of recruits were sent directly to the universities without the benefit of any orientation or induction program. When some recruits expressed disillusionment with the university course, principally because they thought it unrelated to actual policing, PEAC recommended that the QPS introduce a formal orientation program. Before actually beginning the training course all recruits are now required to attend a one-week orientation program at the Academy, followed by an orientation week at the university.

At the end of their first year, QPS recruits receive a Certificate in Policing or an Advanced Certificate in Policing and are inducted as constables. Thereafter, recruits are sent to various police districts and divisions, where they undertake the Field Training Program. That program consists of:

- a mentor component (eight weeks), which provides for supervised operational training for the constables immediately upon their arrival at the station;
- a general training component (approximately 42 weeks); and
- an evaluation and reflection component (two weeks), which is held at the Queensland Police Academy towards the end of the field training.

At the end of their second year, the recruits are regarded as fully fledged police officers with all the responsibilities, duties and powers that are attached to the office of constable. Those constables wishing to continue their education can obtain credit towards a Bachelors Degree in Justice Studies from the QUT or a Bachelors Degree in Justice Administration from Griffith University. Completion of these degrees will require a further two years full-time or four years part-time study.

Table 3 presents a summary of the new training and education program's recruit intake.

The Queensland Police Academy received final approval of its new structure from the Minister for Police and Emergency Services in December 1991.

The Academy is organised under the Director of Personnel of the QPS and is headed by the Dean, who is also a Chief Superintendent of the QPS. The Dean is advised by the Academy Council, which comprises representatives from the QPS, the tertiary education providers, the Commission, the community and the staff of the Queensland Police Academy.

As of 30 June 1992, not all Academy appointments had been filled. However, efforts continue to recruit persons for those positions and otherwise equip the Academy with appropriate resources. A significant number of the senior positions have been filled by civilians.

The Research and Co-ordination Division continues its association with the new recruitment and training program. The Division published the results of a Queensland Police Recruit Study in February 1992. With the help of experts from the University of Southern Queensland, the Division also assisted in evaluating the status and functions of the position of tutor at the Academy.

Monitoring Police Reform

Upon assuming responsibility for monitoring and reviewing the implementation of the Fitzgerald Commission of Inquiry's recommendations for police reform, the Commission formed a sub-committee comprising the QPS Deputy Commissioner, Support Services, the QPS Director of Policy Research and Evaluation, the Director of the Commission's Research and Co-ordination Division and a Principal Research Officer of the Division. Charged with monitoring the implementation of the reforms, the sub-committee has already prepared several status reports.

Most of the Fitzgerald Commission of Inquiry's recommendations were expected to be implemented within a three-year transitional period ending in December 1992, when the Commission would present a major report to the Parliament on the status of these reforms.

Table 3: Characteristics of Recruit Intake Under the New QPS Two-Year Education and Training Program, 1991-1992

Characteristics	February 1991	July 1991	February 1992
Gender			
Male	282	159	79
Female	118	91	41
Age			
Under 20	165	117	47
20-24	154	78	56
25-29	51	33	9
30 +	30	22	8
Education			
Secondary/TAFE/Trade	364	206	24
Part Degree	21	16	26
Degree +	15	28	70
Total Intake	400	250	120
Number completed Certificate Course	368	218	currently enrolled

The Commission has already begun work on this assessment. In early 1992, the Division identified eight principal areas of reform that would constitute the focus for the Division's efforts in the preparation of the report. These areas are:

- regionalisation,
- the QPS Task Force,
- recruitment and training,
- QPS transfer and promotion systems,
- community policing and crime prevention,
- civilianisation within the QPS,
- communication and computerisation, and
- structure of QPS and allocation of staff.

The vast majority of Fitzgerald's recommendations are encompassed in these areas. It is important to highlight that this project will not necessarily

measure the effectiveness of the reforms. The Commission considers it too soon to determine whether the reforms have been effective (although the report will include suggestions for how this might be accomplished). At this stage, the Commission considers it more useful to examine *how* the reforms have been implemented, i.e., whether they have been implemented the way they were intended or with modifications.

The Division has allocated a substantial amount of resources to this task and anticipates completing the report during the first half of 1993.

The Commission's responsibilities for monitoring police reform are discussed in more detail in Chapter 12.

Domestic Violence

The Division has submitted to the QPS Working Party on Domestic Violence a detailed research proposal to evaluate court orders issued under the Domestic Violence (Family Protection) Act. Division staff have already held preliminary

discussions with the QPS, DFSAIA, and the courts, and work will begin on the project as soon as decisions are made about access to files. In the interim, the Division has begun a study of family-related homicide. This project uses data from the QPS Information Bureau.

If time and resources permit, the Commission may plan other research activities in this area.

Construction of a Criminal Justice Database

This matter is currently being examined by the Information Policy Board of the Department of the Premier, Economic and Trade Development. The Board has surveyed Queensland criminal justice agencies to ascertain those agencies' interest in contributing to and/or co-ordinating a criminal justice database and the expertise they would be able to make available to such an undertaking. A consultant to the Board has met with representatives of Queensland criminal justice agencies, including the Commission. Further development is expected in the coming financial year.

In its December 1991 review of the Commission's operations, the PCJC recommended that an independent bureau should be established to maintain the criminal justice database. The Committee further recommended that the bureau should be located within the Research and Co-ordination Division, with additional resources made available to the Division.

Community Policing and Crime Prevention

The Division has made substantial progress towards developing and implementing a pilot community policing project. After selecting the city of Toowoomba as the project site, Division staff collected and examined daily worksheets and call-for-service records held by the Toowoomba police division and conducted negotiations with the Toowoomba City Council. The project is presently under consideration by the Commission.

As a backdrop to the pilot project, Division staff plan to use Toowoomba police division data to prepare a paper examining the types of tasks that police officers undertake, the time required to complete those tasks, and the methods they use to solve the problems that routinely confront them in performing those tasks.

Profiling Police Divisions and Districts

The main objective of this project, a joint enterprise between the Commission, the QPS and the University of Queensland, is to develop detailed profiles of police districts and divisions. For a number of reasons, among them the Commission's interest in the Inala district as a result of recent investigations of allegations of police misconduct, Inala is the first district that the project team examines.

An offshoot of the program, a police shop-front, began operating in the Inala shopping centre in early May 1992. Designed to be a focal point for community police liaison, it has already received strong public support. The Division has contributed both staff and equipment to the project and is currently assisting in the evaluation of the shop-front.

Register of Forensic Science Service Providers

The Division is currently preparing a forensic science services register, designed to provide the Government with information on the nature of forensic science services offered by various bodies in the State and to assist the legal fraternity in the conduct of criminal cases. The register will be available very early in the new financial year. Discussions with relevant individuals and agencies in the State already indicate a great deal of interest. The Commission understands that there is some interest in preparing a similar document for the whole country and hopes that the Division's efforts can be combined with those of other jurisdictions toward the preparation of a comprehensive national register.

Setting Research Priorities

The Division's priorities and work program are reviewed and approved by both the Commission and the PCJC. Although the Division would like to undertake research in a number of other areas, those potential projects compete with existing projects for the Division's resources. The Division is aware of the fact that research is required in important areas like corrections and sentencing, but cannot entertain commencing those projects until it completes those currently in hand or has access to additional staff.

In order to decide on priority areas, the Division conducted a quick survey of concerned people, e.g. politicians, representatives of State government departments and academics. The purpose of the survey was to seek their views on the utility of research into selected areas. The survey instrument consisted of 25 questions asking respondents to rank on a three-point scale the utility of research on a range of criminal justice topics. One hundred and eleven responses were received. Respondents identified research into the following four issues as most useful:

- methods of crime prevention and their impact;
- how to best match treatment or punishment with types of offenders;
- the progress of delinquency into adult criminality; and
- the extent and nature of crimes committed by youths, particularly those under the age of 18 years.

Finally, the Division has had to choose between basic/fundamental research and applied research. While recognising the importance of basic research and the different emphases of the two types of research, it has decided to concentrate on applied research. Almost all of the research conducted by this Division has been practical in nature.

The Library

The Commission's library, which is managed within the Research and Co-ordination Division, continues to grow. It provides a range of services for Commission staff and is available for use by members of the public. During the year, library



staff inaugurated a bi-monthly Current Awareness Service which indexes journal articles, lists subject bibliographies and includes comments on the use of library resources.

The library has an on-line catalogue and conducts on-line subject searches on external databases including CINCH, the database of the Australian Institute of Criminology.

At the close of the financial year, holdings in the library were:

The Commission's library holds a selection of law reports, plus a wide range of criminology and law titles. The library is available for use by members of the public.

Research and Co-ordination Division

Monographs (including books, reports and legal opinions)	4,020
Loose Acts, Bills and Reprinted Acts	700
Subscriptions/Periodicals	218
Loose-leaf Services	25
Pamphlets and ABS Booklets	370
Annual Reports	200

Co-ordination with Other Agencies

Under the Criminal Justice Act, the Research and Co-ordination Division is given responsibility of co-ordinating the activities of the Commission and the activities of all other agencies in the State concerned with the administration of criminal justice in Queensland.

Mr Fitzgerald QC, in his report, said that the administration of criminal justice involves complex problems that cannot be addressed by ad hoc, fragmented responses by individual agencies. He indicated that the Commission's role should be to supplement and complement the research activities of other agencies and thereby avoid duplication of effort.

The Division understands co-ordination to mean setting up a mechanism whereby departments and agencies concerned with the operation of the criminal justice system can interact with each other and share information without interfering with each other's operations. The difficulty that the Division faces in attempting to fulfil this role is that other departments and agencies have their own legislation, priorities and responsibilities and the Commission has no power to compel their co-operation.

The Division has tried to avoid duplication and to ensure effective liaison with other departments and agencies involved in the areas with which it has

been concerned. While the Division has attempted to fulfil its responsibilities in this regard, the larger goals have not necessarily been shared by other departments or agencies in the State and may not be shared until legislation mandates them to do so.

On the other hand, the Commission recognises that co-ordination will be a long-term exercise requiring long-term commitment. The past three years have been a period of reform for the entire public service. Numerous changes have occurred in legislation and departmental structures. The Division is aware that these changes must be allowed to settle before introducing efforts to co-ordinate activities.

Problems Encountered

Upon the Commission becoming fully operational in April 1990, the Division's efforts were largely directed towards the urgent projects named in the Fitzgerald Report. As these were completed, the Division has been able to move on to other projects, using Parliamentary debate, media reports, expert opinion and surveys conducted by the Division to identify and prioritise new areas of concern. However, maintaining a specific long-term priority focus has proved difficult when new, sometimes more important, issues continually emerge. The depth and scope of the present research agenda points to the previous lack of criminal justice research in Queensland.

The Division's ability to undertake additional projects is limited by the unavailability of personnel with qualifications and experience appropriate to undertake research in relevant areas.

During the last two-and-one-half years, the Division has had difficulty recruiting staff with sufficient knowledge and experience of the criminal justice field. So far as staff resources are concerned, the Division is still in its infancy. Providing the present staff remain with the Division, another two years will be required to build the requisite base of knowledge and expertise.

Future Directions

The Commission is in a unique position in that it is independent of any government instrumentality. The research agenda of the Commission is not subject to any political influences or interference by vested interests. In prioritising areas of research and selecting methods to conduct that research, the Division considered that its work should reflect a balanced and objective approach and rely on rigorous scientific methodology. Regardless of whether or not the Commission's recommendations accord with government policy, the process by which its reports are tabled in the Parliament guarantees that the public of Queensland is afforded access to its research findings.

The Division still has to complete research on some areas and address some other areas that were identified in the Fitzgerald Report and fall within the Commission's legislative responsibility. In particular, the Division has not been able to investigate issues such as:

- law reform in the area of drugs;
- law enforcement resources;
 - effective use of resources across the system,
 - self-funding of activities,
 - sufficiency of funding to law enforcement agencies,
- appropriateness of various activities that are carried out by criminal justice agencies;
- sentencing;
 - alternatives to imprisonment, community service orders, etc.,
 - establishment of a sentencing information system,
- prison management and reform; and
- the evaluation of the legal aid system.

These are issues which the Division hopes to address over the next three years.

5. Intelligence Division

During the 1991/92 financial year, the Intelligence Division moved more firmly into the interactive analytic and strategic role anticipated in the Fitzgerald Report. During this period, the Division:

- developed several confidential intelligence assessments at the request of the Commission;
- developed and presented to the Government two major strategic intelligence assessments relating to organised crime activities;
- provided ongoing analytic intelligence support to major OMD operations;
- trialled, installed, and brought on-line a secure electronic criminal intelligence database; and
- trialled and purchased computer hardware and developed software applications that would serve as "front-end" analytic tools.

Legislation and History

In 1989 the Fitzgerald Report recommended the establishment of a suitably equipped, professional and specialist criminal intelligence unit, independent of the Police Force. Later that year, s. 2.47 of the Act set forth the role and functions of such an entity within the organisational structure of the Commission.

The Intelligence Division became operational in June 1990 with an initial establishment of 16. During its formative months, the Division operated a manual filing system and, in general terms, worked independently from the rest of the Commission. However, in early 1991 the Division began to operate in a more interactive role within the Commission and to emphasise a more strategic approach to intelligence operations. Over several months, major changes were made to the composition of the staffing complement and the sophistication of its electronic equipment.

Using its secure electronic database, the Division now provides both tactical intelligence support to Commission operations and strategic intelligence support to the Commission and the Government.

Role and Functions

The Intelligence Division is a professional and specialist criminal intelligence unit providing an effective criminal intelligence service about which may be structured an integrated approach to major crime, in particular, organised crime and criminal activity transcending the normal boundaries of criminal activity that is the subject of local police action. Under s. 2.47 of the Act, the Intelligence Division is required to:

- create a database of intelligence concerning criminal activities and persons concerned therein, from all lawful sources;
- secure the database and records in its possession and control so that only persons who satisfy the Chairperson or Director of the Intelligence Division that they have a legitimate need of access to information are able to do so;
- oversee the performance of the role of the Bureau of Criminal Intelligence, Queensland (BCIQ);
- assume possession and control of all data and records continued in being by the *Commission of Inquiry Continuation Act 1989*, and
- subject to the Commission's approval, report to the Minister and the Minister of the Crown responsible for the QPS on matters of criminal intelligence pertinent to the deliberations, policies and projects of the Government.

Organisation and Staffing

During the 1991/92 financial year, the Division re-organised and increased its establishment to 24. The Division currently consists of:

- a directorate;
- two tactical intelligence sections;
- a strategic intelligence section; and
- a database management section.

Intelligence Division

Changes in organisation and establishment were due largely to an operational audit of the Division, completed in July 1991. The audit report concluded that the Intelligence Division had evolved into an effective and efficient "full service" intelligence function. Moreover, it noted that the Division has a broader range of responsibilities than most law enforcement intelligence units. In addition to providing the full range of tactical, operational, and strategic intelligence analysis, it has the role of overseeing the QPS intelligence function and the QPS's liaison with other law enforcement agencies.

Most notably, the report confirmed the Division's new emphasis on strategic intelligence and the priority the Division had given to acquiring an electronic database. It recommended that the recruitment and training of staff to maintain the database should also be a priority for the Division during the 1991/92 financial year.

Intelligence Database

The Act requires the Division to establish a database of information on criminal activity and to apply that information as appropriate to law enforcement operations. Because the Act also requires the Division to examine and report on organised and major crime, which by their nature involve complex groupings and sophisticated criminal methods, an electronic database was considered the only feasible method of storing and manipulating the amount of data that such a task would involve. The procurement of a database was listed as a priority task in last year's annual report.

An Intelligence database working party examined a number of databases utilised by other law enforcement agencies both locally and interstate. It concluded that, in terms of functionality, security and compatibility, a modified version of the system used by the Australian Bureau of Criminal Intelligence (ABCI) would best meet the Commission's and the Division's needs.

The Commission was fortunate to receive the assistance and guidance of ABCI staff in the design of its database. With the ABCI's assistance, Commission staff modified the ABCI's software application and used ABCI hardware on a temporary basis until the Commission acquired its own equipment. By January 1992, the new database was operational in the ABCI's "bureau" environment and staff user-training was completed. The collation of information began.

Criminal intelligence information is now analysed and entered into the database as it is received. In addition, Division staff have made great progress in back-capturing important related material from sources such as the Fitzgerald Commission of Inquiry, the Complaints Section, and past OMD operations—a project that should be completed during the second half of 1992.

To provide greater security for information held on its electronic database, in June 1992 the Commission purchased its own mainframe computer. By late July 1992 the entire system will

With the establishment of the Intelligence Division's database, criminal intelligence information can be analysed and reported as it is received.



be transferred from ABCI and up-loaded on the Commission's hardware. It will operate in a stand-alone environment on Commission premises.

In support of the new database, the Division trialled and selected new analytic software for use as "front-end" analytical tools. Together with new workstations, this software allows the Division's analysts a great degree of flexibility when analysing and integrating data.

In addition to maintaining the Intelligence database, staff in the Database Management Section provide a specialised information retrieval service, using various internal and external databases. The use of this service is fully auditable to ensure that only those persons with a documented "right" and "need" to know are authorised to access information.

Major Projects

It is not possible in a report of this nature to give specific details of the Division's projects. However, with that proviso, the Division can report in general on a number of major projects that were undertaken or completed during the 1991/92 financial year. In addition to its aforementioned work on the criminal intelligence database the Division:

- analysed data concerning criminal activity and personalities involved to prepare a number of reports in support of the Commission's operations, including several target proposals and two major strategic assessments of specific areas of organised crime activity that were provided to the Government in accordance with s. 247(2)(e) of the Act.
- provided ongoing tactical intelligence support to OMD Multi-disciplinary Team operations, with Intelligence staff routinely included as members of specialist operation groups investigating organised and major crime activities.

- completed implementation of the recommendations from the Division's earlier assessment of the BCIQ, with changes occurring in its structure and procedures and its relations with other sections of QPS.
- co-ordinated two audits of the QPS Counter Terrorist/VIP Protection Section. Recommendations made by the Division have led to some fine tuning of the Section's Charter and procedures.
- conducted an on-going program for vetting new staff prior to their joining the Commission, as well as regular reviews of staff in respect of change of personal particulars. The Division has also been instrumental in the development and introduction of a new security and classification system for all Commission documents.
- facilitated the merger of the Commission's Analyst Training Course with that of the BCIQ. Analyst training is now conducted jointly with BCIQ every six months; members of other agencies also attend.
- developed and implemented guidelines for the management of strategic intelligence projects and the standardisation of the resulting assessments. These guidelines, recognised as a "first" in this area, were used at the recent National Strategic Intelligence course conducted at the Australian Police College.

Inter-Agency Co-operation

The Commission continues to promote the importance of information-sharing to meeting law enforcement objectives, particularly those focusing on organised and major crime.

The Division has established effective liaison with other law enforcement agencies and government instrumentalities in support of the Division's functions and the Commission's investigations overall. A number of memoranda of understanding

Intelligence Division

governing the exchange of information are now in place. The Division is represented at the bi-annual Heads of Criminal Intelligence Agencies Conference convened by the ABCI and receives frequent invitations to attend other law enforcement conferences of relevance to criminal intelligence and the investigation of organised crime.

Division analysts have also been involved in supporting Commission operations conducted jointly with other agencies both locally and interstate.

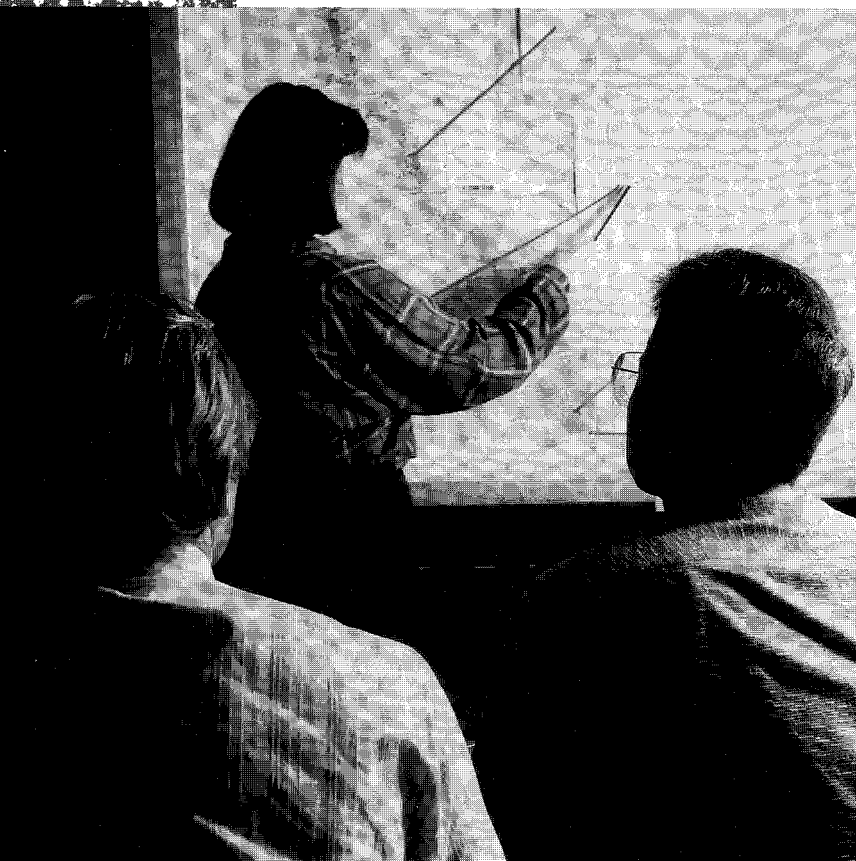
Problems Encountered and Initiatives Taken

- **Lack of Information.** Prior to the Fitzgerald Commission of Inquiry, organised crime had received no systematic attention. The little information that was available was neither centrally consolidated nor easily retrieved. The

Intelligence Division had to undertake a substantial research and data collection effort before it could make an effective contribution to the Commission's organised crime assessment activities.

- **Adopting a Pro-active Approach.** Traditional approaches to intelligence operations that stressed the collection of information from reactive investigations proved to be ineffective in dealing with organised crime. The Division therefore developed pro-active data collection strategies that would support a more strategic approach to the study of organised crime activity.
- **Liaison with Operational Staff.** Traditionally, law enforcement agencies often underestimate the value of the intelligence function, which can hinder the flow of information from operations to intelligence and inhibit the application of intelligence information to investigations. The Commission addressed this potential problem by placing intelligence analysts on the Multi-disciplinary Teams involved in organised crime investigations. The analysts provide investigations with valuable analytical support and ensure the smooth flow of information between the two Divisions.
- **Public Perception of Intelligence Division Function.** The Commission remains aware that some members of the public view the Commission's intelligence function with some fear. To allay these concerns, the Intelligence Division continues to operate under strict guidelines based on principles espoused in Commonwealth freedom of information and privacy legislation. Adherence to these guidelines ensures that only information relating to criminal activity is retained in the Division's database and that individual rights are protected by security and audit programs.

During 1999, the Intelligence Division analysts prepared a range of strategic assessments of organised crime activity. They also provided ongoing tactical intelligence support to Multi-disciplinary Teams.



Future Directions

The Commission's responsibilities include overseeing criminal intelligence matters and managing criminal intelligence with specific significance to major crime, organised crime and official misconduct. In addition to providing the Commission with a fully integrated and professional intelligence capability, the Division will continue to oversee the QPS intelligence function and its links with other law enforcement agencies on matters pertaining to criminal intelligence.

With the recent installation of the permanent database, the Division will continue back-capturing Commission material relating to criminal intelligence and refine collection and data entry procedures in order to provide a fully integrated data capture and storage system. This process will be completed towards the end of 1992.

The Division will continue to emphasise both its tactical and strategic intelligence roles:

- introduction of the Commission's new approach to organised crime investigations—including intelligence analysts among the personnel attached to a Multi-disciplinary Team—has already proven to be an important milestone in the development of the Commission's organised crime function.
- the Division will continue to play a vital role in strategic law enforcement, advising both the Commission and the Government on matters of criminal intelligence pertinent to their deliberations, policies and projects.

The Division will continue to identify areas of concern in respect of organised crime and embark on suitable tactical and strategic projects. The resulting reports and assessments will inform the decision-making process, assist the efficient use of resources, and play a pivotal role in the formulation of policies to counter the organised crime problem.

6. Witness Protection Division

Witness protection programs are now internationally recognised as a vital resource requirement of law enforcement in order to combat organised and major crime. To understand the task of witness protection, the Commission considers it helpful to re-enforce the view as published in the Commission's 1990/91 Annual Report that:

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.

Many persons protected by the Division are hardened criminals whose reason for entering the program is fear for their own safety rather than a commitment to the social order. To argue, as some have sought to do in recent times, that they do not deserve this assistance is to misunderstand the function of the Division. Protected witnesses are often part of the criminal milieu, not model citizens. They are under protection to assist the criminal justice system in bringing to justice persons who, because of their ability to intimidate witnesses and associates, have previously been beyond the reach of the law. They are protected in the interests of the community, not their own interest.

Confidentiality is the cornerstone of a successful witness protection program and as such, operational procedures must not become public knowledge. Given that restraint, only performance indicators will be considered in this chapter.

Legislation and History

Witness protection came to prominence in Queensland during the Fitzgerald Commission of Inquiry, when it became necessary to protect several significant witnesses who were able to give direct evidence of crime and corruption. However, at that time, Queensland had no formalised witness protection program, nor was there any legislation in place.

The Fitzgerald Report identified the need for a formalised witness protection program to assist in combating organised crime in Queensland. In his blueprint for reform of the criminal justice system, Fitzgerald QC delegated this function to fall within proposed new legislation in Queensland, which became known as the Criminal Justice Act.

Role and Functions

Under the Act, the witness protection role and functions were made a responsibility of the Commission. The role and functions of the Division are set out in sub-sections 2.50, 2.51 and 2.52 of the Act.

Organisation and Staffing

The Chairperson of the Commission, who has ultimate responsibility for the Witness Protection Division, has delegated day-to-day administrative and operational management to the Director of Operations, who is also the Director of the Division. The Division is staffed by 17 male and three female police officers, assisted by two support officers. The Operations directorate has a staff of seven.

To meet the demands of an increasing workload, the Division's case management system has been streamlined to maximise staff effectiveness. The Division has been re-organised into three teams that share responsibility for managing the protection of various witnesses. This has enhanced the Division's protective ability and improved the professionalism of the service provided.

Recognising the stringent discipline required to perform this duty which can at times be mundane, the Commission rotates staff to the OMD in order that they may exercise and enhance their investigative skills, so necessary for their future development as career police officers.

Development of Procedures

The Division has simplified a number of its documents, particularly in relation to the entry and exit of witnesses from the Program.

Witness Protection Division

A "Memorandum of Understanding" is no longer used as the "agreement" between the Commission and witnesses, as this document was found to be deficient. The Commission has now drawn up and adopted new documents in the form of an "Offer of Witness Protection" and an "Offer of Witness Assistance". These redesigned documents make it much easier for witnesses to understand the terms and conditions of their entry into the Program and their obligations while in the Program.

Review of Operations

As a requirement of the Act, the Commission, through the Witness Protection Division, provides a safe and cost-effective Witness Protection Program to safeguard those persons who are assessed as in need of protection as a direct result of providing assistance to law enforcement in Queensland.

The protection this Program offers may involve close personal protection, relocation, an "on call" form of protection and/or the provision of a new identity. These may be offered on a short-term or long-term basis. Under Division policy, relocation is the preferred option because it is internationally regarded as a highly effective form of protection, provided anonymity is preserved.

It is notable that throughout the year no significant close personal protection operations were conducted other than during urgent assessment of applications. However, close personal protection was afforded to a number of witnesses during court appearances.

The Division carried over 64 witness protection operations into the 1991/92 financial year. Thirty-three were major initiatives and 31 were awaiting administrative finalisation. It received and assessed 39 new applications and accepted 25 persons into the Program. It arranged 34 relocations and co-ordinated 15 identity changes. At the close of the financial year, 45 matters had been finalised and 44 matters were carried over into 1992/93.

During the 1991/92 financial year, the Division provided court security for witnesses on an average of 16 staff days per month.

The Division is pleased to report that no person receiving protection came to harm.

Training

The Division places significant emphasis on the training of staff. Instruction in general witness protection theory and practice is provided by both Commission staff and external sources on a regular basis.

Every six months, members of staff must pass gruelling physical tests. Additionally, they must achieve high levels of competence with Commission-approved firearms, in specialised driving techniques, and in basic first-aid knowledge and practice.

To further enhance the training program the Division has:

- appointed a training officer and a specialist firearms instructor; and
- published an Instructor's and Students' Manual for the use of the Division's specialised firearms.

These manuals have been adopted by the QPS and Tasmania Police Service for firearms training and have attracted interest and inquiries from other States.

The Commission was pleased to participate with the QPS in a joint VIP/Witness Protection Course focusing on the cross-training of personnel in the field of specialist protection measures. Two representatives of the Queensland Corrective Services Commission attended the course on invitation. This course proved to be a highly successful venture for the agencies involved and has enhanced law enforcement and inter-agency co-operation in this State.

During the 1991/92 financial year, the Division devoted an average of 41 staff days per month to training, an increase of 58 percent on the previous year.

24-Hour Communications Room

The Division continued to maintain its 24-hour communications room. This is a point of contact for witnesses and other persons wishing to contact the Commission out of business hours. It is an essential safeguard for both staff and witnesses.

Achievement of 1990/91 Goals

The 1990/91 Annual Report identified the following four major goals for the Witness Protection Division:

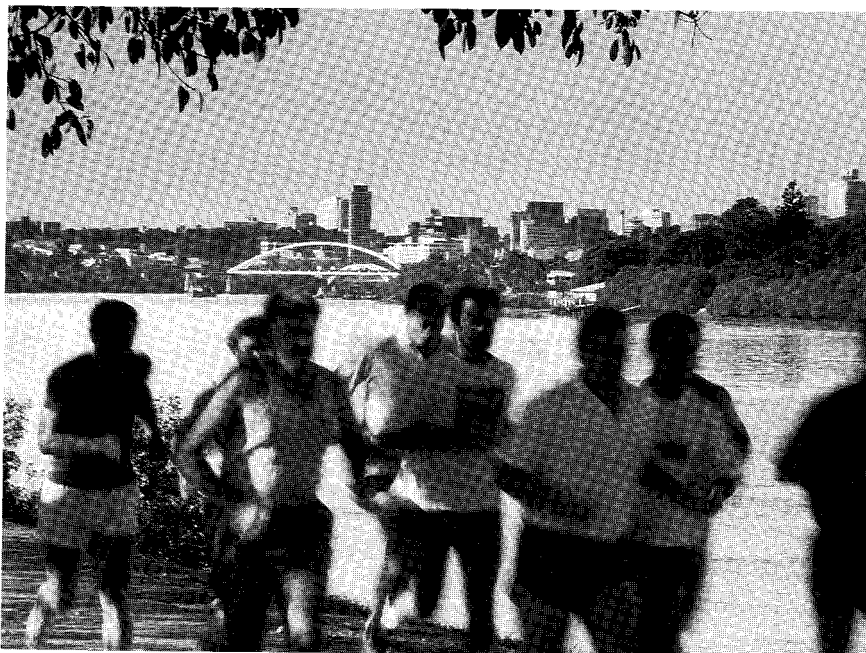
- the completion of a draft Witness Protection Manual;
- the holding of a Witness Protection Course for staff;
- the provision of regular staff training; and
- the review and acquisition of operational equipment.

Each of these goals has been achieved.

Research and Intelligence

Any organisation which strives for excellence must continually review its policy and procedures in line with the changing environment. The Division monitors and reviews all facets of its administration, operations and training on a regular basis in pursuit of professional excellence. In addition, the Division keeps abreast of initiatives implemented in other jurisdictions.

To assist in these endeavours a senior staff member has been appointed as the Division's Intelligence and Research Officer. This officer's duties include:



- identifying and developing initiatives which will ensure that the Division remains a leader in this field;
- conducting on-going research into all aspects of witness protection; and
- monitoring witness protection matters in other jurisdictions.

The Commission insists that Witness Protection staff maintain a high level of fitness. Every six months, members of staff must pass gruelling physical tests.

Inter-Agency Co-operation

The success of a witness protection program relies on the assistance and co-operation of various Commonwealth and State government agencies as well as some private sector organisations. The Division has now established effective liaison with a national network of organisations. The establishment of this "network" is vital to the on-going effectiveness and success of the Program, particularly in relation to identity change and relocation activities. Further, the Division continues to maintain its reciprocal arrangements with other witness protection agencies.

Problems Encountered and Initiatives Taken

Witness protection is an area of law enforcement that is plagued with on-going problems, particularly with respect to the day-to-day lives of witnesses and/or their families. Although some problems may be unique to a particular witness, many witnesses share similar problems, e.g., conflict with spouses and family members; financial problems; and general health and psychological problems such as stress. Some witnesses, in particular those who have changed their identity, often have great difficulty in obtaining suitable employment.

The Witness Protection Division is continually endeavouring to overcome these problems by refining its procedures and successfully utilising outside organisations. The Division works to ensure that witnesses and members of their families receive appropriate medical, psychological or psychiatric examination and/or treatment as the circumstances require.

In consideration of the welfare of Division staff, a Welfare Officer has been appointed to attend to staff welfare problems. In addition to requisite physical standards, each member of the Division must also undergo regular psychological examination to ensure that they are fit to perform their tasks.

Future Directions

The Division believes its emphasis on staff training, state-of-the-art equipment and procedural effectiveness places it as a national leader in the provision of a safe, secure and cost effective witness protection program which is well advanced by international standards and in which the citizens of Queensland can have every confidence.

Staff in the Division have attended joint national meetings on witness protection and made submissions to the Queensland Government toward a National Witness Protection Program. The Commission will continue to support this initiative.

7. Corporate Services Division

The Corporate Services Division develops policies and procedures necessary for the provision of administrative and logistical support and the control and co-ordination of the Commission's operational functions.

Legislation and History

The Corporate Services Division was created pursuant to s. 2.12(2)(a) of the Act. The Director of the Corporate Services Division is the Executive Director, who is also Secretary to the Commission.

The Commission is attentive to mechanisms of internal and external accountability and recognises that the Commission must itself be a model organisation exhibiting optimum accountability in the provision of all divisional services. This is achieved through compliance with the Public Finance Standards, the *Financial Administration and Audit Act 1977* and Public Sector Management Standards applicable to the Queensland public sector generally. Procedures for internal accountability include an independent mechanism to deal expeditiously with complaints against Commission staff, the development of a code of conduct for employees and internal audit mechanisms.

Role and Functions

The Corporate Services Division provides human resource, administration, information and financial management support for all operational functions within the Commission. It also has responsibility for selecting and maintaining the Commission's computer systems and other office and electronic business systems.

Role of the Executive Director

The Executive Director has four main areas of responsibility:

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

Divisional Organisation

The Division comprises a directorate and five sections, whose work during the 1991/92 financial year is highlighted below.

Financial Services

The Financial Services Section continues to establish and develop the functions necessary to support the Commission, whilst ensuring full accountability and compliance with the Public Finance Standards and the Financial Administration and Audit Act.

During the 1991/92 financial year this Section:

- converted the Commission's payroll system to the new Government Human Resource Management System.
- developed a comprehensive computerised asset management program which enables recording of assets, calculation of depreciation and documentation of asset condition and disposal information. This program is complemented by a stock-taking program in the Administrative Services Section.
- extended the range of financial services available to support the unique needs of covert operations.
- developed a management information system that is operation and investigation specific. This detailed costing program enables regular

Corporate Services Division

assessment of resource allocation and provides an indication of the nature of operations which are resource intensive.

- developed automated salary and budget forecasting models that have enhanced the Commission's budget review and resource allocation process and ensured their conformity with Commission plans and goals.



Computer skills are important for all members of staff and the Commission has organised many introductory and advanced training seminars.

- introduced new staff policies to promote fair and just work practices, e.g., adopted Public Sector Management Commission guidelines on matters such as sexual harassment and equal opportunity;
- conducted regular induction courses for new employees to familiarise them with the Commission's role and functions;
- designed and implemented in-house courses on wordprocessing, which were presented by a member of the Section who is an accredited trainer; and
- sponsored training courses on report-writing and written communication.

Administrative Services

The Commission's changing operational environment continues to provide daily challenges for the Administrative Services Section. During the 1991/92 financial year, this Section:

- co-ordinated a steady flow of internal office relocations to meet the changing needs of operational staff;
- co-ordinated the publication of 12 Commission reports/issues papers;
- managed the relocation of the Office of the Commissioner for Police Service Reviews and the Misconduct Tribunals; and
- completed an asset reconciliation for the entire Commission, including a stock-take of plant and equipment inherited from the Fitzgerald Commission of Inquiry.

Personnel Services

The major activities of the Personnel Services Section continue to be the recruitment of suitably qualified staff and the development and implementation of systems, policies and procedures necessary to ensure the efficient operation of the Commission. The need to recruit short-term specialist staff has added a further dimension to the Section's role.

During the 1991/92 financial year this Section:

- converted the Commission's HRM system to the new Government Human Resource Management System, which includes a comprehensive package of human resource management tools;

Information Management

Records Management

The Commission now holds in excess of 15,000 files; 13,000 pages of transcripts from public and private investigative hearings; 3,778 interview

transcripts, statements and statutory declarations; 10,000 audio cassette tapes; 650 video tapes and 1,400 archive boxes of material consisting of over 100,000 documents (acquired by both the Fitzgerald Commission of Inquiry and the Commission).

During the 1991/92 financial year the Records Management Section:

- decentralised the Commission's automated records management system to allow more effective material control;
- processed over 150 requests for transfer or return of acquired material/exhibits;
- progressively refined procedures in relation to the monitoring of holdings and the processing and return of material; and
- made significant progress towards establishing procedures for the introduction of FOI legislation.

Information Technology

During the 1991/92 financial year, the Information Technology Section registered 250 projects addressing subjects such as software acquisition, database applications, network upgrading and re-organisation, and the implementation of the Commission's intelligence database. As at 30 June 1992, 135 of the projects had been completed, 38 were actively progressing and 77 either were yet to commence or had been suspended.

During the 1991/92 financial year, the Section:

- selected and developed an advanced intelligence database application to be used by the Intelligence Division;
- selected and implemented workstations and analytical software to be used by the Intelligence Division;
- updated and refined Complaints Section statistical and management reporting;

- developed software applications to support OMD operations management; and
- reviewed and re-organised the Commission's internal networks to achieve maximum availability and reliability.

Operational Audit

Since the Commission's establishment, several audits have been conducted by Commission staff, external consultants, and officers from the Internal Audit Unit of the Department of the Premier, Economic and Trade Development.

The Records Management Section is responsible for a vast array of materials acquired by both the Commission and the Fitzgerald Commission of Inquiry.



Corporate Services Division

Individual programs/Divisions within the Commission have also been evaluated, including, for example, a major review of the OMD focusing on efficient assessment and processing of complaints, internal structure and information management procedures.

Following an assessment of the Commission's operational audit requirements and its ability to service this need with existing internal resources, the Commission decided to utilise the services of the Internal Audit Unit of the Department of the Premier, Economic and Trade Development on a consultancy basis to undertake this role. To this end, work is well advanced on the development of an audit program for the 1992/93 financial year and beyond.

Overseas Travel

During the 1991/92 financial year, a small number of the Commission staff travelled overseas, where they attended conferences on crime-related issues or met representatives of organisations involved in the detection and prevention of organised criminal activities. In addition, some officers visited law enforcement agencies while overseas on private business. These visits included:

- an FBI conference on organised crime held in Miami, USA;
- a conference held in Canada by the International Association for the Civilian Oversight of Law Enforcement;
- the Fifth International Anti-Corruption Conference held in Amsterdam, the Netherlands;
- a visit to the United Kingdom to study programs focusing on the resolution of complaints by mediation; and
- the 50th Annual Meeting of the American Society of Criminology in San Francisco, USA, November 1991.

Additionally, at the invitation of the United Nations, the Director of the Research and Co-ordination Division gave a series of lectures to senior criminal justice administrators from various countries at the UN Asia and Far East Institute in Tokyo during May-June 1992.

Future Directions

The coming year will be one of consolidation and enhancement for the Division. Staff will continue reviewing systems, policies and procedures to ensure that the Division's services are appropriate to the dynamic, changing operational environment of the Commission. The Division will continue to take the lead in developing policies and procedures that heighten awareness of the Commission's role as a model public organisation, its obligations with respect to public sector reform and new legislation, and its commitment to professional staff practices. Several areas of emphasis have been identified:

- The Commission will continue its focus on the well-being of staff, both individually and as team members. Concern with occupational health and safety is reflected in the retention of expert health professionals to advise the Commission.
- The Performance Planning and Review Scheme, to commence in August 1992, will enhance the Commission's ability to provide timely and appropriate training and development on an individual and team basis.
- The Division will continue to play a vital role in assisting the intelligence and investigation functions of the Commission by identifying and developing on-line analytical and management software applications. Following completion of the Intelligence Division projects in 1992/93, the Division will give more emphasis to developing advanced facilities for supporting investigations which, when combined with the intelligence database, will move towards an integrated law enforcement computer environment.

8. Office of General Counsel

During the 1991/92 financial year, the Office of General Counsel (the Office) managed a wide range of functions relating to legal aspects of the Commission's operations and served as the focal point for the Commission's liaison to the legal community at large. Despite its striking increase in workload—for example, the number of advices prepared during 1991/92 was 100 percent more than the previous year—the Office initiated some major projects relating to new legislation and was able to provide a significant degree of legal assistance directly to the QPS.

Role and Functions

The Office of General Counsel derives not from any provision of the Act, but from the ongoing need of the Commission for immediate access to legal advice on a wide range of issues. The Office has an independent role within the Commission; it is not part of any of the Commission's Divisions.

The Office provides timely and independent legal advice to the Commission on a wide range of legal and policy issues. It is the focal point of liaison with other agencies and the legal profession in respect of legal issues. It co-ordinates Commission submissions on legal issues with respect to issues papers and proposed legislative change.

General Counsel himself personally advises the Chairperson, the Commission and, where appropriate, other agencies on more complex legal and policy issues. Additionally, he oversees the administration of the Misconduct Tribunals and constitutes the Commission as required for the purpose of investigative hearings conducted by the OMD.

During the 1991/92 financial year, the Office:

- prepared or co-ordinated numerous submissions relating to either issues papers published by other agencies or legislation pertinent to the administration of criminal justice;
- advised on the necessity for amendment to the Act and other legislation relevant to the

exercise of the Commission's functions and responsibilities;

- advised on legal issues arising in respect of Commission reports and issues papers;
- represented the Commission on working parties and committees concerned with criminal justice issues;
- provided the focal point of liaison with other agencies (including the Office of the Special Prosecutor) and the legal profession in respect of legal matters;
- provided counsel to assist in the original jurisdiction of Misconduct Tribunal hearings;
- assisted the Commission as counsel in the conduct of its investigative hearings;
- represented the Commission before the courts, with particular reference to chamber applications and subpoenas requiring it to produce material in proceedings to which it is not a party;
- advised and settled briefs of evidence to be furnished to prosecution authorities and reports for the purpose of disciplinary proceedings;
- prepared the legal foundation for the operation of the Commission's FOI unit;
- advised on the dissemination of information from the Commission;
- advised on the transfer or return of materials acquired by the Commission; and
- delivered public addresses.

Organisation and Staffing

Because of the extent of these functions, the Office engaged the services of an additional lawyer during this period. It also increased its administrative support by sharing a support officer with the Misconduct Tribunals.

Office of General Counsel

Consequently, the Office now consists of seven full-time personnel. In addition to General Counsel there are four lawyers, three of whom have joined the Commission from private practice.

During July and August 1991, the Office found it necessary to engage the services of a lawyer on a part-time basis.

In addition, the responsibilities of the Policy and Projects Officer, who was employed by the Commission in November 1991, include assisting the Office in the preparation of public responses to issues papers.

Secondment of Barrister to Assist Police Service

The last annual report referred to an Office lawyer being assigned to work with the QPS for six months from February 1991, to assist in the implementation of the new disciplinary procedures required by the Police Service Administration Act. Since his return to the Office in August 1991, his efforts have continued to be substantially directed to QPS issues.

This Commission initiative highlighted the need for a permanent independent legal adviser to the QPS. The Commission supported representations by the QPS for the establishment of such a position which would be attached to the Attorney-General's Department. Such a position was created and filled during the period covered by this report.

In thanking the Commission for this assistance, the Commissioner of the Police Service observed that it was another example of the tangible support given by the Commission.

Review of Workload

A review of the Office's workload reinforces the need to increase the Office's staff. During the reporting period, the Office gave advice on in excess of 500 separate matters, involving criminal, administrative, contractual, industrial, statutory interpretation and policy issues. This represents a

100 percent increase on the number of matters handled during the previous financial year.

The Office's workload included responsibility for drafting official Commission documentation such as contracts, forms, procedures and undertakings as to confidentiality. The Office gave particular emphasis to the confidentiality aspects of consultancy, purchase and supply agreements. The precedents for all of these documents are continually re-assessed and refined in light of experience, particularly with the view of ensuring the accountability of the Commission and its staff.

Some specific issues on which the Office has given advice are referred to below.

Court Appearances— Responses to Subpoenas and Summonses

Other than chamber applications, court appearances by lawyers of the Office on behalf of the Commission involved responses to subpoenas, summonses and applications for third party discovery directed to the production of documents in the Commission's possession. The Commission was not a party to the proceedings in respect of which these processes were issued. Where necessary, it has resisted production on the ground of public interest privilege, in particular to protect the confidentiality of sources of information. The concern is that people will not assist the Commission if confidentiality cannot be assured. On each occasion the Commission's argument that the privilege applies has been upheld, although on occasions the court has exercised its discretion to order the production of some documents.

These applications concern not only documents obtained by the Commission in the exercise of its investigative powers, but also material inherited from the Fitzgerald Commission of Inquiry and the Police Complaints Tribunal.

As anticipated in the 1990/91 Annual Report, there has been an increasing number of these applications, of which there is often little or no notice. Responding to each application involves a

significant diversion of the Commission's resources from other pressing work—in addition to the direct costs involved, the preparation of affidavits and court appearances takes an average of two working days' effort. On a number of occasions, applications were not proceeded with after this work had been done. Because the Commission has been required to respond to these processes in courts outside of Brisbane and even Queensland, it is often necessary to brief private barristers to appear. The Commission is seeking to address this matter through an amendment to the Act that would strike an appropriate balance between the essential confidentiality of aspects of the Commission's functions and the need to make relevant evidence available to parties in legal proceedings.

Legislative Amendment

The Office advised on and prepared the Commission's proposals for amendment to the Act which were submitted to the PCJC in July 1991 and consolidated in a draft Act submitted to the Committee in September 1991. General Counsel was consulted in respect of the amendments that were in fact made to the Act during this period. This is dealt with in more detail in Chapter 13.

In addition, the Commission has responded through the Office to other legislative amendments affecting the Commission and legislative proposals directed to the reform of the criminal justice system. These are also detailed in Chapter 13.

Issues Papers

The Commission has continued to receive requests to comment on issues papers and reports concerning the administration of the Queensland criminal justice system and public sector. During the period under review, the Office co-ordinated, advised on and prepared the Commission's responses to:

- Proposed Whistleblowers Protection Legislation (to EARC and the Parliamentary Electoral Administrative Review Committee (PEARC));

- Review of Parliamentary Committees (to EARC);
- Review of Codes of Conduct for Public Sector Officials (to EARC);
- Proposed Freedom of Information Legislation (to the Premier's Department);
- Libraries and Archives Act 1988 (to EARC);
- Appeals from Administrative Decisions (to EARC);
- International Covenant on Civil and Political Rights (to the Queensland Attorney-General); and
- Victim Impact Statements (to the Queensland Attorney-General).

The Office also provided this service in relation to issues arising in respect of the Commonwealth and other State governments.

Submissions were made to the Commonwealth Government in relation to:

- cost recovery by Commonwealth agencies for providing information to law enforcement agencies;
- the ABCI's Australian Criminal Intelligence Database (ACID); and
- the Austel Inquiry into the privacy implications of telecommunications services.

A submission was made at the request of the NSW Parliamentary Joint Committee on the ICAC, to its inquiry into certain matters concerning the ICAC. This submission related to the relationship between the Commission and the ICAC and the availability of the facilities of the Witness Protection Division to persons assisting the ICAC with its investigations. The Director of the Witness Protection Division appeared and gave evidence at the Committee's public hearings.

Office of General Counsel

Because of the wide variety of issues addressed in the many submissions by the Commission on criminal justice issues; the submissions by units of the Commission other than the Office of General Counsel; and the fact that the majority of these submissions are public documents, the Commission has not devoted a separate chapter to them in this report.

It may, however, be of interest that the Commission's submission in respect of the appeals from administrative decisions was that as a matter of principle it supports a statutory system for reviewing the merits of most administrative decisions.

Forms and Procedures

As has been stated in the Commission's previous annual reports, the Office has developed forms and procedures to ensure that no process is issued in the exercise of the Commission's statutory powers unless all the procedures are strictly complied with and, in particular, unless supporting documentation setting out the reasons for doing so are completed and these reasons are accepted by the Chairperson or his delegate.

These procedures have been initiated to ensure accountability in the exercise of these powers, through the existence of a permanent record of any such decision. Often these procedures go further than is required by the Act. For example, when the Commission receives Supreme Court approval for the use of a listening device (ss. 3.14 & 5.5 of the Act), the Commission provides a report to the Court on how that listening device was used, even though there is no requirement to do so.

During this period, the Office was involved in the further development of forms and procedures for:

- the dissemination of information by the Intelligence Division (s. 2.47(2)(a) of the Act);
- the custody and disposal of material in the Commission's possession (s. 3.26);

- the recoupment of Commission witnesses (s. 3.25);
- the reimbursement for assistance to the Commission (s. 3.23); and
- identification parades in aid of Commission investigations.

The identification parade procedures have been adopted by the QPS with necessary adaptations.

In addition, at the request of the PCJC, the Commission is working with QPS to develop a policy as to the covert and unilateral recording of conversations by police officers in the course of carrying out their duties.

The Commission has established an internal working party, which includes a lawyer from this Office, to review document/exhibit handling procedures. In doing so regard is being had to the revision of these procedures by the QPS. The procedures will specifically address issues such as storage of dangerous items and drugs, money, and valuables.

Advice of the Office has also been accepted as to the form and content of the Register of Communications between the Commissioner and Minister, as required by s. 4.7 of the Police Service Administration Act.

An electronic surveillance register has been implemented by the Commission, recording details of the equipment, where it is stored/used and the person responsible for it.

A range of Witness Protection Division precedents have also been refined on the advice of the Office during this period.

The Office continues to update policy and procedures, as required for inclusion in the interim Operational Procedures Manual, which is now maintained by the OMD.

Working Parties/Review Committees

Staff of the Office represented the Commission on the following external review committees and working parties:

- the Criminal Code Review Committee, which delivered its final report to the Attorney-General in June 1992;
- the Police Prosecutions Functions Working Party, which is chaired by the Commission's representative;
- the Illicit Drug Study Project, which is chaired by the Commission's representative;
- the Committee on the execution of Warrants of Commitment in Correctional Centres, which, at the request of the Minister for Justice, the Commission co-ordinated and chaired;

- the Queensland Police Service Manual Review Team;
- the Committee for Review of the Police Service Administration Act; and
- the Committee on the *Anti-Discrimination Act 1992*, which prepared guidelines that the Commission will follow when it receives a complaint of sexual harassment by one member of QPS against another member of QPS. The policy will be included in the Police Procedures Manual, with particular reference to the associated disciplinary processes.

A detailed listing of external committees and working parties on which the Commission was represented appears in Appendix I.

The Office of General Counsel provides independent advice to the Commission on a wide range of legal and policy issues. It is the focal point of the Commission's liaison on legal issues with other agencies and the legal profession.



Preparation for Freedom of Information

As has been referred to above, the Office has co-ordinated the Commission's response to and preparation for the FOI legislation. This has involved submissions to and consultation with the Office of Cabinet, Premier's Department, and with Parliamentary Counsel.

A Commission lawyer has prepared an FOI manual and attended meetings convened by the FOI unit of the Attorney-General's Department to discuss the introduction of the legislation. The Commission understands that some aspects of the Commission's manual will be adapted for the purpose of the general public sector manual being prepared by the FOI unit.

The Office considers that these efforts have laid a sound legal foundation for the Commission's handling of FOI requests.

The Commission is proceeding with the establishment of the infrastructure of its FOI unit and has already allocated establishment positions for FOI functions. The Office is to provide advice to the FOI unit on general issues involving matters of legal principle and is currently developing procedures to help it deal with those obligations.

Liaison with Other Agencies

In addition to the matters referred to above, the Office has settled Memoranda of Understanding for mutual co-operation between the Commission and:

- the National Crime Authority,
- the NSW Independent Commission Against Corruption,
- the Australian Transaction Reports and Analysis Centre, and
- the Australian Securities Commission.

Problems Encountered and Initiatives Taken

The Office is a service provider to the Commission, its organisational units and the Chairperson. Its major challenge has been, and is likely to remain, meeting the demand for its services. To help meet the demand for advice and assistance, the Office is implementing several new initiatives, including:

- restructuring procedures for dealing with requests for advice;
- developing a database with full text retrieval detailing current and completed advices and submissions;
- producing internal Commission issues papers; and
- sponsoring internal seminar presentations on specific issues.

The skills of the Office's staff are being enhanced by attendance at relevant training seminars and professional conferences.

Future Directions

With the assistance of these initiatives, the Office will continue to provide a timely and high standard of independent advice on legal and policy issues to the Commission, its organisational units, the Chairperson and, where necessary, other agencies.

This advice will include the co-ordination of Commission submissions responding to issues papers and proposed legislative change.

It will continue to fulfil its role as the focal point of liaison on legal issues with other agencies, the legal profession, and the community.

9. Misconduct Tribunals

The 1991/92 financial year represents the first full year of the Tribunals' operations. During that period eight matters in the original jurisdiction and nine matters in the appellate jurisdiction were heard. With the move to new premises in February 1992 the Misconduct Tribunals acquired more suitable accommodation and strengthened their independent identity.

Legislation and History

The Fitzgerald Report recommended the establishment of Misconduct Tribunals to review decisions on disciplinary matters within the QPS, 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 are an organisational unit established under the Act. They are independent of the QPS and other units of public administration. Members of the Tribunals must not hold office in any unit of public administration (other than an office held *ex officio*) or in the Commission.

A Tribunal is constituted by one member nominated by the Chairperson of the Commission to hear and determine a matter or a group of matters. To date, all sittings of the Tribunals have been conducted in Brisbane; however, the Tribunals may sit anywhere in the State. A Tribunal hearing is open to the public.

The Commission has taken steps to ensure that the Tribunals in fact operate independently. These steps have included:

- providing them administrative support through the Office of General Counsel rather than the OMD;
- establishing them in premises separate from the Commission's offices; and
- appointing counsel to assist, either from the Office of General Counsel or the private bar.

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 prescribes only one class of person to be subject to the Misconduct Tribunals, namely, members of the QPS. Other persons who hold appointments in a unit of public administration must be so declared by Order-in-Council. To date, only two Orders-in-Council have been made declaring certain appointments to be subject to the jurisdiction of the Tribunals.

Panel of Members

Currently, 10 lawyers constitute the panel of members.

In September 1991, Mr L Boccabella, Barrister-at-Law, was re-appointed to the panel. Mr C F Bagley and Mr R N Chesterman QC resigned in May and June 1992, respectively.

Appendix H lists appointments and resignations to and from the Tribunals.

Management and Staffing

Administrative support to the Tribunals is provided by the Registrar, who is also Secretary to the Commissioner for Police Service Reviews, assisted by an administrative officer and two support officers.

In February 1992 the Registry relocated to new premises on the 6th Level, MLC Court, 15-23 Adelaide Street, Brisbane, where two hearing rooms are provided.

Misconduct Tribunals

Legislative Change

In May 1992, the Act was amended to extend the grounds of appeal for a person aggrieved by a decision of a Misconduct Tribunal exercising original jurisdiction. More specific details of that legislative change are given in Chapter 13 of this report.

Future Directions

As foreshadowed in the Commission's 1990/91 Annual Report, in November last year the Commission made a number of recommendations to the PCJC to enhance the independence of the Tribunals and to ensure that they do not become overly legalistic.

On 3 December 1991, the PCJC tabled the review of its own operations and that of the Commission. As regards the Tribunals, the PCJC made the following recommendation:

The Committee endorses the recommendation of the Criminal Justice Commission that the Misconduct Tribunals should be constituted under their own separate legislation and recommends that the legislation should provide for the accountability of the Tribunals to the Department of Justice (administratively) and be monitored and reviewed by this Committee. The Committee also recommends that the Tribunals should have a discretion to conduct appeals from disciplinary decisions of the Deputy Commissioner of the Police Service either by way of re-hearing or review of the original decision [Recommendation 23].

On 25 June 1992, the PCJC conducted a public hearing to consider certain allegations made by Mr R N Chesterman QC, who resigned from the panel of members on 22 June 1992. During that hearing, the Chairperson of the PCJC foreshadowed that in the report on its investigations into those allegations, the PCJC would address the issues of the Tribunals' structures and procedures.

10. Commissioner for Police Service Reviews

Role and Functions

The Commissioner for Police Service Reviews (the Review Commissioner) hears applications under the Police Service Administration Act (the PSA Act) and the Police Service (Review of Decisions) Regulations 1990 by members of the QPS 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.

A review is an administrative proceeding of a non-adversarial nature. Proceedings on a review are simple and informal, and legal representation is not permitted to any person concerned in a review.

A Review Commissioner is empowered only to make recommendations to the Commissioner of the Police Service. However, if the Commissioner of the Police Service does not accept the recommendation, he or she is required to provide a brief summary of reasons to the Review Commissioner and the parties involved in the review. Of the 47 recommendations made setting aside or varying the original decision, the Commissioner of the Police Service has not accepted four of those recommendations. The Commissioner has yet to advise his decision on 18.

Depending on the location of the parties, reviews are conducted either by the parties being physically present or by telephone conference facility. In fairness to both officers where one is stationed outside the south-east corner of the State, the hearing normally takes place by teleconference.

Commissioners

By virtue of s. 14 of the PSA Act, the Chairperson of the Criminal Justice Commission is empowered to nominate any member of the Commission as a Review Commissioner. A Review Commissioner is therefore independent of the QPS. Dr Janet Irwin and Mr John Kelly have been so nominated.

Staffing and Accommodation

Administrative support to the Review Commissioners is provided by the Secretary, who is also Registrar of the Misconduct Tribunals, assisted by an administrative officer and two secretarial support officers.

In February 1992 the Office of the Review Commissioner and the Registry of the Misconduct Tribunals relocated to new premises on the 6th Level, MLC Court, 15-23 Adelaide Street, Brisbane.

Problems Encountered and Initiatives Taken

To minimise inconvenience and uncertainty to officers, every effort is made to ensure applications for review are heard expeditiously. On the lodging of an application by an aggrieved officer, a report is sought from the panel convenor on the selection process and the reasons for the promotion or transfer (as the case may be) of the officer. When this report is received, a copy is furnished to both officers involved in the review and a hearing date is scheduled soon after. There have been a number of occasions when reports have not been submitted by the due date, with resulting delays in the hearing of the applications. Quite simply, the more quickly the reports are submitted, the more quickly the Review Commissioners can dispose of the applications.

The Secretary, in conjunction with the police officers assisting the Review Commissioner, regularly monitors the progress of the reports to ensure their timely completion.

Commissioner for Police Service Reviews

Despite the fact that the present system of review has been in operation since June 1990, some police

Table 4: Types of Decisions Lodged with the Commissioner for Police Service Reviews

Type of Decision	Number
Promotion	524
Transfer	92
Stand Down or Suspend	25
Dismissal	1
Disciplinary Sanction	25
Appointment as a Staff Member	0
Unapplied for Transfer	2
Total Number of Reviews Lodged	669

Table 5: Status of Applications Lodged with the Commissioner for Police Service Reviews

Status	Number
Matters Heard	
Affirmed	200
Set Aside/Varied *	47
Awaiting Decision	5
Matters Withdrawn	276
Matters Not Within Jurisdiction/Received out of Time	6
Matters Awaiting Hearing **	135
Total Number of Reviews Lodged	669

* This includes cases where the selection panel has been convened to register applications.

** These matters are in various stages of readiness, with only a small proportion actually ready for hearing.

officers seem unaware of the nature and the requirements of the review process. Every effort is made by the Secretary and his staff to ensure officers clearly understand the process. To this end, officers are invited to contact the Secretary and his staff to discuss any concerns they may have. A written commentary addressing the most asked questions is placed with the panel convenor's report and sent to the officers involved in the review.

The Review Commissioners seek to ensure that review procedures are streamlined in order to provide a quick, simple and fair review process. The Review Commissioners currently serve as members of a QPS committee reviewing the selection, promotion and review processes. As the present system of merit-based promotion has been operating since June 1990, this review is timely.

Review of Workload

The overwhelming majority of applications lodged with the Commissioner for Police Service Reviews deal with promotion and transfer. While the workload has been considerable, the Review Commissioners have generally been able to hear applications within a few weeks of the parties receiving the panel's report. Generally, each Review Commissioner hears applications once a week.

The Review Commissioners wish to record their gratitude to Inspector R P Mewburn and Acting Snr Sgt R A Evans of the QPS, the officers assisting the Review Commissioners, for their courtesy, diligence and professionalism while fulfilling that duty.

The Review Commissioners also wish to thank the police officers who attended on review hearings for their co-operation, courtesy and professional approach to their duties.

During the 1991/92 financial year, 669 applications were lodged with the Commissioner for Police Service Reviews. Table 4 describes the types of decisions lodged during that period. Table 5 shows the status of those applications at the close of the financial year.

11. Human Resources

Staffing Overview

Although there has been no increase in the overall staff establishment for more than a year, the distribution of staff between Divisions has changed over the past 12 months. As shown in Table 6, the establishment numbers of both the Intelligence Division and the OMD have risen over the past year.

Commission staff are engaged in a wide range of professional, operational, administrative, technical

and managerial activities. Given the nature of the Commission's work, there will always be a strong representation of police officers and lawyers on staff. Ex-police personnel have a strong presence among civilian personnel, and QPS personnel are heavily involved in the Commission's operations. However, a variety of backgrounds and disciplines are represented in the research, investigatory and intelligence gathering areas, which enables a multi-disciplinary approach to many issues. The range of professions at the Commission is represented in Table 7.

Table 6: Commission Establishment

Division	Establishment 30 June 1991	Establishment 30 June 1992		
		Total	Male	Female
Executive	4	5	2	3
General Counsel & Misconduct Tribunals	11	11	6	5
Official Misconduct	120	134	102	26
Operations & Witness Protection	32	29	22	7
Research & Co-ordination	17	17	4	13
Intelligence	19	24	14	10
Corporate Services	60	43	24	19
Total	263	263	174 *	83 *

* Note: Because there were six establishment vacancies in the Commission on 30 June 1992, total M & F will not sum to 263 establishment number.

Table 7: Professions Represented in the Commission's Establishment

Division	Law	Accountancy	Social Science	Admin.	Police	Other Investigators /Analysts *	Total
Executive	1	-	-	4	-	-	5
General Counsel & Misconduct Tribunals	6	-	-	5	-	-	11
Official Misconduct	18	8	1	28	67	12	134
Operations & Witness Protection	-	-	-	4	25	-	29
Research & Co-ordination	4	-	7	6	-	-	17
Intelligence	-	-	-	9	-	15	24
Corporate Services	1	1	-	41	-	-	43
Total	29	9	9	97	92	27	263

* Includes civilian investigators and intelligence analysts

Performance Assessment, Training and Development

Performance Assessment

The Commission has developed a Performance Planning and Review Scheme, which has been trialled twice to ensure applicability and appropriateness to the needs of both staff and the Commission—first, using employees in a single Division, and second, using a cross-section of employees from each of the six Divisions. Introductory seminars will shortly commence for implementation of the scheme throughout the Commission.

Training

To enhance individual job performance and overall productivity, the Commission has developed or sponsored in-house seminars on word processing and spreadsheet software, report-writing, and written communication. Staff have also been encouraged to attend a wide range of workshops, conferences and seminars run by government agencies and professional associations. In addition, the Commission supports the training opportunities afforded to seconded members of the QPS.

The implementation of the Performance Planning and Review Scheme will enhance the Commission's ability to ensure training and development is offered to staff on an equitable and more individually focused basis.

Expenditure on training during the year exceeded the minimum of one percent of annual payroll required under the Training Guarantee legislation. During the 1991/92 financial year, civilian Commission staff spent a total of 319 person days in training courses. During this period, training for police personnel was largely co-ordinated by the QPS. For the 1992/93 financial year, training for all Commission personnel will be co-ordinated through the Commission's Personnel Services Section.

Code of Conduct

The Commission's staff work in a politically and legally sensitive environment. The Commission's code of conduct is being finalised by a working party through consultation with employees and senior management. It will provide staff with clear behavioural expectations to meet the requirements of their situations.

Equal Employment Opportunity

The Commission endorses the principles of Equal Employment Opportunity (EEO) and will be developing an EEO Management Plan consistent with provisions of the *Equal Opportunity in Public Sector Employment Act 1992*. The plan will provide profiles of EEO target groups and outline their projected access to training and progress within the Commission. Table 6 includes an analysis of Commission staff as of 30 June 1992 by gender.

Union Access

The Commission is not subject to the provisions of any Industrial Award or Agreement. However, as a responsible employer, the Commission offers conditions of employment commensurate with those in the public service generally.

Representatives of public sector and police unions have visited the Commission's premises and made their services available to interested staff.

On 19 February 1992, the Executive Management group endorsed adoption of a grievance procedure to ensure fair treatment of all Commission employees. This procedure will ensure that employees are treated fairly and not subject to arbitrary or capricious acts or decisions. Employees who believe they have been disadvantaged by an administrative decision or suffered as a result of any unfair practice have an avenue through which they can seek to have the situation redressed.

Occupational Health and Safety

The Commission is mindful of its responsibilities to provide a safe and healthy work environment. Since its establishment, the Commission has implemented a number of initiatives, including first-aid training by the Queensland Ambulance Service and, most recently, the engagement of a group of prominent health professionals to develop a program to assist staff in identifying and coping with symptoms of work-related stress. The commencement of this program was welcomed by staff. Implementation of the report's recommendations has begun.

Commission staff have also attended training provided by the QPS which focuses on the internal delivery of welfare services.

12. Reform of the Queensland Police Service

The Fitzgerald Report made a large number of recommendations for the reform of the QPS in two broad areas: organisation and management; and discipline. The Report clearly described a transitional phase of approximately three years, during which major initiatives for reform were to be introduced. The major reforms proposed were:

- a new organisational structure with as few organisational levels as practicable between the Commissioner and operational police officers;
- a regional basis for operational activities with increased levels of authority and responsibility;
- adoption of a policy of civilianisation, whereby all positions not requiring police powers were to be filled by civilians;
- progressive abolition of specialised units;
- introduction of a professionally designed recruitment process, and the development of a suitable recruit education and training program; and
- abolition of the Police Department Internal Investigation Section and the Police Complaints Tribunal.

Role and Functions of the Commission

The Fitzgerald Report's recommendation that the Commission be given the responsibility of overseeing reform of the QPS found expression in s. 2.14(1)(a) of the Act, which requires the Commission to continually monitor, review, co-ordinate and, if the Commission considers it necessary, initiate reform of the administration of criminal justice.

Among the Commission's responsibilities, two that directly concern the reform of the QPS are:

- monitoring the performance of the Police Service with a view to ensuring that the most appropriate policing methods are being used,

consistently with trends in the nature and incidence of crime, and to ensuring the ability of the Police Service to respond to those trends (s. 2.15(g)); and

- overseeing reform of the Police Service (s.2.15(i)).

Furthermore, under s. 2.45(2)(f) of the Act, the Research and Co-ordination Division was given a mandate to review on a continuing basis the effectiveness of programs and methods of the Police Service, in particular in relation to:

- compliance by the Police Service with the Commission's recommendations or policy instructions;
- community policing;
- prevention of crime; and
- matters affecting the selection, recruitment, training and career progression of members of the Police Service and their supporting staff.

The Monitoring Process

On 3 July 1989, the day the Fitzgerald Report was released, the Queensland Government constituted an Implementation Unit comprising of a handful of selected police officers and private consultants. The Unit was to report directly to the Minister for Police and Emergency Services. In early September 1990 this unit was abolished. The QPS then created its own Implementation Unit. Pursuant to its responsibility under the Act for monitoring the implementation of reform, the Research and Co-ordination Division worked with this Unit until it too was disbanded in early 1992.

To ensure that the implementation of reform received the support of the QPS executive, a joint implementation sub-committee was formed comprising the Deputy Commissioner of Police (Support Services) and the Director of Policy Research and Evaluation from the QPS, and the Director of the Research and Co-ordination

Reform of the Queensland Police Service

Division and the Principal Research Officer from the Commission (later, the Senior Adviser to the Minister for Police and Emergency Services joined the sub-committee). This sub-committee was to meet on a regular basis. In addition, the Commissioner of the Police Service and the Chairperson of the Commission agreed to meet quarterly with the Minister for Police and Emergency Services.

It must be remembered that the Fitzgerald reforms ranged from relatively simple changes in procedure to more complex efforts involving amendments to legislation and changes to lines of authority and reporting obligations. Some reforms could be implemented very quickly, while it was clear that others would necessarily take longer, perhaps even longer than the initial three-year transition period.

It is perhaps naive to expect that the process of implementation will be a smooth one. Some of the recommendations may have serious resource implications; others involve substantial attitudinal changes, and still others may appear to contradict many years of established policing practices. Fitzgerald QC recognised that changes introduced in the transitional phase would not complete the process of reform and that effective improvements in the QPS would take time and patience. Furthermore, the Commissioner of the day may wish to modify recommendations to bring them into accord with his or her approach to administration and management.

One good example of the differences between the form of the Fitzgerald recommendations and the form in which they were implemented is the structure and organisation of the QPS. In proposing the restructuring of the QPS, the Fitzgerald Report was very precise. It recommended that the new structure provide for:

- as few organisational levels as practicable between the Commissioner and operational police officers to facilitate communication, expedite decision making, and ensure that policies are relevant. Five broad bands of responsibility with several grades of salary

within each band equating to constables, sergeants, inspectors, superintendents, and commanders are proposed (Recommendation 1(a));

- three commands, viz., Regions, Task Force and Support Services (Recommendation 2(b));
- eight Regional Commanders with full authority and accountability for managing police regions (Recommendation 2(d));
- the position of Commander of the Task Force Division to be established in Head Office at a level equivalent to Regional Commanders (Recommendation 2(f));
- another Commander (Support Services) to co-ordinate the provision of administrative, personnel, financial and operational support (Recommendation 2(g));
- the Commander (Support Services) to be a police officer equivalent in status to the other Commanders. The bulk of the units and Directors of major divisions under this Commander should comprise civilian personnel (Recommendation 2(h)); and
- an inspectorate with review responsibility to report directly to the Commissioner (Recommendation 2(i)).

However, the restructured QPS is significantly different from that recommended by the Report: there are more than five broad bands of responsibility with several grades; the Commander (Support Services) is not equal in status to the other Commanders (indeed, he is a Deputy Commissioner); there is an additional position of a Deputy Commissioner (Operations); and the inspectorate, as established, does not report directly to the Commissioner, but to the Deputy Commissioner. This example is not intended as a criticism but, rather, to illustrate the need for careful assessment of the implementation of reforms.

It is important that the implementation of each reform or recommendation is carefully scrutinised. Problems during the implementation process may be solved by ad hoc solutions that fail to fully realise the intended change, despite the claims of success.

In early 1992 the PCJC asked the Commission to prepare a full report on the status of implementation of police reform. The Commission has agreed to do so and a detailed status report is expected to be submitted during the first half of 1993. This report, besides providing a full account of reform, will also systematically evaluate certain aspects of QPS administration, organisation and operation (see Chapter 4).

The Commission is not only involved in monitoring QPS reforms but also actively participates in initiating programs under the reform agenda. This participation is not limited to the Research and Co-ordination Division. It extends to the Commission's Official Misconduct, Intelligence and Corporate Services Divisions, and the Office of General Counsel.

Commission representatives sit on such committees as:

- the Police Education Advisory Council;
- the Police Prosecutions Functions Working Party;
- the QPS Review of Policy and Procedures Committee;
- the QPS Research and Ethics Committee; and
- the Committee to Review the Police Service Administration Act.

The Commission also contributes to the development of policies and procedures. For example, the Complaints Section of the OMD makes recommendations for changes in police practices as a result of its investigations (see Chapter 3); the Intelligence Division suggests new

procedures and practices with respect to the collection of intelligence through its monitoring of the BCIQ (see Chapter 5); and the Office of General Counsel has provided a legal adviser to assist in the implementation of new QPS disciplinary procedures and is participating in the review of the Police Service Administration Act (see Chapter 8).

The Research and Co-ordination Division has loaned equipment to the QPS; provided funding for the evaluation of QPS programs; is currently developing new strategies in community policing; and has actively participated in evaluating police programs (see Chapter 4).

Problems Encountered and Initiatives Taken

A major problem encountered in the monitoring of the QPS reform has been the lack of or unavailability of records. Since the handing down of the Fitzgerald Report on 3 July 1989, the level of activity in the QPS has been hectic. The QPS faced the unenviable task of implementing the recommended reforms—some of which required a significant commitment of human and financial resources—and, at the same time, carrying out all the functions of policing in the State. During this period, the Commission believes that the business of documenting steps taken in the reform process may not have received the attention it should have and, as a consequence, the rationale for deviating from the Fitzgerald Report's recommendations has not been well-documented. For example, no information is available to the Commission on why the QPS introduced nine bands of responsibility as opposed to the five recommended in the Report.

Compounding the apparent lack of documentation is the impact of disbanding the Implementation Unit. Those records the QPS does have appear to be dispersed across the State in various units of the Service, rather than consolidated into a single holding.

In an attempt to ascertain the location of records and gather and verify information, the Research

and Co-ordination Division has begun contacting individuals and agencies connected with the Fitzgerald Commission of Inquiry, members of the former QPS implementation units, and other serving and retired police officers. Division staff have begun to examine communications between the Minister for Police and Emergency Services and the Commissioner of the Police Service that are tabled annually in the Parliament.

Future Directions

Fitzgerald QC said that even though most of the recommendations could be implemented during a three-year transition period, that period would represent only the beginning of the reform process. It would take several years before the real impact of the reforms was apparent, because the impact of many would be determined by changes in police culture.

The nature of this "police culture" should perhaps be elaborated. It has several aspects, some of which are positive, some negative and some neutral. For the purpose of completing the reform process, it is important that the negative aspects be overcome and the positive aspects reinforced. Ensuring that modifications to the Fitzgerald reform program do not, consciously or unconsciously, undermine the process of cultural change where that change is necessary will be an important part of the Commission's task.

Very few, if any, of the Fitzgerald reforms stand in isolation. The impact of one reform is often predicated on the implementation of others. Preliminary evidence at hand through the Commission's current evaluation project suggests that some reforms have been implemented unchanged, some with modification, and others in a form quite different to that intended. This suggests that while monitoring the implementation of reforms during the transition period may have been challenging, measuring their impact and effectiveness will be both difficult and involved.

13. Legal Issues

Criminal Justice Act 1989

The Commission's first annual report referred to a number of amendments to the Act which the Commission considered necessary. As stated in the 1990/91 Annual Report, the Commission wrote to the Premier in September 1990 seeking these and other amendments to the Act. The Premier responded that the proposed amendments should be considered together and suggested that they be first considered by the PCJC.

The proposals were submitted to the PCJC in July 1991 as part of its review of the Commission. This was followed by the submission on 30 September 1991 of a draft Act incorporating the proposals. The draft Act is reproduced in full in Part B of the PCJC's Report No 13. Some of the proposals were realised in the *Criminal Justice Amendment Act 1992*.

The Act was also amended during this period by the *Appointments (Clarification of Validity) Act 1991* and the *Criminal Justice Amendment Act (No 2) 1992*. The nature of the amendments is discussed below. The Commission is appreciative of the Office of Cabinet and the Parliamentary Counsel for consulting it in relation to the form of the amendments.

The Commission looks forward to the outstanding legislative amendments being made as a matter of urgency. As has been observed, the majority are of a technical nature and are based on experience with the legislation to date. The amendments are necessary to fine tune the Act by removing anomalies and to clarify the meaning of provisions. They will greatly facilitate the effective discharge of the Commission's functions and responsibilities.

Amendments to the Criminal Justice Act

During the period of this report, the Act was amended three times.

Appointments (Clarification of Validity) Act 1991

This Act, which was assented to on 28 August 1991, clarifies the validity of the appointment of the first Chairperson of the Commission and removes an element of doubt as to the exact term of appointment. The Act retrospectively fixes the term of the appointment as three years. However, the authority of the Governor-in-Council under the Act to otherwise set the term is not overridden.

The amendments retrospectively ensure the functioning of the Commission is not impaired through appointment of any Commissioner to a unit of public administration.

To ensure that an Acting Commissioner, including an Acting Chairperson, may be appointed expeditiously whenever required, the amendments provide for standing or contingent "acting" arrangements to be put in place. Lengthy advertising and consultation procedures which apply to selection and appointment of Commissioners are generally inappropriate in these circumstances and are not mandatory.

The amendments provide for a Commissioner to act as Chairperson, or for a person to act as Commissioner should the incumbent be suffering an incapacity or be absent from the State or for any other reason.

The amendments enable the Chairperson of the Commission to concurrently hold the position with that of Chairperson of the continuing Commission of Inquiry.

This involved amendments to ss. 2.2, 2.4, 2.7, 2.8 and 2.10 of the Act.

Criminal Justice Amendment Act 1992

The most significant aspect of this Act, which was assented to on 13 May 1992, is to remove the obligation on the Commission to investigate all complaints and information it receives in relation

to suspected misconduct by members of the QPS and official misconduct by holders of appointments in other units of public administration. It invests the Commission with discretions whether or not to investigate a complaint, information or matter communicated to the Complaints Section or to continue such an investigation. In addition, the Complaints Section must not investigate a complaint or information if, in the opinion of the Chief Officer of the Section, it is frivolous or vexatious or is an anonymous complaint or information that lacks substance or credibility.

This is achieved by amendments to subsection 2.20(2)(e) (which is renumbered as 2.20(2)(d)) and s. 2.29 of the Act.

The new s. 2.29:

- confers a discretion on the Complaints Section to discontinue an investigation.
- provides the Complaints Section with a discretion to refer a complaint, information or matter to the principal officer of a unit of public administration, where in the opinion of the Chief Officer, it involves, or may involve, cause for taking disciplinary action (other than official misconduct) by the principal officer against a person holding an appointment in the unit. This enables the Commission to have the principal officer investigate the complaint, information or matter on its behalf.
- requires the Complaints Section to submit a complaint, information or matter to the Director of the OMD if there is prima facie evidence to support a disciplinary charge of official misconduct or a criminal charge.
- allows the Director of the OMD to give directions with respect to the investigation by or on behalf of the Complaints Section of complaints, information or matters, including decisions to investigate or not to investigate. This is to ensure consistency in the exercise of discretions and the conduct of investigations in accordance with the Section.
- allows the Commission to issue guidelines in respect of such investigations by or on behalf of the Complaints Section and thereby ensures that the Commission retains ultimate responsibility for the conduct of investigations.

The Act formally recognises the position of the Chief Officer of the Complaints Section by providing for the appointment of such a person who is directly accountable to the Director of the OMD.

In addition, the Act makes technical amendments in relation to subsections 2.15(f)(iii), 2.20(2)(d), 2.20(2)(e) and 2.24(1)(a) to avoid unnecessary duplication, to remove errors in the initial legislation and otherwise clarify existing provisions.

Criminal Justice Amendment Act (No 2) 1992

The third set of amendments to the Act were assented to on 22 May 1992. They expanded the grounds of appeal to the Supreme Court from decisions of the Misconduct Tribunal exercising original jurisdiction to allow a Judge, at his or her own discretion, to examine whether the decision of the Misconduct Tribunal involves a factual error or cannot be supported having regard to the evidence and proceedings before the Tribunal or any new evidence which the Judge will allow to be heard on appeal.

Prior to this the grounds of appeal were limited to the denial of natural justice; error of law; and manifest excessiveness of penalty.

The Government decided that these grounds were too narrow in the context of the finding by the Misconduct Tribunal in *Brighton v Newnham* (OJ No 3 of 1992, 27 April 1992) of official misconduct by the Commissioner of the Police Service and its order that he be dismissed. The amendment, which involved s. 2.38 of the Act, was framed to ensure that all persons dissatisfied with previous decisions of the Misconduct Tribunal exercising original jurisdiction, and who would otherwise have been out of time to appeal on the new

grounds, were entitled to do so. The fact that any of these persons had already appealed on the existing grounds did not stop the person appealing on the new grounds.

Where the Judge grants leave to appeal on one or more of the new grounds, he or she may also order that part or all of the evidence given before the Misconduct Tribunal be heard again on the appeal. However, unless the Judge has made such an order, the appeal is to be decided on the evidence given before the Misconduct Tribunal.

The Judge is also given a discretion, which may be exercised either on the Judge's own initiative or following an application by a party to the appeal, to transfer the appeal to the District Court at any time after the appeal has been instituted. In such circumstances the District Court Judge is given all the powers that a Supreme Court Judge would have to decide the matter.

If the Judge allows the appeal on any ground except excessiveness of penalty, the Judge may either substitute his or her own decision for that of the Misconduct Tribunal, or send the matter back to the Misconduct Tribunal with directions on matters that the Judge considers are relevant to its disposal or may vary the Tribunal's decision.

Other Legislation

New Legislation Affecting the Commission

Freedom of Information Bill 1992

This legislation, which will take effect in the latter part of 1992, will give the community statutory rights of access to Commission documents, including policy documents.

As noted in the last annual report, the Commission supports this legislation. It did not seek a blanket exemption from its application. It suggested that the proposed legislation should contain a carefully drafted provision to enable each request to be considered on its merits. The proposed legislation

contains exemptions from disclosure on which the Commission, together with any other agency to which the legislation applies, is entitled to rely on, where necessary, to protect the integrity and confidentiality of the discharge of its functions and responsibilities and its sources of information. In particular, it will ensure that the legislation is not used as a window into the Commission's investigative, intelligence and witness protection functions.

Judicial Review Act 1992

The Commission also supported this legislation, which is designed to streamline and simplify the judicial review of administration decisions. It imposes an obligation to provide reasons for such decisions to persons adversely affected. The Commission is subject to the legislation except in relation to providing reasons for decisions made by it in the discharge of its investigative, intelligence and witness protection functions. This is also to prevent the legislation being used to prejudice operations of the Commission. Other than this, the Commission sought no exemption from the legislation.

Legislative Amendments Affecting the Commission

Cash Transaction Reports Act 1988 (Cwlth)

Amendments to this Act commenced on 21 September 1991. They enable the Director of the CTRA, now the AUSTRAC, to authorise the Commission to have access to CTRA information.

A Memorandum of Understanding was executed with the CTRA on 23 September 1991, restricting access to such information to nominated Commission staff. In conjunction with the CTRA, the Commission prepared guidelines for the use of CTRA information. The safeguards attached by the CTRA to the provision of this information includes logging all access.

Legal Issues

Access to CTIA information has enhanced the Commission's investigations into public sector corruption and major and organised crime.

Financial Administration and Audit Act 1977

Section 69 (Secrecy) of this Act is to be amended to ensure that the obligation on the Auditor-General to preserve secrecy does not prevent the Auditor-General disclosing information to, inter alia, the Commission.

This follows an amendment in June 1991 to Public Finance Standard 234(2) issued under that Act, to require accountable officers to report to the Commission losses which may have arisen from a cause that could constitute an offence under the Criminal Code or any other Act or law.

These amendments follow from the Commission's submission to the EARC in response to the Issues Paper No 9, *Review of Public Sector Auditing in Queensland*.

Proposed Legislative Amendment Affecting the Commission

Telecommunications (Interception) Act 1979 (Cwlth)

In a discussion paper entitled *Review of the Telecommunications (Interception) Act 1979* issued in December 1991 by the Commonwealth Attorney-General's Department, a QPS submission was reflected in a recommendation that the Commission be defined as an "eligible authority" which may, when the requirements of ss. 34 and 35 of that Act have been satisfied, be entitled to apply for warrants under the Act. These requirements include the enactment of complementary Queensland legislation, and a request by the State Premier to the Commonwealth Attorney-General for the declaration of the Commission as an "agency" and for such declaration to be made.

It is no longer necessary for the Telecommunications (Interception) Act to be amended to put the Commission in the same position as the Fitzgerald Commission of Inquiry to obtain Call Charge Record (CCR) information, as suggested in the 1990/91 Annual Report. This is because of the subsequently expressed view by the Attorney-General's Department that CCR information derived on or after 1 July 1989, is not within the ambit of the Act's operation. The Commission now receives this information subject to compliance with s. 88 of the *Telecommunications Act 1991* and Information Privacy Principle 11 of the *Privacy Act 1988*.

The Commission awaits the Commonwealth Government's decision on the recommendation of the Attorney-General's Department.

Comments by the Commission Upon Queensland Legislation

During the 1991/92 financial year, the Commission commented on many pieces of existing and proposed Queensland legislation, including:

- Police Service Administration Act 1990;
- Evidence Act 1977;
- Local Government Act 1936;
- Commission of Inquiry Act 1950;
- Invasion of Privacy Act 1971;
- Crimes (Confiscation of Profits) Act 1988;
- Chicken Meat Industry Committee Act 1976;
- Gaming Machine Act 1991;
- Draft Justices of the Peace and Commissioners for Declaration Bill;
- Proposed Local Authority Joint Enterprise Legislation Bill;
- Proposed Cash Transaction Reports Legislation;
- Penalties and Sentences Bill;
- Proposed Crime (Fraud) Bill;
- Local Government Bill 1992.

Comments by the Commission on Legislation of the Commonwealth and Other States

Comments on Other States' Legislation

The Commission wrote to the Attorney-General in relation to the applications of the *Search Warrants Act 1985* (NSW) in respect of Queensland offences.

Comments on Commonwealth Legislation

National Witness Protection Bill

The Commission advised the Queensland Government on its response to a proposed Federal Government National Witness Protection Bill.

Taxation Administration Act 1953

As stated in the last report, the Commission sought the Premier's assistance to obtain an amendment to the *Income Tax Assessment Act 1936* that would place the Commission in the same position as the Fitzgerald Commission of Inquiry with respect to the receipt of information from the Commissioner of Taxation.

However, because it seemed unlikely that the Commonwealth would agree to such an amendment, the Commission sought the Premier's assistance to include the Commission within the definition of "law enforcement agency" so as to enable it to obtain such information under s. 3E of the *Taxation Administration Act 1953*. This would place it in the same position as the ICAC and the NSW Crime Commission.

Litigation Involving Commission

During the period of this report, the Commission was a party to the following litigation, in which decisions on important matters of principle concerning the discharge of its functions and responsibilities were made.

In view of the unique nature of the Commission and its legislation, it is to be expected that judicial clarification of both legislative provisions and the Commission's procedures will be necessary.

Ainsworth and Anor v Criminal Justice Commission (F.C. 92/009)

The applicants, whose business activities include the supply of gaming machines, complained that the Commission produced and furnished its *Report on Gaming Machine Concerns and Regulations* adversely to their reputations, without according them natural justice or, as it is now called, procedural fairness.

The applicants sought relief by way of mandamus and certiorari. The precise relief sought by way of certiorari was that the proceedings of the Commission be removed for the purpose of quashing all the findings relating to them in the report.

In addition, they sought a declaration that the Commission had failed to give them natural justice and to comply with its obligations under the Act.

The Queensland Full Court, in *The Queen v Criminal Justice Commission, Ex parte Ainsworth Nominees Pty Limited and Ainsworth* (OSC No. 28 of 1990), refused to grant this relief because it considered the course adopted by the Commission was not one which attracted a duty of fairness under the Act nor, in its view, was there a duty of fairness under the general law because the report did not affect any right, interest or legitimate expectation of the applicants. Finally, the Court held that, even if there was a duty of fairness, the case was not appropriate for the grant of relief.

On 9 April 1992, the High Court of Australia allowed an appeal from the Full Court decision and declared that, in reporting adversely to the applicants in its report, the Commission failed to observe the requirements of procedural fairness.

Legal Issues

However, the Court also refused to give relief by way of mandamus or certiorari. Accordingly, the report and its findings in relation to the applicants were not quashed.

A joint judgement was delivered by Mason CJ, Dawson, Toohey and Gaudron JJ. Brennan J delivered a separate judgement.

It is relevant that the High Court decided:

- (i) "Proceedings" in s. 3.17 of the Act was to be construed as including any step taken in the course of or in relation to the functions and responsibilities of the Commission, and is not confined to formal hearings held pursuant to s. 2.17. But whether the case was approached on that basis or some narrower basis, a duty to act fairly was imposed on the Commission, either by s. 3.21(2)(a) of the Act or by the general law. This duty required the Commission to act fairly in researching and generating proposals for law reform.
- (ii) Business or commercial reputation was an interest attracting the protection of the rules of natural justice. This report adversely affected a legal right or interest such that the Commission was required to, but did not, proceed in a manner that was fair to the appellants.

In the matter of an application by Bruce Whiting (OS No 469 of 1992)

On 29 May 1992 G N Williams J in the Supreme Court of Queensland ruled, inter alia, that:

- s. 3.23 of the Act requires a legal practitioner to obtain leave from the Commission to appear before it in an investigative hearing; and
- the Commission has the power to decline to allow a particular lawyer to appear for a witness, if it forms the bona fide belief on reasonable grounds that to allow such representation would prejudice the

investigation being carried out pursuant to the requirements of the Act.

Accordingly, he concluded that the Commission not erred in construing s. 3.23, nor had it conducted an investigation unfairly in refusing to allow the same legal representatives to represent both potential witnesses and the person the subject of the Commission's investigation under the Act.

An appeal has been lodged to the Queensland Court of Criminal Appeal in respect of this decision.

In the matter of an appeal of Noel Ronald Newnham (OS No 484 and 489 of 1992)

On 22 June 1992, Moynihan J allowed an appeal by the Commissioner of the Police Service against the determination of the Misconduct Tribunal exercising original jurisdiction that he was guilty of official misconduct and its order that he be dismissed from the QPS on the basis that the Tribunal had erred in law in failing to satisfy itself that all requirements of the charge had been made out.

In the course of the decision, the Court rejected an argument that the Tribunal erred in applying the civil rather than the criminal standard of proof.

It considered that the requirement under s.2.38(1A)(b) of the Act that "leave" of a judge is required for an appeal to be heard on grounds of error of fact or that the decision cannot be supported having regard to the evidence and proceedings before the Tribunal, implied a consideration of something beyond a complaint on a ground which may be arguable.

In addition, the Court rejected an argument that the requirement of s. 2.23(1)(d) of the Act that official misconduct constitutes or could constitute a disciplinary breach that constitutes reasonable grounds for the termination of a person's services in a unit of public administration could only occur when there had been a breach of a provision of some disciplinary code or of a direction or order.

The requirement may, for example, be capable of being satisfied by misconduct in the terms of the Police Service Administration Act.

Judicial Decisions Affecting the Commission

R v Blizzard, ex parte Downs (OSC 36/93; Q.L.R. 23/5/92)

Downs, an officer of the QPS, was charged and found guilty of misconduct by a prescribed officer under the Police Service Administration Act. As a result he was dismissed from the Service.

Downs unsuccessfully applied to the Queensland Full Court for a writ of certiorari on the grounds that the misconduct charged against him constituted official misconduct, so that the jurisdiction of the prescribed officer was ousted by the Criminal Justice Act, and that he had been denied natural justice.

In the course of its decision, the Court held that the disciplinary jurisdiction of a prescribed officer under the Police Service Administration Act was not ousted unless and until a charge of official misconduct was brought before a Misconduct Tribunal.

14. Public Awareness

The Commission recognises that public education is a vital and important part of its continued success. There are three grounds for this view.

First, there has been a significant misunderstanding of the Commission's role and function. Second, the Commission recognises that achieving long-lasting change, particularly attitudinal change, requires constant re-stating of the imperatives driving the calls for greater accountability. Third, as Fitzgerald QC warned, vested interests with a stake in seeing the old status quo restored have increasingly attacked the Commission and built a concerted campaign to rob the Commission of its independence and diminish its credibility. As Fitzgerald QC stated:

The media is able to be used by politicians, police officers and other public officials who wish to put out propaganda to advance their own interests and harm their enemies. A hunger for "leaks" and "scoops" (which

sometimes precipitates the events which they predict) and some journalists' relationships with the sources who provide them with

information, can make it difficult for the media to maintain its independence and a critical stance.

...

This places an extra responsibility on the journalist. Both the journalist and the source have a mutual interest: both want a headline. Yet if the journalist is so indiscriminating that the perspective taken serves the purposes of the source, then true independence is lost, and with it the right to the special privileges and considerations which are usually claimed by the media because of its claimed independence and "watchdog" role. If the independence and the role are lost, so is the claim to special considerations.

The Commission has embarked on a campaign to lift its public profile and increase real understanding of the varied roles and functions of the Commission and its Divisions. The media liaison role has become increasingly pro-active, with major public launches of Commission publications and reports.

During the 1991/92 financial year, the Commission appointed a corruption prevention officer and initiated a broad-based education campaign that included radio and television advertisements, the conduct of major conferences and workshops, and an on-going liaison across the public sector to raise awareness of corruption prevention strategies and programs.

Commission officers at many levels have engaged in extensive community outreach activity, making themselves available for speaking engagements and presenting papers at conferences and seminars (see Appendix F).

Media Relations

Raising public awareness of the Commission and its role to a large extent has meant increasing media operatives' understanding of the structure and activities of the Commission in the hope that they will relay more accurate information to the public.

The Commission's Media Liaison Office has handled thousands of calls from media outlets around the nation. While many calls dealt with specific investigations that are subject to the confidentiality provisions of the Criminal Justice Act, an increasing number of media enquiries focused on the Commission's research activities and the acknowledged expertise of its personnel in law enforcement matters.

As media representatives have become more aware of the very broad span of the Commission's activities, they have shown increased interest in the outcomes and products of such activities. For example, media representation at public hearings held by the Commission and scheduled media

Public Awareness

conferences has been much larger over the past 6-12 months.

Overall, despite the confidentiality and sensitivity of much of the Commission's work, media representatives generally have been cognisant of the constraints operating in relation to those areas and have generally sought to conduct themselves with considerable professionalism in their dealings with the Commission.

Consistent with its policy of serving the people of Queensland throughout the State, the Commission has instituted regular media contacts with outlets outside the south-east corner.

In addition to regular briefings and a monthly report which is circulated to the media at large, the Commission disseminated 53 media statements during the 1991/92 financial year.



Appendices

Appendix A

Functions and Responsibilities

As stated in s. 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 Service or other agencies of the State.

The Commission's **responsibilities**, as enunciated in s. 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 Service 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 misconduct in units of public administration; and
 - (iv) investigation of organised crime.
- (g) monitoring the performance of the Police Service 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 Service to respond to those trends;
- (h) providing the Commissioner of the Police Service 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 Service;
- (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 Service;
- (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 Service;
- (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

A number of terms used in s. 2.15 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 ss. 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 of 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.

Appendix A

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 Service;
- (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, 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.

Appendix B

Commission Publications 1991/92

Report on a Public Inquiry into Certain Allegations Against Employees of the Queensland Prison Service and its Successor, the Queensland Corrective Services Commission	July 1991
Complaints against Local Government Authorities in Queensland: Six Case Studies	July 1991
Report on the Investigation into the Complaint of Mr T R Cooper, MLA, Leader of the Opposition Against The Hon T M Mackenroth MLA, Minister for Police and Emergency Services	July 1991
Crime and Justice in Queensland	August 1991
Regulating Morality? An Inquiry into Prostitution in Queensland	September 1991
Police Powers in Queensland: An Issues Paper (<i>Prepared jointly by the Office of the Minister for Police and Emergency Services and the Criminal Justice Commission</i>)	September 1991
Report on a Public Inquiry into Payments Made by Land Developers to Aldermen and Candidates for Election to the Council to the City of the Gold Coast	November 1991
Report on an Inquiry into Allegations of Police Misconduct at Inala in November 1990	November 1991
Report on an Investigation into Possible Misuse of Parliamentary Travel Entitlements by Members of the 1986-1989 Queensland Legislative Assembly	December 1991
Report on an Inquiry into Allegations made by Terrence Michael Mackenroth MLA, the Former Minister for Police and Emergency Services; and Associated Matters	March 1992
Crime Victims Survey, Queensland 1991 (<i>Produced by the Government Statistician's Office - an initiative of the CJC</i>)	March 1992
Youth Crime and Justice in Queensland—An Information and Issues Paper (<i>Prepared by Dr Ian O'Connor, University of Queensland</i>)	March 1992

Appendix C

Guidelines and Directions Issued by the Criminal Justice Commission to the Commissioner of the Queensland Police Service Pursuant to the Criminal Justice Act 1989 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* 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 Service investigated by members of the Police Service 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 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 Service that, immediately before 22 April, 1990 -

- (a) had been investigated by members of the Police Service but not disposed of; or
- (b) were being investigated by members of the Police Service,

unless he believes that any member of the Police Service 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 Service -
 - (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 Service.

- (3) Nothing in this clause affects the duty imposed on any officer or staff member (within the respective meanings of those terms in the *Police Service Administration Act 1990*) by s. 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, suspect misconduct by a member of the Police Service -
 - (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.

Appendix D

Guidelines Issued by the Criminal Justice Commission to the Complaints Section, Official Misconduct Division, Pursuant to Section 2.29(7) of the Criminal Justice Act 1989

Pursuant to section 2.29(7) of the *Criminal Justice Act 1989* the Criminal Justice Commission issues the following guidelines with respect to the investigation by or on behalf of the Complaints Section of complaints, information and matters.

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 suspect 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;

2. Decisions not to investigate or to discontinue investigation.

- (1) Subject to subclause (2), the discretion given to the Complaints Section by section 2.29(1) not to investigate a complaint or by section 2.29(3) to discontinue the investigation of a complaint must be exercised by the Chief Officer or a Deputy Chief Officer.
- (2) If a complaint involves an allegation of official misconduct or criminal conduct, the discretion must be exercised by the Chief Officer.

3. Records to be kept by Chief Officer. The Chief Officer shall cause to be kept appropriate records concerning all complaints and the assessment thereof.

4. Criteria for determining whether to investigate. When deciding whether or not to investigate a complaint or to continue the investigation of a complaint, the Chief Officer or a Deputy Chief Officer shall consider the criteria contained in Schedule 1 to these guidelines.

Schedule 1

Criteria to be Considered in Determining Whether CJC Should Investigate

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 wrongdoers 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?

Appendix D

- What additional expense is required to undertake the investigation?

Special circumstances relating to the alleged wrongdoer:

- What is the age and experience of the alleged wrongdoer?
- What is the state of his/her physical and mental health?
- Has the alleged wrongdoer 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 wrongdoer?

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 wrongdoer willing to co-operate in the alleged investigation or prosecution of others or has the alleged wrongdoer already done so, and if so, to what extent?

No investigation of matters pre-dating 22 April 1990:

- This ruling is varied only in exceptional circumstances with the concurrence of the Director of the Official Misconduct Division.

Appendix E

Types of Allegations

A Assaults

- 1 Common
- 2 Serious Assault without Weapon and excluding Sexual
- 3 Serious Assault with Weapon and excluding Sexual
- 4 Sexual
- 5 Other

B Behaviour

- 1 Incivility/Rudeness/Verbal Abuse/Aggressive Manner
- 2 Intoxication
- 3 Inconsiderate
- 4 Other

C Corruption, Favouritism

- 1 Receipt of Benefits - Zoning/Development
- 2 Receipt of Benefits - excluding Zoning/Development
- 3 Giving Favours/Bias - Zoning/Development
- 4 Giving Favours/Bias - excluding Zoning/Development
- 5 Other

D Drugs (other than Organised Crime - Refer to O2)

- 1 Protection of Persons involved in Drugs
- 2 Cultivation/Manufacturing
- 3 Using
- 4 Dealing including Trafficking
- 5 Planting of Persons/Property
- 6 Misappropriating Seized Drugs
- 7 Other (refer also to S1)

E Evidence

- 1 Fabrication of, inc. Verballing, Perjury, etc.
- 2 Improperly/Unlawfully Obtaining
- 3 Destruction/Tampering with (excluding Misappropriation of Seized Drugs)
- 4 Other

F Firearms

- 1 Display of
- 2 Discharge of
- 3 Other

G Goods and Property

- 1 Wrongful Seizure
- 2 Failure to Return
- 3 Damage of Seized Property (refer also to S3)
- 4 Improper Use of Property of Unit of Public Administration other than Vehicles (refer to T2)
- 5 Other

H Harassment

- 1 Threats
- 2 Excessive Attention
- 3 Sexual
- 4 Other

I Information Breaches

- 1 Disclosure/Passing of Confidential Information
- 2 Refusal to Disclose (excluding Name/Identification - refer to L3)
- 3 Giving Incorrect Information
- 4 Other

J Dealings With Juveniles/Disabled/Aborigines

- 1 Conduct of Interview
- 2 Wrongful Arrest/Detention
- 3 Other

K Custody Matters

- 1 Refusal of Legal Representation
- 2 Refusal to Provide Necessities/Medical Attention
- 3 Refusal to Allow Contact
- 4 Other

Appendix E

L Failure to Perform Duties

- 1 To Investigate/Property Investigate
- 2 By Police to Report Offence
- 3 Failure to Identify (Name, Station, Reg no, etc.)
- 4 Not performing statutory duty
- 5 Absent from Place of Duty/Claiming for Duties not Performed
- 6 Other

M Misuse of Powers

- 1 Involvement in Civil Dispute
- 2 Exceeding Powers
- 3 Other

N Arrest/Detention

- 1 Wrongful (excluding J2)
- 2 Instead of Summons
- 3 Reason Not Given
- 4 Unnecessary Force During
- 5 Entrapment
- 6 Other

O Organised Crime

- 1 Gaming/Gambling
- 2 Drugs
- 3 Prostitution
- 4 Money Laundering
- 5 Racing/Trotting/Coursing
- 6 SP
- 7 Other

P Proceedings/Judiciary

- 1 Failure to Properly Present Prosecution/Defence
- 2 Wrongful
- 3 Inappropriate Judicial Conduct
- 4 Other

Q Prostitution (excluding Organised Crime - refer to O3)

- 1 Protection of
- 2 Not being Policed

- 3 Consorting with Prostitutes
- 4 Other

R Criminal Act or Omission

- 1 Stealing
- 2 Other Dishonesty Offences (refer also to L5)
- 3 Sexual Offences
- 4 Leading to Death
- 5 Other

S Searches

- 1 Wrongful Drug Investigation Search
- 2 Other Wrongful Search
- 3 Search Occasioning Damage (other than Seized Property - refer to G3)
- 4 Other

T Traffic/Vehicles

- 1 Issuing of T.O.N.'s
- 2 Manner of Use of Vehicles of Units of Public Administration
- 3 Other

U Unrest (Handling of)

- 1 Riot
- 2 Street Disturbance
- 3 Other

V Victimization (not Harassment - refer to H)

- 1 Victimization of whistleblowers/complainants
- 2 Other

W Warrants of Commitment/ Apprehension

- 1 Improper Execution
- 2 Delays in Execution
- 3 Improperly Issued/Completed/Sworn
- 4 Other

X Miscellaneous

Appendix F

Lectures, Addresses and Presentations by the CJC Chairperson and Officers

Date	Topic and Venue	Officer
4 July 1991	<i>Making Multi-disciplinary Teams Work</i> —National Crime Authority Seminar, Melbourne	Sir Max Bingham QC
4 July 1991	<i>Corruption Prevention in the Public Sector</i> —Conference organised for CPA week by public sector accountants	David Bevan
5 July 1991	<i>Role and Functions of the CJC</i> —Liberal Party, Gold Coast Branch	Marshall Irwin
9 July 1991	<i>White Collar Crime</i> —Australian Law Students Association Conference, Seminar on White Collar Crime, Brisbane	Marshall Irwin
12 July 1991	<i>Role and Functions of the CJC</i> —Queensland Police College, Chelmer, Duty Officers' Course	Carl Mengler
15 July 1991	<i>Role and Functions of the CJC</i> —Australian Securities Commission Executive Management Meeting, Brisbane	Marshall Irwin
16 July 1991	<i>Role and Functions of the CJC</i> —Queensland Police College, Chelmer, Station Officers-in-Charge Course	Colin Hobson
30 July 1991	<i>Role and Functions of the CJC</i> —Queensland Police College, Chelmer, Station Officers-in-Charge Course	Carl Mengler
8 August 1991	<i>Role and Functions of the CJC</i> —Queensland Police College, Chelmer, Investigative Skills Course	Tony Rand
13 August 1991	<i>Public Sector Probity in a Commercialised World: CJC the New Accountability</i> —Conference on Commercialisation: New Directions, Brisbane	Graham Brighton
13 August 1991	<i>Role and Functions of the CJC</i> —Queensland Police College, Chelmer, Station Officers-in-Charge Course	John McDonnell
16 August 1991	<i>Role and Functions of the CJC</i> —Queensland Police College, Chelmer, Station Officers-in-Charge Course	Colin Hobson
19 August 1991	<i>Role and Functions of the CJC</i> —Queensland Police College, Chelmer, Sergeant's Course No. 3	Carl Mengler

Appendix F

Date	Topic and Venue	Officer
28 August 1991	<i>Police Powers</i> —University of Queensland, Department of Anthropology and Sociology, Brisbane	Satyanshu Mukherjee Susan Johnson
4 September 1991	<i>Organisational Structures in the Criminal Justice System: The New Statutory Agencies</i> —University of Queensland, Brisbane	Marshall Irwin
10 September 1991	<i>Role and Functions of the CJC</i> —International Association of Arson Investigators, Milton	Carl Mengler
11 September 1991	<i>Role and Functions of the CJC</i> —Queensland Police College, Chelmer, Sergeants Course No. 3	Carl Mengler
17 September 1991	<i>Ethics and Public Integrity in Contracting with Government and Public Authorities</i> —Queensland University of Technology Law School Seminar, Brisbane	Marshall Irwin
18 September 1991	<i>Law Reform and the State of Crime and Justice</i> —University of Queensland, Department of Anthropology and Sociology, Brisbane	Satyanshu Mukherjee
20 September 1991	Occasional Address—Griffith University Graduation	Sir Max Bingham QC
3 October 1991	<i>Illegal Gambling and Law Enforcement: Time for a New Strategy</i> —Australian and New Zealand Society of Criminology Annual Conference, University of Melbourne	Andrew Williams
9 October 1991	<i>Role and Functions of the CJC</i> —Queensland Police Academy, Oxley, In-Service Course	Richard Metcalfe
16 October 1991	<i>Fraud, Its Reduction and Insurance Ramifications</i> —Insurance Institute of Queensland, Inc, Brisbane	Sir Max Bingham QC
17-19 October 1991	<i>Role and Functions of the CJC</i> —Address to QPS members at: Rockhampton Police Station Maryborough Police Station St. Lawrence Police Station Mackay Police Station Proserpine Police Station Bowen Police Station Ayr Police Station Ingham Police Station Cardwell Police Station	Carl Mengler
22 October 1991	<i>Role and Functions of the CJC</i> —Queensland Police Academy	Christopher Furlong Theresa Hamilton

Date	Topic and Venue	Officer
22 October 1991	<i>Role and Functions of the CJC</i> —Queensland Police Academy	Christopher Furlong Theresa Hamilton
23 October 1991	<i>Professionalism in the Criminal Justice System</i> — Griffith University, first-year students of BA, Justice Administration	Sir Max Bingham QC
23 October 1991	<i>Role and Functions of the CJC</i> —Surfers Sunrise Rotary Club, Surfers Paradise	Marshall Irwin
24 October 1991	<i>Ethics and Police Procedures</i> —Tutorial, Griffith University, Mt. Gravatt Campus	Christopher Furlong Andrew Marjason
28 October 1991	<i>Role and Functions of the CJC</i> —Address to QPS members at Townsville Police Station	Carl Mengler
28 October 1991	<i>Ethics and Police Procedures</i> —Tutorial, Griffith University, Mt. Gravatt Campus	Christopher Furlong Ian Robinson
29 October 1991	<i>Ethics and Police Procedures</i> —Tutorial, Griffith University, Mt. Gravatt Campus	Christopher Furlong
29 October 1991	<i>Ethics and Police Procedures</i> —Tutorial, Queensland University of Technology, Kelvin Grove Campus	Christopher Furlong Richard Pointing
29 October 1991	<i>Role and Functions of the CJC</i> —Queensland University of Technology, Kelvin Grove Campus, Police Trainees	John McDonnell David Bevan
30 October 1991	<i>Ethics and Police Procedures</i> —Tutorial, Queensland University of Technology, Kelvin Grove Campus	Christopher Furlong Richard Pointing
30 October 1991	<i>Role and Functions of the CJC</i> —Queensland University of Technology, Kelvin Grove Campus, Police Trainees	John McDonnell
30 October 1991	<i>Role and Functions of the CJC</i> —Corporate Services Division, Department of Education	Robert Hailstone
31 October 1991	<i>Role and Functions of the CJC</i> —Newstead Rotary Club, Brisbane	Robert Hailstone
5 November 1991	<i>Role and Functions of the CJC</i> —Queensland Police Academy, Oxley, In-Service Training Course	Michael Huddleston
7 November 1991	<i>Minimising Corruption through Preventive System</i> — South-Western Regional Local Government Association, Surat	Robert Hailstone

Appendix F

Date	Topic and Venue	Officer
13 November 1991	<i>Role and Functions of the CJC</i> —Brisbane West Rotary Club	Carl Mengler
13 November 1991	<i>Role of Audit in Corruption Prevention: A CJC Perspective</i> Institute of Internal Auditors	Robert Hailstone
15 November 1991	<i>Money Laundering</i> —QPS Economic Crime Course	Patrick McCallum
19 November 1991	<i>Role and Functions of the CJC</i> —Address to QPS members at Police Union Meeting, City Police Station	Sir Max Bingham QC Carl Mengler David Bevan
20 November 1991	<i>Operation Favour—A Case Study of Drug Trafficking and Proceeds of Crime in Queensland</i> —3rd Joint Agencies Proceeds of Crime Seminar, Melbourne	Timothy McGrath
23 November 1991	<i>Role and Functions of the CJC</i> —Institute of Municipal Management Conference, Townsville	Sir Max Bingham QC
29 November 1991	<i>Role and Functions of the CJC</i> —Royal Institute of Public Administration, Australia, Seminar, Townsville	Sir Max Bingham QC
4 December 1991	<i>Role and Functions of the CJC</i> —QPS Metropolitan South Regional Conference, Inala Youth Club	Carl Mengler
13 December 1991	Addresses to Police Recruits at Assembly—Queensland Police Academy, Recruit Graduation	Sir Max Bingham QC Carl Mengler
15 January 1992	<i>Financial Analysis Techniques</i> —QPS Intelligence Analysts Course, QPS Police Academy, Chelmer	Timothy McGrath
16 January 1992	Opening Address—Launch of Mediation of Police Complaints Pilot Project	Sir Max Bingham QC
16 January 1992	Lecture on Statistics—Queensland Police College, Chelmer, Intelligence Analysts Course	Jon Moore
21 January 1992	<i>Role and Functions of the CJC</i> —Queensland Police Academy, Oxley, Advanced Training Course	Ken Foreman David Shepherd
21 January 1992	<i>Role and Functions of the CJC</i> —Boondall Police Headquarters	Christopher Furlong Richard Pointing
4 February 1992	<i>Role and Functions of the CJC</i> —Boondall Police Headquarters, Field Officer Training Course	Christopher Furlong David Shepherd
10 February 1992	<i>Role and Functions of the CJC</i> —Cooroy Community Consultative Committee	Clare Smith

Date	Topic and Venue	Officer
11 February 1992	<i>Role of CJC</i> —The Xavier Society	Sir Max Bingham QC
14 February 1992	<i>Role and Functions of the CJC</i> —Boondall Police Headquarters	Christopher Furlong David Shepherd
18 February 1992	<i>Role and Functions of the CJC</i> —Rotary Club, Toombul	Robert Hailstone
18 February 1992	<i>Role and Functions of the CJC</i> —Queensland Police Academy	Christopher Furlong Ian Robinson
20 February 1992	<i>Corruption Prevention in the Area of Health Administration</i> —Sencor Health Conference, Prince Charles Hospital	Robert Hailstone
3 March 1992	<i>Role and Function of the CJC</i> —University College of Southern Queensland Faculty Meeting	Robert Hailstone
10 March 1992	<i>Multi-disciplinary Team Work</i> —Australian Federal Police Management of Serious Crime Course, Canberra	Sir Max Bingham QC
12 March 1992	<i>Role and Functions of the CJC</i> —Queensland Police College, Chelmer, Inspectors Course	Carl Mengler
13 March 1992	<i>Corruption – Does it Really Matter?</i> —Apex State Conference, Brookfield Shows Hall	Robert Hailstone
18 March 1992	<i>Role and Function of the CJC</i> —Sandgate Rotary Club	Robert Hailstone
19 March 1992	<i>Corruption in the Public Sector - The Lack of Basic Data</i> —Queensland Fraud Liaison Association, Brisbane	Robert Hailstone
21 March 1992	<i>Role and Functions of the CJC</i> —West Brisbane Combined Services Club, Sunnybank	Robert Hailstone
28 March 1992	<i>Measuring Crime and Crime Trends</i> —University of Queensland, Department of Anthropology and Sociology, Brisbane	Satyanshu Mukherjee
31 March 1992	<i>The CJC & Criminal Intelligence</i> —Rotary Club of Samford Valley	Paul Roger
2 April 1992	<i>Police Powers: The Need for Change?</i> ² —University of Queensland, Department of Anthropology and Sociology, Brisbane	Susan Johnson
3 April 1992	<i>Role and Functions of the CJC</i> —Police Chaplains Meeting, Cairns	Carl Mengler

Appendix F

Date	Topic and Venue	Officer
9 April 1992	<i>Crime Victims Survey</i> —University of Queensland, Department of Anthropology and Sociology, Brisbane	Satyanshu Mukherjee Jon Moore
14 April 1992	<i>Ethics, Cultural Change and the CJC</i> —Queensland University of Technology, Social Ethics & Justice Administration Course, Brisbane	Robert Hailstone
15 April 1992	<i>Role and Functions of the CJC</i> —West Moreton Health Authority, Wolston Park Hospital	Robert Hailstone
23 April 1992	<i>CJC Performance Report</i> —University of Southern Queensland Conference: Reform and Democracy: The Fitzgerald Legacy, Brisbane	Sir Max Bingham QC
27 April 1992	<i>Role and Functions of the Queensland Misconduct Tribunals</i> —Australian Administrative Law Institute Conference, Canberra	James Gordon
28 April 1992	<i>Professionalisation in the Criminal Justice System—CJC Contribution</i> —Griffith University, students of BA, Justice Administration	Sir Max Bingham QC
28 April 1992	<i>The CJC: What Do They Do?</i> —Ashgrove Police Station	Colin Hobson
29 April 1992	<i>Role and Functions of the CJC</i> —Queensland Police College, Chelmer, Crime Investigators' Skills Course	Ken Foreman David Shepherd
1 May 1992	<i>Role and Functions of the CJC</i> —Boondall Police Headquarters, Field Officers Course	Christopher Furlong Richard Pointing
5 May 1992	<i>Aspects of Justice in Queensland</i> —The Rotary Club of Brisbane, Inc.	Sir Max Bingham QC
5 May 1992	<i>How the Community Can Assist the CJC</i> —Brisbane Northern Rotary Club	Robert Hailstone
6 May 1992	QPS Restructuring—Conference of Commissioners of Police of Australasia and South West Pacific Region	Sir Max Bingham QC
7 May 1992	<i>The Extent of Organised Crime</i> —University of Queensland, Department of Anthropology and Sociology, Brisbane	Paul Roger
8 May 1992	<i>Fraud Control Methodology: Raising Awareness</i> —Conference on Accountability, Ethics and Fraud in the Public Sector, Sydney	Graham Brighton

Date	Topic and Venue	Officer
13 May 1992	Address—Brisbane Metropolitan Rotary Club	Sir Max Bingham QC
16 May 1992	<i>Corruption Prevention—Why it Matters</i> —Saturday Clinic Sun Coast Regional Health Authority, Redcliffe Hospital	Robert Hailstone
20 May 1992	<i>Social and Political Context of the CJC and its Role and Functions</i> —Address to Griffith University and Queensland University of Technology Justice Studies students	Ian Robinson
20 May 1992	<i>Ethics and Police Procedures</i> —Tutorial, Griffith University, Mt. Gravatt Campus	Christopher Furlong Ian Robinson
21 May 1992	<i>Prison Overcrowding and the Search for Alternatives</i> —United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders, Tokyo	Satyanshu Mukherjee
21 May 1992	<i>Role and Functions of the CJC</i> —Queensland Education Department, Review and Planning Conference, Woolloowin	Robert Hailstone
22 May 1992	Address—Griffith University Law Society, first-year law students	Sir Max Bingham QC
22 May 1992	<i>Ethics and Police Procedures</i> —Tutorial, Griffith University, Mt. Gravatt Campus	Christopher Furlong Sonia Caton
26 May 1992	Address—Queensland Police Academy, Queensland Police Academy Graduates	Sir Max Bingham QC
26 May 1992	<i>Role and Functions of the CJC</i> —Boondall Police Headquarters	Christopher Furlong Sonia Caton
28 May 1992	<i>The Use and Effectiveness of Community Service Orders</i> —United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders, Tokyo	Satyanshu Mukherjee
29 May 1992	<i>Role and Functions of the CJC: Its Implications for Local Government</i> —Local Government Association, Queensland, 41st Annual Conference of the Cities and Towns	Marshall Irwin
29 May 1992	<i>Role and Functions of the CJC</i> —Queensland Police Service, Address to Queensland Police Academy Graduates, Sleeman Sports Complex, Chandler	Colin Hobson

Appendix F

Date	Topic and Venue	Officer
1 June 1992	<i>Advising Clients on Reporting Corruption to the CJC</i> —Gold Coast Citizens Advice Bureau	Robert Hailstone
2 June 1992	<i>Research Methodology and Statistics in Criminal Justice</i> —United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders, Tokyo	Satyanshu Mukherjee
4 June 1992	<i>Current CJC Complaint Handling Procedures</i> —Task Force Command Officers Conference	Ian Robinson
11 June 1992	Address—Queensland Association of State School Principals, Brisbane	Sir Max Bingham QC
17 June 1992	<i>Public Sector Corruption —What the Private Sector Can Learn About the CJC Experience</i> —Australian Institute of Credit Management State Conference, Gold Coast	Robert Hailstone
18 June 1992	<i>The Five Myths that Hamper Corruption Detection</i> —Bray Park High School, Legal Studies Course	Robert Hailstone
19 June 1992	Address—Brisbane Mid-City Rotary Club	Sir Max Bingham QC
29 June 1992	<i>Role and Functions of the CJC</i> —Griffith University, Mt. Gravatt Campus, first-year Constables Training Enrichment Initiative Course	Carl Mengler

In addition, the Chairperson visited the following regional police stations for the purpose of meeting and addressing members:

Clare
Giru
Halifax
Home Hill
Mingela
Palm Island
Pentland
Prairie
Rollingstone
Stuart
Torrens Creek

Appendix G

Criteria for Determining Whether Complaints Should Be Investigated By Complaints Team or Multi-Disciplinary Team

- **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?

- **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 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.

- **Requires Covert Investigation**

Where a matter requires the introduction of covert investigative techniques 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 regularly uses 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.

However, where there is a need for extensive use of 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

Appendix G

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.

• 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. Any substantial disruption to the workflow would lead to an exponential increase in the backlog of complaints in very short order. There is an acute consciousness of the imperative that this disruption should not occur.

• 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 the 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.

Appendix H

Misconduct Tribunals Appointments/Resignations

Appointments

The undermentioned persons were appointed part-time members of the Misconduct Tribunals for a period of three (3) years (except where indicated):

9 August 1990

Sarah BRADLEY - Solicitor
The Honourable Douglas Malcolm CAMPBELL QC
The Honourable William Joseph CARTER QC
Richard Noel CHESTERMAN QC
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 QC
James Geoffrey CROWLEY QC
Michael Joseph HALLIDAY - Barrister-at-Law

12 September 1991 (period ending 16 March 1994)

Lorenzo BOCCABELLA - Barrister-at-Law

Cessation of Membership

29 January 1991

Margaret Anne McMURDO, appointed a Judge of District Courts

11 February 1991

The Honourable William Joseph CARTER QC, resigned

6 May 1992

Charles Francis BAGLEY, resigned

22 June 1992

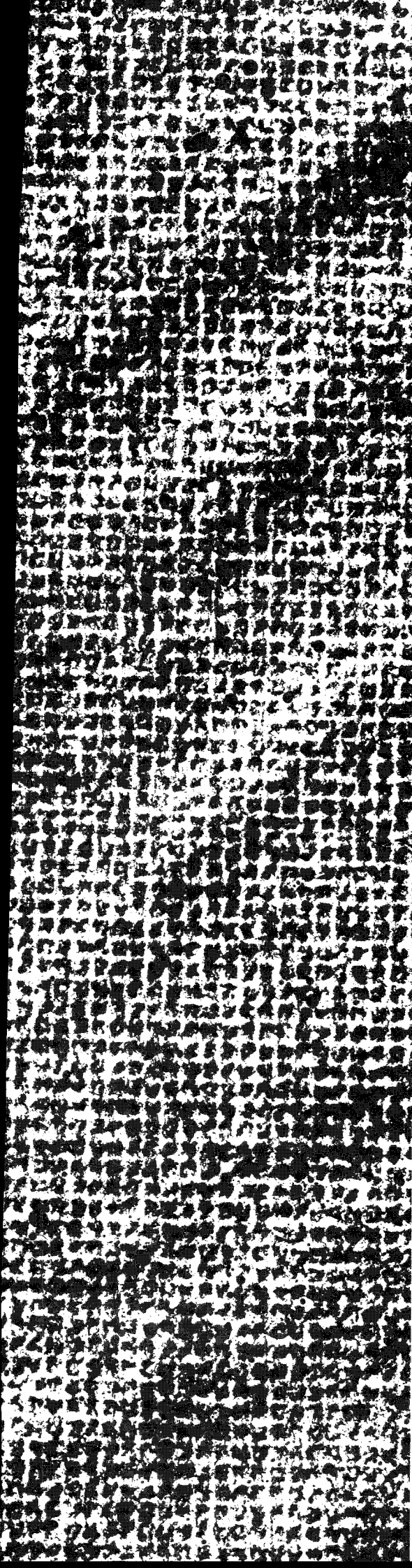
Richard Noel CHESTERMAN QC, resigned

Appendix I

External Committees

Committee	CJC Representative
School of Justice Administration (Griffith)	Sir Max Bingham QC
Police Education Advisory Council (PEAC)	Sir Max Bingham QC Satyanshu Mukherjee
Academy Council, Queensland Police Academy	John Kelly
Criminal Code Review Committee	Marshall Irwin
Police Prosecutions Functions Working Party	James Gordon Susan Johnson
Illicit Drug Study Project	Stephen Guttridge Phil Dickie
Queensland Police Service Manual Review Team	Stephen Guttridge
Committee for Review of Police Service Administration Act 1990	Sir Max Bingham QC Stephen Guttridge
Committee on Anti-Discrimination Act 1992	Stephen Guttridge
Committee on the Execution of Warrants of Commitment in Correctional Centres	Stephen Guttridge
Committee to Review the Information Bureau of the Queensland Police Service	Satyanshu Mukherjee Paul Roger Jon Moore
Working Party to Review and Standardise National Intelligence Training	Paul Roger
Counter-Terrorist Section Control Committee	Sir Max Bingham QC Paul Roger
Steering Committee for Development of Queensland Intelligence Database (Queensland Police Service)	Paul Roger
Criminal Justice Commission/Queensland Police Service Implementation Sub-Committee	Satyanshu Mukherjee Clare Smith
The Forensic Science Services Review Committee	Clare Smith
Aboriginal/Torres Strait Islander Community Police Liaison	Clare Smith

Committee	CJC Representative
Research and Ethics Committee, Queensland Police Academy	Clare Smith
Attorney General's Confiscation Legislation and Education Review Committee	David Cameron
Committals Working Party	James Gordon
Liaison Committee with Health Department	Anne Philtrip Amanda Carter Satyanshu Mukherjee
Organised Crime and Prostitution Working Group	Anne Philtrip Amanda Carter Vicki McCrohon
Queensland Corrective Services Legislation Review Committee	James Gordon
Queensland Police Service Review of Policy and Procedures Committee	Stephen Guttridge
Steering Committee on National Crime Survey	Satyanshu Mukherjee
Interagency Forum on Law Reform	Satyanshu Mukherjee
Working Party to Review the Development Program Designed for Inspectors of the QPS	Satyanshu Mukherjee Clare Smith David Bevan
Working Party for the Development of the Evaluation Reflection Component of the Field Training Program—Queensland Police College	Anne Philtrip Paul Roger
Integrated Criminal Justice System Working Party	Satyanshu Mukherjee
Board of Studies, Queensland Police Academy	Satyanshu Mukherjee
Selection Panel for Various Legal Positions within the Director of Prosecution's Office	Susan Johnson
Queensland Police Service Target Committee	Ken Morris
Queensland Police Service Regional Training Committee	Barry Krosch
Queensland Police Service Welfare Committee	Barry Krosch



**Annual Financial
Statements of the
Criminal Justice
Commission for the
Period 1 July 1991
to 30 June 1992**

Income and Expenditure Account for the Year Ended 30 June 1992

	NOTE	1992 \$	1991 \$
QUEENSLAND GOVERNMENT GRANT	1	12,300,000	20,000,000
OPERATING INCOME			
Interest		374,126	665,699
Profit on Disposal of Plant & Equipment		16,126	-
Other	2	214,650	220,321
TOTAL OPERATING INCOME		<u>604,902</u>	<u>886,020</u>
TOTAL INCOME		<u>12,904,902</u>	<u>20,886,020</u>
OPERATING EXPENDITURE			
Salaries and Related Expenses	3	12,022,166	10,811,751
Administration	4	4,252,534	3,821,420
Operational	5	409,670	280,909
Consulting	6	387,289	612,015
Transfers to Provisions	7	779,205	396,757
Loss on Disposal of Plant & Equipment		-	7,696
TOTAL OPERATING EXPENDITURE		<u>17,850,864</u>	<u>15,930,548</u>
OPERATING (DEFICIT) SURPLUS BEFORE ABNORMAL AND EXTRAORDINARY ITEMS		(4,945,962)	4,955,472
ABNORMAL ITEMS			
Depreciation Expense	8	(118,248)	(311,013)
Write Offs	9	(32,122)	(119,480)
EXTRAORDINARY ITEMS			
Assets Acquired at No Cost	10	313,688	918,999
OPERATING (DEFICIT) SURPLUS AFTER ABNORMAL AND EXTRAORDINARY ITEMS		<u>(4,782,644)</u>	<u>5,443,978</u>
RETAINED SURPLUSES, 1 JULY		<u>8,041,483</u>	<u>2,597,505</u>
RETAINED SURPLUSES, 30 JUNE		<u><u>3,258,839</u></u>	<u><u>8,041,483</u></u>

Balance Sheet as at 30 June 1992

	NOTE	1992 \$	1991 \$
CURRENT ASSETS			
Cash		296,227	5,241,520
Receivables		16,242	76,733
Other			
Prepayments		39,643	7,500
TOTAL CURRENT ASSETS		<u>352,112</u>	<u>5,325,753</u>
NON-CURRENT ASSETS			
Plant & Equipment	11	3,417,138	3,135,387
Investments	12	286,640	-
TOTAL NON-CURRENT ASSETS		<u>3,703,778</u>	<u>3,135,387</u>
TOTAL ASSETS		<u>4,055,890</u>	<u>8,461,140</u>
CURRENT LIABILITIES			
Salaries Payable		73,395	-
Sundry Creditors		13,924	8,343
Provisions	13	421,618	411,314
TOTAL CURRENT LIABILITIES		<u>508,937</u>	<u>419,657</u>
NON-CURRENT LIABILITIES			
Provisions	13	288,114	-
TOTAL LIABILITIES		<u>797,051</u>	<u>419,657</u>
NET ASSETS		<u>3,258,839</u>	<u>8,041,483</u>
EQUITY			
Retained Surpluses		<u>3,258,839</u>	<u>8,041,483</u>

Statement of Sources and Applications of Funds for the Year Ended 30 June 1992

	1992		1991	
	\$		\$	
Sources of Funds				
Funds from Operations (A)				
Inflows of funds from operations				
Income	12,888,776		20,886,020	
Other Income				
Proceeds from sale of non-current assets	427,276	13,316,052	13,100	20,899,120
	<u>16,802,131</u>	(3,486,079)	<u>15,205,943</u>	5,693,177
Outflows of funds from operations				
Reduction in Assets				
Current Assets				
Cash	4,945,293			
Receivables	60,491			
Prepayments	<u>-</u>			809,082
		5,005,784		
Non-Current Assets				
Office Machines & Equipment	36,494			20,796
Motor Vehicles	371,871			-
Computing Equipment	<u>2,785</u>	<u>411,150</u>	5,416,934	<u>829,878</u>
Increase in Liabilities				
Current Liabilities				
Sundry creditors		5,581		-
Salaries Payable		<u>73,395</u>	<u>78,976</u>	-
			<u>2,009,831</u>	<u>6,523,055</u>
Applications of Funds				
Increase in Assets				
Current Assets				
Cash	-		3,880,098	
Receivables	-		52,508	
Prepayments	<u>32,143</u>	82,143	<u>-</u>	3,432,606
Non-Current Assets				
Office machines & equipment	90,447		140,306	
Operations equipment	76,880		215,459	
Furniture & fittings	5,481		128,581	
Computing equipment	679,500		811,493	
Motor vehicles	357,953		-	
Investments	<u>286,640</u>	<u>1,496,901</u>	<u>1,529,044</u>	<u>1,231,148</u>
Recreation leave paid			465,778	240,371
Long service leave paid			15,009	6,014
Decrease in Liabilities				
Current liabilities				
Sundry creditors			<u>-</u>	<u>317,077</u>
			<u>2,009,831</u>	<u>6,523,055</u>

Statement of Sources and Applications of Funds for the the Year Ended 30 June 1992 - Continued

	1992	1991
	\$	\$
NOTES		
A	Reconciliation of operating surplus (deficit) with funds from operations is as follows:	
Operating result	(4,945,962)	4,955,472
Add: Depreciation	680,678	340,948
Provision for long service leave	153,146	17,296
Provision for recreation leave	<u>626,059</u>	<u>379,461</u>
	<u>1,459,883</u>	<u>737,705</u>
	<u>(3,486,079)</u>	<u>5,693,177</u>

Certain 1991 figures differ from those previously certified in order to preserve comparability.

Notes To and Forming Part of the Accounts

STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES

The significant accounting policies which have been adopted in the preparation of these accounts are—

(a) Basis of Accounts

The accounts have been prepared on an historical cost basis, consistent with the basis applied in the previous financial period, except as detailed in Note (d). Income and expenditure are brought to account on an accrual basis.

Policies adopted conform with the Public Finance Standards including professional Statements of Accounting Concepts and applicable Australian Accounting Standards.

(b) Valuation of Plant and Equipment

All non-current assets are included in the accounts at cost less accumulated depreciation. Depreciation has been applied using the straight line method based on the useful life of the asset.

Depreciation on fixed assets purchased during the Commission of Inquiry and for which ownership was subsequently transferred to the Criminal Justice Commission, is brought to account as an abnormal expense item in the Income and Expenditure Account. This also applies to depreciation brought to account on additional assets acquired during the Commission of Inquiry.

(c) Accommodation

Rental for office accommodation is provided free of charge by Administrative Services Department. The Commission is responsible for the lease of the basement facilities of the building and any refurbishment costs.

(d) Employee Leave Entitlements

Provision has been made for liability to employees (excluding police) for long service leave and accrued annual leave. The basis for calculating the liability for long service leave has changed for the 1991/92 financial year. This provision is now calculated on a pro-rata basis for those employees with five years recognised service. Previous years calculation was on the basis of a legal entitlement after ten years of service.

Sick leave is brought to account as incurred.

The Commission also contributes to various employee superannuation plans of the State Superannuation Board.

Notes To and Forming Part of the Accounts - continued

	1992	1991
	\$	\$
Note 1 Queensland Government Grant		
Department of the Premier, Economic & Trade - Development Annual Funding Grant	12,300,000	20,000,000
Note 2 Other		
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	157,785	143,719
Dividends - Q-Fleet	12,431	-
Sundry Income	44,434	68,400
	<u>214,650</u>	<u>220,321</u>
Note 3 Salaries and Related Expenses		
Salaries, Wages and Allowances	9,706,863	8,460,923
Overtime	685,980	1,124,880
Payroll & Fringe Benefits Taxes	663,356	581,910
Superannuation Contribution	931,029	642,894
Workers' Compensation	34,938	1,144
	<u>12,022,166</u>	<u>10,811,751</u>
Note 4 Administration		
Airfares, Taxis, Hire Cars, Travel Allowances	337,402	412,952
Telephones, Pagers, Facsimile	309,596	258,492
Postage and Petty Cash	39,008	14,670
Advertising	43,664	87,250
Subscriptions, Books	69,314	123,996
Stores and Stationery	120,661	127,558
Printing and Publication	129,273	46,220
Q-Fleet Leasing	58,425	-
Petrol, Maintenance, Registration	256,535	277,168
Equipment	46,733	-
Computing Expenses & Software	546,935	215,239
Witness Fees & Expenses	96,322	47,556
Transcription	161,999	105,208
Audit Fees	15,521	5,400
Recruitment & Training	164,863	208,605
Corruption Prevention Expenses	38,412	-
Litigation Costs	178,787	-
Accommodation (a)	704,943	1,393,436

Notes To and Forming Part of the Accounts - continued

	1992	1991
	\$	\$
Information Retrieval (b)	67,693	33,400
Depreciation	680,678	340,948
Other (c)	185,770	123,822
	4,252,534	3,821,420

(a) The 1991 figure for accommodation includes a payment to Administrative Services Department for the establishment of the Commission's premises.

(b) Information Retrieval costs which were previously included as Other are now classified separately as costs have substantially increased.

(c) Security and Maintenance previously classified separately is now included in Other.

Note 5 Operational

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

Note 6 Consulting

Legal Advice and Representation	230,219	249,550
Contracted Research	95,209	244,310
Forensic Document Examination	4,850	46,638
Review of Witness Protection Division	-	34,565
Assistance for Intelligence Division	6,541	16,647
Contract Programming	-	11,533
Expert Examinations & Reports	540	7,772
Recruiting	-	1,000
Review of Complaints Process	10,470	-
Review of Operations	20,150	-
Independent Investigation	9,060	-
Staff Welfare	500	-
Report - Complaints Staffing	6,000	-
Position Evaluations	3,750	-
	387,289	612,015

Note 7 Transfers to Provisions

Long Service Leave	153,146	17,296
Recreation Leave	626,059	379,461
	779,205	396,757

Notes To and Forming Part of the Accounts - continued

1992	1991
\$	\$

Note 8 Depreciation Expense

Depreciation relates to assets purchased during the Commission of Inquiry for which ownership was subsequently transferred to the Criminal Justice Commission and to those additional assets acquired during the course of the Commission of Inquiry and brought to account in the financial records during the current financial year.

Note 9 Write Offs

This comprises fixed assets transferred from the Commission of Inquiry and subsequently expensed.

Note 10 Assets Acquired at No Cost

Assets with a cost value of \$150,532 (less items disposed to the value of \$3,339) purchased during the Commission of Inquiry have been located and transferred to the Commission.

In addition to the assets purchased during the Commission of Inquiry through the Department of Justice and transferred to the Commission, a stocktake located many additional items believed to have been acquired during the Commission of Inquiry. Thorough investigations were conducted to ascertain source and costs in order to bring such assets to account in the financial records. The total value of these items is \$166,494.

Note 11 Plant and Equipment

Office Machines & Equipment	576,992	462,482
Less Accumulated Depreciation	152,495	82,418
	<u>424,497</u>	<u>380,064</u>
Operations Equipment	846,298	669,574
Less Accumulated Depreciation	347,030	182,004
	<u>499,268</u>	<u>487,570</u>
Furniture & Fittings	136,261	130,780
Less Accumulated Depreciation	13,200	2,733
	<u>123,061</u>	<u>128,047</u>
Computing Equipment	2,049,616	1,268,391
Less Accumulated Depreciation	602,768	241,484
	<u>1,446,848</u>	<u>1,026,907</u>
Motor Vehicles	1,131,427	1,253,811
Less Accumulated Depreciation	207,963	141,012
	<u>923,464</u>	<u>1,112,799</u>
TOTAL PLANT AND EQUIPMENT	<u><u>3,417,138</u></u>	<u><u>3,135,387</u></u>

Notes To and Forming Part of the Accounts - continued

	1992	1991
	\$	\$
Note 12 Investments		
Equity in Q-Fleet Leasing Scheme	286,640	-
	286,640	-
Note 13 Provisions		
Current		
Long Service Leave	-	149,977
Recreation Leave	421,618	261,337
	421,618	411,314
Non-Current		
Long Service Leave	288,114	-
	288,114	-
	709,732	411,314

Note 14 Segment Reporting

The Commission is primarily associated with the administration of criminal justice in Queensland.

Note 15 Capital Commitments

Capital Commitments mainly comprising motor vehicles and computer hardware as at 30 June totalled approximately \$135,500 (1991, approximately \$129,000). Commitments are payable within one year.

Note 16 Lease Commitments

The Commission leases motor vehicles from Q-Fleet Division of Administrative Services Department. The leases vary according to the timing of the replacement of the vehicle.

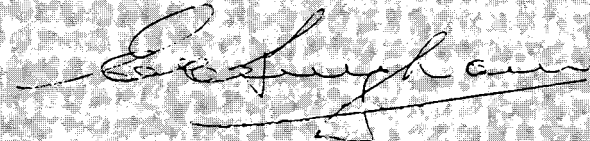
Note 17 Contingent Assets/Liabilities

There were no known contingent assets or liabilities of a significant nature as at 30 June 1992.

Certificate of the Criminal Justice Commission

The foregoing Financial Statements have been prepared pursuant to the provisions of the *Financial Administration and Audit Act 1977*. We certify that -

- (a) the foregoing financial statements 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 Public Finance Standards so as to present a true and fair view of the transactions of the Criminal Justice Commission for the year ended 30 June 1992, and of the financial position as at 30 June 1992.



28/8/92
Date

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 so as to present a true and fair view in accordance with prescribed accounting standards of the transactions of the Criminal Justice Commission for the period 1 July 1991 to 30 June 1992, and of the financial position as at 30 June 1992.



J. G. BUNGEY
Acting Assistant Auditor-General
(As delegate of the Auditor-General)