



CRIMINAL JUSTICE
COMMISSION

**REPORT ON
THE IMPLEMENTATION OF THE
FITZGERALD RECOMMENDATIONS
RELATING TO THE
CRIMINAL JUSTICE COMMISSION**

SEPTEMBER 1993

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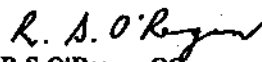
Dear Sirs

In accordance with Section 2.15(k) of the *Criminal Justice Act 1989*, the Commission hereby furnishes to each of you its report on the implementation of the Fitzgerald recommendations relating to the Criminal Justice Commission, which has been prepared in response to a request by the Parliamentary Criminal Justice Committee.

In general, organisations are not well-placed to evaluate their own operations, a principle recognised by Fitzgerald, QC, and made a cornerstone of the recommendations presented in the Commission of Inquiry's Report. The present document examines the establishment and operations of the Commission in the context of the 37 recommendations directed to the then-proposed Criminal Justice Commission. It does not seek to be an exhaustive analysis of the Commission's work and, more importantly, it does not seek to measure the success or impact of the Commission's work. It is a report, a statement of account, not an evaluation.

The Commission hopes that this document will prove a useful resource to those who, from an independent viewpoint, seek to measure the impact of the Commission's work in implementing the recommendations.

Yours faithfully


R S O'Regan, QC
Chairperson

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Introduction

Genesis of this Report

This report was first broached during a Parliamentary Criminal Justice Committee (PCJC) meeting with members of the Criminal Justice Commission (CJC) and Directors of its Divisions on 3 April 1992. During a discussion concerning the desirability of a formal report regarding the reform of the Queensland Police Service (QPS), Mr Ken Davies, MLA, now PCJC Chairperson, cited two recommendations from the Fitzgerald Report---B.I.2(b) and (d)---and said it would be beneficial to have a comprehensive report that gave Parliamentarians an overview of how the Fitzgerald Report recommendations had been implemented. He said it would be beneficial for Parliamentarians to know exactly how the reform process is going in one concise document.

Recommendations B.I.2(b) and 2(d) referred to the responsibilities of the then-proposed Criminal Justice Commission. Recommendation B.I.2(b), which was translated into s. 2.15(k) of the *Criminal Justice Act 1989* (the Act), reads:

advising the Parliament on the implementation of the recommendations in this report relating to criminal justice, and the Police Force, particularly those matters set out for the CJC's consideration;

Recommendation B.I.2(d), which was translated into s. 2.15(j) of the Act, reads:

providing Parliament with regular reports on the effectiveness of criminal justice administration, with particular reference to the incidence and prevention of crime with special emphasis on organized crime and the efficiency of law enforcement by the Police Force;

The then Chairman of the Commission, Sir Max Bingham, QC, said that the Commission did not have the resources to immediately prepare a report corresponding to Recommendation B.I.2(d) until other matters on the Commission's agenda had been addressed, but he would nonetheless take the matter on board.

The Commission submitted a draft report to the PCJC on 30 November 1992. This document corresponded to Recommendation B.I.2(b). It concentrated on the Part B recommendations contained in the Fitzgerald Report. It did not address the Part C Recommendations, directed to the QPS, because the Commission's Research and Co-ordination Division was already engaged in a comprehensive review of the implementation of the police reforms, which was expected to be completed during 1993.

The draft report gave a brief precis of the status of each recommendation, supported by appendices drawn from relevant parts of public documents that presented accounts of the Commission's activities in more detail. Though the Commission believed that a detailed examination was desirable, it thought that such an examination should be more than an inventory of actions and achievements. Similar to the Commission's examination of the police reforms, it should place the recommendations firmly in the context of their objectives, both individually and collectively; examine how the recommendations have been put in place; consider if they have been modified during implementation and if so, why; and assess their impact and effectiveness. Sir Max said that although the Commission would welcome and cooperate with such a project, it felt that such a project should be developed and led by personnel more disinterested than CJC staff.

In a letter to the Chairperson of the Commission dated 25 January 1993, Mr Davies agreed that "such a detailed analysis is desirable but may be more appropriately undertaken by personnel more disinterested than CJC staff". However, he also said that the Committee thought that it may be appropriate for the Commission to expand upon the document and "provide as much detailed analysis as possible".

The Fitzgerald Report Recommendations

The Fitzgerald Report recommendations were presented in three parts. Part A was directed to the establishment, functions, and "review programme" of the proposed Electoral and Administrative Review Commission (EARC). Part B was directed to the establishment, functions, and review programme of the proposed Criminal Justice Commission. The recommendations presented in Part C concerned reform of the organisation, management and disciplinary procedures of the QPS and transitional arrangements for implementing those reforms.

There were 12 Part A recommendations. Nine referred to the establishment of EARC. The remaining 3 recommendations were comprised of many discrete review tasks that became items on EARC's review agenda.

The Part B (Criminal Justice Commission) recommendations were presented in two sections: I-- Establishment and Functions; and II--Review Programme. There were 22 recommendations in Section I; some comprised as many as 11 sub-recommendations. Many focused on the establishment and infrastructure of the Commission. The remainder referred to the permanent role, functions, and responsibilities of the Commission and its Divisions. Section II---the Review Programme---comprised 15 major recommendations. Like Recommendations 9, 10 and 11 directed to EARC, they referred to discrete review projects as opposed to permanent responsibilities.

The Part C recommendations referred to a host of proposed changes to QPS organisation, structure, and disciplinary procedures that the QPS would implement under the supervision of the CJC.

Implementation of the Fitzgerald Report Recommendations

The Fitzgerald Report recommendations ranged from simple changes in police procedure to the establishment of new organisations. Some recommendations defined discrete, finite activities. Others, especially some of those directed to the CJC, were open-ended and implied a multi-faceted form of implementation. Still others, for example those directed to the QPS, dealt with more than their immediate, literal meaning: although ostensibly directed to organisational and structural change, they were part of a larger goal of changing police culture and attitudes to policing held by both the community and the Police Service.

The scope of the recommendations was extremely diverse. So has been the method of implementation. Some were to be implemented by the passage of legislation; some required legislation and administrative activity; some required a continual form of expression consistent with legislation; others could be achieved through the completion of discrete review projects.

The Part A recommendations were reflected in the *Electoral and Administrative Review Act 1989* and, with the establishment of EARC, that Commission's series of review projects. Many, but not all, of the Part B:I recommendations, which referred to the proposed Criminal Justice Commission's establishment, infrastructure and responsibilities, were reflected in the Criminal Justice Act, and with the establishment of the CJC, that Commission's and its Divisions' discharge of their statutory functions and responsibilities. The Part B:II recommendations, which referred to the Commission's "Review Programme", were to be implemented by the Commission in the course of implementing the Part B:I recommendations.

The Part C recommendations have been reflected in the *Police Service Administration Act 1990*, as well as a host of substantive and qualitative changes to QPS structure, methods, procedures, and technology, as well as police culture and behaviour.

Structure, Scope and Content of this Report

The structure, scope and content of this more detailed report requested by the PCJC have been determined in part by several important issues, which are briefly described below.

1. **With such diverse recommendations and methods of implementation, determining when, in fact, implementation has occurred can be problematic.** Recommendations that refer to individual review projects, such as many of those directed to EARC, are clearly "implemented" when the review project is complete. If the recommendations directed to the Commission had been composed largely of a set of review projects, such as those directed to EARC, reporting on implementation could be as simple as preparing a checklist of projects. But this is not the case.

There are several different *kinds* of recommendations directed to the Commission: some refer to the establishment of organisational units; some to the role and functions of those organisational units; some to the processes that those organisational units will follow in fulfilling their responsibilities; some to specific tasks to which those organisational units would be directed. But the core of the recommendations are the broad, open-ended directives that describe the functions and responsibilities of the Commission and its Divisions. Given expression in the Criminal Justice Act, they are directly related to the day-to-day operations of the Commission and its Divisions. In this context, the implementation of some recommendations will arguably never be "complete".

2. **The Commission recognises the considerable difference between reporting on the *fact* of implementation and evaluating the *success* or *impact* of implementation.** The Fitzgerald Report recommendations addressed deficiencies in Queensland policing and public and criminal justice administration. Can a recommendation be said to have been successfully implemented if the deficiency it was to address remains? Providing a general statement regarding the "technical" implementation of a recommendation is only part of the picture. This is recognised explicitly in the Commission's evaluation of the recommendations directed to the QPS, the Part C recommendations. To be completed later this year, the Commission's report will not be confined to the process of implementation, but discuss the wider context of the reform process within the multi-goal operating environment of the QPS.

The present report does not apply the same exhaustive analytical approach that the Commission is using to examine the Police recommendations. It does not provide a detailed discussion of the context for the recommendations. Nor does it seek to measure the success of the implementation or its impact. As we have noted earlier, that should be the province of a research team with more detachment than the Commission (or even the PCJC), because if the Commission were to do so it would in fact be evaluating itself. The present report is a compilation of

information drawn from public Commission documents. Its value lies in the way it relates the Commission's work to the recommendations.

3. **The Criminal Justice Act overlooked or modified some of the Fitzgerald recommendations, and even where recommendations have been translated into the Act, their interpretation is often contingent on parts of the Act that were not drawn from the recommendations.** The first level of implementation of the Part B (Criminal Justice Commission) recommendations, especially those contained in B:I, is the Criminal Justice Act. Some may argue that many of the recommendations were implemented when the Act received Royal Assent.

Although the Commission necessarily pays close attention to the recommendations, its *primary* responsibility is to discharge its functions and responsibilities under the Act, not to implement the Fitzgerald recommendations, except where it is expressly required to do so by the Act (e.g., s. 2.14(3)). An exhaustive, detailed examination of the implementation of the Part B (Criminal Justice Commission) recommendations would have to consider 1) the extent to which the recommendations were reflected in the Act, and 2) the activities of the Commission in discharging its functions and responsibilities under sections of the Act corresponding to the Fitzgerald recommendations.

The first matter requires considerable legal research and may ultimately not serve the best interests of a "readable" report.

The second matter is also of concern. A detailed Commission report on its activities in the discharge of its functions and responsibilities under sections of the Act corresponding to the Fitzgerald Recommendations would be tantamount to a complete review of the Commission's operations, similar to that provided to the PCJC in April 1991, and that envisaged in 1994. It would be repeating, in detail, matters addressed in the three-year report and in annual reports (the most recent of which is currently in preparation). Moreover, by taking the recommendations, rather than the Act, as the point of departure, it may not be a fair representation of the complete spectrum of the Commission's activities.

The present document does not attempt to resolve these issues. In the interest of providing a readable document, it gives some consideration to the expression of the recommendations in the Act, but does not dwell on the anomalies, the inconsistencies, or the idiosyncrasies of either. It does not pretend to be an exhaustive summary of the Commission's activities in discharging its functions under the Act.

4. **There is much overlap between various of the recommendations.** The Commission's responsibilities, for example, are amplified and supported by the responsibilities of its Divisions, and, in the case of the Research and Co-ordination Division, again in the Review Programme. The Commission's responsibilities with respect to the QPS are largely inter-related. Many of the recommendations referring to the organisation and infrastructure of the Commission cover common ground.

Considering that the Commission's operations are of more immediate importance than its structure, organisation, staffing, etc., the report proper begins with preliminary chapters that describe the establishment of the Commission (its membership, organisation, staff, structure, budget, etc.) and the PCJC. The discussion of recommendations relating to organisation and infrastructure will refer the reader to those chapters.

5. **Unlike the activities of the Official Misconduct, Intelligence, and Witness Protection Divisions, which issue directly from those Divisions' statutory responsibilities under the Act and, by inference, the Fitzgerald Report recommendations, the Research and Co-ordination Division's activities largely focus on a review agenda developed by the Division in consultation with the PCJC.** That review agenda comprises criminal justice problems highlighted in the Fitzgerald Report, including the Review Programme, as well as issues raised in debates in Parliament, in public forums, and in discussions with the members of the Commission and various academics specialising in related areas.

Because criminal justice problems are often complex and multi-faceted, the Division's projects may relate to any number of its own statutory roles and functions, the Commission's statutory roles and functions, and, by inference, the Fitzgerald recommendations. Consequently, approaching the Division's activities through the interpretative framework of the recommendations necessarily involves some overlap and reiteration.

The Fitzgerald Report's recommendations directed to the Commission constitute an extraordinary range of tasks addressing a diverse range of criminal justice issues. After three years' operations, the Commission's track record is similarly diverse and involved. In preparing this report, the Commission was mindful of the PCJC's request for a "more detailed" document, yet also concerned that the document remain of reasonable length. The detail of the document is represented in the careful matching of activities to recommendations, rather than exhaustive descriptions of those activities themselves.

1 Establishing the Commission

After two years of deliberations into allegations of illegal activity and police misconduct in Queensland, and indeed within the Queensland public sector generally, on 3 July 1989 the Commission of Inquiry (Fitzgerald Commission) tabled a 388-page report to the Queensland Parliament.¹

The Commission of Inquiry did not exhaust its Terms of Reference. When it became clear that police corruption was widespread and the trail of misconduct led to new areas, the Commission concentrated on more systemic issues: the pattern, nature, and scope of misconduct, and its lessons for the future.

The Fitzgerald Report argued that when misconduct became institutionalised the entire community must take responsibility for both the problem and its solution. Rather than make detailed and far-reaching recommendations, the Report sought "to become a catalyst and platform for continuing reform, by which public confidence in the administration can be restored and political processes improved".²

Citing the often competing interests and conflicting principles at hand in the process of reform, the Report stated that decisions should be informed by "mature, comprehensive, and dispassionate analysis, backed up by research".³ To achieve this it recommended the establishment of two new bodies--- the Electoral and Administrative Review Commission (EARC) and the Criminal Justice Commission (CJC). "These bodies", the Report recommended, "will provide research and analysis to inform the debate on lasting reform, as well as making recommendations to Parliament, overseeing the reform of the Police Department, implementing the changes recommended in this report and continuing the work of this Commission".⁴

¹ Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct (G E Fitzgerald, QC, Chairman), 1989, *Report of a Commission of Inquiry Pursuant to Orders in Council*, Brisbane, Government Printer, hereafter referred to as the Fitzgerald Report.

² Ibid, p. 357.

³ Ibid, p. 358.

⁴ Ibid.

The Implementation Unit

Committing itself without qualification to the implementation of all the Fitzgerald Report recommendations, on 6 July 1989, three days after the day the Report was released, the Queensland Government constituted two units to oversee their implementation.

One implementation unit (the Implementation Unit for the Report of the Commission of Inquiry), headed by Mr Peter Forster and comprised of a number of consultants and seconded police who had been with the Commission of Inquiry, was to handle urgent activities arising from the Fitzgerald Report, lay the groundwork for the proposed Electoral and Administrative Review Commission and Criminal Justice Commission, and oversee and manage the reform of the Queensland Police Service (QPS). Initially reporting to the Premier, it also reported to the Police Minister and the Commissioner of Police with respect to police reforms.

The Implementation Unit was involved in drafting the Criminal Justice Bill, in recruiting and selecting the Chairman and Commissioners of the Criminal Justice Commission, in early efforts to recruit Division Directors for the Commission, and in developing the Commission's first budget. Inasmuch as the Fitzgerald Report recommendations embraced almost every aspect of policing in the State, its responsibilities with respect to the QPS were much broader.

The second implementation unit, a QPS Departmental Task Force staffed by serving police officers attached to Police Headquarters in Brisbane, was to provide advice to the Acting Commissioner of Police and to co-ordinate with the Implementation Unit for the implementation of the police reforms. With the appointment of the new Police Commissioner in October 1989, the Implementation Unit and Departmental Task Force were consolidated into one group. Mr Forster remained to advise the Government and assumed the role of consultant to the head of the new group. This unit continued until 31 August 1990, when its leadership role in police reform was passed to the QPS. The Commission assumed the monitoring function set forth in the Act from that time.

The Criminal Justice Act 1989

The first Criminal Justice Bill was presented to Parliament on 5 October 1989. It was circulated to allow submissions from the community and the legal profession regarding the scope and intent of the proposed Criminal Justice Commission. As a result of the submissions received, on 18 October the original Bill was withdrawn and a new Bill presented. The *Criminal Justice Act 1989* was subsequently passed by Parliament, and it received Royal Assent on 31 October 1989.

Division 1 of Part II of the Act, which allowed for the establishment of the Commission's infrastructure, was proclaimed to take effect at the beginning of November 1989; the remainder of the Act from 22 April 1990. The Commission's operations effectively began in April 1990. The haste with which the bill was prepared suggested the likely need for amendments, which later circumstances and experience confirmed.

The recommendations of the Commission of Inquiry constitute a large part of the Act. The objects of the Act are to:

- establish and maintain a permanent body, known as the Criminal Justice Commission, which would
 - advise on the administration of the criminal justice system in Queensland with a view to ensuring its efficiency and impartiality,
 - continue investigations commenced by the Commission of Inquiry,
 - investigate the incidence of organised crime or major crime,
 - take measures to combat organised or major crime for an interim period,
 - investigate complaints of official misconduct referred to the Commission and secure the taking of appropriate action in respect of official misconduct,
 - hear and determine disciplinary charges of official misconduct in prescribed circumstances, and
- establish and maintain a Parliamentary body, known as the Parliamentary Criminal Justice Committee, which would inform the Legislative Assembly on the Criminal Justice Commission's activities and other matters pertinent thereto.

The functions and responsibilities of the Commission were set forth in Division 3 of Part II of the Act. Under s. 2.14 of the Act, the Commission shall:

- continually monitor, review, co-ordinate and, if the Commission considers it necessary, initiate reform of the administration of criminal justice;
- 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;

- subject to provisions covering reporting elsewhere in the Act, report on its activities to the Parliamentary Committee on a regular basis, report on particular matters concerning the administration of justice when instructed by the Parliamentary Committee or when the Commission thinks it appropriate to do so; and
- monitor, review, co-ordinate and initiate implementation of the recommendations relating to the administration of criminal justice contained in the Report of the Commission of Inquiry, and to that end, having regard to that report, prepare a program of priorities.

Under s. 2.15 of the Act, the Commission's responsibilities include:

- the acquisition and maintenance of the resources, skills, training and leadership necessary for the efficient administration of criminal justice;
- monitoring and reporting on the use and effectiveness of investigative powers in relation to the administration of criminal justice generally;
- monitoring and reporting on the suitability, sufficiency and use of law enforcement resources and the sufficiency of funding for law enforcement and criminal justice agencies including the offices of the Director of Prosecutions and of the Public Defender;
- overseeing criminal intelligence matters and managing criminal intelligence with specific significance to major crime, organised crime and official misconduct;
- 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;
- 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.
- monitoring the performance of the QPS 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 QPS to respond to those trends;
- 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;
- overseeing reform of the Police Service;
- 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;
- 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;
- 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.

Commission Membership, Qualifications, and Terms of Appointment

The Commission consists of a full-time Chairperson and four part-time community members. Consistent with the recommendations, the Act gives some specificity to the manner in which they are to be selected and, likewise, to their qualifications.

The Chairperson of the Commission must have served as, or be qualified for appointment as, a judge of the Supreme Court of Queensland or any other State or territory of the Commonwealth, the High Court, or the Federal Court of Australia. Both of the Commission's Chairpersons have been so qualified. The Commission's first Chairperson, Sir Max Bingham, QC, was appointed effective 21 December

1989. The Commission's second Chairperson, Mr Robin O'Regan, QC, was appointed on 1 December 1992. Under the Act, the first Chairperson was ineligible for a further term; subsequent Chairpersons cannot hold aggregate terms in excess of five years.

Of the four part-time Commissioners, the Act specifies that one must be a practising lawyer with demonstrated interest and ability in civil liberties, three must have demonstrated an interest and ability in community affairs, and at least one must have proven senior managerial experience in a large organisation. All part-time members of the Commission have been so qualified. Mr Jim Barbeler and Mr Lewis Wyvill, QC, are both legal practitioners with demonstrated interest and ability in civil liberties. Dr Janet Irwin, Professor John Western and Mr Barrie Ffrench have each made significant contributions to community affairs in Queensland. Mr Kelly brings to the Commission considerable management experience in the Queensland public service. Mr Ffrench holds senior managerial positions in the Queensland private sector.

The part-time Commissioners' terms of tenure are as follows:

| | |
|-----------------------------|--|
| Mr Jim Barbeler, LLB | 8 March 1990 - 7 March 1992 |
| Dr Janet Irwin, AM, MB, ChB | 8 March 1990 - 7 March 1993 |
| Mr John Kelly, BSc (For) | 8 March 1990 - 7 March 1994 |
| Professor John Western, PhD | 21 March 1990 - 20 March 1993 (Professor Western was appointed as an Acting Part-Time Commissioner on 26 March 1993. This appointment expired 31 July 1993. On 12 August, he was re-appointed in this capacity to a maximum period ending 30 April 1994.) |
| Mr Lewis Wyvill, QC | 27 August 1992 - 26 August 1996 |
| Mr Barrie Ffrench, BA | 1 August 1993 - 31 July 1996 |

The Commission operated with only three part-time Commissioners during the periods March - August 1992 and March - July 1993. As indicated above, the current part-time members of the Commission are Mr Kelly, Professor Western, Mr Wyvill, QC, and Mr Ffrench.

The Commission meets regularly on the first and third Fridays of each month, when Directors and other senior staff report and are questioned on the activities in their areas of responsibility. From time to time other meetings are held to deal with specific issues.

Under the Act, the Commission's business may be decided by a majority vote of the members present and voting. The person presiding at a Commission meeting is entitled to a deliberative vote and, in the event of an equality of votes, to a casting vote. In practice, the Commission has thus far been able to act by consensus.

Structure of the Commission

The Act gave the Commission a structure consistent with the recommendations of the Fitzgerald Report: five organisational units---the Official Misconduct Division, the Research and Co-ordination Division, the Intelligence Division, the Witness Protection Division, and the Misconduct Tribunals. The functions and responsibilities of each were defined in the Act. Each Division was headed by a Director, reporting to the Chairperson, the Commission's chief executive officer.

The Commission also employed a General Counsel to provide legal, strategic and policy advice, represent the Commission before the courts and tribunals, and assume administrative responsibility for the Misconduct Tribunals. Consistent with the Act, the Commission also employed an Executive Director. The Executive Director acts as Secretary to the Commission and manages administrative support functions such as human resources, financial administration, records, computer systems, plant administration, and co-ordination of Commission-wide matters such as corporate planning.

Under s. 2.12 of the Act, the Commission may establish new organisational units or terminate existing units. Since it began operations in 1989/90, the Commission has established three more organisational units. The responsibilities of the Commission's secretariat were given formal recognition with the establishment of the Corporate Services Division under the control of the Executive Director. In December 1992, the Commission established the Office of General Counsel as a Division within the Commission. And in March 1993, the Commission established a Corruption Prevention Division.

The Fitzgerald Report recommendations recognised the need for the Commission to have an educative and liaison role with other agencies, departments and private institution and auditors in relation to preventing and detecting official misconduct (Recommendation I:10(f)(ii)). Both the recommendations and the Act directed this function to the Official Misconduct Division as a natural adjunct to its corruption investigative responsibilities. Recognising that the corruption prevention was a cost-effective, proactive approach to combating official misconduct, the Official Misconduct Division appointed a corruption prevention officer, who established the Commission's Corruption Prevention Program.

As the Program developed and matured, its importance to the Commission's overall goals became more apparent, and both the PCJC and the Commission recognised that its effectiveness would be enhanced if afforded more resources. The PCJC wrote that "a prevention strategy is the most effective way to improve the

standards of behaviour in the public sector".⁵ The establishment of the Corruption Prevention Division in March 1993 confirmed the Commission's commitment to the corruption prevention approach and significantly increased the scope and depth of its efforts in this area.

Commission Staff

Part II, Division 9 of the Act sets forth the Commission's powers and responsibilities with respect to its staff. Under s. 2.53 of the Act, the Commission may employ an Executive Director and such Directors and other staff as are necessary for the effective and efficient discharge of the functions and responsibilities and exercise of powers of the Commission and of each of its organisational units. However, the number of staff the Commission may employ is effectively limited by the size of its budget, which, under an agreement with the Government, is now set at 263 permanent, full-time staff.

For reasons beyond the Commission's control, the task of recruiting Directors and staff for the Commission did not always proceed expeditiously. A small number of Commission of Inquiry staff went on to sign employment contracts with the Criminal Justice Commission; some staff, like the Chairperson, held concurrent positions with both bodies. But in some areas, such as Research and Co-ordination and Intelligence, suitably qualified and experienced staff were not available. In other areas, such as the Complaints Section, delays in approving the Commission's budget and the introduction of new procedures for transferring staff from the ranks of the QPS meant that staffing did not reach its full complement until 6 months after the Section began operations.

Members of the Commission's inaugural Executive Management Group were appointed over the period November 1989 through May 1990:

| | | |
|--|------------------------|------------------|
| General Counsel | Mr Marshall Irwin | 4 November 1989 |
| Executive Director | Mr Robert Wedgwood | 16 November 1989 |
| Director, Official Misconduct Division | Mr Mark Le Grand | 2 January 1990 |
| Director, Research and Co-ordination Division | Dr Satyanshu Mukherjee | 5 March 1990 |
| Director, Intelligence Division | Mr Jack Morris | 1 April 1990 |
| Director, Witness Protection Division | A/C Carl Mengler | 23 May 1990 |

⁵ Parliamentary Criminal Justice Committee, August 1992, *Review of the operations of the Parliamentary Criminal Justice Committee and the Criminal Justice Commission*, Report No. 18, Part C, Brisbane, Government Printer, p. 14.

Table 1 shows the distribution of the Commission's permanent establishment among the Commission's Executive and seven Divisions as of 30 June 1993.

Table 1: Permanent Establishment of the Commission, 30 June 1993

| Division | Permanent Establishment |
|--|-------------------------|
| [Executive] | [3] |
| General Counsel & Misconduct Tribunals | 12 |
| Official Misconduct | 129 |
| Operations & Witness Protection | 29 |
| Research & Co-ordination | 19 |
| Corruption Prevention | 5 |
| Intelligence | 24 |
| Corporate Services | 42 |
| Total | 263 |

Executive Management

The Executive Director assists the Chairperson in co-ordinating the Commission's operational functions through the Executive Management Group, which consists of the Chairperson and Division Directors. The Executive Management Group meets weekly to discuss inter-Divisional matters and determine operational policies and priorities. Its present members are:

Mr Robin O'Regan, QC

Dr David Brereton

Mr Graham Brighton

Mr Robert Hailstone

Mr Marshall Irwin

Mr Mark Le Grand

Asst. Commissioner John McDonnell

Mr Paul Roger

Chairperson

Director, Research and Co-ordination
Division

Executive Director

Director, Corruption Prevention Division
General Counsel

Director, Official Misconduct Division

Director, Witness Protection Division
and Director of Operations

Director, Intelligence Division

Resources, and Government Support

Approval of the Commission's first budget was delayed, thereby preventing the immediate engagement of some staff in the OMD, and in particular in the Complaints Section. Until that budget was approved on 1 April 1990, the Commission's expenditures were met by the Department of Justice and the QPS, which were reimbursed by Treasury.

Table 2 summarises the appropriations that the Commission has received and the monies it has expended since its establishment.

Table 2: Criminal Justice Commission Appropriations and Expenditures

| Financial Period | Total Government Funds* | Total Expenditure | Cash Surplus |
|---------------------|-------------------------|-------------------|--------------|
| 01/04/90 – 30/06/90 | \$5,000,000 | \$3,138,578 | \$1,861,422 |
| 01/07/90 – 30/06/91 | 20,000,000 | 16,999,869 | 5,241,520 |
| 01/07/91 – 30/06/92 | 12,300,000 | 18,333,879 | 296,227 |
| 01/07/92 – 30/06/93 | 20,662,000 | 21,940,000 | **3 |

* Includes Special Allocation to cover Administrative Services Department charges for accommodation. In addition to Government funding, income was received from the sale of assets and interest earned.

** Estimate.

This is a generous level of funding in these tight financial times. But even with the additional monies granted by the Government to cover extraordinary activities undertaken by the Commission,⁶ given the scope of the Criminal Justice Act, it has been insufficient for the Commission to simultaneously fulfil all of its statutory functions.

It could be argued that this situation was anticipated in the Recommendations by the inclusion of Recommendation I:17, which stated that in implementing the recommendations pertaining to criminal justice the Commission have the power and responsibility to determine priorities. But this particular recommendation was not properly reflected in the Act.

⁶ For example, the Investigation into the Jury Selection Process in the Trial of Sir Johannes Bjelke-Petersen; and the Lorrelle Anne Saunders Inquiry.

The Commission has the power to determine priorities only in so far as the Act allows it do so. This has been the subject of some debate. Some of the Commission's responsibilities (and those of its Divisions) must be discharged "regularly", "continually", or "on a continuing basis". Other functions and responsibilities involve some kind of "monitoring" activity, which in *Boe v Criminal Justice de Jersey J* determined to mean on a more or less continual, regular, or recurrent basis.⁷

Under s. 2.14(3) of the Act, the Commission is charged with preparing a "program of priorities" for implementing the recommendations relating to the administration of justice contained in the Fitzgerald Report. There appears to be no doubt that this refers to the Part II Recommendations directed to the Criminal Justice Commission, the "Review Programme" and, similarly, no doubt that the Commission has the power to prioritise the implementation of *those* recommendations. But the extent to which this power extends to the functions and responsibilities of the Commission, which were derived largely from the Part I recommendations, remains unclear. In *Boe v Criminal Justice Commission*, de Jersey J decided that if s. 2.14(3) of the Act referred to the Commission's responsibilities under s. 2.15, it could not be used to defer the performance of responsibilities that must be discharged on a more or less continual, regular, or recurrent basis.

Accommodation

At the time of its establishment, the Commission was accommodated in premises at 160 Ann Street in Brisbane's central business district. These premises were less than satisfactory for a number of reasons, including security. In mid-1990 the Administrative Services Department recommended that the Commission be re-located to a new building at Toowong. The recommendation stated that the cost of re-location would be approximately the same as that required to refurbish the premises at 160 Ann Street.

The Commission moved to its current premises at 557 Coronation Drive, Toowong, in December 1990. As the sole tenant of the building, the Commission has been able to adapt it to specific operational and security needs. The building boasts two secure hearing rooms that can be opened to the public as needed.

At the time the Commission proper relocated to Toowong, it continued to maintain a small office at 160 Ann Street for the Misconduct Tribunals and the Commissioner for Police Service Reviews. In February 1992 the Misconduct Tribunals and Commissioner for Police Service Reviews relocated to new premises

⁷ *Boe v Criminal Justice Commission*, de Jersey J, Supreme Court of Queensland, No. 319 (1993).

at MLC Court, 15 Adelaide Street, in the central business district. The location of the Misconduct Tribunals and Review Commissioners in offices quite separate from the Commission is an expression of their independence from the Commission's direction.

Hearings

Public hearings hold an important place in post-Fitzgerald Queensland. They are a potent reminder of the necessity of openness on the part of public sector organisations. Under s. 2.17 of the Act, the Commission may conduct a hearing "in relation to any matter relevant to the discharge of its functions or responsibilities . . ." S. 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 determining whether hearings should be public or private, the Commission considers a number of issues, for example, whether holding public hearings would be unfair to any person (see 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.

To date, the Commission has held 124 hearings, the large majority in support of its investigations. Given the Commission's concern for fairness, most of its hearings have not been open to the public. The other matters that weighed heavily with the Commission in deciding whether hearings should be open to the public are discussed under Recommendation I:10(e).

Winding Down the Commission of Inquiry

The Commission of Inquiry continued to carry out its investigative functions and support related prosecutions while the CJC was being established. Outstanding matters were transferred to the Criminal Justice Commission after the CJC's operational functions and powers took effect on 22 April 1990.

The Fitzgerald Inquiry generated a voluminous amount of material in the form of transcripts, investigation files, databases, and correspondence. Shortly after its establishment, the Intelligence Division reviewed all data and records accumulated by the Commission of Inquiry and secured those of intelligence value for entry into the Division's Criminal Intelligence Database. In accordance with the Chairperson's direction, the balance was transferred to the control of the

Information Management Section, Corporate Services Division, which began the long-term process of determining which should be returned to its owners, destroyed, or retained by the Commission as part of its holdings.

Although its investigative role and database have long been transferred to the CJC, the Commission of Inquiry has remained in existence for technical reasons, for example, to provide support and assistance to the Office of the Special Prosecutor and, more recently, the Director of Prosecutions⁸ in bringing to trial persons charged with offences as a result of investigations initiated under Mr Fitzgerald, QC, and, later, Mr Crooke, QC. While serving as CJC Chairpersons, both Sir Max Bingham, QC, and Mr Robin O'Regan, QC, have held the position of Chairperson of the Commission of Inquiry, and the CJC's General Counsel remains the Commission of Inquiry's Senior Counsel Assisting.

⁸ On 25 June 1993, the Office of the Director of Prosecutions assumed the role of the Special Prosecutor.

2 Establishing Accountability and Oversight Mechanisms

Parliamentary Criminal Justice Committee

While the Fitzgerald Report argued that the administration of criminal justice (and the Criminal Justice Commission) should be an apolitical, vital public function free of Executive controls, it also stressed that it should be open to public review and accountable to Parliament. "Independence is essential . . . but autonomy is not necessary for effectiveness".⁹ One mechanism that met the requirements of public review and accountability was an all-party Parliamentary committee.

Part IV of the Criminal Justice Act set forth the constitution and membership, and functions and powers of a Parliamentary Criminal Justice Committee, whose responsibilities are directed solely to matters relating to the Criminal Justice Commission.

The first PCJC was appointed on 21 March 1990; it elected its first Chairperson on 22 March 1990. The members of that Committee were:

Mr Peter Beattie, MLA, Member for Brisbane Central (Chairperson)
Hon Mike Ahern, MLA, Member for Landsborough (Deputy Chairperson until his resignation in May 1990)
Hon Bill Gunn, MLA, Member for Somerset (Deputy Chairperson following Mr Ahern's resignation)
Mr Ken Davies, MLA, Member for Mundingburra (appointed April 1992 after the resignation of Mr Schwarten)
Mrs Wendy Edmond, MLA, Member for Mount Coot-tha
Mr Neville Harper, MLA, Member for Auburn
Mr Santo Santoro, MLA, Member for Merthyr
Mr Robert Schwarten, MLA, Member for Rockhampton North (until his resignation in April 1992)
Mrs Margaret Woodgate, MLA, Member for Pine Rivers

A new PCJC was appointed on 10 November 1992 following the elections earlier that month. Mr Davies was elected Chairperson on 11 November 1992. The members of the present Committee are:

⁹ The Fitzgerald Report, p. 366.

Mr Ken Davies, MLA, Member for Mundingburra (Chairperson)
Hon Neil Turner, MLA, Member for Nicklin (Deputy Chairperson)
Mr Tom Barton, MLA, Member for Waterford
Mrs Lorraine Bird, MLA, Member for Whitsunday
Mr Darryl Briskey, MLA, Member for Cleveland
Hon Vince Lester, MLA, Member for Keppell
Dr David Watson, MLA, Member for Moggill

The Commission's responsibilities to the Queensland Parliament and the PCJC are clearly central to the formal review structure under which it operates. The Commission submits written reports to the PCJC each month. These reports, which the Committee has characterised as "extremely 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 generally made public.

In addition to the confidential meetings held with the Commission and members of the Commission's Executive, the PCJC has held public hearings on aspects of the Commission's work and functions and has published many associated reports. These have included an extensive review of the Commission's operations that presented recommendations for amendment to the Criminal Justice Act and the discharge of certain Commission functions.

Role of the Minister

The Commission was established with the express intent that it be accountable to Parliament rather than the Executive. In accordance with the Fitzgerald Report, the role of the Minister is limited to actions necessary to finance the Commission, provide it with resources, fulfil necessary public financial and accounting purposes, develop and maintain the membership of the Commission, and receive information, for example reports prepared under s. 2.18 of the Act, certain reports prepared by the Intelligence Division, and annual reports.

The Report stated that the Attorney-General should be the Minister responsible for the CJC, subject to implementation of recommendations concerning the separation of the offices of Attorney-General and Minister for Justice.

The Departments of the Attorney-General and Justice were made separate Ministerial portfolios soon after the elections of 1989. When the Criminal Justice Act receiving Royal Assent on 31 October 1989, the Premier was the Minister responsible for the CJC.

Effective September 1992, the Departments of the Attorney-General and Justice were merged under one Director-General, and the Hon Dean M Wells, MLA, was appointed Attorney-General and Minister for Justice and the Arts. At the same time, the Government appointed Mr Wells as the Minister responsible for the CJC.

3 Recommendations Relating to the Criminal Justice Commission¹⁰

I. Establishment and Functions

1. A Criminal Justice Commission (CJC) be established charged with:
 - (a) monitoring, reviewing, co-ordinating and initiating reform of the administration of criminal justice in Queensland on an ongoing and permanent basis;
 - (b) discharging those criminal justice functions not appropriately to be carried out by the Police Department or other agencies;

See Chapter 1.

¹⁰ These recommendations are presented on pp. 372–379 of the Fitzgerald Report.

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2. the permanent role of the CJC include:

- (a) acquisition of the resources, skills, training and leadership necessary for the administration of criminal justice;

The Fitzgerald Report recommended that the Commission be given very broad statutory functions. They included functions that were being ineffectively or inappropriately discharged by other agencies---investigating official misconduct, police misconduct, and organised and major crime; researching and co-ordinating the processes of criminal law reform; providing witness protection; and gathering criminal intelligence---as well as the wide-ranging functions of monitoring, reviewing, co-ordinating and initiating reform of the administration of criminal justice in Queensland. The report suggested that the specialised expertise necessary to carry out these activities was either not available in Queensland or, if available, was not being properly applied.

The inclusion of Recommendation 2(a) among the Commission's permanent role and responsibilities---and its translation into s. 2.15(a) of the Act---recognised that assembling and maintaining a top-flight, qualified staff would be integral to the discharge of the Commission's responsibilities. The Report supported this by noting that the Commission should be given financial support and allowed the resources and conditions to attract independent, skilled people of high reputation.

The Commission has vigorously pursued a policy of building a multi-disciplinary staff. It has attracted a well-credentialled Executive and management group. It has built a well-rounded legal and social science research team. It has developed multi-disciplinary investigatory teams with proven track records in investigating official misconduct and police misconduct and established a joint CJC-QPS organised crime task force capable of applying sophisticated investigation technology and analytic techniques. It has developed a fully functional intelligence service, witness protection program, and corruption prevention program. It has assembled a cadre of counsellors to advise on legal aspects of the Commission's operations and liaise with the legal community at large, and a skilled secretariat.

While attracting appropriately skilled individuals to its staff, the Commission has devoted considerable effort to widening and strengthening its in-house expertise. Concentrating on both personal and organisational skills, it has developed and fielded training programs in witness protection, intelligence analysis, investigation techniques, as well as report-writing, word-processing, and spreadsheet software. These courses have at times been made available to staff from other agencies. Staff have 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 QPS officers transferred to the Commission.

Discussion of the Commission's implementation of other recommendations will address the broad array of matters to which these resources have been applied.

2. (b) advising the Parliament on the implementation of the recommendations in this report relating to criminal justice, and the Police Force, particularly those matters set out for the CJC's consideration.

This recommendation was translated into a Commission responsibility under s. 2.15(k) of the Act. However, other parts of the Act also directed to the Commission's reporting requirements indirectly address the Commission's efforts in advising Parliament on the implementation of the Fitzgerald recommendations.

Under s. 2.14(2)(a) of the Criminal Justice Act, the Commission must report to the Parliamentary Committee "on a regular basis". In fact, the Commission submits written reports to the PCJC each month, and the Committee may request oral presentations by both Commissioners and Division Directors on specific issues raised in them. These reports cover the operations of the Commission and its Divisions and its progress on its many research projects. Because the establishment and operations of the Commission are a direct expression of the recommendations contained in the Fitzgerald Report, these monthly reports are a convenient method of monitoring the implementation of the recommendations directed to the Commission.

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Under s. 2.15(i) of the Act, the Commission is charged with "overseeing the reform of the Police Service". The Commission assumed this role from the Implementation Unit in September 1990, and since that time, has been monitoring the implementation of the Fitzgerald Reports Part C recommendations, which were directed to the Police Service. The Commission has reported on this work in its monthly reports, and provided several definitive summary status reports to the PCJC. In 1992, the PCJC asked the Commission to conduct an in-depth formal review the implementation of the recommendations of the Commission of Inquiry relating to the QPS, as well as other reforms in the Service (see Recommendation I:2(h) for further detail). The Commission expects this to be completed this calendar year.

In addition to its monthly reports to Parliament and status reports on the implementation of the Part C (Police) Recommendations, the Commission has tabled in Parliament many other reports that follow directly or indirectly from Recommendations directed to the Criminal Justice Commission. These include reports from several research projects (*Reform of Laws Relating to Homosexuality; Regulating Morality--An Inquiry into Prostitution in Queensland; Report on Gaming Machine Concerns and Regulations; Report on S.P. Bookmaking and Related Criminal Activities*; and Volumes I and II of the *Report on a Review of Police Powers in Queensland*); several investigative reports; three annual reports; and reports directed specifically to the PCJC's monitoring and reviewing function. All of these reports have referred to activities following on from the Fitzgerald Report recommendations.

The present document, however, represents the first time the Commission has prepared a report whose *primary* focus is an assessment of the implementation of the recommendations pertaining to the "administration of criminal justice".

2. (c) monitoring and reporting on the use and effectiveness of investigative powers;

At the same time that the Fitzgerald Report recommended that the Commission's permanent role include "monitoring and reporting on the use and effectiveness of investigative powers", the Review Programme (Recommendation II:4) stated that the Commission:

as an essential part of its immediate functions, undertake investigation, review, reform, and consideration of criminal justice matters arising from this report, including:

. . . .

4. comprehensive review of all investigative powers, to critically examine the use of current powers, assess the need for other or more powers, and upgrade control of investigative powers . . .

Recommendation I:2(c) was translated into s. 2.15(b) of the Act. Recommendation II:4 was one of the matters and included in the Research and Co-ordination Division's review agenda, which has been developed in conjunction with the PCJC.

In September 1991 the Commission and the Office of the Minister for Police and Emergency Services released an issues paper, *Police Powers in Queensland*, which canvassed 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 selected key issues such as the power to demand name and address, move-on powers, the power of arrest, identification procedures, search warrants and electronic surveillance. 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.

The preparation and publication of the issues paper was one of the first tasks in a broad-ranging research effort during which Research and Co-ordination Division staff:

- analysed over 100 submissions from individuals and interest groups;
- held public hearings on 10 and 11 June 1992 at which selected individuals and representatives of organisations who had made submissions to the Commission in response to the issues paper were invited to speak;
- wrote to the Directors-General of Government departments that controlled legislative provisions relating to police powers and asked those departments to advise the Commission of the number of occasions during the previous 12 months that police had used, or had been called on to assist the department in enforcing, those legislative provisions and to comment on the need to preserve those powers;

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- sought and received from the QPS anecdotal evidence regarding circumstances in which police officers felt constrained or frustrated by limits on existing police powers or the lack of sufficient powers;
- conducted formal and informal discussions with over 90 police officers, criminal law practitioners, social workers, and academics;
- conducted interviews with a considerable number of persons charged with criminal offences concerning their experiences and their knowledge of the criminal justice system;
- reviewed the statutory basis and use of police powers in other Australian jurisdictions and overseas; and
- prepared a comprehensive listing of police powers and identified more than 90 Acts under which they are conferred.

The first two volumes of the Division's final report were tabled in Parliament on 4 June 1993. Volume I describes the framework and context in which recommendations contained in subsequent volumes concerning various aspects of police powers will be made. It also proposes a scheme for consolidating police powers, which could address a number of the shortcomings of the current legislation. Volume II deals with the powers of entry, search and seizure prior to arrest and recommends reform of the law in those areas. Future volumes will address the contentious issues of detention and questioning powers, arrest powers and post-arrest procedures, move-on powers, and questions relating to electronic surveillance.

2. (d) providing Parliament with regular reports on the effectiveness of criminal justice administration, with particular reference to the incidence and prevention of crime with special emphasis on organised crime and the efficiency of law enforcement by the Police Force;

The Fitzgerald Report argued that the administration of criminal justice should be informed by regular research and analysis regarding the effectiveness of both the

system as a whole and its component parts. At the same time, it acknowledged that determining "effectiveness" was not a simple formulaic exercise: it required consideration of different kinds of information, and in particular, information concerning the incidence of crime. At the time the Report was written, much of the available relevant information was at best incomplete and unreliable.

This recommendation was translated into s. 2.15(j) of the Act. Its inclusion among the responsibilities of the Commission is supported by the functions of the Research and Co-ordination Division. Under s. 2.45(2)(b), which reflects Recommendation I:12(a), Division is "to define trends in criminal activity . . ." S. 2.45(2)(f), which reflects Recommendation I:12(g), states that one of the functions of the Research and Co-ordination Division is "to review on a continuing basis the effectiveness of programs and methods of the Police Department . . . "

The Commission's work related to this recommendation has three aspects: first, consistent with Report's argument, the Commission embarked on three long-term projects directed towards improving the quality and availability of data on the incidence of crime in the State generally; second, consistent with the QPS emphasis on community policing, it has focused more narrowly on crime and law enforcement at a community level; third, it has concentrated on developing a body of knowledge concerning the nature and scope of organised crime activity in the state.

As the first step toward building a knowledge base on the incidence of crime in Queensland, the Research and Co-ordination Division, in conjunction with the Government Statistician's Office, conducted a survey on criminal victimisation in Queensland (see Recommendation I:12(a)). At the same time, it conducted a comprehensive review of QPS information systems that would, among other things, contribute to the development and operation of better statistical systems within the QPS, including those focusing on information on crime and offenders (see Recommendation II:6). And it took the initiative in proposing the development of an integrated criminal justice database, a project now being carried forward by the Inter-Agency Forum on Law Reform (see Recommendation I:12(a)). These long-term projects will help provide more balanced and reliable State-wide data on the incidence of crime.

Whereas these projects take a macro-level approach, other projects have tackled the same issue from a local level, focusing on police administration and operations. In the course of these projects, the Research and Co-ordination Division has defined a methodology for collecting and analysing data on communities and

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police operations that can be used to determine the effectiveness of police work and inform the development of more effective community policing programs.

The most significant initiative has been the development of a two-year pilot project under a partnership between the QPS and the Commission. Known as the Toowoomba Beat Area Patrol Pilot Project, it was launched on 5 May 1993 after 18 months of planning and consultation between staff of the Southern Region of the QPS and the Commission's Research and Co-ordination Division. During that time, Commission staff analysed 14,000 calls for service, surveyed land-use and socio-economic factors in the area, identified addresses that generated repeat calls-for-service, and analysed relevant victimisation data. The outcome of this effort is an innovative approach to policing that considers community needs, the availability of law enforcement resources, and the specialised training needs of police officers.

The Commission's evaluation of the project will focus on a wide range of issues, including attitudes towards police, community fear of crime, and rates of victimisation in the City of Toowoomba (see Recommendation I:12(g)).

The Toowoomba Beat Area Patrol Pilot Project is an extension of another Research and Co-ordination effort that focuses on developing detailed profiles of police districts and divisions and analysing calls-for-service within those districts. The Division has completed this work in Toowoomba and Oxley and will be expanding the project to include the West End police division.

The Commission has, understandably, taken a more discrete, low-profile approach to organised crime. The task of collecting data on the incidence of organised crime falls to the Intelligence Division, which over the past three years has been collecting strategic data on organised crime activity in the State. Rather than use the data retrospectively to determine the effectiveness of law enforcement efforts against organised crime, the Commission has taken a proactive approach. To date the Commission has prepared six strategic assessments addressing specific areas of organised crime activity in Queensland. Three of these, which were pertinent to the deliberations, policies, and projects of the Government, have been provided to the Minister under s. 2.47(2)(e) of the Act. The Intelligence Division's work plays an increasingly important role in focusing the investigations of the OMD's Multi-Disciplinary Teams, and the CJC/QPS Joint Organised Crime Task Force (see Recommendations I:10(f)(i) and 13(a)).

2. (e) monitoring the performance of the Police Force to ensure that the most appropriate policing methods are being used, consistent with trends in the nature and incidence of crime, and the ability of the Police Force to respond;

The Fitzgerald Report noted the confusion and contradiction at hand in the discussion of almost every issue affecting law enforcement. "In many important areas, information crucial to sensible decision-making is simply not available, and there is at present no mechanism for getting it . . ."¹¹ The recommendations clearly reflected the Report's view that overview and assessment of the QPS should not be an isolated exercise: it was an integral criminal justice function that should be discharged by a body whose mandate and resources allowed it to permanently review, co-ordinate, and initiate reform.

Translated into s. 2.15(g) of the Act, like many of the other recommendations presented in the Fitzgerald Report, Recommendation I:2(e) is very broad and closely related to other Commission functions. Again, similar to the previous recommendation, its inclusion among the responsibilities of the Commission was supported by recommendations directed to the Commission's Divisions, in this case, Recommendations I:12(a) and 12(g), directed to the Research and Co-ordination Division, which were translated into ss. 2.45(2)(b) and (f) of the Act, respectively.

"Appropriate policing methods" are informed by a variety of factors. In the language of the Recommendation itself, "trends in the nature and incidence of crime" play a role. As noted earlier in the discussion of Recommendation I:2(d), the Commission has taken significant steps to improve the reliability of State-wide data on crime and criminal victimisation, and it has complemented these efforts by approaching the same task from a local, community level.

The Fitzgerald Report contained a large number of recommendations directed to promoting the use of more appropriate and effective methods by the QPS. The Research and Co-ordination Division has been monitoring the implementation of these recommendations since August 1990, a task it assumed when the Implementation Unit was disbanded. Working with a sub-committee comprised of

¹¹ The Fitzgerald Report, p. 149.

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senior members of the QPS, the Commission, and representatives of the Minister, it has prepared several interim status reports and in early 1992, at the request of the PCJC, it began an in-depth assessment of the implementation of the reforms that will lead to the submission of a formal report to Parliament (see Recommendation I:2(h)).

The Fitzgerald Report recommended that community policing become the primary operational policing method of the QPS. To date, however, this ideal has not been well-realised in Queensland, perhaps due to the lack of models designed to suit Queensland conditions, perhaps because it was "lost" during the overwhelming process of reform. The Commission has therefore devoted considerable resources to designing and implementing a joint CJC/QPS community policing project in the city of Toowoomba. If this pilot project is a success, it may be replicated in other regions throughout the State. This would indeed go a long way to ensuring that the most appropriate policing methods are being used. (For more detail, see Recommendation I:12(g).)

Of course, other Commission activities also figure in the Commission's role of monitoring the performance of the QPS. Through the CJC/QPS Joint Organised Crime Task Force, the Commission has played a major role in QPS's approach to organised crime investigations. The Research and Co-ordination Division has assisted QPS in forging a new approach to police recruitment and training, and its reports on prostitution and police powers have considered police methods from more focused perspectives. The Intelligence Division oversees the performance of the Bureau of Criminal Investigation, Queensland (BCIQ).

In addition, following publication of the report of the Commission of Inquiry into Operation Trident,¹² the CJC is co-operating with the QPS to prepare a submission to the Minister for Police and Emergency Services and the Attorney-General and Minister for Justice regarding legislation covering procedures to be followed in covert operations.

¹² Commission of Inquiry into Operation Trident (W J Carter, QC, Commissioner), March 1993, *Report*, Brisbane, Government Printer.

2. (f) monitoring the use, suitability and sufficiency of law enforcement resources and the sufficiency of funding of law enforcement and criminal justice agencies (including the Director of Prosecutions and Public Defender's respective offices);

The Fitzgerald Report condemned the inadequacy of criminal justice (and especially police) resources and recommended that a number of remedial steps be taken, such as increasing funding and resources and re-organising the Police Department. However, the report also emphasised the need to use resources more effectively. Criminal and regulatory law reform, new policing methods (most notably community policing), re-organisation of the Service, and appropriate police powers were part of the picture. But finding better ways to prioritise the allocation of resources was of immediate importance. This would require improved local research and the development of resource plans that considered factors such as population, ethnicity, area, communication and transport facilities. Statistical data on crime rates and crime trends would be particularly important.

Recommendation I:2(f) was translated into subsection (c) of s. 2.15 of the Act, which set forth the Commission's responsibilities. As can be seen from the above discussion, like many other recommendations included in the Fitzgerald Report, this recommendation was closely linked to other matters that defined the functions and responsibilities of the Commission and its Divisions.

Although the Commission has been unable to engage in any systematic examination of criminal justice resources, aspects of the use of law enforcement resources have been considered in several Research and Co-ordination Division projects/reports. These include:

- Profiles of Police Districts (see Recommendation I:12(g));
- Toowoomba Beat Area Patrol Pilot Project (see Recommendation I:12(g));
- Review of the QPS Information Bureau (see Recommendation II:6));
- Development of a Forensic Science Services Register (see Recommendation I:12(a));

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- *Regulating Morality? An Inquiry into Prostitution in Queensland* (see Recommendation I:2(i) and 12(f));
- *Report on S.P. Bookmaking and Related Criminal Activities in Queensland* (see Recommendations I:2(i) and 12(f));
- *Report of a Review of Police Powers in Queensland – Volume I: An Overview; Volume II: Entry, Search and Seizure* (see Recommendation I:2(c)).

In addition, the Commission has participated in committees reviewing the *Criminal Code* and the *Vagrants, Gaming and Other Offences Act 1931* (see Recommendation II:2). The recommendations of these committees may have a significant impact on Queensland criminal law and, indirectly, the resources that police must use to enforce it.

The Commission's forthcoming review of the implementation of the Part C (Police) Fitzgerald Reforms will examine funding of the QPS since the handing down of the Fitzgerald Report. This is likely to be one of the most comprehensive examinations of the subject to date (see Recommendation I:2(h)).

In addition, the Intelligence Division has considered the funding of the BCIQ in its review of that QPS agency. And in developing the CJC/QPS Joint Organised Crime Task Force, the Official Misconduct Division considered the sufficiency of funding and resources directed to QPS organised crime investigations.

Following on from the recent decision by de Jersey J in the Supreme Court of Queensland on an application by Mr Andrew Boe for a statutory order of review under the *Judicial Review Act 1991*, the Commission will be examining the sufficiency of funding of the Office of the Director of Prosecutions and the Legal Aid Office's criminal law functions. After consultation with relevant persons, the Commission advertised for submissions in mid-August 1993. These submissions will inform the Commission's approach to the project, in particular, the development of a project report.

2. (g) providing the Commissioner of Police with policy directives based on CJC research, investigation and analysis. These directives would cover law enforcement priorities, revised methods of police operation and the optimum use of law enforcement resources;

The Fitzgerald Report recommended that the Commission have very broad responsibilities with respect to the QPS. The Report envisaged that the findings of the Commission's research and investigations would often indicate where changes were necessary to QPS policies, priorities, and operations. The Commission would translate those changes into "directives" to the Commissioner of Police. Recommendation I:2(g) was translated into a responsibility of the Commission under s. 2.15(h) of the Act.

To date, the Commission has not had to resort to issuing *directives* to the Commissioner of Police. Rather, to foster a spirit of mutual cooperation between the two agencies, it has elected to make formal *recommendations* to the Commissioner and in other instances use discussion, consultation, and letters. This collegial approach has achieved essentially the same results.

The Official Misconduct Division (OMD), Research and Co-ordination Division, and Intelligence Division have each contributed to the Commission's efforts in this area.

The OMD has developed recommendations concerning QPS practices and procedures highlighted during the investigation of complaints against police officers. Indeed, the Commission often regards this kind of communication as a more significant outcome than an individual prosecution or disciplinary action.

Some of these recommendations have been made public in the investigative reports published by the OMD (see Recommendation I:10(c)). Most, however, are presented to the Commissioner of Police in formal letters. Their scope and content are diverse, as the following examples indicate:

- recommendations for changes in watch-house procedures to ensure police compliance with provisions of the *Bail Act 1980*;

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- recommendations regarding the introduction of guidelines concerning police assistance to commercial process servers/inquiry agents;
- recommendations that QPS apprise officers of amendments to provisions of the *Drugs Misuse Act 1986* proscribing the possession of syringes;
- recommendations that QPS issue a direction concerning the responsibilities of officers who apprehend off-duty officers for traffic violations;
- recommendations for amending the QPS guidelines concerning high-speed police pursuits;
- recommendations that QPS conduct a comprehensive review of procedures for exhibit security;
- recommendations for changes to the QPS General Instructions regarding the need for police officers to distinguish between drunkenness and states induced by other diseases and/or conditions;
- recommendations that the Commissioner of Police review policy regarding officers' enforcement of Peace and Good Behaviour Orders.

A register on the Commission's R-Base computer system, maintained by OMD, records details of these and other recommendations made to principal officers of units of public administration. The Chief Officer of the Complaints Section keeps records of all correspondence relating to these recommendations. During the period 12 April 1990 through 30 June 1993, the Commission made 105 such recommendations to the Commissioner of Police.

In discharging its statutory oversight of the BCIQ, the Intelligence Division conducted a formal review that led to the development of 100+ recommendations pertaining to the Bureau's structure, procedures and relations with other sectors of the QPS. They were accepted in their entirety by the BCIQ. The Division was closely involved in monitoring the implementation of these recommendations and has continued to observe and comment, when appropriate, on the BCIQ's publication and dissemination of intelligence data and the implementation and utilisation of the BCIQ database.

Many of the Research and Co-ordination Division's projects have also led to the development of formal recommendations regarding the QPS. Some (for example, the review of the QPS Information Bureau---see Recommendation II:6) are

directed to the QPS; others (for example, the review of police powers---see Recommendation 1:2(c)) are directed to Parliament. But some matters require a more collaborative approach. For example, if the Commission had elected to issue recommendations regarding community policing rather than join with QPS in developing the Toowoomba community policing pilot program, that project would not have advanced so quickly.

The Division's efforts are complemented by the work of individual Commissioners and Commission officers who represent the Commission on committees and working parties focusing on issues pertinent to the QPS. To date these include:

- Working Party for the Development of the Evaluation and Reflection Component of the Field Training Program, Queensland Police College;
- Working Party to Review the Development Program Designed for Inspectors of the Queensland Police Service;
- Research and Ethics Committee, Queensland Police Academy;
- Aboriginal, Torres Strait Islander Community Police Liaison Committee;
- Aboriginal, Torres Strait Islander Review Committee, Queensland Police Academy;
- Academy Council, Queensland Police Academy;
- Committee for the Review of the QPS Operational Procedures Manual;
- Police Prosecutions Functions Working Party;
- Queensland Police Service Review of Policy and Procedures Committee;
- Queensland Police Service Target Committee;
- Queensland Police Service Regional Training Committee;
- Queensland Police Service Welfare Committee;
- Steering Committee for Development of Queensland Intelligence Database;

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- Criminal Justice Commission/Queensland Police Service Implementation Sub-Committee; and
- Committee to Review the Information Bureau of the Queensland Police Service.

2. (h) overseeing reform of the Police Force;

One of the major goals of the Fitzgerald Report was the development of a more effective, efficient, and accountable Police Service. Part C of the Fitzgerald Report Recommendations set forth 125 discrete recommendations directed to structural and procedural reform. They were also concerned with changing police culture and the community's and the Police Service's perception of policing. The Report clearly described a transitional phase of approximately three years, during which major reform initiatives were to be introduced.

The Report recommended that the permanent role of the Criminal Justice Commission include oversight of the reform of the QPS, in which capacity it would be able to bring to bear the findings from its other research and investigation roles. In fact, many of the functions of the Commission's Divisions would be directly related to this larger Commission role.

Oversight of the reform of the QPS was made a permanent responsibility of the Commission under s. 2.15(i) of the Act. The Commission's role has been supported by the work of the Official Misconduct Division, the Research and Coordination Division, the Intelligence Division and the Office of General Counsel. As noted earlier, individual Commissioners and Commission officers also participate in the work of many QPS committees focusing on aspects of reform.

The OMD's Complaints Section has made numerous recommendations for changes in police practices as a result of its investigations, and the OMD has also played an important role in refocussing the QPS' efforts against organised crime. The Intelligence Division's oversight of the BCIQ has led to significant changes in the way QPS collects, stores, and uses intelligence data. The Office of General Counsel has provided legal assistance for the development and implementation of new QPS disciplinary procedures. The Misconduct Tribunals and Commissioner

for Police Service Reviews constitute an important part of new QPS disciplinary procedures. Last, but certainly not least, the Research and Co-ordination Division has contributed to reform in several discrete aspects of QPS operations and methods and has assumed the lead in monitoring the implementation of Fitzgerald Report recommendations directed to the QPS.

The Research and Co-ordination Division has played an important role in improving the quality of QPS information systems (see Recommendation II:6), has played a prominent role in the development and implementation of new approaches to police recruitment and training (see Recommendation II:5), and has refocused QPS efforts in community policing (see Recommendation I:12(g)). However, it is the Division's efforts in monitoring the implementation of the Fitzgerald Recommendations that we will focus on here.

The Research and Co-ordination Division assumed responsibility for monitoring and reviewing the implementation of the reform recommendations from the Commission of Inquiry Implementation Unit in September 1990. To guide its monitoring activities, the Division formed a committee comprising senior members of the QPS, the Commission and representatives of the Minister. This Committee met on a regular basis to review information provided by the QPS and the Commission on the implementation of the reform. Several of its interim status reports were made available to the PCJC.

Most of the Commission of Inquiry's recommendations were expected to be implemented within a three-year transitional period ending in December 1992. Early in 1992 the PCJC asked the Research and Co-ordination Division to prepare a full report on the status of implementation of police reform at the end of the transitional period. The Commission thought the report provided an opportunity for a broad-reaching review of the Police Service. It would examine methods of implementation and obstacles to implementation; measure the success of the reforms against their stated objectives; identify which recommendations had been implemented according to the reform agenda or had been modified, and if modified, ascertain the reason(s) why; and identify new QPS initiatives not arising from the Fitzgerald Report that the QPS has embarked upon. It would permit a systematic evaluation of certain key aspects of QPS administration, organisation and operation.

The Division allocated a substantial part of its resources to the project and developed a comprehensive three-part research plan:

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1. **establishing the terms of reference:** the Division's research staff identified eight principal areas of reform on which to focus the review: regionalisation, the QPS Task Force, recruitment and training, the QPS transfer and promotion systems, community policing and crime prevention, civilianisation within the QPS, communication and computerisation, and the structure of QPS and allocation of staff. The vast majority of Fitzgerald's recommendations are encompassed in these areas.

Staff identified the specific recommendations relating to these areas, the implementation problems identified by the Commission of Inquiry, the objectives behind the recommendations in those areas, and the outcomes anticipated if these objectives were met. The Commission secured the co-operation of the QPS and the appointment of a QPS liaison officer to assist Commission staff.

2. **collecting data:** although the Commission's ongoing monitoring activity provided it with information pertaining to many areas of reform, much more detailed information was needed:
 - literature review: staff looked beyond the Fitzgerald Report to examine the issues under consideration and context for the reforms.
 - document collation and review: the Division accessed and examined Commission of Inquiry files and submissions and, with QPS permission, a large number of relevant QPS internal planning documents, reviews, reports and resource studies.
 - interviews: staff travelled to each of the QPS regions and interviewed command staff and line officers from a representative sample of districts and divisions. They interviewed officers from the Queensland Police Officers Union of Employees and the Queensland Police Union of Employees, and QPS officers transferred to the Commission. They interviewed members of the Commission of Inquiry Implementation Unit and the QPS Departmental Task Force, as well as police officers from New South Wales.
3. **analysing the data and writing the report**---staff undertook the lengthy and meticulous process of analysing the data (including over 3000 pages of interview transcripts) before beginning to draft the report.

The Commission anticipates completing the report during the 1993 calendar year.

The Commission was involved in the recent Public Sector Management Commission (PSMC) review of the QPS through the efforts of Commissioner Kelly, who was invited to sit on that project's advisory board. The Commission submitted a detailed response to the report to the Minister for Police and Emergency Services and the Commissioner of the Police Service.

Two committees have been set up to oversee the implementation of the PSMC Recommendations pursuant to a *Recommendations Implementation Action Plan*: the Overview Committee, of which the Commission Chairperson is a member, along with the Minister and the Commissioner of the QPS; and the Steering Committee, of which the Commission's General Counsel is a member, along with a number of QPS officers. The QPS has also established 22 work units, which have been given responsibility for implementing the 157 PSMC recommendations.

The QPS and the Commission have agreed that the Commission will either have membership in, or serve as a consultant to, those work units which deal with recommendations and areas of interest to the Commission.

2. (i) researching, generating and reporting to Parliament on proposals for reform of the criminal law and law relating to the enforcement of or the administration of criminal justice, including assessment of relevant initiatives and systems elsewhere;

The Fitzgerald Report strongly endorsed the notion that criminal law reform be removed from "sectional political interests." It placed consideration of the reform of the law in the context of community values and showed how it was inextricably tied to law enforcement resources, methods, and powers. The coordination of criminal law reform was a criminal justice function ineffectively or inappropriately being carried out by other agencies (Recommendations I:1(b) I:2(j)); it was also a natural adjunct to other Commission research and operational responsibilities.

Recommendation 2(i) was translated into s. 2.15(e) of the Act, making it a permanent Commission responsibility. Under Recommendation I:12(f), the

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Commission's Research and Co-ordination Division would "research and make recommendations on law reform pertinent to criminal justice" (see s. 2.45(2)(d) of the Act). Furthermore, Recommendation II:2 set forth a law reform program that was translated into Research and Co-ordination's review agenda.

The Commission's activities in this area have been strongly influenced by the matters outlined in Recommendation 2 of the Review Programme. Given the magnitude of those matters, and available staff resources, at the outset it was necessary to prioritise the projects, a task that was accomplished in consultation with the PCJC. However, even these priorities have had to be adjusted as the Commission responded to new, sometimes more pressing, issues presented in Parliamentary debate, public forums, or, in the case of the sufficiency of funding of certain criminal justice agencies, court decisions. Each revision of the Commission's research agenda has been effected with the approval of the PCJC.

To date, the Research and Co-ordination Division has completed or is nearing the completion of seven projects dealing with law reform issues and has published several related documents. The dates of publication and titles of those documents are:

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| May 1990 | <i>Reforms in Laws Relating to Homosexuality – an Information Paper</i> |
| May 1990 | <i>Report on Gaming Machine Concerns and Regulations</i> |
| Nov 1990 | <i>SP Bookmaking and Other Aspects of Criminal Activity in the Racing Industry – an Issues Paper</i> |
| March 1991 | <i>Review of Prostitution-Related Laws in Queensland – an Information and Issues Paper</i> |
| March 1991 | <i>The Jury System in Criminal Trials in Queensland – an Issues Paper</i> |
| Sept 1991 | <i>Regulating Morality? An Inquiry into Prostitution in Queensland</i> |
| Sept 1991 | <i>Police Powers in Queensland – an Issues Paper</i> |
| Nov 1992 | <i>Report on S.P. Bookmaking and Related Criminal Activities in Queensland</i> (Originally produced as a confidential briefing paper to Government in August 1991) |

May 1993 *Report on a Review of Police Powers in Queensland.* Volume 1: Overview; Volume 2: Entry, Search and Seizure.

In addition, in July 1992 the Advisory Committee on Illegal Drugs, which is chaired by Professor John Western, PhD, one of the Commission's part-time Commissioners, released *Cannabis and the Law in Queensland - A Discussion Paper*.

Consistent with Fitzgerald's underlying philosophy of law reform, each of the Commission's projects has considered the effect of current law and proposed amendments on law enforcement process, methods and effectiveness. Similarly, as indicated in the Recommendation and translated into the Act, each has involved a significant appraisal of relevant initiatives and systems elsewhere.

2. (j) undertaking essential criminal justice functions which are not appropriately carried out by police or other agencies. Apart from research and co-ordination of criminal law reform processes, these would include witness protection and investigation of official misconduct in public institutions;

This recommendation was mirrored in part or in full in other recommendations: Recommendations I:1(b) and I:2(i) concentrate on the functions and responsibilities of the Commission as a whole; Recommendations I:10(b), I:12(f), and I:14 direct specific aspects of this recommendation to the Commission's Divisions.

In fact, this recommendation did not adequately reflect the Fitzgerald Report proper in that it failed to consider the investigation of organised and major crime, an oversight corrected when the recommendation was translated into 2.15(f) of the Act. In addition, as noted in the Introduction to this document, the Fitzgerald Report proper identified two other functions that were being "inappropriately" or "ineffectively" carried out by existing agencies: the investigation of complaints of police misconduct (which may include official misconduct) and oversight of criminal intelligence matters of significance to major crime, organised crime and official misconduct. These matters were the subject of separate recommendations which were themselves translated into the Act.

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Each of these six "essential criminal justice functions" reflected in the structure and work of the Commission:

- research and the co-ordination of the processes of criminal law reform is the province of the Research and Co-ordination Division, which has already tackled seven related projects (see Recommendations I:2(i), I:12(f) and II:2).
- witness protection is handled by the Commission's Witness Protection Division, which has developed and manages a program of national standard (see Recommendation I:14).
- official misconduct investigations are the province of the Official Misconduct Division, (see Recommendation I:10(b)).
- the Official Misconduct Division also handles the investigation of complaints of misconduct against police (see Recommendations I:10(g) and (h)).
- pursuant to s. 2.20(2)(h), the Chairperson of the Commission has directed the OMD to handle the investigation of organised and major crime, and that Division has taken the lead in forming the CJC/QPS Joint Organised Crime Task Force (see Recommendation I:10(f)(i)).
- oversight of criminal intelligence matters and management of criminal intelligence with significance to major crime, organised crime and official misconduct constitutes a large part of the work of the Intelligence Division, whose state-of-the-art capabilities constitute the hub of the Commission's integrated approach to organised crime (see Recommendations I:2(k) and I:13(a)-(f)).

More detailed accounts of the Commission's work in discharging these functions is included under the discussion of recommendations dealing specifically with the work of those Divisions.

2. (k) overseeing criminal intelligence matters and managing criminal intelligence with specific significance to major crime, organised crime and official misconduct;

The importance of comprehensive, accurate intelligence information to law enforcement was one of the major themes of the Fitzgerald Report's examination of organised and major crime. The report criticised the lack of a national approach to gathering and sharing information and noted the lack of resources, training, and co-ordination that had to date defined Queensland's efforts in this vital area. It recommended the development of an integrated approach that could make a more effective contribution to the State's efforts and co-ordinate with efforts in other jurisdictions. "A suitably equipped, professional and specialist criminal intelligence unit, independent of the Police Force is needed to meet the urgent needs of the criminal justice system".¹³ Recommendation I:2(k) was translated into s. 2.15(d) of the Act. Likewise, the responsibilities of the Commission's Intelligence Division, which were the subject of Recommendations I:13(a)-(f), were also translated into the Act under s. 2.47.

Since completing its initial staff recruitment efforts a little less than three years ago, the Commission has built a first-class intelligence capability that uses state-of-the-art technology and methods. It has developed and continues to acquire data for a data base containing intelligence information concerning criminal activities and associated persons. It has developed a reservoir of skills in tactical and strategic intelligence. It has earned the trust and co-operation of related State and Federal agencies. The Division functions as the hub for an integrated approach to organised and major crime.

The Intelligence Division acts as a focal point for liaison with other State and Federal law enforcement agencies, including the National Crime Authority (NCA), Australian Federal Police (AFP), the NSW Crime Commission (NSWCC), the NSW Independent Commission Against Corruption (ICAC), the Australian Taxation Office (ATO), the Australian Securities Commission (ASC), and the Australian Customs Service (ACS). Liaison with these agencies transcends the traditional function of State police bureaux of criminal intelligence, including that

¹³ The Fitzgerald Report, p. 317.

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of BCIQ. However, the latter QPS unit is consulted and involved in the liaison process where appropriate.

More detail concerning the Commission's work in this area is presented in the discussion of Recommendations I:13 and I:15.

3. a standing Parliamentary Committee, not charged with any other responsibility, and known as the "Criminal Justice Committee", with membership reflecting the balance of power in the Legislative Assembly, be constituted to oversee the operations of the CJC;

See Chapter 2.

- 4. subject to the implementation of recommendations made elsewhere in this report in respect of the role and office of the Attorney-General, the Attorney-General be the Minister responsible for the CJC. Otherwise and in the interim, the Premier, or a Minister assisting the Premier should be responsible for the CJC;**

See Chapter 2.

5. the CJC consist of a full-time Chairman and four part-time community members selected on the following basis:
 - (a) the Chairman be qualified for appointment as a judge of, or have been formerly a judge of the High Court or Federal Court of Australia, or a Supreme Court in Australia;
 - (b) the Chairman be appointed for a term of not less than two or more than five years, with the first Chairman being appointed for not more than three years;
 - (c) the Chairman's position be widely advertised and filled only after evaluation of and report upon all applicants by independent consultants and consultation with the Criminal Justice Committee;
 - (d) the community appointees to the CJC comprise:
 - (i) a practising lawyer with demonstrated interest in civil liberties, to be drawn from a panel of four, two to be nominated by each of the Bar Association of Queensland and the Queensland Law Society. The appointee need not be a specialist in criminal law, nor a member of the Queensland Council of Civil Liberties;
 - (ii) three persons of proven ability in community affairs, one of whom must have proven senior managerial experience in a large organization.
 - (e) a person not be eligible to be appointed as Chairman or member of the CJC if that person is a Judge, a Member of Parliament, a public servant or crown employee, a member or servant of any other statutory body, or a police officer, or has been a police officer in the previous five years;

See Chapter 1.

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- 6. the CJC act by resolution of a simple majority. The Chairman will have a deliberative vote, and, in the case of equal division, a casting vote;**

See Chapter 1.

- 7. an Executive Director be appointed to control the CJC's secretariat and co-ordinate the CJC's operational functions;**

See Chapter 1.

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8. the Executive Director not be a member of the CJC but be responsible to the Chairman for administration and direction of its functions;

See Chapter 1.

9. the Executive Director co-ordinate the activities of the CJC through divisions, each headed by an appointed Director. These will be:

- the Official Misconduct Division
- the Misconduct Tribunal
- the Witness Protection Division
- the Research and Co-ordination Division
- the Intelligence Division

See Chapter 1.

10. the Official Misconduct Division function as follows:

10. (a) its Director to have legal qualifications;

Under s. 2.21 of the Act, the Director of the Official Misconduct Division must be a "legal practitioner", i.e., a barrister or solicitor of the Supreme Court. The Act appears to favour operational over purely academic legal qualifications, which would seem appropriate under the recommendation. The Director of the OMD, Mr Mark Le Grand, is so qualified.

10. (b) the Division conduct independent investigations into any suspected official misconduct. It may investigate individual cases or conduct broader based inquiries into the incidence of official misconduct;

The Fitzgerald Report saw that the QPS could not, in general, be made responsible for the control of a system to address official misconduct and police misconduct. It required an independent body acting in concert with new laws and powers, which Recommendations I:1(b) and I:2(j) made explicit.

This recommendation was not directly translated into the Act. However, it is reflected in several parts of the Act, and those sections must be read in tandem to understand how the Commission, and the OMD, is implementing this recommendation.

Under the Act, the function of the OMD includes investigating "the incidence of official misconduct generally in the State" (s. 2.20(2)(a)), "the financial affairs and business transactions of any person holding an appointment in a unit of public administration if the Director of the Division has reason to suspect the person of official misconduct" (s. 2.20(2)(c)), and "cases of (i) alleged or suspected misconduct by members of the Police Force or (ii) alleged or suspected official

misconduct by persons holding appointments in units of public administration" (s. 2.20(2)(d)). Although the Division may initiate investigations (see Recommendation I:10(f) and s. 2.20(1) of the Act), the majority of misconduct and official misconduct investigations handled by the Division originate as complaints received by the Complaints Section.

S. 2.28 of the Act sets forth how matters are to be referred to the Complaints Section. Briefly, any person may furnish the Complaints Section with information concerning official misconduct. However, the Ombudsman, principal officers of units of public administration, and persons who themselves constitute corporate entities that are units of public administration are *required* to refer to the Complaints Section all matters suspected of involving official misconduct. In the case of the Commissioner of the Police Service, this requirement extends beyond suspected official misconduct to include all suspected *misconduct* by members of the QPS.

This means that all matters referred to the Commission from the Office of the Ombudsman and units of public administration other than the QPS should be in fact *suspected official misconduct*. However, matters referred by the Commissioner of Police may be suspected misconduct *or* official misconduct. And, likewise, matters referred by members of the public may upon assessment by the Complaints Section constitute suspected misconduct *or* official misconduct.

The OMD's Multi-disciplinary Teams' workload includes more complex complaints matters, as well as organised and major crime investigations. The Multi-disciplinary Teams may conduct one-off investigations as well as the investigation of systematic and widespread criminal activity. To date, these Teams have focused on local government and public sector corruption, police corruption and, of course, many aspects of organised crime, in particular, drug-related offences.

The Division's Special Projects Unit is substantially directed to supporting public inquiries conducted by the Commission. During 1993 it has been involved in two large inquiries: the investigation of allegations referred from the Special Prosecutor's Office regarding the jury selection process in the trial of Sir Johannes Bjelke-Petersen; and investigation of allegations made by Sergeant Lorrelle Anne Saunders concerning circumstances surrounding her being charged with criminal offences in 1982.

The Commission's official misconduct investigations are supported in part by its corruption prevention activities. The Commission's Corruption Prevention Division (formerly a section organised within the OMD) has mounted a concerted education

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campaign to alert principal officers in units of public administration to their statutory responsibility to report suspected cases of official misconduct.

10. (c) the Division direct reports of its investigations to:
- (i) the Director of Prosecutions for consideration of prosecution, and/or;
 - (ii) the Misconduct Tribunal to determine whether official misconduct has occurred, which should be dealt with administratively apart from any prosecution, or
 - (iii) the Chief Executives of Government departments, agencies, or statutory bodies, including the Commissioner of Police if disciplinary action is thought necessary;

This recommendation was translated into s. 2.24(2) of the Act, which clarified the process by which reports would be submitted. Under s. 2.24(2) the Director of the OMD makes reports to the Chairperson of the Commission, who determines whether it is appropriate to refer the report to one or more of the following:

- the Director of Prosecutions or other appropriate prosecuting authority (e.g., Queensland Police Service) for consideration of prosecution proceedings;
- the Executive Director of the Commission for possible referral to the Misconduct Tribunals;
- the appropriate principal officer in a unit of public administration, with a view to disciplinary action being taken;
- the Chief Justice of Queensland, if the report relates to conduct of a judge or other person holding judicial office in the Supreme Court;

- the Chairman of District Courts, if the report relates to conduct of a judge of the District Court.
- the Chief Stipendiary Magistrate, if the report relates to conduct by a person holding judicial office in the Magistrates or Children's Court;

The Division's reports may derive from investigations conducted by its Complaints Section or the Multi-disciplinary Teams. By 30 June 1993, the Complaints Section had finalised 6,730 complaints, of which:

- 77 led to recommendations for criminal charges;
- 16 led to recommendations for charges of official misconduct;
- 267 led to recommendations for disciplinary action by the QPS;
- 95 led to recommendations for correction/chastisement of a police officer by the QPS;
- 68 led to recommendations for disciplinary action by principal officers in units of public administration.

Investigations conducted by the Multi-disciplinary Teams concentrate on more complex complaints matters, as well as organised and major crime. Their work has become increasingly proactive, especially with respect to organised crime. Reports prepared by the Division's Multi-disciplinary Teams have, as of 30 June 1993, led to:

- 656 criminal charges,
- 85 charges of official misconduct, and
- 77 disciplinary charges.

In addition, the Commission made 151 recommendations for procedural changes: 105 to the Commissioner of the Police Service and 46 to principal officers of units of public administration. The discussion of Recommendation I:2(g) presented examples of recommendations made to the Commissioner of Police. Examples of recommendations made to principal officers of other units of public administration also address a diverse range of issues, for example:

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- recommendations that a department review its system for regulating and monitoring overtime;
- recommendations that the Electoral Commission improves security standards and procedures for the storage of ballot papers;
- recommendations that procedures governing the payment of travelling allowances be reviewed;
- recommendations that a local authority formulate guidelines regulating the use of official credit cards, implement more stringent controls in the area of entertainment expenses; and maintain an assets register; and
- recommendations that the Department of Housing and Local Government examine certain aspects of the local authority tendering process.

The Commission's Corruption Prevention Division monitors the implementation of these recommendations and, if requested, assists the unit of public administration in developing a strategy to implement them (see Recommendation 1:10(f)(ii)).

If the Commission believes that it is in the public interest or would benefit the administration of criminal justice in Queensland, the Commission may elect to prepare a report to Parliament covering matters investigated by the OMD. These reports are submitted in accordance with s. 2.18 of the Act. S. 2.18(5) specifies a procedure for printing Commission reports that ensures their independence from political interference. To date, OMD investigations have provided the material for the following nine investigative reports submitted to Parliament:

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| May 1991 | <i>Report on the Investigation into the Complaints of James Gerrard Soorley Against the Brisbane City Council</i> |
| July 1991 | <i>Report on a Public Inquiry into Certain Allegations Against Employees of the Queensland Prison Service and its Successor, the Queensland Corrective Services Commission</i> |
| July 1991 | <i>Complaints Against Local Government Authorities in Queensland – Six Case Studies</i> |
| July 1991 | <i>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</i> |

- Nov 1991 *Report on a Public Inquiry into Payments made by Land Developers to Aldermen and Candidates for Election to the Council of the City of Gold Coast*
- Nov 1991 *Report on an Inquiry into Allegations of Police Misconduct at Inala in November 1990*
- Dec 1991 *Report on an Investigation into Possible Misuse of Parliamentary Travel Entitlements by Members of the 1986-1989 Queensland Legislative Assembly*
- March 1992 *Report on an Inquiry into Allegations made by Terrance Michael Mackenroth MLA the Former Minister for Police and Emergency Services; and Associated Matters*
- Nov 1992 *Report on the Investigation into the Complaints of Kelvin Ronald Condren and Others*
- August 1993 *Report by the Honourable WJ Carter QC on His Inquiry into the Selection of the Jury for the Trial of Sir Johannes Bjelke-Petersen*

10. (d) the Division be staffed by police seconded to it for appropriate finite periods on guidelines to be established by the CJC and a wide variety of skilled civilian staff and consultants;

The Fitzgerald Report noted that the Commission's effectiveness would be in part determined by the quality of its staff, and at several points the Report prescribed the conditions that would attract "appropriately independent and senior skilled people of high reputation". If the quality of the staff was important, so too was the range of expertise it brought to the Commission's work, which, in the case of the OMD, would be critical in developing the innovative, state-of-the-art investigation capability the Report envisaged.

The Commission believes that the OMD has assembled a fine multi-disciplinary team of skilled, professional staff and consultants. OMD staff are engaged in a

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wide range of legal, investigative, administrative, technical and managerial activities. Its staff includes lawyers, accountants, finance consultants, computer programmers, linguists, electronic technicians, analysts, surveillance specialists, public administrators, and, of course, administrative support staff. Ex-police personnel have a strong presence among civilian personnel, and QPS personnel are heavily involved in the Division's law enforcement operations. Given the nature of the Division's work, there will always be a strong representation of Queensland police officers on staff.

In the absence of direction in the Act, the Commission to establish "guidelines", arrangements under which QPS officers are transferred to the CJC have been a matter mutually agreed upon by the Commission and the QPS, consistent with other provisions in the Act. Under ss. 2.56(3) and (4) police officers transferred to the CJC remain members of the Police Service and retain all powers and authorities of members of the Service. They also retain all the rights that had accrued to them, or would have accrued to them if their services were not being utilised by the Commission.

Initially, two years was considered an appropriate term for transfer to the Commission, unless special circumstances indicated the need for individual officers to take longer or shorter terms (see *Queensland Police Gazette*, 17 March 1990). However, tenure in positions in the Commission's police establishment (like selection, promotion, and transfer) was subsequently made subject to the same procedures governing other parts of the QPS, as set forth in the Commissioner's Circular 24/91. Consistent with these procedures, police officers transferred to the Commission now usually have a tenure of at least three years and a maximum of five years.

The practice of rotating police back to the QPS after they have served with the Commission is an important aspect of the reform process. This year marked the first general rotation of staff from the Commission back to the QPS; 6 commissioned officers left the CJC and moved into positions in the Metropolitan, Southern, and South East Regions.

10. (e) the Division have extensive special powers of investigation established by legislation, which it will exercise subject to strict judicial controls on the use of each power by any member of the Division;

The Criminal Justice Commission was given special powers to discharge its statutory functions. While less intrusive than those recommended for it by the Report, they nevertheless exceed those of conventional policing. They include powers to hold hearings in conjunction with its investigations, as well as special investigative/coercive powers (see s. 2.17 and Part III of the Act).

Under s. 2.17 of the Act, the Commission may conduct hearings in relation to any matter relevant to the discharge of its functions or responsibilities. It may receive evidence orally or in writing, on oath or affirmation, or by way of statutory declaration. During the period 22 April 1990 through 30 June 1993, 123 hearings were conducted in conjunction with OMD investigations.

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

Since its establishment, the Commission has made frequent use of its coercive powers. For example, by 30 June 1993, the Commission had:

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- issued 75 notices requiring persons to furnish to the Commission statements of information relevant to a Commission investigation (s. 3.1);
- issued 1019 notices compelling the production of records and things relevant to an investigation of the Commission (s. 3.1);
- issued 1038 summonses compelling persons to appear before the Commission to give evidence relevant to a Commission investigation (s. 3.6); and
- issued 47 authorities allowing its officers to enter public premises to search records (s. 3.2).

As previously mentioned, officers of the Commission who are serving police officers remain members of the QPS and retain the powers and authorities they possessed prior to transfer to the Commission (s. 2.56(3)). These officers may exercise those powers when carrying out investigations on behalf of the Commission.

At the same time as the Act gave the Commission special powers, consistent with the underlying philosophy of the Fitzgerald Report it made the Commission closely accountable to Parliament, the community, and the courts. OMD's activities are open to review by the PCJC and to review by the judiciary on application (see Recommendation I:10(k)). The necessary accountability through judicial control is achieved by ss. 2.25, 3.3, 3.7, 3.9, 3.10, 3.14, 3.16 and Part V of the Act. Again, where those sections apply, consistent with the Fitzgerald Report the individual use of these powers is made subject to judicial control and authority. 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 to discover information (s. 3.1) or notice of summons (s. 3.6), if the person on whom the notice 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 (s. 3.7).
- The Commission's powers under ss. 3.1, 3.2, 3.3, and 3.6 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 and its staff may be served with subpoenas to give evidence and produce documents to a court. Although the Commission has objected to this where necessary on the grounds of public interest immunity, in particular to protect the confidentiality of sources of information and its current operations, this too has been the subject of judicial scrutiny, as such objections must be made to the court from which the subpoena has been issued.
- Under s. 2.25, an application may be made to the Supreme Court for an injunction in respect of an investigation by the OMD 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.

Of the seven such applications made to date, five were unsuccessful and two remain to be decided.

- 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 Tribunals, as the case may be.
- The Commission is subject to the Judicial Review Act, except in relation to providing reasons for decisions made in the discharge of its investigative, intelligence and witness protection functions. (This is to prevent the legislation being used to prejudice operations of the Commission.)

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- The Commission is subject to the *Freedom of Information Act 1992*. It is entitled to rely on the same exemptions available to any other person or agency to which the Act applies.

10. (f) the Division, in addition to responding to complaints, act on its own initiative to:

10. (f) (i) conduct investigations;

The Fitzgerald Report made a clear case for allowing the OMD to act on its own initiative and not just in response to matters coming to the attention of the Complaints Section. This was made explicit in s. 2.20(1) of the Act.

Prior to May 1992, the OMD was required to investigate all complaints other than those that the Chief Officer of the Complaints Section dismissed as frivolous or vexatious. This placed a tremendous burden on the Division and, with the concentration of staff resources devoted to meeting the demands of an increasing backlog of complaints, substantially constrained the Division's ability to initiate its own investigations. Amendments to the Act passed by Parliament in May 1992 gave the Complaints Section more discretion with respect to both the decision to undertake an investigation and the extent of such an investigation and allowed the Commission to refer complaints not involving official misconduct directly to the QPS and other units of public administration for investigation. With the passage of these amendments, the Complaints Section was restructured, effectively allowing resources to be directed to other Division activities, especially investigations commenced on its own initiative.

Despite limited available resources prior to May 1992, the Division has built a solid record in developing and mounting proactive organised crime investigations.

Shortly after its establishment, the Commission identified the need for a more innovative approach to the organised crime problem consistent with the prescriptive observations made in the Fitzgerald Report. Overseas experience indicated that developing law enforcement expertise necessary to tackle organised crime groups

required a long lead time, and in this regard the Commission was especially aware of the experience of overseas crime-fighting organisations such as the FBI, whose Organised Crime Division over the past two decades had made substantial progress in combating the Italian organised crime group, La Cosa Nostra.

Although the Act gave the Commission the power to investigate organised and major crime, it did not identify the responsibility with any particular Division. Accordingly, pursuant to s. 2.20(h) of the Act, the Commission's Chairperson gave that function to the OMD. To discharge that function, the OMD constituted a Multi-disciplinary Organised Crime Team comprised of investigators, intelligence analysts (from the Intelligence Division), financial analysts, lawyers and support staff. Using data and information from the Intelligence Division, the Organised Crime Team identified a number of organised crime groups, some based on particular ethnic groups, which although active in Queensland had not been the subject of continuous dedicated targeting.

Co-operating with other agencies, in particular, the QPS, the NCA and the AFP, and with the support of the OMD's Surveillance Section and Technical Unit, the Organised Crime Team began proactive investigations based on its analysis and profiling work, focusing on the whole structure of criminal organisations rather than individual targets who represented the "tip of the iceberg".

In December 1992 the Commission and the QPS established the Joint Organised Crime Task Force (JOCTF), which merged the Commission's Organised Crime Team with additional staff and capital resources provided by the QPS. The JOCTF, which is housed at the Commission's offices in Toowong, consists of 18 police officers and investigators (several of whom are multi-lingual), four financial analysts, one lawyer, and support staff. With direct input from the Intelligence Division, organised crime investigations are now focused on three international criminal conspiracies and outlaw motorcycle gangs. Significantly, information provided by the Intelligence Division was the catalyst for almost 38 percent of investigations mounted by the Multi-disciplinary Teams and the JOCTF.

The JOCTF meets regularly with representatives of the NCA, BCIQ, AFP, ATO, the Australian Transaction Reports and Analysis Centre (AUSTRAC), the Department of Immigration, Local Government, and Ethnic Affairs (DILGEA), and the Australian Customs Service (ACS). Joint operations have been initiated with the NCA and certain sections of the QPS.

In addition to complex complaints matters, the OMD's other Multi-disciplinary Teams also investigate organised (or major) crime. A considerable amount of their

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effort has been directed to the investigation of supply and trafficking in illegal drugs. A fifth Multi-disciplinary Team, partially staffed by transferred QPS officers, has been investigating the involvement of police officers in the trafficking, distribution, and consumption of illegal drugs, as well as other types of criminal activity.

Table 3 shows the amount of drugs seized through Multi-disciplinary Teams' investigations through the close of the 1992/93 financial year.

**Table 3: Drugs Seized by Multi-disciplinary Teams
22 April 1990 – 30 June 1993**

| Type of Drug | \$ Value |
|--------------|-----------|
| Heroin | 2,270,000 |
| Amphetamine | 123,700 |
| Cannabis | 4,380,200 |
| Cocaine | 64,000 |
| LSD | 12,000 |

Thirty-one persons have been convicted as a result of the organised crime investigations mounted solely by the OMD or in conjunction with other agencies, and a further 18 persons await trial.

The high proportion of matters in which accused persons have pleaded guilty demonstrates the quality of the investigative work conducted by these teams.

The Division's Proceeds of Crime Team has worked closely with the Multi-disciplinary Teams, the JOCTF, and the Office of the Director of Prosecutions in assets forfeiture cases. In two well-publicised matters, the team has taken action to confiscate assets derived from criminal activity investigated by the Teams, and has obtained financial evidence to support charges resulting from those investigations by using money-tracing and other investigative techniques. These cases show the value of the multi-disciplinary approach. Since the Proceeds of Crime Team was established in November 1990, pecuniary penalty orders and forfeiture orders following from its work have led to over \$1M being paid into consolidated revenue.

Another important element of the OMD's investigation arsenal is the Financial Analysis Group, a group of seven accountants who have developed an automated Ledger Analysis System capable of examining large volumes of bank transactions. The Financial Analysis Group has worked closely with AUSTRAC to develop analytical investigation techniques to support the Commission's organised crime investigations.

The Commission's Surveillance Group and Technical Group have also been closely involved in operations mounted by the Commission.

10. (f) (ii) perform an educative or liaison role with other agencies, departments, and private institutions and auditors in relation to preventing and detecting official misconduct;

Fitzgerald thought that the OMD's investigative role should go hand in hand with an education and liaison function, an approach that was reflected by the inclusion of 2.20(2)(e) in the Act. Early in its life the Commission initiated the practice of sending senior legal officers and commissioned police officers from the Complaints Section to meetings with QPS officers at the Police Academy and at local stations; Complaints Section staff also gave lectures to, and conducted seminars for, students in the two undergraduate university courses designed for police recruits.

Initially organised within the OMD, the Commission's corruption prevention program did not begin in earnest until the appointment of a corruption prevention officer in August 1991. At the outset, the program had two major components---liaison with management in public sector agencies, and education---and with limited resources much was achieved in both these areas.

Establishment of the Corruption Prevention Division

In March 1993, pursuant to s. 2.12 of the Act, the Commission elected to establish the Corruption Prevention Section as an organisational unit within the Commission known as the Corruption Prevention Division. The Division's primary objectives are to:

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- promote the benefits of preventive measures designed to reduce the opportunity for corruption;
- assist public sector administrators to develop effective corruption prevention management programs;
- encourage the community to act in partnership with the CJC to reduce official corruption and lessen the incidence of organised crime;
- increase the community's awareness of corruption and the means of detecting and preventing it;
- assist in the development of corruption prevention curricula for secondary and tertiary teaching institutions.

To achieve these objectives, the Division:

- advises on administrative performance and management accountability through management systems audits;
- advises and assists the public sector in identifying high risk corruption areas and developing effective corruption prevention strategies;
- provides resource material for training managers in risk assessment and accountability; and
- encourages the detection and prevention of official misconduct and corruption through publications, workshops, seminars, speeches, and public forums.

To date, the Commission's achievements in the corruption prevention area include:

- Management liaison:
 - assisting managers in developing corruption prevention strategies specific to their organisations.

- **Professional sector liaison:**
 - liaising with professional bodies such as the Institute of Internal Auditors, various national associations of accountants, and other professional bodies on professional standards, ethics, risk management, and corruption prevention strategies.
- **Public sector liaison:**
 - providing corruption prevention management consultancy and training, including interviews with principal officers and corruption prevention workshops. Since August 1991, 58 units of public administration have taken part.
- **Systemic education:**
 - liaising with universities, TAFE colleges and the State education system to develop material appropriate to their curricula (e.g., over 500 school principals from throughout the State have attended corruption prevention workshops).
 - giving regular lectures on professional standards, ethics and corruption prevention at QUT and Griffith Universities, plus nine TAFE colleges.
- **Management systems audit:**
 - with the recent appointment of a Principal Corruption Prevention Officer, the Division will be providing management advice and conducting systems audits in organisations where investigations into official misconduct have revealed substantial management or systems shortfalls. The Corruption Prevention Division will be monitoring the implementation of recommendations for changes to policy and procedure that the Commission makes to principal officers of units of public administration other than the QPS (see Recommendation I:10(c)).

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- **Public education:**

- publicising how to report official misconduct to the CJC--- produced a series of 30-second television and radio announcements (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) and developed and produced 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).
- giving lectures and presentations to public sector administrators, community service organisations, education institutions, and conferences and seminars organised by professional associations regarding official misconduct and the role and functions of the CJC.

- **ATSI liaison.** The Division appointed an ATSI Liaison Officer and established a program to liaise with ATSI community leaders and conduct seminars and workshops with metropolitan and remote area communities. The ATSI Liaison Officer:

- assists ATSI Council administrators to develop effective corruption prevention management programs, and
- encourages the ATSI communities to act in partnership with the Commission to reduce official misconduct.

10. (g) a Complaints Branch be established within the Official Misconduct Division to receive complaints of misconduct or suspected misconduct by public officials, including police, and any other complaints against police or other public officials. The Branch will have discretion, subject to guidelines to be established, to:
- (i) dismiss frivolous or vexatious complaints summarily;
 - (ii) refer trivial or purely disciplinary matters to Chief Executives of Departments or the Commissioner of Police to investigate and take appropriate action;

The Fitzgerald Report recognised independence as being fundamental to a body charged with investigating misconduct by public officials. The Complaints Section was established in the absence of such independence in the disciplinary processes across the Queensland public sector and in particular within the Queensland Police Service.

The Complaints Branch, known as the Complaints Section, has been established and is maintained in accordance with Division 4A of Part II of the Act. By virtue of ss. 2.20(d)(ii) and 2.28(2) of the Act, the Complaints Section's function with respect to public officials other than police officers is limited to the investigation of official misconduct. Recommendation 10(g)(ii) is achieved in respect of the Police Service by directions issued on 20 July 1990 by the Commission to the Commissioner of the Queensland Police Service under s. 2.28(6) of the Act.

In establishing the Complaints Section, the Commission faced a number of difficulties:

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- The Commission had to decide whether to operate the Complaints Section purely as a centre for receiving, assessing and referring complaints (in line with the ICAC in NSW and the majority of other bodies providing civilian oversight of police forces) or to undertake both assessment and investigation of complaints within the Complaints Section. In deciding in favour of the Section undertaking both assessment and investigation, the Commission believed this approach would be more successful in instilling public confidence in the investigation process.
- When the Section began operations on 22 April 1990 it inherited a number of unfinished matters from the Police Complaints Tribunal, and their numbers swelled quickly with the receipt of 45 new matters each week. Many of these referred to local authorities and their investigation proved to be involved and protracted.
- Delays in approving the Commission's budget and the introduction of new procedures for transferring staff from the ranks of the QPS meant the Section did not reach its full staffing complement until six months after it began operations.
- Setting up the Section---developing procedures, drafting guidelines and organising workflow---had to be accomplished at the same time that the Section began to receive and investigate complaints with its limited staff.
- Under the original language of the Act, the Complaints Section was required to investigate ("examine and consider") all complaints other than those dismissed as frivolous or vexatious. Together these contributed to delays in finalising complaints, and by early 1991 the Section held a backlog of over 800 incomplete complaints.

Some of these problems the Commission could and would solve itself. But it could not change its statutory charge to investigate all matters other than those determined to be frivolous or vexatious.

The Commission alerted the PCJC on a number of occasions that a change to the legislation was necessary to authorise the Complaints Section to be more selective in the matters it would investigate. The Committee endorsed the Commission's recommendation to that effect, and the requested amendments, which eventually were passed by the Parliament and came into effect on 13 May 1992, gave the Complaints Section discretion to not investigate a complaint and to discontinue the investigation of a complaint.

In addition, the amendments confirmed guidelines issued by the Commission to the Complaints Section on 5 October 1990 authorising 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.

The passage of these amendments confirmed a restructuring of the Section to meet its workload. Although the amendments allow the Complaints Section to be more selective and reduce the number of complaints fully investigated, all complaints still require assessment and processing. The emphasis of the restructuring has been the re-allocation of resources to the initial assessment process so that only the substantial matters requiring thorough investigation are now fed through to the investigation teams.

The restructured Complaints Section now comprises the following functional units:

- **the Assessment Committee**, which meets daily to review new complaints and by applying criteria agreed upon by the Commission and the PCJC, determines whether or not a thorough investigation is warranted. The Committee passes some matters directly to the Complaints Teams. The majority, however, require further information before such a decision can be made. These are given to the Assessment Unit.
- **the Review Unit**, which examines investigations of minor misconduct conducted by the QPS. The work of the Review Unit ensures civilian oversight of matters not investigated by the Commission.
- **three Complaints Teams**, which conduct thorough investigations of matters referred to them by the Assessment Committee.
- **the Complaints Registry**, which produces, updates, and maintains Complaints Section files.

The Commission presents detailed analyses of various aspects of these complaints in its annual reports. For the purposes of the present report, Table 4 presents a broad outline of the Complaints Section's work since its establishment in April 1990 through the close of the 1992/93 financial year.

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Table 4: Complaints Section Workload, 22 April 1990 - 30 June 1993

| | |
|---|-------|
| No. of matters received | 9018 |
| No. of matters assessed as involving breaches of discipline and referred to the QPS for investigation | 1914 |
| No. of complaints investigated/ reviewed by the Commission | 7104 |
| No. of allegations | 14298 |
| No. of complainants | 7500 |
| No. of subjects of allegations | 12939 |
| No. of complaints finalised | 6730 |

During 1992/93, the average time for finalising a complaint was a little over 10 weeks; over 80 percent of complaints were finalised within 12 weeks.

But these data do not give a full picture of the Complaints Section's work. Final assessments of complaints, regardless of their outcome, may prompt the Commission to make recommendations to the principal officer of the unit of public administration concerned that administrative changes be implemented or that certain directions be issued to obviate the recurrence of future complaints of a similar nature. As we have noted earlier in this report, in many instances the Commission regards these recommendations as a more significant outcome than any individual prosecution or disciplinary action. (See Recommendation I:2(g) for examples of recommendations made to the Commissioner of Police; see Recommendation I:10(c) for examples of recommendations made to principal officers of other units of public administration.)

While the restructuring of the Complaints Section allowed the OMD to free up and redeploy resources to other areas of need within OMD, particularly the organised crime function, and to give greater emphasis to the investigation of matters of substance, it also increased the number of matters that fell to the QPS. (During 1992/93, for example, matters assessed as involving breaches of discipline---i.e., involving no misconduct---and referred to the QPS for investigation represented approximately 37 percent of matters received.) To ease the burden on the QPS, the

Complaints Section has been examining alternate methods for resolving complaints against police officers.

The first initiative involved mediation through the Community Justice Program. A six-month pilot program fielded in southeast Queensland showed that mediation could be a cost-effective way of dealing with citizens' complaints against police officers to the satisfaction of complainants. The Community Justice Program has agreed to continue accepting referrals of complaints against police officers for mediation and the Commissioner of the QPS has agreed to pay for these services.

The Complaints Section also helped implement a system for informally resolving minor complaints, based on a process used successfully in the United Kingdom. The CJC and QPS shared the cost of establishing a two-day training program (which by August 1993 will have trained approximately 210 officers) and developing comprehensive procedural instructions relating to the use of informal resolution. The Commission will closely monitor the introduction of informal resolution to ensure the process is being used appropriately.

Complaints Section officers have also played a vital education and liaison role with respect to the Police Service. Senior legal officers and commissioned police officers from the Complaints Section have met frequently with junior QPS officers to explain the functions of the Commission. Complaints Section staff are also frequent guest lecturers at the two undergraduate university courses designed for police recruits.

10. (h) the Commissioner of Police, on guidelines to be determined by the CJC, be required to refer all internal and external complaints alleging misconduct by police officers to the Complaints Branch in the first place for determination of the appropriate action to be taken in each case;

This recommendation was translated into s. 2.28(3) of the Criminal Justice Act and is facilitated by s. 7.2(2) of the *Police Service Administration Act 1990*. Consequently, there was no need for the guidelines proposed in the

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recommendation. The requirement on the Police Commissioner extends to all suspected misconduct.

During the period 22 April 1990 through 30 June 1993, the Commissioner of Police referred to the Commission 149¹⁴ matters involving suspected misconduct. During the same period, members of the QPS other than the Commissioner referred to the Commission 477¹⁵ such matters under 7.2(2) of the Police Service Administration Act.

| | | |
|------------|-------------|---|
| 10. | (i) | all other Chief Executives of Government departments, agencies and statutory authorities be required to: |
| | (i) | notify the Complaints Branch promptly of any complaint of official misconduct or suspicion of misconduct; |
| | (ii) | comply with all written directions of the Chairman of the CJC including transfer of the responsibility for the investigation of such complaint or suspicion; |

Recommendation 10(i)(i) is achieved by s. 2.28 (2) of the Act, which imposes the obligation on the Ombudsman, the principal officer (other than the Commissioner of Police) in a unit of public administration, and a person who constitutes a corporate entity that is a unit of public administration. Recommendation 10(i)(ii) is achieved by s. 2.28(6) of the Act.

¹⁴ This includes two matters on which both the Commissioner of Police and another serving officer were listed as complainants.

¹⁵ This includes two complaints on which both a serving police officer and the Commissioner of Police were listed as complainants.

During the period 22 April 1990 through 22 April 1993, the Commission received over 240 referrals from principal officers of units of public administration other than the Commissioner of Police. The numbers have grown steadily each year, as has their percentage of the total number of complaints received. Complaints from principal officers of units of public administration constituted 1.7 percent of complaints received during 1990/91, and 6.8 percent during 1992/93. The increase may reflect in part the Commission's corruption prevention initiatives.

The Commission has made use of its power to direct the transfer of investigations to the Commission on a handful of occasions.

10. (j) the Official Misconduct Division, subject to authorisation by the Chairman of the CJC to investigate complaints of official misconduct in relation to Judges which are sufficiently serious to warrant removal from office, if established, subject to appropriate conditions, and in accordance with appropriate procedures, settled in consultation with the Chief Justice;

The Fitzgerald Report devoted considerable energy to examining the relationship between the judiciary and the then-proposed OMD. The Report's recommendation regarding possible investigations of judicial officers was translated into s. 2.20(3) of the Act. To date the Commission has undertaken a small number of such investigations. In each case, the Commission Chairperson approached the Chief Justice to explain the Commission's intended action and develop mutually agreed-upon conditions and procedures for the investigation. None of these allegations have been substantiated.

- 10. (k) the activities of the Official Misconduct Division be open to review by the Parliamentary Criminal Justice Committee and to review by the judiciary on application;**

As we have noted earlier, the Fitzgerald Report stated that "[i]ndependence is essential to a body charged with investigating misconduct, but autonomy is not necessary for effectiveness".¹⁶ Consistent with the underlying philosophy of the Report, s. 4.8(1)(a) of the Act makes the Commission, and particularly the OMD, closely accountable to the PCJC.

The Commission's monthly written reports to the PCJC comprise sections on each of the Commission's Divisions. The OMD reports to the PCJC on matters being handled by the Complaints Section, on operations being mounted by the Multi-disciplinary Teams, as well as other related activities. The Committee may request oral presentations by both Commissioners and Division Directors on specific issues raised in the monthly reports. During 1992/93, the PCJC made 126 requests for reports on various investigations and complaints matters.

As noted in the discussion under Recommendation I:10(e), the Division's exercise of its powers is subject to strict judicial control as set forth in the Act. The particular form of review cited in this recommendation is achieved by s. 2.25 of the Act, under which a person may make an application to the Supreme Court for an injunction in respect of an investigation by the OMD on the basis that it is being conducted unfairly; or that the complaint or information on which the investigation is being, or is about to be conducted, does not warrant an investigation.

¹⁶ The Fitzgerald Report, p. 366.

11. the Misconduct Tribunal function as follows:

- (a) the Tribunal's roles will be:
 - (i) to review decisions on disciplinary matters within the Police Force;
 - (ii) 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;
- (b) the Tribunal will comprise one person at a time, appointed to a given matter, by the Executive Director, from a panel of three appointed part-time members. The members will be recommended by the CJC through the responsible Minister. Each member will be qualified for appointment as a Judge of the State Supreme Court, or of the Federal Court of Australia, or be a retired Judge of the High Court of Australia, the Federal Court of Australia, or the Supreme Court. Each such part-time appointee shall not have any other office in or connection with the CJC;
- (c) appointment to the Tribunal will be for fixed short terms, with eligibility for re-appointment for a further term. Tenure in excess of an aggregate of more than six years would be undesirable;
- (d) the Tribunal will have the same protection in respect of the exercise of its functions as a Judge of the Supreme Court. Its existence and powers will be reflected in the legislation necessary to create the CJC;
- (e) the Tribunal's process will be inquisitorial and administrative;
- (f) the Tribunal will be able to remit any matter to the Official Misconduct Division for investigation or further investigation;

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The Fitzgerald Report recommended the abolition of the Police Complaints Tribunal, which had "lost public confidence and therefore effectiveness".¹⁷

Detailed recommendations for the Misconduct Tribunals were presented at pp. 315-316 of the Report. These were imperfectly reflected in the Act. Divisions 5 and 5A of the Act set forth jurisdiction, terms of appointment, membership, constitution, remuneration, and procedures and powers of the Misconduct Tribunals. The Commission has constituted the Misconduct Tribunals in accordance with the provisions of the Act.

A Registrar was appointed on 30 April 1990, and after examining expressions of interest received from persons interested in being members of the Tribunal, in August 1990 the Commission appointed seven persons to the Tribunals' inaugural panel. To emphasise their independence from the Commission and the OMD, the Tribunals were accommodated in offices separate from the Commission and the role of establishing the infrastructure and procedures of the Tribunals was passed to General Counsel and the Registrar.

By 30 June 1993, the Misconduct Tribunals had heard and finalised 17 matters in its original jurisdiction and heard 15 matters in its appellate jurisdiction, 3 of which remained to be finalised.

The Misconduct Tribunals have been the subject of continued debate almost since their establishment, and both the Commission and the PCJC have made recommendations focusing on amendments to the Act to improve the Tribunals' operations and effectiveness. Recommendation 23 in PCJC Report No. 13, for example, reads:

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 rehearing or review of the original decision.¹⁸

¹⁷ Ibid.

¹⁸ Parliamentary Criminal Justice Committee, December 1991, Report No. 13, p. 89.

The Commission's most recent submission in this regard was made in July 1992. That paper was published in PCJC Report No. 17, wherein the Chairperson of the PCJC acknowledged that "the Tribunals, as currently constituted, have met with only moderate success and need reform".¹⁹ The PCJC Chairperson went on to say that "[t]he Committee believes that this is one instance where a mechanism recommended in the Fitzgerald Report should be improved upon, in light of operational experience . . . " He concluded that in light of the difficulties being experienced with the current Misconduct Tribunals, the changes proposed in this report and its major review in Report No. 13 need to be acted upon as a matter of urgency. The Committee's report also made a number of recommendations for reform.

An interdepartmental working group established by the Office of the Cabinet is currently considering these recommendations as part of a review of the Act and its overall structure. The Commission has consistently made representations to the effect that these and other amendments to the Act be effected urgently.

¹⁹ Parliamentary Criminal Justice Committee, July 1992, *The Committee's recommendations on changes to the method of appointment and conditions of service of members of the Misconduct Tribunals*, Report No. 17, Brisbane, Government Printer, pp. i-ii.

12. the Research and Co-ordination Division be required to:

- (a) define emerging trends in criminal activity including organised crime, identifying competing needs and establishing priorities for the allocation of law enforcement resources;**

The Fitzgerald Report argued that more accurate information on crime trends was needed to measure the effectiveness of criminal justice administration and determining priorities for the deployment of law enforcement resources. This recommendation was translated into subparagraph (b) of s. 2.45(2) of the Act, which describes the functions of the Research and Co-ordination Division.

Prior to the establishment of the Commission, the only available data on crime trends came from police statistics on reported crime. Criminological research elsewhere has shown that police statistics alone are a poor indicator of the extent and levels of crime in the community, although they could prove useful when considered in conjunction with victimisation data. However, there were no base-level estimates of criminal victimisation in Queensland and, more to the point, police records of reported crime were shown to be inaccurate and misleading.

As the first step toward building a knowledge base on crime trends in Queensland, in 1991 the Commission conducted a survey on criminal victimisation in Queensland in conjunction with the Government Statistician's Office. Its primary objective was to extend the range of data on the characteristics of crime and crime victims in Queensland. The results of this survey complement the official statistics on crime produced by the Queensland Police Service and enable a better estimate to be made of the true nature and extent of crime in Queensland. A detailed summary of the survey's findings was published in 1992. The Division is currently preparing a more detailed analysis that examines the factors associated with the risk of being a victim of violent or property crime.

The Division has also directed resources towards a comprehensive review of QPS information systems. This review has contributed to the development and operation of better statistical systems within the QPS, including those focusing on information on crime and offenders. A committee constituted by the Commission

to review the QPS Information Bureau submitted its report in January 1992. The report made 29 recommendations, all of which were accepted by the QPS. 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 to assess how they had been implemented (see Recommendation II:6).

The Division will soon complete a study of murder in Queensland using data from the Information Bureau covering the years 1980-1992. The study is part of a larger focus on domestic violence. The Division hopes that the project will provide a better empirical basis for the discussion of public policy matters such as child protection, domestic violence and weapons control. It will also provide an analysis of trends in homicide.

The Division has also examined trends and patterns in youth crime. There is currently little reliable data on the extent and nature of juvenile crime in Queensland, and it is difficult to say what proportion of crime is committed by youth. The Division prepared *Youth Crime and Justice in Queensland: An Issues and Information Paper*, which was released in March 1992. The paper presented the results of a preliminary analysis of data available from the QPS, the Children's Court and the Department of Family Services and Aboriginal and Islander Affairs (DFSALA). It 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.

The Research and Co-ordination Division has also begun to address the issue of law enforcement resources. Communities in Queensland, as in other parts of Australia, vary greatly, not just in terms of geography, demography, economic activity, ethnic composition, and government infrastructure. They also present different kinds of crime problems. And yet the kinds of policing employed in those communities are remarkably similar. By matching the social, geographic, and economic characteristics of police districts and divisions to analyses of calls-for service, the Division's Profiles of Police Districts Project represents an innovative approach to prioritising law enforcement resources and methods. Profiling will:

- facilitate needs-based allocation of police resources, and enable police to vary their response according to the requirements of individual communities;

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- assist police in reducing street crime in high-crime areas;
- give police the opportunity of making positive contributions to the quality of life in neighbourhoods; and
- provide information vital to developing alternative policing strategies, consistent with the QPS emphasis on community policing.

The data collected in these projects are not likely to generate information directly applicable to determining trends in *organised* criminal activity; that is the province of the Intelligence Division (see Recommendation 1:13(a)–(f)). However, the Research and Co-ordination and Intelligence Divisions have already collaborated to analyse data on organised crime involvement in prostitution, and the Division's research agenda may present opportunities for further collaboration in the future.

12. (b) **develop compatible systems for and foster co-operation between law enforcement, prosecution, judicial, and corrective services agencies to promote optimum overall use of available resources;**

The Fitzgerald Report cautioned that criminal justice problems could not be solved by ad hoc, fragmented responses by individual agencies. The problems facing law enforcement could not be solved solely by increasing resources, but required a more efficient use of existing resources. Similarly, the problems facing the criminal justice system as a whole might also be addressed by a more effective use of resources. Rather than compete for resources and implement policies inimical to each other's interests, law enforcement, prosecution, judicial, and corrective services agencies should co-operate in developing policies and practices that looked beyond the confines of their immediate statutory responsibilities.

Even if there was a general commitment to inter-agency co-operation at the time the Report was written, there were few formal means of realising it. Hence, the Report recommended that the Commission's Research and Co-ordination Division would be charged with fostering co-operation among agencies and developing "compatible systems" for achieving that co-operation.

This Recommendation was reflected in s. 2.45(2)(c) of the Act and in the name of the Research and Co-ordination Division.

The Commission has been able to make less progress than envisaged in implementing this recommendation. A number of problems have arisen that Fitzgerald, QC, may not have anticipated. In particular, although the Act, consistent with the recommendations, gave the Division the responsibility for co-ordination, it gave neither the Division, or the Commission; commensurate powers with which to achieve it, a situation noted by the PCJC in its Report No. 13.²⁰

The Division has nonetheless tried to avoid duplication and to ensure effective liaison with other departments and agencies involved in the areas with which it has been concerned. It has taken steps to assemble bodies of information that will frame the development of compatible systems, and it has lent its expertise and resources to discrete projects directed to specific areas of co-operation.

One of the first steps in promoting the effective use of criminal justice resources has been to develop a clearer picture of how those resources are applied. The Division's August 1991 publication, *Crime and Justice in Queensland*, presented an integrated picture of the functional relationships between the various parts of the Queensland criminal justice system. The Division's March 1992, publication *Youth Crime and Justice in Queensland: An Information and Issues Paper*, presented a similar overview of the State's juvenile justice system.

A second step is the collection of data that will provide an accurate picture of the criminal justice system's workload. Shortly after the appointment of its first Director, the Division began planning an Integrated Criminal Justice Database that would be able to link and generate statistical data on reported crime, law enforcement, prosecution, sentencing, and correctional treatment. In its December 1991 review of the Commission's operations, the PCJC endorsed the Division's plan and recommended that an independent bureau be established within the Research and Co-ordination Division to manage and maintain the criminal justice database.²¹ The Division would be given additional resources to discharge this responsibility. Of the three organisations proposed as collecting agencies---the CJC, the QPS, and the Government Statistician's Office---the PCJC recommended that the Commission would be best placed to fill the role. The PCJC noted that

²⁰ Parliamentary Criminal Justice Committee, December 1991, Report No. 13, pp. 71-72.

²¹ Ibid, pp. 178-80.

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the CJC was independent and that its Research and Co-ordination Division had a statutory function to research and evaluate criminal justice issues, co-ordinate with other criminal justice agencies and oversee and monitor the QPS.

The PCJC's recommendation was raised at the Inter-Agency Forum on Law Reform in early 1992, which referred the matter to the Information Policy Board (IPB) of the Department of the Premier, Economic and Trade Development. The IPB convened a meeting attended by representatives of the Commission's Research and Co-ordination and Intelligence Divisions, the QPS, the Government Statistician's Office, the Office of the Director of Prosecutions, and the Corrective Services Commission. Although that meeting confirmed the need for the integrated criminal justice statistics and a shared operational information system from which the statistics could be produced, it also highlighted the divergent views of those agencies with respect to ownership of data and willingness to participate in such an enterprise. The IPB surveyed Queensland criminal justice agencies to ascertain those agencies' interest in contributing to and/or co-ordinating the database and the expertise they would be able to make available to such an undertaking. A consultant to the Board met with representatives of those agencies, including the Criminal Justice Commission. Information gathered by the IPB was to be consolidated and made the subject of another meeting among these agencies.

The subject of the Integrated Criminal Justice Database was raised again at the June 1992 meeting, which decided that the Office of the Cabinet would consult with the relevant agencies to determine a means of advancing the issue. That Office prepared an information paper which, after consideration in the March 1993 Forum meeting, was circulated to various agencies for comment. Members of the Research and Co-ordination Division worked closely with the Office of the Cabinet in revising the paper, drawing on their experience in interpreting criminal justice statistics and, in particular, data from the QPS Information Bureau. The revised paper was presented to the June 1993 Forum meeting. It proposed that the Government Statistician's Office, assisted by staff of the Research and Co-ordination Division, audit existing databases to determine options for integration. It reiterated the PCJC's recommendation that the Commission's Research and Co-ordination Division was the most appropriate agency to interpret the information generated by the integrated database.

The Research and Co-ordination Division's efforts towards establishing the Integrated Criminal Justice Database highlight the difficulty it faces in discharging its statutory role. Plainly, other departments and agencies have their own legislation, priorities, and responsibilities, it is extremely difficult to find a consensus among them, and impossible for the Commission to force one.

Although the Commission may have a statutory responsibility to foster co-operation, it has no similar statutory authority to compel it.

In an effort to encourage greater co-operation between agencies, in August 1991 the Chairperson of the Commission broached the idea of a forum for inter-agency co-ordination in law reform in a letter to the Office of the Cabinet. The Director-General of the Office of the Cabinet endorsed the suggestion and invited EARC, the Law Reform Commission, Department of the Attorney-General, the Department of Justice, the QPS, the DFSAIA, and the CJC to participate in such a group. The first meeting of the Forum took place on 6 November 1991.

The purpose of the Forum is to foster effective co-operation among Queensland statutory and Government agencies in the area of law reform. Its principal focus is reform of the criminal justice system, including the criminal law. The Forum gives member agencies an opportunity to exchange information concerning existing and prospective law reform issues in which they are involved, including those issues which require action by or co-ordination with other member agencies. As the convenor of the Forum, the Office of the Cabinet has developed and maintains a list of current and proposed law reform reviews and policy issues, updated each meeting by contributions from member agencies.

Despite the inherent difficulties in addressing co-ordination and co-operation on a macro level, the Division has been able to provide assistance in co-ordinating the use of resources in discrete areas of the criminal justice system. For example, the Division took a lead role in co-ordinating the work of the inter-agency Forensic Science Services Review Committee, which examined the provision of and access to forensic science services. The Committee's work led to the June 1992 publication of *Forensic Science Services Register*, which is designed to provide criminal justice practitioners with information on relevant services offered by various bodies in the State and to assist the legal fraternity in the conduct of criminal cases.

12. (c) co-ordinate and develop procedures and systems for the activities of the CJC;

Both the Fitzgerald Report's recommendations and the Criminal Justice Act set forth functions and responsibilities for the Commission as a whole and its Divisions. In most instances, the Commission's functions and responsibilities are mirrored in those of its Divisions and, in practice, particular Divisions take the lead in fulfilling the Commission's functions and responsibilities. This is especially true with respect to the Research and Co-ordination Division, whose statutory functions are closely related to many of the Commission's responsibilities set forth in s. 2.15 of the Act.

Recommendation I:12(c) was reflected in s. 2.45(2)(a) of the Act, which the Commission has interpreted to refer to activities with an express research emphasis, activities that would naturally fall to research staff and would involve co-ordination with the research activities of other criminal justice agencies. For example:

- the Division takes the lead in discharging the Commission's responsibility with respect to "monitoring and reporting on the use of investigative powers" (s. 2.15(b) of the Act). The two volumes already published reflect significant input from lawyers and police officers in the OMD.
- in preparing its report on reform of the Police Service (under s.2.15(i) of the Act), the Division has sought and received assistance from the OMD, the Intelligence Division, and the Office of General Counsel with respect to those Divisions' related statutory, oversight, or assistance activities.
- the Division's evaluation of the QPS Information Bureau was informed, in part, by the work of the Intelligence Division with respect to BCIQ.
- the Division's multi-disciplinary approach to "researching, generating, and reporting on proposals for reform of the criminal law" (s. 2.15(e)) relies in part on the expertise of the lawyers and police in the OMD and the operational experience of the OMD's Multi-disciplinary Teams. This assistance was especially critical to the development of the Division's report on prostitution and the Advisory Committee on Illegal Drugs' report on cannabis.

- the Division's issues paper, *The Jury System in Criminal Trials in Queensland*, which was furnished to the Chief Justice in conjunction with an OMD investigative report on allegations of jury interference, reflected the expertise of solicitors and barristers from both the Research and Co-ordination Division and the OMD.

The Division has also taken the lead in representing the Commission on committees and working parties examining issues relevant to the Commission's research responsibilities; for example, the Police Prosecutions Working Party, the Forensic Science Services Review Committee, and the Inter-Agency Forum on Law Reform. As noted earlier, the Division also represents the Commission on many QPS committees.

12. (d) provide information to the Parliament, Judiciary, law enforcement and prosecution agencies in relation to criminal justice matters;

This recommendation, which was reflected in s. 2.45(2)(e) of the Act, supports the Fitzgerald Report's concern about the dearth of information available to inform the work of Queensland's criminal justice agencies. The Division was charged with "conduct[ing] research into the problems that . . . beset . . . the administration of criminal justice" and, equally important, with "mak[ing] known its findings on matters relating to the system of criminal justice in the State to . . . all other agencies in the State concerned with the administration of criminal justice" (s. 2.45(1) of the Act). Clearly, the Division's research role would make little sense if it did not make its findings widely available.

The Division's activities fulfil both the spirit and the letter of this recommendation and, in fact, go far beyond a focus on its own research. The Division acts as a general clearinghouse for information on criminal justice in Queensland, fulfilling a vital role absent in pre-Fitzgerald Queensland.

The Division provides information in a number of ways:

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- **responses to informal written and telephonic requests for information.** Each week the Division receives 5–10 requests for information on criminal justice matters from police officers, Members of Parliament, members of the judiciary, criminal justice agencies, etc. Sometimes, the information needed to respond to these inquiries is close at hand; at other times, the Division devotes considerable energy to library research or short-term analyses.
- **lectures and presentations.** Throughout the year, Division staff deliver numerous lectures and presentations to groups of criminal justice practitioners, for example, at the Police Academy.
- **organisation of and participation in conferences.** Division staff make an effort to report on the findings of their research at conferences organised by professional criminal justice associations and academic institutions. The Division also organised and developed, jointly with the Australian Institute of Criminology, a Conference on the Police and Community. It featured speakers from a broad range of government departments, academic institutions, and professional associations. The Division published the conference proceedings in collaboration with the Institute.
- **participation in external committees.** Division staff participate in an extensive number of extramural working parties and liaison committees (see Recommendations I:2(g) and 12(f)).
- **responses to formal requests for information.** The Division regularly receives formal requests for information from the PCJC and other criminal justice agencies and associations. The range of requests is broad. In 1991/92, for example, the Division assisted the Queensland Victims of Crime Association in developing a questionnaire on victims' assistance programs. The Division's forthcoming report on the implementation of the Fitzgerald recommendations responds to a formal request by the PCJC.
- **development of research projects.** The Division has initiated several projects directly in response to requests for assistance from criminal justice agencies. These include:
 - a survey of police attitudes towards Aborigines and Torres Strait Islanders for the Royal Commission into Aboriginal Deaths in Custody;

- a survey of Queenslanders' attitudes towards police reform, in response to concerns expressed by the Minister for Police and Emergency Services.
- profiles of police districts, a project initiated in response to requests made by QPS officers in the communities concerned.

The large majority of Division projects are not specifically initiated in response to requests for assistance, but nonetheless result in information of significant utility to criminal justice agencies, in particular, the QPS. For example, the Division provided the results of its social needs survey of youth in Inala to the QPS, to assist in the policing of Inala.

- **publications program.** Because the Division is often investigating matters of special significance to the public and criminal justice administration, the information that it generates must be widely and uniformly available. The most effective way of accomplishing this is through the publication of issues papers and reports. To date, the Division has published over 20 documents. Their subject matter is indeed quite broad:

Publications of general application to criminal justice agencies in Queensland:

| | |
|-------------|--|
| Feb 1991 | <i>Directory of Researchers of Crime and Criminal Justice</i> – Prepared in conjunction with the Australian Institute of Criminology |
| June 1991 | <i>The Police and the Community, Conference Proceedings</i> – Prepared in conjunction with the Australian Institute of Criminology following the conference held 23–25 October, 1990 in Brisbane |
| August 1991 | <i>Crime and Justice in Queensland</i> |
| March 1992 | <i>Youth, Crime and Justice in Queensland – An Information and Issues Paper</i> |
| April 1992 | <i>Crime Victims Survey – Queensland 1991</i> (A joint Publication produced by Government Statistician's Office, Queensland, and the Criminal Justice Commission) |

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June 1992 *Forensic Science Services Register*

Publications relating to various aspects of the QPS include:

| | |
|------------------|---|
| May 1991 | <i>Attitudes Toward Queensland Police Service – A Report (Survey by REARK)</i> |
| Jan 1992 | <i>Report of the Committee to Review the Queensland Police Service Information Bureau</i> |
| Feb 1992 | <i>Queensland Police Recruit Study, Summary Report #1</i> |
| Sept 1992 | <i>Beat Area Patrol – A Proposal for a Community Policing Project in Toowoomba</i> |
| Oct 1992 | <i>Pre-Evaluation Assessment of Police Recruit Certificate Course</i> |
| Jan 1993 | <i>First Year Constable Study, Summary Report #2</i> |

In addition, the Commission will shortly release its report examining the implementation of the Fitzgerald Report reforms pertaining to the QPS.

The Division's publications focusing on law reform issues are listed in the discussion under Recommendation I:2(i).

- **Library.** The Commission's library, which is managed within the Research and Co-ordination Division, provides a range of services for Commission staff and is available for use by staff of criminal justice agencies and members of the public.

12. (e) co-ordinate with other Government departments with respect to criminal justice related issues;

S. 2.46(1) of the Act provides that the Division shall in the discharge of its functions "liaise with, and co-ordinate its activities with those of, departments of government of the State that are concerned with the administration of criminal justice".

Many of the Division's activities involve co-ordination with other criminal justice agencies, Government departments, or related entities in order to avoid duplication of effort; take into account their views and requirements; secure access to their data; or secure their participation and co-operation in the conduct of the research. As part of its co-ordination responsibilities, the Division may also constitute working parties and liaison committees to guide its research efforts.

Examples of the Division's co-ordination efforts include:

- **Toowoomba Beat Area Patrol Pilot Project.** Developed by the Division in consultation with the QPS, the project is being jointly implemented by the Commission and the QPS.
- **Evaluation of the Implementation of the Fitzgerald Report Recommendations Directed to the Police Service.** Initiated at the request of the PCJC, the project has required extensive liaison with the QPS. It would not have been possible without QPS's co-operation.
- **Review of the QPS Information Bureau.** Consistent with the Fitzgerald Report's recommendations that the Commission review QPS information systems in co-operation with specialist external consultants and QPS officers, the Division constituted a working party comprised of academics from the University of Queensland and representatives from the Government Statistician's Office, the QPS, and the Commission.
- **Prostitution Law Reform.** To guide its work, the Division constituted a working party on organised crime and prostitution comprised of representatives of the QPS and the Commission, and established a liaison committee with Queensland Health.

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- **Review of Police Powers.** The Division co-ordinated release of an issues paper with the Office of the Minister for Police and Emergency Services. It worked closely with the QPS throughout the project and sought and received the co-operation of Directors-General of government departments that controlled statutory provisions relating to police powers.
- **Crime Victims Survey 1991.** The Division conducted the project in concert with the Government Statistician's Office.
- **Police Education and Training.** The Division worked in conjunction with the Police Education Advisory Council (PEAC), a committee comprised of university-based researchers, and representatives from the Commission; the QPS; the Department of Employment, Vocational Education, Training and Industrial and Relations; the Queensland Police Union; the NSW Police Academy; and the Australian Police Staff College.
- **Development of the Forensic Science Services Register.** The Division worked closely with a committee comprised of representatives of the QPS; the Office of the Director of Prosecutions; Queensland Health; the Government Chemical Laboratory; the Legal Aid Office; the Department of the Attorney-General; the Public Service Management Commission; the Department of Justice; and the CJC.
- **Review of Laws Relating to Cannabis.** The Advisory Committee on Illicit Drugs, which is chaired by one of the Commission's part-time Commissioners, comprised representatives of the Commission; the medical community; the University of Queensland, Department of Social and Preventative Medicine; the University of New England, Centre for Behavioural Studies; the QPS; the Alcohol and Drug Foundation, Queensland; Queensland Health; and the Kid's Help Line.

Division staff have also lent their expertise to the work of a number of committees and working parties constituted by other departments and offices. These include the Police Prosecutions Working Party, which is chaired by an officer of the Commission.

12. (f) research and recommend law reform pertinent to criminal justice and reform of administrative processes to enforce criminal law;

As noted earlier in the discussion under Recommendation 2(j), research and the co-ordination of the processes of criminal law reform is a function that both the Fitzgerald Report and the Act designate as "not appropriate to be discharged, or cannot be effectively discharged, by the Police Force or other agencies of the State." In Fitzgerald's view, law reform was intrinsically linked to consideration of criminal justice, and especially law enforcement, resources. The inclusion of this function among the responsibilities of the Commission, and the Research and Co-ordination Division, reflected that concern. Recommendation I:12(f) is reflected in s. 2.45(2)(d) of the Act.

As noted in the discussion of Recommendations I:2(i) and (j), the Research and Co-ordination Division's efforts in this area have been dictated largely by matters set forth in the Review Programme that the Report recommended for the Commission. The Division has to date undertaken several large-scale, resource-intensive projects that have led to the development and publication of numerous issues papers and reports (see Recommendation I:2(i)).

Reform of administrative processes of law enforcement has been a feature of several Division projects. The Division's review of the QPS Information Bureau led to a number of recommendations focusing on reform of administrative processes to enforce the law; the joint CJC/QPS Toowoomba Beat Area Patrol Pilot Project concentrates on developing new administrative processes for law enforcement within the context of community policing; likewise, the Division's review of police powers will also lead to a number of recommendations in this area.

The forthcoming report on the implementation of the Fitzgerald Report police reforms will refer to changes in administrative processes for law enforcement, and the Division will be making a significant contribution to the development of the new Operation Guidelines currently being prepared by the QPS.

The Research and Co-ordination Division's efforts in this area are supplemented by related activities of other Commission Divisions. As noted in the discussion under Recommendation I:2(g), the OMD provides recommendations to the QPS for

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changes to QPS administrative processes. The Office of General Counsel collaborates with the Research and Co-ordination Division in drafting the Commission's comments on legislation and representing the Commission on committees constituted to examine criminal law reform.

Legislation on which comment has been made includes the following:

- Evidence Act 1977
- Police Service Administration Act 1990
- Oaths Act 1867
- Draft Stipendiary Magistrates Bill
- Commissions of Inquiry Act 1950
- Invasion of Privacy Act 1971
- Crimes (Confiscation of Profits) Act 1988
- Draft Justices of the Peace and Commissioners for Declaration Bill
- Penalties and Sentences Act 1992
- Proposed Crime (Fraud) Bill
- Financial Transaction Reports Act 1992
- Proposed Whistleblowers Legislation
- Bail Bill and the Law Reform Commission's Review of the Bail Act 1980
- Freedom of Information Act 1992
- Public Officers' Superannuation Recovery Benefits Act 1988
- Racing and Betting Act 1991
- Judicial Review Act 1992
- Gaming Machines Act 1991

Committees on which the Commission has been represented include:

- Committals Working Party
- Criminal Code Review Committee
- Police Prosecutions Working Party
- Queensland Corrective Services Legislation Review Committee
- Queensland Police Service Review of Policy and Procedures Committee
- Committee for the Review of the QPS Operational Procedures Manual
- Committee on the Anti-Discrimination Act
- Committee on the Execution of Warrants of Commitment in Correctional Centres

The Division also represents the Commission on the Inter-Agency Forum on Law Reform, which was inaugurated at the Commission's suggestion (see Recommendation I:12(b)).

12. (g) review the effectiveness of Police Department programs and methods on a continuing basis, especially compliance with CJC recommendations or policy instruction, community policing, prevention of crime, and those related to recruitment, selection, training and career progression of police officers and supporting staff;

This recommendation was closely related to several of the Commission's responsibilities cited in the Fitzgerald Report recommendations and reflected in the language of the Criminal Justice Act. For example, the Commission's responsibilities include, under s. 2.15(g), "monitoring the performance of the Police Force . . . ensuring that the most appropriate policing methods are being used . . ."; under s. 2.15(h), "providing the Commissioner of Police with policy directives based on the Commission's research, investigation and analysis . . ."; and under s. 2.15(i), "overseeing the reform of the Police Service". Recommendation I:12(g) was translated into s. 2.45(2)(f) of the Act.

This recommendation encompasses several broad areas, and the following summary describes the Division's work relative to each:

- **monitoring compliance by the QPS with the Commission's recommendations or policy instructions.** As noted in the discussion under Recommendation I:2(g) the Commission has to date not issued any policy "directives" or "instructions". Rather, to foster a spirit of mutual cooperation between the two agencies, it has elected to make formal recommendations to the Commissioner and in other instances use discussion, consultation, and letters, an approach that has to date achieved essentially the same results.

The Commission's recommendations to the QPS follow from the work of the OMD, the Intelligence Division, and the Research and Co-ordination Division. Each of these three Divisions have made recommendations pertaining to particular aspects of QPS procedures, programs, and/or methods---the OMD through its investigation of complaints against police officers and its organised crime investigations; the Intelligence Division through its oversight of the BCIQ; the Research and Co-ordination Division through its review of the QPS Information Bureau, community policing projects, and involvement in QPS' recruitment and training efforts.

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Because many recommendations require some followup work (consultation, negotiation, co-ordination with other ongoing QPS initiatives) each Division has also tracked the adoption of their recommendations by the QPS.

The Research and Co-ordination Division has been monitoring this essentially informal, collegial process as part of its ongoing oversight of QPS on behalf of the Commission. Its forthcoming report on the implementation of the Fitzgerald Report's police service recommendations will consider the action taken by the QPS in response to these recommendations as well as the overall effectiveness of this approach.

- **community policing and crime prevention.** The Commission recognises that crime prevention programs (and related strategies like community policing) cannot be designed in a vacuum. They are informed by data concerning the nature and levels of crime in the community, as well as information concerning the communities themselves.

As previously noted, the Division has been involved in several applied research projects that should make a valuable contribution to the direction that QPS efforts are taking. These projects include:

- *Profiles of Police Districts and Divisions.* A joint enterprise between the Commission, the QPS and the University of Queensland, this innovative approach to law enforcement resources and methods matches social, geographic, and economic characteristics of police districts and divisions to analyses of calls-for-service. For a number of reasons, among them the Commission's interest in the Inala district following OMD investigations of allegations of police misconduct, Oxley was the first district that the project team examined. The second was Toowoomba (see also Recommendation I:12(a)).

An offshoot of the project in Inala, the Inala Community/Police Network, 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.

The Division will be undertaking a profiling project in the West End (Brisbane) police division and, using the information generated by this project, will be assisting the QPS to establish a community policing project in that area.

- *Toowoomba Beat Area Patrol Pilot Project.* This two-year pilot project was developed under a partnership between the QPS and the Commission. The project was launched in May 1993 after 18 months of planning and consultation between staff of the Southern Region of the QPS and the Commission's Research and Co-ordination Division. During this period Division staff analysed 14,000 calls for service, surveyed land-use and socio-economic factors in the area, identified addresses that generated repeat calls-for-service, and analysed relevant victimisation data---in effect, it produced a profile of the Toowoomba Police District. Project staff used these data to select two beat areas that best reflected the socio-demographic and law enforcement characteristics of the district to test the operational viability of a new approach to community policing.

Two beat area officers will live and work exclusively within the beat areas to which they have been assigned. Each officer will patrol his beat on foot or bicycle and will work from an office attached to his residence. They will try to use problem-solving strategies to identify and resolve issues of community concern within their beat area and try to work with the community to stem the growth of crime, fear of crime, and local public-order problems.

This project is a tangible expression of the Commission's effort to improve police methods, provide policy guidance and recommendations, and actively involve police officers themselves in the process of research and data collection, experience that police officers can use to themselves develop better policy and methods. It marks an attempt to "operationalise" the philosophy of community policing and address some of the problems that have marked its introduction in Queensland.

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The Commission's evaluation will concentrate on both process and impact. Community surveys and analysis of police activities will take place throughout the two-year life of the pilot project. If the evaluation indicates that the project is successful, the Commission and the QPS will consider replicating it other parts of the State.

- **the selection, recruitment, training and career progression of members of the Police Service and their supporting staff.** Through the Police Education Advisory Council (PEAC), the Division has been actively involved developing a new QPS recruit training program. During the first year of the new program, recruits spend a semester at QUT/Griffith University before attending the Police Academy; the second year involves structured on-the-job training (Field Training Program).

The Division has conducted a pre-evaluation assessment of the Recruit Certificate Course and began tracking two groups of recruits through their training and early years in the QPS. This 6-year longitudinal study will rely on the use of annual survey data to assess its long-term effects on the behaviour and attitudes of new recruits. The Commission published interim reports on this study in February 1992 and January 1993.

The Division will combine its review of the implementation of Fitzgerald recommendations directed to police education and training with its interim assessment of the police recruit certificate course in a single document expected to be published later this year (see Recommendation II:5).

- 12. (h) review Police Department use or treatment of criminal intelligence including as required by the Intelligence Division;**

The Fitzgerald Report recommended the establishment of a single police information Bureau, managed by civilian specialists, and responsible for all of the Department's criminal records, associated information and intelligence, and the collection, analysis, storage, access, and dissemination of information by the Police. In addition, the proposed Review Programme for the Criminal Justice Commission included a comprehensive review of police information systems in co-operation

with specialist external consultants and officers of the Police Service to achieve this (see Recommendation II:6).

While the Report implicitly recognised that the QPS needs criminal intelligence information to effectively discharge its functions, it also recommended the establishment within the Commission of an Intelligence Division that would play a major role in discharging the Commission's responsibility to oversee criminal intelligence matters and manage criminal intelligence with specific significance to major crime, organised crime, and official misconduct (Recommendation I:2(k)). As part of its oversight of QPS programs and effectiveness, and as the organisational unit within the Commission with the major role in overseeing reform within the QPS, the Research and Co-ordination Division would "review Police Service use or treatment of criminal intelligence, including as required by the Intelligence Division". Recommendation I:12(h) was translated into s. 2.45(2)(g) of the Act.

The Act, however, makes no reference to the proposed integrated Police Information Bureau. Rather, it supposes the continued existence of the Bureau of Criminal Intelligence, Queensland (s. 2.47(d)). The QPS has taken steps to improve its information systems and establish an Information Bureau, largely in accordance with the Recommendations, but the Bureau of Criminal Intelligence remains a separate section within the Police Service and is now organised within the QPS Task Force.

Consistent with the Act, the Commission's Intelligence Division currently oversees the performance of the role of the Bureau of Criminal Intelligence and the Police Service's liaison with law enforcement agencies of the Commonwealth and other States. In 1991, the Division completed a detailed assessment of the BCIQ that included an examination of the BCIQ's use and treatment of intelligence information. The Division's assessment report recommended significant changes to the Bureau's structure, procedures and relations with other sectors of the Police Service. This report was accepted in its entirety by the Police Service. The Intelligence Division has subsequently monitored the implementation of those recommendations and was closely involved in the development of the BCIQ's QUID intelligence database.

Given its continuing oversight role, the Intelligence Division has not required the Research and Co-ordination Division to embark on any review project under this section of the Act.

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- 12. (i) report to the CJC on all the above to aid its determinations and alert it as necessary;**

This recommendation is reflected in s. 2.45(i) of the Act.

The Division Director reports to the Commission on the Division's activities twice monthly during the regularly scheduled meetings with Division Directors on the first and third Friday of each month. From time to time, special meetings may be held to deal with specific issues.

The Division has prepared and submitted to the Commission numerous reports covering the findings from its numerous projects. These have constituted many of the Commission's published reports.

13. the Intelligence Division be established as a suitably equipped, professional and specialist criminal intelligence unit, independent of the Police Force, with the following functions:

13. (a) to provide an effective criminal intelligence service as the hub of an integrated approach to major crime, especially organised crime, and criminal activity transcending the normal boundaries associated with local policing;

The thrust of this recommendation, which is reflected in s. 2.47(1) of the Act, reflects the findings of the Fitzgerald Report concerning the nature of organised crime and the inadequacy of systems then in place to inform and co-ordinate an approach to combating it. The then-QPS information system was concerned with "reactive policing suited to localised crime. It was designed for and embodies assumptions about a less complex and a more law abiding community". The Report noted that a police information system "is not and cannot be an effective means of providing information in a way suitable for the parliamentary process of reform or use by the general community".²²

Since completing its initial staff recruitment efforts a little less than three years ago, the Commission has built a first-class intelligence capability that uses state-of-the-art technology and methods. It has developed, and continues to acquire information for, a database containing intelligence information concerning criminal activities and persons concerned therein. It has developed a reservoir of skills in tactical and strategic intelligence and has earned the trust and co-operation of similar State and Federal agencies. It functions, in the words of the Recommendation and the Act, as a "hub" for an integrated approach to organised and major crime.

As the Commission has noted in other reports, in very basic terms, the Commission's approach to combating organised crime has been to:

²² The Fitzgerald Report, p. 317.

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- collect and analyse all information available throughout the law enforcement community;
- to establish an intelligence data collection plan which actively seeks to capture intelligence on current criminal activities and to identify the principals involved in that activity;
- to design an operational plan for the proactive investigation of the organisation(s), in particular through surveillance, undercover penetration, discovery of informants, pursuit of the money trail by financial investigators, and the conduct of closed hearings; and to progress from operation to operation, widening the net by targeting the organisation(s) rather than individuals, gradually working to the centre of the hydra.

The Intelligence Division's capabilities play an important part in the Commission's work and, in particular, that of the OMD and the Joint Organised Task Force. Almost 38 percent of OMD Multi-disciplinary Team investigations are initiated in response to Intelligence Division information.

13. (b) to build up an intelligence data base using its own information, and information from other sources including the Official Misconduct Division, the Queensland Police Force and all interstate and Commonwealth sources;

This recommendation was translated into s. 2.47(2)(a) of the Act, which requires the Division to establish a database of information on criminal activity and to apply that information as appropriate to law enforcement operations. 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, as opposed to the manual, card-based system formerly used in the QPS, was considered the only feasible method of storing and manipulating the amount of data that such a task would involve.

An Intelligence database working party examined a number of databases used 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. After a period of intensive staff user-training, the collation of information began.

In December 1992 Division staff completed back-capturing important related material from sources such as the Fitzgerald Commission of Inquiry, the Complaints Section, and past OMD operations. Additional information was obtained and continues to be obtained through agreements with similar intelligence sections attached to law enforcement agencies of other States and the Commonwealth. Criminal intelligence information is now analysed and entered into the database as it is received.

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 had been transferred from ABCI and loaded on the Commission's hardware. It now operates 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 work stations, 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 audited to ensure that only those persons with a documented "right" and "need" to know are authorised to access information.

The Division remains aware that some members of the public view the Commission's intelligence function with some trepidation. To allay these concerns, the Division operates under strict guidelines based on principles espoused in the Commonwealth freedom of information and privacy legislation. Adherence to these guidelines ensures that only information relating to criminal activity is

Recommendation I:13

retained in the Division's database and that individual rights are protected by security and audit programs.

13. (c) to carefully secure the data base to ensure only those individuals with a need to access the material are able to do so;

While noting the BCIQ's "limited capacity to generate or disseminate intelligence",²³ the Fitzgerald Report was highly critical of security measures for information held by the BCIQ. The security of information that would be held by the Commission was therefore of immediate concern, and this recommendation was translated into s. 2.47(2)(c) of the Act.

With respect to the Intelligence Division's database, the entry, manipulation, and retrieval of information is the subject of stringent security measures that were established soon after the Division began operations and have been amended as necessary with the advent of new hardware and software. In fact, the installation of new, dedicated hardware and software has enhanced security.

Access to the system is electronically controlled, and is subject to regular audits conducted by senior Division staff. The hardware itself is maintained in a secure area within the Commission. Awareness of security measures is an integral part of the analyst training provided to Intelligence Division staff.

²³ The Fitzgerald Report, p. 270.

13. (d) to oversee the role now performed by the Bureau of Criminal Intelligence of Queensland, part of the Police Department, including the Police Department's liaison with other Federal and State law enforcement agencies and the National Crime Authority;

This Recommendation is reflected in s. 2.47(2)(d) of the Act.

In 1991 the Division completed a detailed assessment of the BCIQ that recommended significant changes to the Bureau's structure, procedures and relations with other sectors of the Police Service. QPS accepted the report in its entirety. The Division subsequently monitored implementation of the report's recommendations, which were completed during 1992.

The Division temporarily set aside its plans for a second assessment after the change in management at QPS in the latter half of 1992. Other external reviews, including that of the PSMC and the assessment of the implementation of the Fitzgerald reforms by the Research and Co-ordination Division, have further delayed that project, although the Division has been consulted by the Research Division in the course of its review. Given the positive relationship that it now enjoys with BCIQ management, the Division anticipates mounting a follow-up assessment during the 1993/94 financial year.

The Division's contact with BCIQ has not been limited to formal assessments. It has been closely involved with BCIQ in connection with the preparation of target proposals and strategic projects and in the development of the Queensland Intelligence Database (QUID), which supports the BCIQ's intelligence network. In 1992, the Division 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 the QPS and other agencies are among the students.

Both the Recommendation and Act direct the Intelligence Division to oversee Police Department liaison with other Federal and State law enforcement agencies, including the National Crime Authority. The recommendation is given added emphasis in the Act, under which the Division will "subject to the direction of the Commission, . . . assume or, as the case may be, oversee . . ." the BCIQ's performance and its liaison with other law enforcement agencies".

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There are at present no formal procedures to accomplish this. The Commission recognises that compelling the BCIQ to use the Intelligence Division as the medium for its contact with other law enforcement agencies, in effect assuming liaison on behalf of QPS, would severely compromise the BCIQ's independence and is therefore clearly undesirable. The second option, overseeing that liaison through some form of representation on the responsible management bodies of those agencies, is not available to the Commission. For example, the NCA works on references from an Inter-Governmental Committee that includes the police ministers from each of the States. To facilitate its work, as a matter of policy the NCA has established two general liaison committees: a consultative committee (whose permanent membership includes the police commissioners from each of the State police services and the AFP, the Chairperson of the Authority, and heads of Federal agencies such as the ABCI and AUSTRAC; and a secretariat (whose membership includes assistant commissioners of police---the Queensland representative is the A/C Task Force, who has responsibility for the BCIQ), which advises the consultative committee. Although the Commission has been invited to be a member of NCA committees constituted for specific operations, and its General Counsel chairs the NCA-established Queensland Serious White Collar Crime Liaison Committee, which includes QPS representatives, as a non-police body like the NSW ICAC and the NSW Crime Commission, it has not been invited to sit on its permanent advisory committees.

In the absence of any formal procedures to inform the Commission of the BCIQ's liaisons efforts, the Commission must rely on the goodwill of BCIQ management and its good relations with State and Commonwealth law enforcement agencies with which it has settled memoranda of understanding for joint operations and information sharing. This system appears to have worked successfully to date. The agencies with which the Commission has settled memoranda of understanding are listed in the discussion under Recommendation I:15.

- 13. (e) to take control of the data accumulated to date by this Commission;**

This recommendation was translated in s. 2.47(2)(b) of the Act. S. 2.48 of the Act also refers.

The Fitzgerald Inquiry generated a voluminous amount of material in the form of transcripts, investigation files, databases, and correspondence. A significant part of it was undocumented and, upon review, duplicative.

Shortly after its establishment, the Intelligence Division reviewed all data and records accumulated by the Commission of Inquiry and secured those of intelligence value for entry into the Division's Criminal Intelligence Database. In accordance with the Chairperson's direction, the balance was transferred to the control of the Information Management Section, Corporate Services Division, which began the long-term process of determining which should be returned to its owners, destroyed, or retained by the Commission as part of its holdings.

The Information Management Section established an information retrieval role to assist the Office of the Special Prosecutor and the OMD's continuing investigations. This role was transferred to the Intelligence Division in June 1991.

13. (f) to report to the Government, subject to CJC consent, on criminal intelligence matters pertinent to Government considerations, policies or projects;

The Fitzgerald Report noted that the then-QPS intelligence system could not provide the strategic information necessary for the government's considerations, policies or projects. The Intelligence Division would fill this gap, insofar as it would focus on criminal activities spread across borders, social and commercial activities with which, because of the authority or influence of those involved, the Police Service was unfamiliar, the sources of foreign investment funds, and the connections of persons or bodies with organised crime. This Recommendation has been translated into s. 2.47(2)(e) of the Act.

To date the Division has prepared a number of reports in support of the Commission's operations, including proposals for and strategic assessments of specific areas of organised crime activity. With the Commission's approval, the Division has provided three strategic assessments to the Government through the Minister.

14. the Witness Protection Division be established within the CJC;

Prior to the Commission of Inquiry, Queensland, like most other States and Territories, had no systematic approach to providing witness protection. The Fitzgerald Report identified witness protection as a criminal justice function not appropriately carried out by other agencies. It described the problems that protecting witnesses poses and recommended that legislation be enacted defining the circumstances and terms upon which witnesses could be provided with protection. It recommended that witness protection be separate from the rest of the Police Service and, indeed, established as a separate organisational unit within the Commission, with the details of activities known only to a small number of its members, the Director of the Division, the Commission's Executive Director, and its Chairperson. The Report's recommendations were reflected in Division 8 of Part II of the Act.

S. 2.50 defines the expression "witness protection" for the purposes of the Act. S. 2.51 sets forth the functions of the Division, which include providing facilities and means whereby witnesses in the program may assume new identities and be relocated; devising programs for training personnel in witness protection strategies; maintaining a register of factual particulars and the particulars of persons who have assumed new identities; and advising the Minister and the Commission with respect to the establishment and operation of a national witness protection program. S. 2.52 addresses access to the register of particulars.

The Commission's Witness Protection Division, constituted in accordance with the Act, provides Queensland with a program of national standing. No witness, whilst in the Program, has come to any harm.

15. other States and the Commonwealth be requested to act as necessary to facilitate Queensland criminal intelligence service requirements, improve interstate and national liaison in the field, devise appropriate laws to facilitate witness protection requirements, to facilitate the efficient operation of the CJC and its effective integration into a national system of criminal law enforcement;

To support the Commission's intelligence and investigative functions and contribute to improving interstate and national intelligence liaison, the Commission has established effective liaison with several Commonwealth and State law enforcement agencies. To date, it has formalised those arrangements by settling memoranda of understanding with the following agencies:

- Queensland Police Service
- Australian Federal Police
- Victoria Police
- NSW State Crime Commission
- Australian Securities Commission
- Australian Transaction Reports and Analysis Centre
- Australian Bureau of Criminal Intelligence
- NSW Independent Commission Against Corruption
- National Crime Authority

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

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

The success of a witness protection program relies on the assistance and co-operation of various Commonwealth and State government agencies as well as

Recommendation I:15

some private sector organisations. The Commission's Witness Protection Division has now established effective liaison with a national network of organisations. The establishment of this "network" is vital to the ongoing effectiveness and success of the Program, particularly in relation to identity changes and the relocation of witnesses.

Commission staff attended joint national meetings on 30 November 1990 and 21 February 1992, at which proposed national witness protection legislation was discussed. At the second meeting a draft model Witness Protection Bill to establish a National Witness Protection Program was debated. The Commission subsequently consulted with the Office of the Cabinet, the Director of Prosecutions, and the Queensland Corrective Services Commission during March - May 1993 to develop a Queensland Government submission on the proposed Bill. The Commission expressed support for the concept of a National Witness Protection program and made significant suggestions for amendment of the proposed legislation. To date there has been no indication that the Commonwealth Government has proceeded further with the legislation.

The Commission, with the assistance of the Queensland Government, has also sought amendment of the *Commonwealth Taxation Administration Act 1953* and the *Telecommunications (Interception) Act 1979* to recognise the Commission for the purposes of the direct receipt of taxation and telecommunications information respectively. The taxation legislation was amended from 9 June 1993 to effect this. It is understood that amending legislation for the Telecommunications (Interception) Act will be considered during the forthcoming budget session of the Federal Parliament.

In addition, from 21 September 1991 the *Cash Transactions Reports Agency Act 1988* was amended at the Commission's request, supported by the Queensland Government, to enable the Commission to have access to information from the agency, which is now known as AUSTRAC.

16. the CJC be created by separate legislation to reflect these recommendations, be given adequate support and resources, be independently housed, with exclusive use of facilities, including a secure hearing room;

See Chapter 1.

- 17. the CJC have responsibility for implementing the recommendations as to criminal justice in this report and in particular have the power and responsibility to:**
- (a) determine priorities;**
 - (b) determine an appropriate organisational structure for its operation;**
 - (c) determine the number of staff required and their location;**
 - (d) determine qualifications for holding offices and duties attaching to offices within the CJC;**
 - (e) determine levels of salary of its staff;**
 - (f) redesignate offices and officers;**
 - (g) select and recruit staff where necessary in conjunction with the Office of Public Service Personnel Management;**

See Chapter 1.

- 18. the Executive Director of the CJC be responsible for:**
- (a) developing recommendations covering matters listed in recommendation 17 for consideration by the CJC;**
 - (b) making recommendations to the CJC regarding staff appointments, promotions, demotions and terminations;**
 - (c) all aspects of personnel management, including staff training, discipline, performance, deployment, and keeping of records;**
 - (d) overall co-ordination of the activities of the CJC to fulfil its objectives;**

See Chapter 1.

Recommendation I:19

- 19. the CJC be able to conduct public hearings on matters of general significance with respect to the administration of criminal justice;**

See Chapter 1.

20. the CJC be established as soon as possible following the order of procedure set out in section 11.3 of this report;

See Chapters 1 and 2.

- 21. this Commission of Inquiry remain functional until the CJC and its essential elements are established and capable of providing continuity of operations and have effectively taken over the investigation and information roles of this Commission, a process expected to take a minimum of 9 months;**

See Chapter 1.

- 22. immediate action be initiated to establish a small consulting cell reporting to the Premier to function as an implementation unit for urgent activities arising from this report, in particular those which will eventually become the responsibility of the Research and Co-ordination Division of the CJC, and including urgent examination of:**
- (a) management of the CJC data base and its interaction with police information systems and other agencies (a decision on new hardware is required to ensure a smooth transition from this Commission's data base);**
 - (b) police organisation and salary structures;**
 - (c) police recruitment, selection and training processes.**

See Chapter 1.

II. Review Programme

This Commission recommends that the Criminal Justice Commission, as an essential part of its immediate functions, undertake investigation, review, reform, and consideration of criminal justice matters arising from this report, including:

1. general review of regulatory laws aimed at the regulating or licensing of essentially legal activities, to:
 - (a) identify activities which could be legalised or decriminalised;
 - (b) introduce pecuniary penalties as an effective way of punishing minor breaches of law which are not essentially criminal;
 - (c) establish whether such legislation could cease to be the administrative responsibility of the Police Department and be administered by the Government department or agency most concerned with the area;
 - (d) establish whether responsible departments or agencies could have their own enforcement staff and develop their own enforcement priorities and strategies on a self-funding basis;

As we have noted several times in our discussion of Part I Recommendations, the Fitzgerald Report closely linked reform of regulatory (and criminal) law with a more systematic and holistic approach to deploying law enforcement resources and setting law enforcement priorities. The approach to the review of regulatory law contained in this recommendation mirrors the direction of the discussion of regulatory law in Section 6.4 of the Report.

The Commission recognises the contribution that a review of regulatory law could make to law enforcement in Queensland and, by inference, to the arsenal of information that the Commission is able to bring to bear in fulfilling its other responsibilities with respect to the Police Service. Rather than undertake the "general review" called for in the recommendation, a difficult proposition given the press of its other research projects, the Commission has approached the issue incrementally. The first step has been to identify regulatory law enforced by police alone or in conjunction with other government departments and then to determine the frequency with which that legislation is used and assess its continuing relevance to police activities.

These tasks were included in the ambit of the Research and Co-ordination Division's review of police powers. Considering the potential consolidation of police powers, Volume I of the Division's report addresses the question of whether such legislation should cease to be the administrative responsibility of the Queensland Police Service and be administered by the Government department or agency most concerned with the area. Appendix 3 (Volume 1) contains a detailed listing of 90 pieces of Queensland legislation (tabulated according to the nature of the powers they confer). The Commission notes that some of the consolidation suggested in the Fitzgerald Report has already taken place (for example, the Department of Justice, which already had responsibility for policing lotteries and art unions, has been given responsibility for regulating similar areas of activity, such as the *Pawnbrokers Act 1984* and the *Second-Hand Dealers and Collectors Act 1984*), but a comprehensive approach to the issue will require careful, and possibly lengthy, consideration.

Likewise, the police powers review indicates that a general review of all regulatory laws would be a long-term project requiring considerable resources.

Recommendation II:2

2. general review of the criminal law, including laws relating to voluntary sexual or sex-related behaviour, S.P. bookmaking, illegal gambling, and illicit drugs, to determine:
 - (a) the extent and nature of the involvement of organised crime in these activities;
 - (b) the type, availability and costs of law enforcement resources which would be necessary effectively to police criminal laws against such activities;
 - (c) the extent (if at all) to which any presently criminal activities should be legalised or decriminalised;

This recommendation, like many others presented in Part II, has fallen to the Research and Co-ordination Division by virtue of the role and functions assigned to that Division under the Act and the substance of its other ongoing research and review responsibilities.

In keeping with the research agenda developed in collaboration with the PCJC, the Division has to date completed projects focusing on homosexuality, prostitution, SP bookmaking and illegal gambling. The titles of relevant publications are shown in the discussion of Recommendations I:2(i) and 12(f). In each case, the Division's research projects have considered, among others, the three issues noted in the recommendation: the involvement of organised crime; law enforcement resources required to police the activity; and legalisation/decriminalisation.

Of the four specific areas of concern noted in this recommendation, only one, illicit drugs, remains to be examined. In early July 1993, the Commission's Advisory Committee on Illegal Drugs published a discussion paper entitled, *Cannabis and the Law in Queensland*, and sought submissions from interested community groups and individuals on preferred legislative, enforcement and social responses to the issues of cannabis use and production. Experience with the cannabis project suggests that projects of similar scope examining other illicit drugs would require a significant commitment of resources.

The Commission has no plan to undertake a "general review" of the criminal law. The major part of the criminal law is contained in the *Queensland Criminal Code*, which has been reviewed by a committee established by the Attorney-General in April 1990. In June 1992 the Criminal Code Review Committee published its final report, which the Attorney-General described as the "first ever comprehensive review of all of Queensland's substantive criminal law".²⁴

The Criminal Code Review Committee was chaired by Robin O'Regan, QC, prior to his appointment to the Criminal Justice Commission. The Commission's General Counsel, Mr Marshall Irwin, has been an observer on the Criminal Code Review Committee and the Committee to Review the *Vagrants, Gaming and Other Offences Act, 1931*. The Commission constituted an internal working party to review the final report of the Criminal Code prepared by the Criminal Code Review Committee. Its submission on the draft Criminal Code was delivered to the Attorney-General in July 1993.

The Commission has also commented on Chapter 2 (Criminal Responsibility) of the Model Criminal Code developed by the Criminal Law Officers Committee (CLOC), which was established by the Standing Committee of Attorneys-General (SCAG). This is the first report by CLOC with the aim of achieving uniformity in Australia's criminal law.

²⁴ Criminal Code Review Committee, June 1992, *Final Report of the Criminal Code Review Committee to the Attorney-General*, Brisbane, Government Printer, p. 3.

3. review of law enforcement funding to consider additional or alternative funding strategies;

This recommendation falls primarily to the Research and Co-ordination Division as part of its responsibilities under s. 2.45(2)(b).

As noted in the discussion under Recommendation I: 2(f), the Research and Co-ordination Division has not yet been engaged in any systematic examination of law enforcement funding. However, given the importance of the topic and its close relationship with many other matters that the Commission has tackled, the subject of funding has been an essential part of several projects.

The Commission began to consider alternative funding strategies as early as 1990, when the Research and Co-ordination Division established a working party comprised of representatives of the Commission, the QPS, and the insurance and banking industries to examine insurance fraud. One of the strategies under consideration would allow insurance companies access to information from certain QPS investigations on a fee-for-service basis.

Development of the Toowoomba Beat Area Policing Pilot Project and the Profiles of Police Districts Project required consideration of funding and resources devoted to community policing in the State. The terms of reference for the Commission's review of the QPS Information Bureau included the desirability of introducing a more realistic fees for service policy. The adequacy of law enforcement funding has also been a necessary consideration in the law reform projects the Commission has undertaken, most notably those pertaining to SP bookmaking and prostitution.

Perhaps the most comprehensive examination of the subject to date will be included in the Commission's forthcoming review of the implementation of the Fitzgerald Reforms pertaining to the QPS, which will consider the funding of the QPS as part of the larger post-Fitzgerald reform process.

4. comprehensive review of all investigative powers, to critically examine the use of current powers, assess the need for other or more powers, and upgrade control of investigative powers, including:
 - (a) adequate supervision by responsible senior officers;
 - (b) external judicial control of powers;
 - (c) restriction of the use of powers to designated people or offices;
 - (d) making misuse of powers and information offences;
 - (e) exclusion of the admissibility of illegally obtained evidence;

These matters are being addressed in the comprehensive review of police powers that the Commission began in late 1990. *Police Powers in Queensland - An Issues Paper* was issued jointly with the Office of the Minister for Police and Emergency Services in September 1991. The Commission felt that dealing with the topic in a single report would have meant considerable delay, and therefore elected to release a series of reports. The first two reports---*Volume I: An Overview* and *Volume II: Entry, Search and Seizure*---were published in June 1993. (For more detail, see the discussion under Recommendation I:2(c)).

- 5. formation of a professional education and review unit within the Research and Co-ordination Division of the Criminal Justice Commission, which, with the assistance of a small panel of part-time academics and educational experts, will review all aspects of police education and training, including:**
- (a) evaluation of all Police Academy training staff to establish and maintain adequate standards;**
 - (b) critical review of induction training programs run at the Academy, particularly with regard to training in ethics, morals, community expectations of police, and acceptable standards of behaviour;**
 - (c) development of recommendations on the most suitable methods of improving the further education of existing police with particular reference to developing tertiary courses in criminal justice processes and social science, preferably to be studied with people from other disciplines;**
 - (d) a general review of in-service training and promotional examinations to match the new rank structure and recommend a revised overall approach and curriculum;**

The Research and Co-ordination Division has maintained an ongoing role in monitoring education and training in the QPS:

- in consultation with the QPS, the Commission established and has supported the work of the Police Education Advisory Council (PEAC), which has assisted the QPS in developing a new recruit training program.

- the Division is conducting a six-year longitudinal evaluation of the new training program, using surveys to measure the attitudes and behaviour of two cohorts of recruits. Interim results of this study were published in February 1992 and January 1993.²⁵
- with the help of experts from the University of Southern Queensland, the Division assisted in evaluating the status and function of the position of tutor at the Queensland Police Academy.
- the Division is currently examining the implementation of the Fitzgerald reforms regarding police education and training, and will soon publish a report assessing current recruitment, education, and training programs.
- Research and Co-ordination staff have been involved in working groups that developed or assisted in the development of, specific training programs such as the Inspector's Development course, the Evaluation and Reflection Component of the Field Training Program, and the ATSI Pilot Recruitment Program.

The scope of this involvement, particularly the Division's participation in and support of PEAC, has obviated the need for a dedicated "education and review unit" within the Division.

The Commission constituted PEAC in consultation with the Commissioner of the Police in July 1990. Chaired by Professor Paige Porter, Dean of the Faculty of Education at the University of Queensland, PEAC's initial membership included the Chairperson of the Commission; the Director of the Research and Co-ordination Division; and representatives of the Department of Employment, Vocational Education, Training and Industrial Relations; the Department of Education; the QPS; the Queensland Police Union; the New South Wales Police Academy; and the Australian Police Staff College. Although its membership and mandate was revised in April 1992, PEAC originally had a broad mandate to advise the Commission, the Commissioner of Police, and other police personnel responsible for education and training, on policy formulation, course and staff development, and the evaluation of the education and training enterprises conducted for and by the QPS.

²⁵ *Queensland Police Recruit Study, Summary Report #1, February 1992; First-Year Constable Study, Summary Report #2, January 1993.*

Recommendation II:5

Many of the issues raised in Recommendation II:5 have been pursued in this forum. However, PEAC's primary focus has been the restructuring of the Queensland Police Academy and the design and implementation of recruit training.

Under PEAC's auspices, in January 1991, QPS Corporate Planning completed a review of the Queensland Police Academy structure. The review team included CJC Commissioner John Kelly and staff of the QPS and the Academy. In December 1991, the Minister for Police and Emergency Services approved restructuring the Academy.

As a result of this restructuring, the Dean of the Academy (who was also Chief Superintendent of Education and Training in the QPS) reported to the QPS Director of Personnel, and was assisted by the Academy Council, which consisted of representatives from the QPS, the tertiary education providers, the CJC, the community, and the Academy staff. A number of senior Academy positions were filled by civilians, including that of Co-ordinator of Studies.

PEAC presided over the development of a new approach to recruit training and induction. At first, PEAC invited tertiary education institutions to make submissions on degree programs in policing; a second request was made for proposals regarding a semester of tertiary education in the police training program. After considerable discussion of the suggested programs, in late 1990 PEAC provided the QPS with recommendations for a new two-semester training component program to be delivered by a joint arrangement between two universities—Griffith University, and the Queensland University of Technology—and the Queensland Police Academy. An Interim Curriculum Board, of which CJC Commissioner John Kelly was a member, presided over the development of the Academy semester curriculum, reporting to PEAC.

With the introduction of the university-based course, recruit training effectively lasted two years. Recruits spent the first year attending either of the two university-based two-semester programs. The second year was devoted to the Field Training Program.

The first groups of recruits under the new system 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. When QPS adopted that recommendation, all recruits were required to attend a one-week orientation

program at the Academy, followed by an orientation week at the university, before embarking on the university course..

At the end of their first year, QPS recruits received a Certificate in Policing or an Advanced Certificate in Policing and were inducted as constables, with all the responsibilities, duties and powers of the office of constable. Thereafter, recruits were sent to various police districts and divisions, where they undertook the Field Training Program. That program consisted of:

- a mentor component (eight weeks), which provided 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), held at the Queensland Police Academy towards the end of the field training.

At the end of their second year, the recruits' appointments were confirmed and they became fully fledged operational police officers. Those constables wishing to continue their education could 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 would require a further two years full-time or four years part-time study.

The new program accepted its first recruits in February 1991. Of the 400 recruits who commenced training at that time, 368 (or 92 percent) completed the Certificate course. By December 1992, a further 520 recruits had entered the Certificate course.

In addition to its assistance in restructuring the Academy and designing new recruit training programs, PEAC has considered many issues concerning in-service training, including a draft education and in-service training strategy prepared by QPS Corporate Planning. Promotional examinations were discontinued in 1990 because they were viewed as incompatible with the new direction of merit-based promotion and competency acquisition. The Competency Acquisition Program, which is closely tied to award changes, is also being developed. The Commission has been on the list of "reactors" for the modules in this training program.

Many changes to education and training are expected following the PSMC review of April 1993 (see the discussion under Recommendation I:2(h)). Both the

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Commission and PEAC will have some involvement in the implementation of the PSMC recommendations regarding recruitment and training. One key change will be the discontinuation in 1994 of direct involvement by the universities.

6. comprehensive review of police information systems in co-operation with specialist external consultants and officers of the Police Department to achieve objectives as follows:
 - (a) development of an information bureau, professionally managed by civilian specialists, and responsible for all of the Department's criminal records, associated information and intelligence, and the collection, analysis, storage, access, and dissemination of information by the Police;
 - (b) definition of the complementary roles of the Police Information Bureau and the Intelligence Division of the CJC, and arrangements by which the Intelligence Division will oversee the Information Bureau and its liaison with federal and interstate agencies, including the National Crime Authority and ASIO;
 - (c) re-organisation of the Computer Branch under a civilian manager;
 - (d) development of control systems which facilitate legitimate access by field staff to enable them to do their work effectively but prevent unauthorised access to departmental information from inside or outside the Police Force, specify penalties for misuse, and ensure the integrity of information held;

As we have noted in the discussions under Recommendations I:12(h) and 13(d), the Fitzgerald Report recommended the establishment of a single police information bureau responsible for all QPS criminal records, associated information and intelligence, and the collection, analysis, storage, access, and dissemination of information. Recommendation II:6, considered here, presumably would have provided the analytic insight to facilitate this.

This recommendation was given to the Research and Co-ordination Division as part of its overall responsibilities with respect to the QPS. However, before that Division was fully staffed and operational, the QPS and the Commission of Inquiry Implementation Unit had already conducted reviews and made recommendations

Recommendation II:6

concerning various aspects of QPS information and computer functions that precluded the establishment of the "one . . . Information Bureau responsible for all of the Department's criminal records, associated information and intelligence".²⁶ In addition, recognising QPS' need for its own intelligence capability distinct from the Commission's, the Commission had elected not to "assume . . . the performance of the role of the Bureau of Criminal Intelligence" (under s. 2.47(2)(d) of the Act), but rather to oversee the BCIO's performance.

Considering this review to be a co-operative venture between the Commission and the QPS, in February 1991 the Commission asked expert consultants and members of the QPS to join with the Commission in forming a committee that would conduct the recommended review. 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;

²⁶ The Fitzgerald Report, p. 270.

- poor co-ordination between the needs of operational police and information systems; and
- limited dissemination of data held by the Information Bureau.

In January 1992, the Committee submitted a report containing 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 and that the recommendations be revisited at the end of that period to assess how they had been implemented. The Commission has been monitoring implementation of the recommendations through its representative on the advisory group.

This review (and subsequent implementation of the recommendations of the Committee) will, given the present QPS organisational structure, address parts (a) and (d) of Recommendation II:6.

The QPS has already taken steps independent of the Commission to implement part (c).

Part (b) of the recommendation has been implemented by the Intelligence Division in keeping with its responsibility of overseeing the BCIO's performance (see the discussion under Recommendation 13(d)).

As noted earlier, the Research and Co-ordination Division's review of the implementation of the Fitzgerald reforms pertaining to the QPS will include consideration of "Computerisation and Information Systems" and "Task Force".

- 7. development of legislation dealing with misconduct within public institutions in general, which would:**
- (a) oblige public officials to report all official misconduct or any reasonable basis of suspicion of official misconduct;**
 - (b) require public officials to provide all reasonable help in investigations of misconduct;**
 - (c) forbid the exercise of any official authority, discretion or use of public resources in relation to the investigation of any conduct by any complainant or potential witness in any case of suspected official misconduct, except under written authority of the officer in charge of the investigation;**

Part (a) of this recommendation is reflected in s. 2.28(2) of the Act, under which the Ombudsman, principal officers (other than the Commissioner of the QPS) in units of public administration and a person who constitutes a corporate entity that is a unit of public administration are required to refer to the Complaints Section of the Commission all matters that he/she suspects involve official misconduct. Under s. 2.28(3) of the Act, the requirement is broadened with respect to the Commissioner of the QPS, who must report to the Complaints Section complaints of, or matters involving, suspected misconduct by members of the QPS.

Parts (b) and (c) of this recommendation are captured by s. 2.28(6) of the Act, under which the persons referred to in ss. 2.28(2) and (3) are requested to comply with the directions in writing by the Chairperson of the Commission, or delegate, regarding any complaint or matter regarding misconduct, including the transfer of the investigation to the Commission.

Furthermore, under s. 3.2(3) of the Act, all persons holding appointments in units of public administration are to make available to Commission officers such facilities as are necessary to enable them to exercise the power to enter public premises, as set forth in s. 3.2(1). Part (c) of the recommendation is further enhanced by the inclusion of ss. 3.32 (Personal protection for witnesses, etc.), 3.32.1 (Injunctions), 6.6 (Injury or detriment to witness), and 6.6.1 (Offence of victimisation).

8. review of guidelines and controls on police interview practices;

These matters will be considered in the Research and Co-ordination Division's review of police powers (see discussion under Recommendations I:2(c)).

Recommendation II:9

9. consideration of the obligation of public officials to be accountable for their activities and whether that obligation should be reinforced by the prescription of criminal offences constituted by:
- (a) the holder of any public office lying in connection with that office;
 - (b) any person lying to Parliament in respect of any matter of that person's or any other person's personal conduct;

The Commission has not been able to devote any resources to this matter.

- 10. consideration of, and advice to the Criminal Justice Committee on the circumstances in which, and terms upon which interrogation upon statements reported in Hausard should be allowed;**

The Commission has not been able to devote any resources to this matter.

Recommendation II:11

- 11. review of the oath in evidence or making affidavits or declarations, to consider where retention of the oath serves any useful purpose;**

Work on this matter has been deferred pending completion of the Law Reform Commission's review of the Oaths Act. The Office of General Counsel coordinated the development of Commission's submission to the Law Reform Commission.

12. review of the sufficiency of present penalties for perjury;

The penalties for perjury were considered by the Criminal Code Review Committee,²⁷ which recently published its final report for review and comment. The Attorney-General has set an agenda for review and comment on the final report. The Commission will not embark on any project concerning this recommendation until a decision is made with respect to amending the Criminal Code.

²⁷ See Recommendation II:2 regarding the Commission's contribution to the work of the Criminal Code Review Committee.

Recommendation II:13

- 13. consideration of the necessity for law to prevent, facilitate the detection of, and punish officials who act when private interest conflicts with their official duty;**

This matter was considered by EARC in the course of that Commission's examination of codes of conduct for public officials. The CJC's submission to EARC addressed this Recommendation, among other matters.

14. consideration of:

- (a) the necessity for registration of all property seized in the course of law enforcement, whether illegally owned contraband or otherwise;
- (b) rules in respect of the disposal or acquisition of property seized in the course of law enforcement and forfeited to the Crown or confiscated;
- (c) necessity for adequate audit and supervision of such seizure and disposal of property;

These matters are being considered by the QPS in the course of an extensive two-year review of the QPS *Policeman's Manual*, which the Commission understands will lead to the development of a three-volume *Operational Procedures Manual*, which will, amongst other things, include a comprehensive scheme for the receipt and registration of property coming into the possession of police. The Commission contributed to the review process and is represented on a QPS committee to review the draft *Operational Procedures Manual*.

Both the Research and Co-ordination Division and the OMD's Complaints Section have made other contributions in this area:

- The Committee formed by the Research and Co-ordination Division to undertake the Commission's review of illegal drugs charged a working party with examining QPS' procedures for handling drug exhibits and the recording and use of data concerning seized illicit drugs. The Committee made the findings of the working party known to QPS, which has been considering them in the course of the review of the *Policeman's Manual*.

Recommendation II:14

- Chapter 11 of Volume II of the Research and Co-ordination Division's recently published review of police powers makes recommendations regarding registration and record-keeping that would enhance the accountability of police use of search powers. The Commission recognised that the scheme proposed in its report may in some areas overlap with QPS' proposals for changes to the *Policeman's Manual* and recommended that the Commission and the QPS consult before the *Manual* is finalised to ensure the development of an integrated scheme.
- The Complaints Section, which has investigated a number of incidents where exhibits have gone missing from QPS exhibit rooms, has in the past recommended procedural changes where the registration or security of seized property has proved deficient. The Complaints Section recently wrote to the Commissioner of the Police Service recommending that procedures governing the custody of exhibits be reviewed urgently.

15. consideration of amendment of the Commissions of Inquiry Act to make it most suitable for ordinary use.

The Commission has not been able to devote any resources to this matter. However, in March 1992 the Commission made a submission to the Queensland Law Reform Commission, which has been undertaking a review of Commissions of Inquiry Act. The Commission would not consider undertaking any further work in this area until the Law Reform Commission completes its review.