



POLICE INTEGRITY COMMISSION

ANNUAL REPORT
2004 - 2005

ANNUAL REPORT 2004-2005
OCTOBER 2005

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The Hon Dr Meredith Burgmann MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

The Hon John Aquilina MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

Dear Madam President and Mr Speaker

In accordance with section 12 of the *Annual Reports (Departments) Act 1985* and section 99 of the *Police Integrity Commission Act 1996*, the Commission hereby furnishes to you the Police Integrity Commission Annual Report for the year ended 30 June 2005.

This Annual Report has been prepared in accordance with the requirements of the *Annual Reports (Departments) Act 1985* and the *Police Integrity Commission Act 1996*.

I draw your attention to section 103(2) of the *Police Integrity Commission Act 1996*, pursuant to which I recommend that this Annual Report be made public forthwith.

Yours faithfully

T P Griffin
Commissioner

October 2005

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1. COMMISSIONER'S FOREWORD

In 2004-2005 the Commission sought to identify and deal with serious police misconduct on a range of different fronts. It was a year marked by diversity of work and one that tested the approach, professionalism and powers of the Commission.

In our last Annual Report, I outlined the work being undertaken in relation to Operation Abelia - a project examining the use of drugs by some police officers. The combining of research with misconduct investigations and the use of hearings to develop a better understanding of the nature of the problem was a new strategy for the Commission. As was the detailed consultation with the NSW Police and the NSW Police Association on many difficult issues in the project. In September 2005, the Commission tabled its multi-volume report to Parliament. The report contains a 9 point plan - made up of 64 separate recommendations - to help minimise this form of misconduct. Concerns of drug use by police are harboured by police agencies around Australia and in a number of overseas countries. There has been considerable interest both within Australia and overseas in the Abelia report.

The 2004-2005 reporting year saw the Commission conduct hearings outside of Sydney for the first time. Those hearings, held in Wagga Wagga in early 2005, were in connection with a Commission investigation into allegations of serious assault and planting of evidence by police in Wagga Wagga in February 2003. While the Commission is yet to make its report to Parliament in connection with this matter, the Commission believes that holding the hearings in Wagga Wagga was an important initiative in regional NSW.

A number of other major investigations were undertaken by the Commission in 2004-2005 and are reported in this volume. However, in addition to its investigative work, the Commission maintained close scrutiny of a number of other NSW Police initiatives and activities intended, either directly or indirectly, to minimise misconduct or the opportunities for misconduct.

Although the Commission has considerable statutory power, the application of that power and the results obtained depends entirely on the professionalism and commitment of its staff. For a small agency working in a difficult environment the Commission continues to return significant results. Thanks must go to the Commission staff.



T P Griffin
Commissioner

2. CORPORATE OBJECTIVES AND PERFORMANCE MEASUREMENT FRAMEWORK

The Commission continues to report on its performance this year against the Corporate Planning and Performance Measurement Framework for 2003-2006. In doing so, the Commission demonstrates its ongoing commitment to an Outputs/Outcomes based approach to performance measurement.

As the Performance Measurement Framework has evolved, some minor changes have been made to measures to improve clarity or simplify data collection and performance reporting. Any changes that have occurred are noted in footnotes in the relevant sections of the report.

OUR VISION

Confidence in the integrity of NSW Police.

OUR MISSION

To be an effective agent in the reduction of serious police misconduct.

OUR VALUES

We value:

- integrity
- our independence
- accountability
- our staff
- continuous improvement

OUR BUSINESS

Our business is:

- to detect and expose serious police misconduct
- to deter police from engaging in serious misconduct
- to oversight or review certain police activities
- to make recommendations for reform in NSW Police

and by these actions prevent serious police misconduct and assure the community that there is vigilant oversight of police in New South Wales.

OUR CHARTER

The Commission was established upon the recommendation of the Royal Commission into the New South Wales Police Service ("the Royal Commission"). The Commission is a statutory corporation constituted under the *Police Integrity Commission Act 1996* ("the Act").

The Act sets out the principal functions and powers of the Commission in s13. The principal functions of the Commission can be summarised briefly as preventing, detecting and investigating serious police misconduct and managing or overseeing other agencies in the detection and investigation of serious police misconduct and other police misconduct (as it sees fit). The Commission is also empowered to manage those matters not completed by the Royal Commission. The Commission is required, as far as practicable, to turn its attention particularly to serious police misconduct.

Other functions of the Commission described in the Act relate to police activities and education programs (s14) and the collection of evidence and information (s15).

During the reporting year the Commission's Charter was impacted by the passing of several pieces of legislation, notably the *Police Integrity Commission Amendment Act 2005* and the *Independent Commission Against Corruption Amendment Act 2005*. The former confirmed the independent and accountable nature of the Commission, and clarified some technical issues related to the Commission's operation. Amendments to the ICAC Act had the effect of expanding the scope of the Commission's jurisdiction and functions to include non-sworn (civilian) employees of NSW Police.

Full details of the impact of legislative changes occurring in this reporting year on the Commission's Charter are presented under the heading *Legislative Matters and Law Reform* in the *Initiatives / Other Activities* in Section 8 of this report.

OUR OBJECTIVES

The objectives detailed below reflect the three key reference points for our work and guide the Commission in achieving results in seven outcome areas. Further details on Commission strategies, outputs, outcomes, and associated performance measures, are contained in the Commission's Corporate Plan and Performance Measurement Framework which is available directly from the Commission or from the Commission's website.

The Commission's Corporate Plan and Performance Measurement Framework is to be reviewed in the next reporting period.

OBJECTIVE 1

Effective Deterrence

To contribute to the effective deterrence of serious police misconduct

OBJECTIVE 2

Ongoing Reform

To ensure the development and provision of high quality advice on police reform

OBJECTIVE 3

Improved Assurance

To improve the level of assurance in the community of NSW that there is vigilant oversight of police

PERFORMANCE MEASURES

The Commission measures and reports on performance in terms of the seven outcome areas listed above. The performance measures, targets and results for the reporting period are described in the Performance Overview section that follows.

OUTCOME AREAS

- identification
- exposure
- clarification
- addressing serious police misconduct
- awareness
- improvements in practices
- improvements in investigations

3. PERFORMANCE OVERVIEW 2004-2005

IDENTIFICATION-OUTCOMES

Identification of aspects of the nature and extent of, opportunities for, factors contributing to, and evidence of, serious police misconduct.

There were 44 full and preliminary investigations open during the year, including 10 major¹ investigations. There were 21 investigations concluded during the year.

A s. 96(1) report for Operation Vail was presented to Parliament during the reporting period. Operation Vail examined alleged breaches of the *Telecommunications (Interception) Act 1979*. The alleged breaches arose from the communication of information obtained by telephone interception during a police investigation in 2004 into allegations of sexual assault by Bulldogs Rugby League Club Players at Coffs Harbour. It was alleged that the information had been communicated to a third party in a meeting with senior officers of NSW Police.

The report identified issues concerning, among other things, specific misconduct by senior police officers in failing to maintain the confidentiality of information obtained by telephone interception.

The report did not recommend changes to NSW Police practices regarding the handling of information obtained by telephone interception. However, subsequent to the investigation, the Commission has engaged in correspondence with the Commissioner of Police seeking assurance that NSW Police has in place measures to ensure that all material originating from interceptions is handled in compliance with the *Telecommunications (Interception) Act 1979*. Operation Vail is discussed further in the Summary Review of Operations.

Measures	Target	Result
<i>Output Measure:</i> Proportion of convictions in prosecutions that arise from investigations in which the Commission is involved. ²	N/A	N/A
<i>Output Measure:</i> Ratio of the number of opportunities for police misconduct identified in Commission reports, to the number of recommendations made for corrective action. ³	1 : 0.8	N/A ⁴

¹ Investigations involving sustained use of resources: more than one investigator full time and the use of special powers and physical and/or electronic surveillance.

² This measure was reviewed in 2002-03 and is no longer used for performance reporting, due to wide variations in the extent to which the Commission contributes evidence to prosecution briefs in investigations involving other agencies. Figures aggregated for all investigations in which the Commission is involved can be misleading. Prosecutions and results for Commission and joint investigations are listed in Appendix 5 and discussed in context in the Summary of Operations Review.

³ In 2002-03, the ratio replaced the measure previously expressed as a proportion: our target remains equivalent to providing recommendations for corrective action on 80% of occasions where opportunity for corruption is identified.

⁴ However, see notes on Operation Vail above.

EXPOSURE-OUTCOMES

Exposure of aspects of the nature and extent of, opportunities for, and factors contributing to, serious police misconduct.

Public hearings were conducted for 4 out of 11 (36%) major investigations that were open during the reporting year. There were a total of 34 days of public hearings during which evidence was considered in Operations Abelia, Whistler, Banff and Cobalt. This is an increase from 17 in the previous reporting period, in which evidence was taken in public hearings for 6 major investigations. We have noted previously that in each year the number of public hearing days is determined by the nature of the Commission's investigations on foot. This year, extended public hearings within Operations Abelia (Alpine, in particular) and Cobalt contributed largely to the increase in public hearing days.

Public hearings for Operation Abelia (Alpine) questioned officers regarding a number of serious offences including the supply of illegal drugs, armed robbery and interference in investigations.

Other evidence considered in the hearings for Operation Abelia exposed instances of use and supply of prohibited drugs by officers and officers associating with suppliers of prohibited drugs, in some cases compromising the confidentiality of NSW Police records.

In Operation Whistler, public hearings heard evidence related to allegations of excessive force occasioning injury by a police officer, the planting of evidence at a crime scene, failure to properly investigate and providing untruthful evidence to a local court. In public hearings for Operation Banff, evidence was examined on whether police misconduct was involved in the handling of a blood sample taken from a driver after a motor vehicle accident.

Operation Cobalt public hearings heard evidence that a serving NSW Police Officer and a former officer, together with two known criminals and several civilians, engaged in criminal conduct including extortion, theft, perverting the course of justice and unauthorised release of confidential NSW Police documents.

A report was provided to Parliament in June 2005 on Operation Vail. A report on Operation Abelia, including Operations Icemint, Norandra and Alpine, was released on 30 September 2005. Operation Sandvalley remains ongoing and a report will be presented to Parliament on completion. Outcomes of this investigation will be further reported in the next Annual Report.

There were 26 private hearing days held during the year, compared with 35 and 55 days in 2003-2004 and 2002-2003 respectively. Additional evidence was considered in private for Operations Abelia and Whistler. Four major investigations held hearings in private only.

Measures	Target	Result
<i>Output Measure:</i> Ratio of the number of opportunities for police misconduct identified in Commission reports, to the number of recommendations made for corrective action.	1 : 0.8	N/A ⁵
<i>Output Measure:</i> Proportion of major investigations for which public hearings are conducted and/or a report issued.	30%	36%
<i>Output Measure:</i> Number of public hearing days.	40 days	34 days

⁵ See previous note concerning Operation Vail under the heading Identification Outcomes.

CLARIFICATION-OUTCOMES

Clarification of circumstances surrounding matters where serious police misconduct has been alleged

To measure its performance in regard to this outcome, the Commission obtains feedback from an external panel on certain of its reports. Reports selected for consideration are those that predominantly seek to clarify the circumstances surrounding matters where serious police misconduct has been alleged. In such circumstances performance measurement by the usual means (proportion of recommendations accepted for prosecutions, disciplinary action, or improvements in practices) may not be appropriate.

This year the selected expert panel was asked to provide feedback on the report on Operation Vail which was released in June 2005. The Commission asked the panel members to assess whether the report had adequately clarified the issues and the evidence upon which the Commission relied in forming its assessments and opinions. Details of Operation Vail are contained in the Summary of Operations Review in Section 5.

The panel selected to comment on the Operation Vail report consisted of the chief executives from the Independent Commission Against Corruption, the NSW Auditor-General, the Queensland Crime and Misconduct Commission, the Community Relations Commission, and the Administrative Appeals Tribunal. Panel members were asked to consider four questions pertaining to the clarity of the allegations, the relevance of material presented in the report, the extent to which reported assessments and opinions address the allegations and follow logically from the material presented.

All five responses indicated the report met or exceeded a satisfactory standard in respect of each of the criteria referred to above, confirming that the Operation Vail report clarified the circumstances surrounding matters where serious police misconduct had been alleged. In addition, some panel members drew attention to questions that might have remained unanswered for an interested reader of the Vail Report. The Commission notes the suggestions from panel members that the Report might have clarified further the limitations (and the exceptions) that legislation or other constraints imposed on the scope of the investigation and reporting.

Each year, this process of review by an external panel adds value through the capacity of stakeholders and agencies with common interests to provide to the

Commission specific advice on whether reasonable standards have been met by the report reviewed.

The investigation and hearings conducted by the Commission in Operation Vail received considerable media attention. The community has reason to be assured by the favourable peer review of the quality of the Commission's reporting in such a high profile case.

Measures	Target	Result
<i>Outcome Measure:</i> Majority of an external panel advise that a report clarifies the circumstances surrounding matters where serious police misconduct has been alleged to the level of satisfactory or better. ⁶	Yes	Yes

⁶ This measure reviewed and adjusted in 2002-03 to improve clarity and to ensure consistent application over time.

ADDRESSING SERIOUS POLICE MISCONDUCT-OUTCOMES

Serious police misconduct which has been identified is addressed.

A number of officers left NSW Police in the wake of Commission investigations. Four officers were dismissed pursuant to s181D of the *Police Act 1990* (Commissioner's Confidence provisions) following Operations Cobalt (1), Regal (1) and Abelia/Norandra (2). A further officer resigned after receiving a notice pursuant to s181D following Operation Ovalbay. Arising from Operations Avilia, Cycad, and Acer, a further three officers are being considered for removal under s181D. Two of these officers are presently suspended from duty and another is on long-term sick leave. In all three cases, decisions are yet to be finalised regarding their removal.

Managerial action is being considered against three officers, one of whom is on long term sick leave, as a result of Operations Vail and Rustin.

In another case reported in 2003-04, an officer continues to be suspended without pay as a result of Operation Sandvalley.

These cases are described in greater detail in the Summary Review of Operations in Section 5 of this report.

Investigations resulted in briefs of evidence for 8 persons and a possible 23 charges being referred to the State and Commonwealth Director of Public Prosecutions (DPPs) in this reporting period. An additional 12 matters involving 72 possible charges were ongoing from 2003-2004.

In the current reporting year, decisions were taken by the DPPs in relation to a total of 11 persons involving 30 suggested charges. Proceedings have been approved against 6 persons involving 15 charges (54% of referred matters and 50% of recommended charges). The Commission's policy, when referring briefs to the DPPs for consideration of criminal charges, is to refer all matters where there is *prima facie* evidence of the commission of an offence. The DPPs will then take into account a range of considerations, in accordance with their prosecution guidelines, when coming to a decision whether to proceed or not.

Reference was made in the Report last year to two cases in which a decision had been taken to prosecute but sentencing was outstanding. Both of these matters resulted in custodial sentences. The details of current

prosecutions arising from Commission, and related, investigations are contained in Appendix 5. Details of prosecutions for a number of major investigations are contained in the Summary Review of Operations.

Proceedings under the *Criminal Assets Recovery Act 1990* arising from Operation Cobalt resulted in orders being made in the NSW Supreme Court for a former officer to pay \$38,433.

Measures	Target	Result
<i>Outcome Measure:</i> The proportion of recommendations relating to potential criminal charges which proceed to prosecution. ⁷	80%	50%
<i>Outcome Measure:</i> The proportion of recommendations relating to disciplinary action that are accepted by NSW Police.	80%	100% ⁸
<i>Outcome Measure:</i> Success rate for confiscation proceedings under the <i>Criminal Assets Recovery Act 1990</i> . ⁹	1 : 1	1:1
<i>Output Measure:</i> Number of participations/ representations in education or prevention programs/ seminars/ presentations/ reviews/ discussion panels.	N/A	38

⁷ This measure was reviewed and adjusted in 2002-03 It refers now to 'potential charges' rather than 'prosecutions', for clarity, and to 'proceed to prosecution' which is a higher standard than the original 'prima facie'.

⁸ Includes disciplinary proceedings which arise as a direct result of Commission investigations but prior to release of final report (where applicable) and therefore prior to formal recommendation for disciplinary action. For example, Operation Cobalt.

⁹ This measure reviewed and a ratio is now used rather than a percentage, due to the small numbers of such proceedings.

AWARENESS-OUTCOMES

Increased community and other stakeholder awareness of the nature and extent of aspects of, opportunities for, and factors contributing to, serious police misconduct.

One report was presented to Parliament during the reporting year. The report concerned Operation Vail, which is described in more detail in the Summary Review of Operations in Section 5.

The yearly average rate¹⁰ of downloads¹¹ of documents from the Commission's website increased by 376% during the month following the release of the report on Operation Florida at the end of the last reporting period (June 2004), indicating the level of awareness and interest in the outcomes of that investigation. The trend for increased downloads overall from the Commission's website continued during the reporting period, more than doubling the figure (108% increase) reported last year. This increase is likely to reflect both specific interest in the issues reported, and interest in oversight of policing practice more generally both here in Australia and overseas. It also indicates that accessibility to our reports on the web is likely to be one of the best ways to continue to increase public awareness of our organisational performance.

References to the Commission in the media increased from 3189 in the previous period to 5864 – an increase of 84% in this period. The biggest contributor to this outcome was a substantial increase in television coverage – in Sydney, regional NSW and nationally – which represents approximately a quarter of the total number of references to the Commission in the media.

The rate at which Category One complaints are made direct to the Commission has been relatively constant over the last three years around the target of 30%: the figures recorded for each year are 36% (2002-03), 31% (2003-04) and, in this reporting period, 29%.

The figures in the table below provide a measure of public awareness of the role and outputs of the Commission. The breadth of coverage, and responsiveness to the matters identified and addressed by the Commission indicate a strong level of continuing community interest.

Measures	Target	Result
<i>Outcome Measure:</i> Number of references in media to Commission investigations/projects.	1500	5864
<i>Outcome Measure:</i> Proportion of Category 1 complaints which are made direct to the Commission.	30%	29%
<i>Outcome Measure:</i> Ratio of number of Commission reports downloaded from the Commission's website following public release to the annual average of reports downloaded.	1.5 : 1	4.8 : 1 ¹²
<i>Output Measure:</i> Number of public hearing days.	40 days	34 days

¹⁰ Yearly average for the months in which no report was released.

¹¹ Downloads includes 'on-line' views.

¹² In the month following the release of the Florida Report the number of downloads increased almost tenfold. This has had a disproportionate impact on the ratio reported here.

IMPROVEMENTS IN PRACTICES - OUTCOMES

Improvements in NSW Police systems, practices and standards to reduce opportunities for serious police misconduct.

The report to Parliament in June 2005 on Operation Vail made no specific recommendations concerning possible improvements in systems and practices. However the Commission has sought assurance from NSW Police on current procedures for the protection of intercepted information from misuse.

During the current reporting period, NSW Police provided advice on the implementation of Commission recommendations relating to systems improvements arising from previously reported investigations.

Last year the Commission reported that NSW Police had indicated its support for 7 recommendations included in the report on Operation Bangkok, but that their implementation required amendments to be made to the NSW Police Handbook. NSW Police have since advised that this action has been taken. The Commission is satisfied that this matter is closed.

During the reporting period NSW Police responded to five recommendations included in the report on Operation Florida (June 2004) concerning systems improvements. Preliminary consultations have concluded in respect of three recommendations, each of which has been accepted by NSW Police (100%). Liaison continues in respect of the two remaining recommendations and the actions to be undertaken concerning the implementation of those which have been accepted. Further progress will be reported next year.

In 2003-04, the Commission reported that a review was to be conducted by NSW Police into its international (inbound) secondment policy. Based on information supplied by NSW Police as a result of that review, the Commission is satisfied that action has been taken in response to its recommendation in the report on Operation Malta related to this practice.

Measures	Target	Result
<i>Outcome Measure:</i> Proportion of recommendations relating to law reform and improvements in the practices of NSW Police or other relevant agencies that are accepted.	80%	100%
<i>Output Measure:</i> Number of issues identified in Commission hearings and reports which result in a change in police practice.	N/A	15 ¹³
<i>Output Measure:</i> Ratio of the number of opportunities or factors contributing to serious police misconduct identified to the number of recommendations for improvement made.	1 : 1	N/A ¹⁴
<i>Output Measure:</i> Proportion of recommendations for improvements in practices of NSW Police where consultation has occurred.	80%	N/A

¹³ Recommendations from Dresden II (7), Operation Bangkok (7) and Operation Malta (1).

¹⁴ See previous note concerning Operation Vail under the heading Identification Outcomes.

IMPROVEMENTS IN INVESTIGATIONS - OUTCOMES

Improvements in the quality of investigations by police into serious police misconduct.

The Commission has an ongoing role in monitoring the quality of NSW Police investigations into serious police misconduct. The Commission has taken two main approaches to fulfilling this role:

- the oversight of specific investigations, making recommendations for improvements, where appropriate, and
- the conduct of the Commission's cyclical Dresden project auditing a large sample of completed police investigations.

In recent years, the Commission has reported that the Dresden project has been the key means by which it measures and reports on its performance to improve NSW Police investigations into serious police misconduct.

In last year's Annual Report the Commission advised that it intended to undertake its third audit into the quality of complaint investigations conducted by NSW Police - Operation Dresden III. The audit has been deferred for the time being, at least, due to imminent changes in legislation which will remove the distinction between complaints based on offence type alone. Broad based assessment of NSW Police performance in managing the quality of complaint investigations, as distinct from overlooking individual cases, remains an ongoing interest for the Commission. The Commission will consider its options for future work in this area following the implementation of the proposed changes.

In the Dresden II audit conducted in 2002-2003, the Commission made 11 recommendations for improvements in timeliness, consistency and transparency of decision-making and investigation planning by NSW Police, and for management of conflict of interest risks and the consideration of complaint histories in investigations.

Based on an updated report from NSW Police in the current year, a total of 10 of the 11 recommendations (91%), or an agreed alternative, have been accepted by NSW Police. The Commission is satisfied that seven of its recommendations, or a satisfactory alternative, has been implemented. Three recommendations are awaiting implementation. In the case of the recommendation that has not been

accepted, the Commission continues to express its concern that an investigator should be of at least equal rank to that of an officer under investigation. Further details on the NSW Police response to Dresden II are contained in Section 6 of this report.

Measures	Target	Result
<i>Outcome Measure:</i> Proportion of recommendations relating to law reform and improvements in the practices of NSW Police or other relevant agencies that are accepted.	80%	91%
<i>Output Measure:</i> Number of special audits of the quality of investigations by police into serious police misconduct.	1 per 3 years	N/A
<i>Output Measure:</i> Proportion of investigations included in the sample used for special audits of the quality of investigations by police into serious police misconduct.	25%	N/A ¹⁵

¹⁵ See above.

PLANS FOR 2005-2006

Key aspects of the Commission's program to achieve planned performance outcomes for the next reporting year are as follows:

- Investigations will be completed and reports presented to Parliament in respect of Operations Cobalt, Whistler and Sandvalley.
- Activities associated with the Commission's assessment of the special risks attached to the work of the NSW Police Counter Terrorism Coordination Command will continue.
- Selection of new projects will aim to optimise the use of the Commission's resources, as in Operation Abelia, where a valuable strategy of complementary research and investigations was adopted. Project selection criteria will be used to maintain the strategic focus of the Commission's program.
- In the course of investigations the Commission will broadly consider NSW Police policies, supervisory practices and other factors which provide opportunities for minimising serious police misconduct, as applicable. The Commission will hold hearings in public as appropriate to expose and deter serious police misconduct and to facilitate community and stakeholder awareness of aspects of the nature and extent of serious police misconduct.
- The Commission will expand its accessibility for NSW Police through visits to regional areas. The Commission will further implement measures to improve access for people from non-English speaking backgrounds (NESB) to services and materials provided by the Commission. Measures include consultation with community leaders, translation and distribution of information brochures and progressing multi-lingual access through the Commission's web site.

4. GOVERNANCE

This section of the Annual Report contains details of the principal officers of the Commission and of the accountability regime set in place to monitor and review certain Commission activities.

THE EXECUTIVE

Commissioner	Terence Griffin
Assistant Commissioner	Vacant
Director Operations	Andy Nattress
Director Intelligence & Executive Services	Allan Kearney

CHANGES IN ORGANISATIONAL STRUCTURE

An independent review of the Commission's IT structure was conducted in 2004-05 to assess the capacity of IT to meet Commission's requirements. Arising from the review the IT Manager position was re-evaluated and re-named Information Communications and Technology (IC&T) Manager to more accurately reflect wider management responsibilities. The IT structure was also adjusted to include 'in-house' web development and programming capabilities to reduce the Commission's reliance on external contractors.

An internal review was also conducted into the provision of legal services within the Commission with a view to increasing flexibility in task allocation and improving the breadth of skills available to the Commission, job satisfaction and overall efficiency. As a result, Operational Lawyers have been integrated with staff from the Commission Solicitor's Unit under the direction of the Manager Legal Services Unit / Commission Solicitor.

THE PARLIAMENTARY JOINT COMMITTEE

The functions of the Committee on the Office of the Ombudsman and the Police Integrity Commission ("the Committee"), as they relate to the Commission, are set out in s95 of the Act.

The Committee is made up of seven members: three members of, and appointed by, the Legislative Council; and four members of, and appointed by, the Legislative Assembly.

As at 30 June 2005 the members of the Committee were:

- Mr Paul Gerard Lynch, MP, Member for Liverpool (Chairperson) (ALP)
- Ms Jan Burnswoods, MLC, (Vice-Chairperson) (ALP)
- Mr Malcolm John Kerr, MP, Member for Cronulla (LIB)
- The Hon Peter James Breen, MLC (Reform the Legal System)
- The Hon David Clarke, MLC (LIB)
- Ms Noreen Hay, MP, Member for Wollongong (ALP)
- Mr Geoffrey Corrigan, MP, Member for Camden (ALP).

Interaction between the Parliamentary Joint Committee and the Police Integrity Commission

On 14 October 2004, the Commission attended a hearing conducted by the Parliamentary Joint Committee for the purpose of its inquiry into s10(5) of the Police Integrity Commission Act related to provision for inter-State recruitment.

The eighth General Meeting of the Committee took place at Parliament House on 30 November 2004. Commissioner Griffin and a number of senior Commission staff attended to give evidence before the Committee.

The Committee provided written questions on notice. Answers to these questions were provided ahead of the meeting. The topics covered by the questions on notice included:

- Public hearings figures
- The role of temporary Assistant Commissioner
- Operation Florida

4. GOVERNANCE

- Tracking the Commission's recommendations.

A report in relation to the eighth General Meeting was published by the Committee in March 2005.

During the reporting year, the PJC also conducted an inquiry into the Commission's jurisdiction to oversight the Protective Services Group and the Counter Terrorist Coordination Command. (CTCC). In its interim report in March 2005, the PJC indicated its intention to wait on the results of the Commission's planned risk assessment of the CTCC before concluding its inquiry and producing a final report.

THE INSPECTOR, POLICE INTEGRITY COMMISSION

The Hon M D Ireland QC was appointed as the Inspector of the Police Integrity Commission on 12 June 2002.

The principal functions of the Inspector¹⁶ are to:

- audit the operations of the Commission for the purpose of monitoring compliance with the law of the State
- deal with (by reports and recommendations) complaints of abuse of power, impropriety and other forms of misconduct on the part of the Commission or officers of the Commission
- assess the effectiveness and appropriateness of the procedures of the Commission relating to the legality or propriety of its activities.

The Inspector met regularly during the year with the Commissioner and, as the need arose, other senior officers of the Commission. The Inspector continued to have independent access to all records of the Commission, other than a small quantity of certain material obtained by telecommunications interception.

On 1 September 2005 the Hon J R T Wood QC was appointed as the Inspector of the Police Integrity Commission.

¹⁶ Sub Section 89(1) of the *Police Integrity Commission Act 1996*

5. SUMMARY REVIEW OF OPERATIONS

The purpose of this section is to outline the main investigations initiated or progressed in the 2004-2005 reporting year. Outcomes are also reported in relation to investigations where operational activity ceased prior to 2004-2005.

Reports in relation to Operations Alpine, Norandra and Icemint are provided in the subsection dealing with Operation Abelia.

Major research & investigation project: drug use by police officers – *Operation Abelia*

Key Points:

Operation Abelia, which concerned minimising illegal drug use by police officers, exposed examples of different forms of police misconduct including: the use and supply of prohibited drugs by officers; officers associating with suppliers of prohibited drugs, in some cases compromising the confidentiality of NSW Police records; and officers faking arrests as a way of stealing illegal drugs and money from drug suppliers. The Commission has made 64 recommendations, many of which propose policy, procedural and legislative change to strengthen NSW Police's capacity to minimise illegal drug use by its officers. The Commission's recommendations combine to form a nine-part integrated strategy. The Abelia Report was presented to Parliament on 30 September 2005.

During 2004-2005 the Commission completed the investigation and research components of its major project examining the use of illegal drugs by some NSW Police officers. In this project, known as Operation Abelia, the Commission focused on what could be done to prevent illegal drug use by officers, in addition to investigating individual cases of officer misconduct.

Illegal drug use by some NSW Police officers had been exposed in some previous Commission investigations as well as in investigations by the Royal Commission into the NSW Police Service and by NSW Police. The Commission decided to undertake Operation Abelia because of the seriousness of the consequences of illegal drug use by police officers. Illegal drug use by officers has the capacity to adversely impact on the professionalism and

effectiveness of individual officers as well as the organisation as a whole, the integrity and health of the individuals concerned, and the safety of colleagues and the community. For officers to use illegal drugs, they must have obtained them through some illegal means. This compromises their position, making them vulnerable to approaches from criminals and at risk of engaging in more serious acts of corruption. Personal drug use may also reduce their willingness to carry out their duties in relation to drug law enforcement.

Operation Abelia had three broad objectives:

- to investigate allegations that some NSW Police officers used illegal drugs, supplied illegal drugs and/or associated with suppliers of illegal drugs
- to provide an informed understanding of the nature of the problem of illegal drug use by some NSW Police officers, and
- to examine relevant NSW Police policies, procedures and training materials, with a view to advising NSW Police how and where it can intervene to most effectively minimise illegal drug use by its officers.

Operation Abelia differed from previous Commission projects in a number of significant ways. The Operation Abelia methodology combined misconduct investigations and hearings with detailed national and international research. One aspect of this research involved the Commission actively seeking input from policing agencies, experts and practitioners from within and beyond Australia. The project also benefited from the professional, cooperative approach adopted by both NSW Police and the Police Association of NSW. The support of these agencies has provided a strong foundation both for the development of a comprehensive framework for minimising drug use by police and for a receptive environment in which positive change can be effected.

Illegal drug use by police is a concern in many jurisdictions, both nationally and internationally. When the Commission contacted policing agencies in other jurisdictions to find out about the approaches they use to minimise illegal drug use by officers, it became clear that the issue was a topical one. The Commission found that within a number of the Australian policing agencies as well as those in Canada and the UK, the issue of illegal drug use by officers had recently received attention or was the subject of current debate.

5. SUMMARY REVIEW OF OPERATIONS

Despite this interest in the issue of illegal drug use by officers, prior to Operation Abelia little work had been done, either in Australia or elsewhere, to try to develop a better understanding of why some officers use illegal drugs, the circumstances surrounding their drug use and what could be done to prevent this drug use.

The Commission has used a diverse and complementary range of methods to inform itself about issues relevant to Operation Abelia. As part of its investigation into the conduct of individual officers, the Commission held public hearings and private hearings. The Commission has also obtained evidence from current and former officers to better understand the nature of the problem. It has spoken to commanders, sworn officers and students to get their perspectives on the best way of minimising illegal drug use. It has consulted with other policing agencies both within and beyond Australia as well as reviewed existing records and the relevant available literature on the topic.

Individual misconduct

The investigations and hearing program was divided into three segments codenamed: Operation Icemint, Operation Norandra and Operation Alpine. All three operations were discussed in last year's Annual Report.

- Operation Icemint focused on the illegal drug use and association with a drug dealer by three (now former) senior constables, Melanie Wilson, Shelley Hill and Tracey Tyler. Two of these former senior constables also gave evidence about their supply of prohibited drugs.
- Operation Norandra examined evidence which had been supplied to the Commission by NSW Police. It focused on the relationship between three NSW Police officers (Darren Wardle, Jo Potter and another female officer codenamed AB1) and Daniel Cantarakis, a civilian who had been charged with drug supply and related offences. Of particular interest was Wardle's involvement in illegal drug use and supply, and that the relationship between these three officers and Cantarakis led to the confidentiality of NSW Police records being compromised. Wardle resigned and Potter and AB1 were dismissed.
- Operation Alpine, which commenced in September 2003, focused on the conduct of NSW Police Detective Sergeant Samuel Foster, a NSW Police senior constable who was given the codename AL12, a Victoria Police Detective Senior Constable James McCabe and a number of civilians. The evidence given during this

segment illustrated that illegal drug use is not confined to officers in junior ranks. The evidence also showed that these officers faked arrests as a way of stealing illegal drugs and money from drug suppliers. They then organised for the stolen drugs to be sold and shared the profits from the sale of these stolen drugs. In Foster's case he would sometimes keep drugs for his personal use. The Commission has recommended that consideration be given to the prosecution of Foster for robbery being armed and in company, conspiracy to rob and robbery, multiple counts of knowingly take part in the supply of a prohibited drug/supply prohibited drug, and knowingly give false or misleading evidence to the Commission. The Commission has also recommended that consideration be given to the prosecution of AL12 for conspiracy to rob and robbery, and supply prohibited drug; and to the prosecution of McCabe for robbery being armed and in company, and knowingly take part in the supply of a prohibited drug.

Key observations about the nature of illegal drug use by officers

Based on information provided by current and former officers about the nature and circumstances of their illegal drug use and an analysis of case studies of eighty-one officers (including those giving evidence) found or assessed to have used illegal drugs, the Commission has made a number of observations about the illegal drug use of some NSW Police. Key observations include:

- officers have admitted using a wide range of illegal drugs including amphetamines, cannabis, cocaine, ecstasy, heroin, ketamine, and non-prescribed steroids
- most officers who gave evidence to the Commission said that they did not believe that their policing duties put them at any higher risk of illegal drug use than if they had been doing other work
- officers have given quite different accounts of their reasons for using illegal drugs. Some officers mentioned stress, either at work or in their personal lives, or just simply 'lifestyle' choices as reasons why they used illegal drugs. Several officers mentioned a combination of reasons for their illegal drug use
- officers who use illegal drugs are not readily identifiable based on their demographic characteristics

- while some officers had used illegal drugs prior to joining NSW Police, others had worked as officers for a substantial number of years before trying illegal drugs
- much of the illegal drug use that came to notice as part of Operation Abelia occurred when officers were socialising with friends and relatives while they were off duty
- officers who have used illegal drugs believe that other officers with whom they worked would not be aware of their illegal drug use
- officers said that they obtained their illegal drugs from friends, relatives and acquaintances, and
- some officers who use illegal drugs engage in additional forms of misconduct such as turning 'a blind eye' to illegal drug use by others; supplying illegal drugs to friends; turning 'a blind eye' to drug suppliers; more actively attempting to assist a drug supplier by providing confidential NSW Police information; supplying drugs for monetary gain, and stealing drugs or money for profit.

One overall observation from the information collected during Operation Abelia is that some officers encounter friends or relatives using drugs, or even supplying drugs, while the officer is off duty. Another observation is that some of the drug-related misconduct identified in Operation Abelia (such as turning a 'blind eye' to illegal drug use by others, turning a 'blind eye' to drug suppliers, and more actively assisting a drug supplier by providing confidential NSW Police information) involved officers inappropriately resolving the conflicts they may face between maintaining their friendships or associations and their role and duties as an officer. Some officers told the Commission that they would always place their friends above their duty as an officer. It is clear that encounters with friends, relatives or acquaintances who use illegal drugs may present an integrity risk to a wide range of officers.

The Commission believes that NSW Police can assist officers to identify and manage such risks by developing a clear position on how it expects off-duty officers to respond if they encounter people using illegal drugs and communicating to all officers its expectations as well as practical guidance on how to respond to such situations. The Commission is of the opinion that officers need to know how to identify and manage the types of situations that may compromise them and their position well in advance of being confronted by such integrity risks. Officers who are prepared in advance will be better equipped to respond appropriately if they find themselves in such situations in the future.

Examination of NSW police policies, procedures and practices

At the time the Commission conducted Operation Abelia, NSW Police already had a number of strategies in place to address the issue of illegal drug use by its officers. For example, NSW Police has a comprehensive Drug and Alcohol Policy.

The Commission chose to examine a number of NSW Police policies, procedures and practices based on their relevance to illegal drug use and/or their potential to minimise illegal drug use by NSW Police officers. Some of these, like the components of the Drug and Alcohol Policy, are initiatives that specifically focus on minimising alcohol abuse and illegal drug use. Others, such as recruitment and training, are practices that have the potential to assist in minimising illegal drug use.

The Commission observed that the NSW Police Drug and Alcohol Policy has been, and continues to be, used as a model by other law enforcement agencies. Notwithstanding this, the information collected in Operation Abelia suggests that there is scope for strengthening the NSW Police approach to minimising illegal drug use by its officers.

Recommendations to strengthen NSW Police's capacity to minimise illegal drug use by officers

The Commission considers that there is no simple one-step solution to minimising illegal drug use by NSW Police. The Commission has made 64 recommendations, many of which propose policy, procedural or legislative change to strengthen NSW Police's capacity to minimise illegal drug use by its officers. The Commission's recommendations combine to form a nine-part integrated strategy. These nine parts are summarised below.

1. Providing clear messages early and reinforcing them in different ways: The Commission notes the efforts that NSW Police has made to ensure that its officers receive the messages contained in its Drug and Alcohol Policy and its Code of Conduct and Ethics. However, the Commission has found that officers do not always retain these messages. The Commission has made specific recommendations concerning steps that NSW Police can take to clarify and reinforce the messages that it provides to its officers. Some examples of the nature of these recommendations are outlined below:

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- separate the messages about the use of legal and illegal drugs
- communicate how illegal drug use can compromise an officer's position and how it can compromise NSW Police
- communicate messages about NSW Police expectations of its officers from the time a potential applicant first contacts NSW Police
- reinforce messages in different ways throughout an officer's career, and
- develop an integrated communication strategy.

2. Equipping officers with the knowledge and skills to respond appropriately: NSW Police already provides a broad range of training to equip its officers with the knowledge and skills they require to perform their roles. The Commission has identified four areas in which additional information and training would assist officers to perform their role. These areas are:

- how to identify and manage integrity risks that officers may encounter when they are off duty
- how officers should respond if they suspect that a colleague may be using illegal drugs
- the uses and limitations of drug testing for those who are responsible for determining whether officers should be the subject of a targeted drug test, and
- the responsibilities of supervisors under the Drug and Alcohol Policy and other related policies.

3. Addressing the welfare of officers: By adopting a focus on health and welfare, rather than considering illegal drug use exclusively as a disciplinary matter, the NSW Police Drug and Alcohol Policy is consistent with international best practice in the area. Some examples of the nature of the recommendations that the Commission has made to strengthen NSW Police's efforts in this area are outlined below:

- continue to provide support to those who voluntarily disclose their illegal drug use
- address welfare issues associated with off-duty targeted drug testing
- develop a system for the reliable provision of information both to officers who are the subject of reviewable management action and their commanders concerning how the system works and regular updates of the status of the matter.

4. Deterring illegal drug use: In addition to using education to deter illegal drug use by setting clear expectations and equipping officers with the knowledge and skills to meet these expectations, the Commission has advocated three further deterrence strategies:

- increase the perceived risk of being caught, by increasing the visibility, publicity and unpredictability of drug testing and minimising the potential to influence the chances of being detected through drug testing
- discourage those who may be prone to using illegal drugs from applying to join NSW Police, and
- inform officers of the health risks associated with using illegal drugs.

5. Detecting illegal drug use after it has occurred: NSW Police detects illegal drug use by its officers through targeted drug tests and other investigative techniques as well as by encouraging officers to voluntarily disclose their drug use under a provision known as 'amnesty'. Some examples of the nature of the Commission's recommendations in this area include:

- improve the capacity of NSW Police to detect off-duty illegal drug use by trialling drug testing based on hair samples as well as amending the *Police Act 1990* to enable NSW Police to conduct off-duty targeted drug testing when it is reasonable to do so in all circumstances
- consider alternatives to drug testing to detect illegal drug use
- train commanders and supervisors on the detection and management of substance abuse problems
- further encourage officers to voluntarily disclose their illegal drug use, and
- incorporate the capacity to test for the non-prescribed use of anabolic androgenic steroids.

6. Effectively managing officers found to have used illegal drugs: The Commission advocates taking a risk management approach to determining the best way of managing officers who are identified as having used illegal drugs, no matter how they come to notice, whether by self-disclosure or through positive drug tests or other investigative techniques.

The Commission has also recommended that NSW Police reviews its management action processes to reduce the time between when an officer is detected using illegal drugs through a drug test and when the outcome of the management action is finalised.

7. Demonstrating accountability: The Commission has made several recommendations concerning fair and transparent systems and decision making as a safeguard that current or new detection and deterrence tools are applied, and individuals are managed, in a fair and transparent manner. Some examples of the nature of the Commission's recommendations in this area are outlined below:

- improve documentation and transparency of decisions concerning targeted drug tests
- reduce the individual discretion in selecting officers who are to be randomly drug tested
- allocate responsibility for officers being available for random drug testing to the commander of the unit undergoing drug testing.

8. Review and evaluation: A number of the individual recommendations proposed in Operation Abelia involve communication, detection or deterrence strategies for NSW Police that are new to the organisation and need to be tested, and perhaps further developed, to optimise their utility within NSW Police. Other recommendations require NSW Police to review and evaluate its current procedures to see whether they can be improved. Associated with this, the Commission has recommended that NSW Police collects relevant information to enable it to evaluate the effectiveness of its strategies and to make informed decisions about whether or not its strategies can be improved. In this way, the outcomes of the recommendations made in Operation Abelia need not be static but rather act as starting points that can be further built upon and improved following review and evaluation by NSW Police.

9. Monitoring the implementation of recommendations: The Commission considers monitoring the implementation of its recommendations to be an important part of its efforts to prevent police misconduct. Following the release of the Operation Abelia report, the Commission will seek a written response from NSW Police to each of the recommendations made in this report. The Commission will provide an evaluation of the final NSW Police response to these recommendations in subsequent annual reports, as it is required to do under the Act, and will report progress in the implementation of the recommendations. In addition to providing a catalyst to support the successful

implementation of the Commission recommendations, this monitoring process also enables dialogue between NSW Police and the Commission to assist in resolving any issues that may act as impediments to minimising illegal drug use and its associated consequences.

Criminal charges against two officers follow joint investigation – Operation Acer

Key points

Two police officers have been charged with giving false evidence to the Commission. Another officer has been nominated for removal under section 181D of the Police Act 1990 based, in part, on evidence obtained by the Commission.

Operation Acer commenced in 2003 as a result of information obtained by NSW Police in 2002.

In March 2003 the Commission commenced a series of private hearings based on information supplied by a NSW Police informant about two officers and those associated with them. The informant is a former police officer. The Commission heard evidence from the informant, the two police officers and a number of civilians suspected of criminal activity, including evidence of the supply of prohibited drugs. A significant amount of material obtained by NSW Police through electronic surveillance, namely listening devices and telephone interceptions, was put to the witnesses during the hearings.

The evidence obtained by the Commission was disseminated to NSW Police to enable criminal prosecutions and disciplinary action to be taken against the police officers and some of the civilians. One police officer has been charged with three counts of giving false evidence to the Commission and another has been charged with two counts of giving false evidence. These matters have been set down for hearing in October 2005.

A third police officer was nominated for removal from NSW Police under section 181D of the *Police Act 1990* during 2004-2005 on the basis of evidence collected, in part, by the Commission. That officer is on long term sick leave. At the time of writing the 181D action had not been resolved.

Officer being considered for dismissal for suspected drug offences & release of confidential information – *Operation Avillia*

Key points

A police sergeant has been suspended from duty with pay and has been nominated for removal from NSW Police under s181D of the Police Act 1990. The evidence obtained by the Commission - which included drug use and unauthorised access to and disclosure of police information - contributed to the NSW Police decision to consider dismissal action.

Operation Avillia was initiated following the receipt of a complaint against a police sergeant. The Commission's investigation commenced in August 2003 and concluded in September 2004.

The Commission obtained evidence through telecommunications interceptions, private hearings and other investigative strategies that a police sergeant had used prohibited drugs; illegally accessed and made an unauthorised disclosure of police information; inappropriately used a firearm while intoxicated; conducted secondary employment while intoxicated; consumed alcohol while on duty and drove a police vehicle while intoxicated.

The Commission disseminated information to NSW Police in May and September 2004 to assist in management action against the officer.

The Commission has been advised by NSW Police that the officer has been suspended with pay and has been nominated for removal under section 181D of the *Police Act 1990*. At the time of writing the s181D process had not been concluded.

Investigation into possible police misconduct surrounding the handling of a blood sample taken after a motor vehicle collision – *Operation Banff*

Key points

On 4 November 2004, the Commission commenced an investigation codenamed Operation Banff into the conduct of NSW Police officers and others involved in the events arising from a motor vehicle collision at Louisa Road, Birchgrove, on the evening of 13 October 2004.

The collision occurred when a vehicle driven along Louisa Road Birchgrove struck a parked car. The driver was taken to hospital and a sample of blood was taken from him for the purpose of alcohol testing. He was released from hospital the next morning. Subsequently the NSW Police announced that the sample of blood which should have been transferred from the hospital to the blood testing unit for analysis, could not be located.

The Commission commenced a public hearing on 15 November 2004. Evidence was heard from the driver, the medical staff involved the treatment of the driver and the extraction of the blood sample, and the police involved in the investigation of the collision and the handling of blood samples collected from the hospital.

On the third day of the hearing it was submitted on behalf of the driver, former Supreme Court Justice Jeffrey Shaw QC, that as no police misconduct had been revealed by the evidence, the Commission should stay any further investigation. The Commission declined the application, proceeded to conclude the hearing and set a timetable for submissions.

On 24 December 2004, Mr Shaw commenced proceedings in the Supreme Court of New South Wales, seeking an order to prevent the Commission from publishing any opinions or assessments adverse to him. Judgement was delivered on 3 August 2005 and on 26 August 2005 the Court made orders declaring the Commission would be exceeding its jurisdiction if it made an assessment, expressed a conclusion or opinion that Mr Shaw had engaged in misconduct for the purposes of s 16(1)(a) of the *Police Integrity Commission Act 1996*, or made an assessment, expressed a conclusion or opinion with respect to any alleged misconduct of Mr Shaw pursuant to s 97 of the Act.

On 23 September 2005 the Commission filed a Summons for Leave to Appeal against the above orders. The outcome of this matter will be reported in next year's Annual Report.

Ongoing investigation into allegation that police fabricated a record of interview & perverted the course of justice – Operation Cerduna

Key points

Investigations are continuing into an allegation that two police perverted the course of justice.

Operation Cerduna is an investigation into an allegation that police officers perverted the course of justice during the investigation of a murder. This matter commenced the 2002-2003 reporting period. During the course of the 2003-2004 and 2004-2005 reporting years, the Commission has used its research, investigation and analytical resources extensively for the purpose of this investigation. Private hearings were also held in 2004-2005 period.

Operation Cerduna remains a confidential investigation and the Commission is not in a position to disclose further details at this time.

Officer dismissed after evidence exposed of extortion, theft and other corruption – Operation Cobalt

Key Points

Sgt Chris Laycock was dismissed from NSW Police in November 2004 on the strength of evidence obtained by the Commission. Public hearings exposed evidence that Laycock, together with a former police officer, two known criminals and several civilians, was involved in the extortion and theft of money, perverting the course of justice and the unauthorised release of confidential NSW police documents and information. The corrupt activities of this officer and his associates were shown to have occurred over a period of nearly 10 years. Briefs of evidence in connection with a number of serious offences by all those persons involved have been sent to the Director of Public Prosecutions for consideration.

In mid-2004 the Commission commenced an investigation after information was received indicating a possible improper association between then Detective Sergeant Christopher Laycock and a known criminal, David Hopes.

Existing Commission intelligence, combined with physical and electronic surveillance revealed the involvement of Laycock and his associates in the theft and extortion of money from a number of persons during the period of the investigation. It was established that Laycock gained the information to enable him to carry out these activities from two primary sources; the NSW Police computer information system (COPS) and his criminal associates.

Of particular note Laycock approached and warned a suspect in a nationwide child pornography investigation (Operation Auxin) and made efforts to assist a suspect in a murder investigation. In both incidents Laycock and his associates were paid significant amounts of money. No charges have been laid against either suspect.

Laycock was examined at the public hearings, as were his associates. Former police officer Christopher Walker initially failed to attend the public hearings, claiming mental illness. Subsequently he gave evidence which resulted in him being referred to the Supreme Court for Contempt of the Commission due to the unsatisfactory nature of the evidence he gave.

Shortly after the commencement of the public hearings NSW Police suspended Laycock without pay. On 21 October 2004 the Commissioner of Police issued a Notice to Show Cause pursuant to Section 181D of the *Police Act 1990*. On 15 November 2004 Laycock was dismissed from NSW Police.

The Commission commenced proceedings in the Supreme Court of NSW and obtained a restraining order against the assets of Laycock. Subsequently a settlement was reached whereby Laycock agreed to make payment to the NSW Treasury in acknowledgement of the income he received from corrupt activities. Details appear under *Criminal Assets Recovery Act 1990* in Section 8 of this report.

Briefs of evidence against Laycock and his associates for a number of serious offences examined during the public hearings have been referred to the Director of Public Prosecutions for consideration.

The Commission employed a full range of the various technical and human resources available to carry out this operation. The co-operation of the NSW Crime

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Commission and the NSW Police played a significant part in the successful conclusion of this operation.

At the time of writing the Commission was drafting its report to Parliament in relation to this investigation.

Officer being considered for dismissal for possible drug offences & release of confidential information – *Operation Cycad*

Key Points

A police sergeant has been suspended from duty and is being considered for removal under s181D of the Police Act 1990 in connection with possible drug offences and the release of confidential police information.

During the course of this investigation, the Commission collected information and evidence suggesting a police sergeant had been involved in the supply and possession of illegal drugs and unauthorised release of confidential police information. That officer was suspended in 2004-2005 and, on the basis of the information furnished to NSW Police by the Commission, is being considered for removal under section 181D of the *Police Act 1990*. At the time of writing the disciplinary process was still in train.

Critical evidence in kidnapping – *Operation Oak*

Key Point

Assistance provided led to NSW Police investigation and three persons charged with kidnapping.

Operation Oak is an investigation by the Commission into serious police misconduct which commenced during the reporting period. During the investigation, evidence was obtained that indicated a kidnapping was in progress. The information was communicated to NSW Police who responded immediately. Further information was provided by the Commission as it came to hand in support of the subsequent Police investigation. Three persons have since been charged with Conspiracy to Commit Indictable Offence (Kidnapping). The briefs of evidence are heavily reliant on Commission evidence. Operation Oak remains covert and the Commission is not in a position to disclose further details at this time.

Officer resigns after admitting to the Commission he used drugs & attempted to sell heroin – *Operation Ovalbay*

Key points

The Commission heard evidence during a private hearing that a police officer had used heroin and attempted to sell drugs through a heroin user. That officer was nominated for removal from NSW Police. He subsequently resigned before the s181D process could be completed.

The Commission conducted private hearings for the purpose of this investigation during which a civilian alleged he had supplied heroin to a serving police officer on several occasions. The witness alleged that on one occasion he had gone with the police officer to two banks where an amount of money was withdrawn by the police officer from his accounts to purchase several ounces of heroin. The witness claimed he was to sell the heroin on behalf of the police officer, use some and give the money back to the officer. Due to his drug habits the witness used the heroin and did not give the money back to the officer. The witness alleged the police officer and another male person assaulted him and demanded repayment of the money. The officer was charged with the assault but the charge was dismissed in the Local Court.

During the course of the Commission's private hearings, the police officer made admissions to using and purchasing heroin. He also admitted to using cocaine and ecstasy.

The officer was nominated for removal from NSW Police under section 181D of the *Police Act 1990* on the basis of the information obtained by the Commission during the course of its investigation. The police officer, however, resigned from NSW Police in May 2005 before the 181D process could be completed.

Officer sentenced for accepting a bribe & giving false evidence to Commission – *Operation Regal*

Key Points

Further results were achieved in 2004-2005 as a result of the evidence collected during the course of this completed investigation. In October 2004, a police officer was sentenced, having pleaded guilty to accepting a bribe. That officer was also dismissed from NSW Police during the reporting year and was also prosecuted for giving false evidence to the Commission. On the basis of some of the evidence and information obtained during this investigation, contributed to the Commission's understanding of the problem of drug use by police in connection with Operation Abelia.

Operation Regal involved the investigation of the association between a number of current and former police and civilians suspected of being involved in the use and supply of prohibited drugs. Operation Regal was initiated in February 2002, information having come to light in late 2001 through electronic surveillance indicating that a number of police officers were using, and possibly supplying, illegal drugs. In 2002-2003, the Commission deployed its electronic and physical surveillance resources for the purpose of its investigation. A number of private hearings were also held.

During the course of its investigation the Commission obtained evidence indicating a young police officer had used ecstasy, cocaine, and amphetamines.

Information concerning drug use by police officers, in tandem with other research and operational material, was used in Operation Abelia and has contributed to the Commission's understanding of the nature of drug use in NSW Police.

In its 2002-2003 Annual Report the Commission reported that one police officer had resigned during the course of the Operation Regal investigation and two had been suspended. In the 2003-2004 reporting year one of the officers on suspension resigned. In August 2004, the other officer, Ivan Brown, pleaded guilty to accepting a bribe under s200 of the *Police Act 1990*. He was prosecuted on the basis of electronic evidence obtained by the Commission that he had improperly intervened in the investigation of a motor vehicle accident. This officer was convicted of that offence and sentenced to 200 hours community service in October 2004.

In May 2005 Brown was dismissed from the NSW Police as a result of s181D proceedings. Also in May 2005 this officer entered a guilty plea to the offence of knowingly giving false or misleading evidence to the Commission. On 1 August 2005 Brown was sentenced at Downing Centre Local Court to a suspended 12 month gaol term and placed on a 12 month good behaviour bond.

Another former police officer, Leif Gould, was also charged with knowingly giving false or misleading evidence to the Commission. He entered a not guilty plea before the court in February 2005. At the time of writing, the court proceedings against this former officer for knowingly giving false or misleading evidence to the Commission were in process.

In June 2005 the Commission received advice from the Director of Public Prosecutions confirming there was sufficient evidence to prosecute another former police officer with the offence of knowingly giving false or misleading evidence to the Commission. That matter is proceeding.

Briefs have also been sent to the Director of Public Prosecutions seeking an advice about whether or not there is sufficient evidence to charge two civilians with knowingly giving false or misleading evidence to the Commission. Advice has been received in relation to one civilian to the effect that there is insufficient evidence to proceed. Advice in relation to the other civilian is pending.

Officer being considered for dismissal for inappropriate interference in a prosecution – *Operation Rustin*

Key points

As a result of information collected through this investigation, and referred to NSW Police in 2004-2005, a police sergeant is being considered for removal from NSW Police. Information disseminated to the ICAC assisted that agency in an investigation. Operation Rustin is now closed.

In February 2003 the Commission received information regarding inappropriate and corrupt interference by police officers and others in a prosecution. The Commission commenced Operation Rustin to investigate the allegations.

Late in 2003 the Commission became aware, via telephone interceptions, of further suspicious activity by persons not directly related to the initial activity the

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Commission was investigating. Several persons were suspected of being involved in organised Building Licence fraud.

Following consultation with the Independent Commission Against Corruption, a briefing was provided to ICAC detailing the illegal activity that had been identified. Many of the intercepted calls were in a foreign language and required translation for the purposes of preparing transcripts. By January 2004, all relevant Commission material had been disseminated to ICAC.

In May 2004 ICAC advised the Commission that its investigation was nearing its final stages and had evolved into a substantial matter. The evidence provided by the Commission proved to be of considerable assistance to ICAC, and was used in several phases of that investigation including during ICAC Hearings.

In April 2005 telephone interception material obtained by the Commission was disseminated to the New South Wales Crime Commission, to assist in proceedings to confiscate assets of persons identified as profiting from criminal activities during the ICAC investigation. This action is ongoing.

In March 2005 the Commission's Operation Rustin was closed. Evidence obtained was insufficient to recommend consideration of prosecution of any NSW Police officers. However, material obtained has been provided to the NSW Police to assist in managerial action against an officer.

Further charges are expected to be recommended against civilians identified by the Commission as being involved in unrelated fraud matters.

Investigation into suspicious financial dealings & possible ATM theft by officer - Operation Sandvalley

Key points

Evidence was obtained by the Commission in 2003-2004 that a police officer was involved in suspicious financial transactions and other suspicious activity, including thefts from ATMs. That officer remains suspended without pay. The Commission is preparing a report to Parliament.

Last year the Commission reported that in May 2003 it had commenced inquiries concerning the activities of Senior Constable Daniel Ryan, a serving police officer.

The Commission's 2003-2004 Annual Report noted that financial investigations had uncovered Senior Constable Ryan's involvement in private businesses and suspicious financial activities. It also noted that telecommunications interceptions had indicated the involvement of Senior Constable Ryan and associates, including his brother, in suspicious activity involving thefts from automatic teller machines.

Operation Sandvalley is ongoing and Senior Constable Daniel Ryan remains suspended without pay.

In addition, last year it was reported that two civilians had been arrested by NSW Police on the basis of information provided by the Commission originating from Operation Sandvalley. A further person was later charged. Prosecutions have commenced in respect of the first two persons for robbery offences. The prosecution in respect of the third person will not proceed.

Investigation into alleged breaches of the *Telecommunications (Interception) Act* by senior police - Operation Vail

Key points

The Commission examined an allegation that breaches of the Telecommunications (Interception) Act 1979 (Cth) occurred during a meeting between senior NSW Police officers and Mr Malcolm Noad during a NSW Police investigation into sexual assault allegations made against players from the Bulldogs Rugby League Club.

In April 2005, the Commission commenced an investigation into alleged breaches of the *Telecommunications (Interception) Act 1979 (Cth)* ("the Interception Act") arising from the communication of information obtained by telephone interception during a police investigation in 2004 into allegations of sexual assault by Bulldogs Rugby League Club players at Coffs Harbour.

During the sexual assault investigation, NSW Police had lawfully conducted telephone interceptions, which revealed that a player with the Club had some involvement with illegal drugs. It appeared that an unknown person or persons had informed sections of the media of the existence of telephone intercepts, and the fact that they disclosed a player's involvement in drugs.

Mr Noad, the then incoming chief executive officer of the Club, became aware of media interest in the possibility that the police investigation had revealed a player was involved in illegal drugs. He requested and was granted a meeting with various senior members of NSW Police in early April 2004.

The Commission's investigation examined what occurred during that meeting.

For the purposes of its investigation, the Commission held private hearings with Mr Noad and the involved officers, Deputy Commissioner David Barry Madden, then Acting Commissioner of Police, Superintendent David John Owens, Acting Chief of Staff to Mr Madden, Assistant Commissioner Robert James Waites, Commander of the Inner Metropolitan Region, Assistant Commissioner Peter Charles Parsons, Commander of the Northern Region, Superintendent David Edwin Swilks, Chief of Staff to Mr Parsons.

The Commission presented a report to Parliament in June 2005 in which it expressed the opinion that police misconduct had occurred in the failure of Deputy Commissioner Madden to manage the meeting so as to remove any foreseeable risk of damage to police investigations or breach of the Interception Act, and the disclosure by Assistant Commissioner Parsons and Deputy Commissioner Madden of information obtained by interception of a telecommunications service. The Commission recommended that consideration be given to both the prosecution of Deputy Commissioner Madden and Assistant Commissioner Parsons for an offence contrary to subs 63(1) of the Interception Act and the taking of reviewable action against both officers within the meaning of s 173 of the *Police Act 1990*.

On 8 June 2005, the Commission also wrote to the Commissioner of Police and noted that existing police procedures for the handling of telecommunications intercept (TI) material were not examined at length during its investigation. It was further noted, however, that the Commission was concerned by evidence brought before it indicating a failure to protect interception material in the hands of senior officers. The Commission requested an outline of the measures currently in place to ensure that NSW Police handles all material originating from interceptions in compliance with the Interception Act together with advice regarding such measures which have been or will be reviewed or amended in the light of the allegations considered in Operation Vail.

A response was received from the Commissioner of Police on 3 August 2005 and is currently being evaluated.

The Commonwealth Director of Public Prosecution advised in September 2005 that criminal proceedings should not be commenced against Deputy Commissioner Madden or Assistant Commissioner Parsons.

Public hearings in Wagga Wagga as part of investigation into possible serious police assault & planting of evidence – *Operation Whistler*

Key Points

The Commission conducted an investigation into allegations that police officers from Wagga Wagga used excessive force, causing extensive injuries, during an arrest, planted evidence at the crime scene, and gave untruthful evidence in the Local Court proceedings. Public hearings were held in Wagga Wagga. This is the first time that the Commission has held hearings outside Sydney.

Operation Whistler commenced in August 2004 following the referral of information to the Commission by Magistrate W Pierce. The matter arose out of an incident in February 2003 when NSW Police officers in Wagga Wagga commenced a chase of Allan Hathaway after he was seen to be driving an unregistered vehicle. The car chase became a foot chase before Hathaway entered a house to hide from police. He was eventually located and arrested by Constable Christopher Jackson, however in the process Hathaway acquired a number of injuries, including broken bones in his face and one arm. He required emergency surgery and was transferred to Albury Base Hospital where he was hospitalised for several weeks as a result of his injuries.

Following Hathaway's arrest police located a knife at the house where Hathaway was apprehended. Hathaway was charged with a number of offences including possessing a weapon to avoid apprehension, breaking and entering a building, assaulting police, resisting arrest and driving offences. When the matter came before the Local Court, in March 2004, Hathaway pleaded guilty to the charges relating to the use of an unregistered and uninsured vehicle, driving whilst disqualified and to one charge of resisting arrest. He was found not guilty in relation to all the other charges.

In his summing up Magistrate Pierce was critical of NSW Police. He said that certain officers had given untruthful evidence, that it was not possible for Hathaway to have received the injuries he did in the manner described in evidence, and that a knife found

5. SUMMARY REVIEW OF OPERATIONS

at the scene was almost certainly planted there by a NSW Police officer. He referred the matter to the Commission.

The Commission held a public hearing over eight days in February and March 2005. The first three days of the hearing were held in Wagga Wagga. This is the first time that the Commission has held hearings outside Sydney and is consistent with the Commission's broader plan to expand its accessibility in regional NSW, as indicated in the 2003-2004 Annual Report.¹⁷

Holding the hearing outside Sydney was a result, in part, of the Commission's aim to improve the level of assurance in the community of NSW that there is vigilant oversight of police. Improving the level of assurance in this way also acts as a further deterrent to serious police misconduct.

The matters examined during the course of this investigation included inquiries into the mechanism of Hathaway's injuries and into the subsequent police investigation of the incident. The investigation exposed poor decision making by senior officers involved in the incident, the failure by all officers at the scene, but particularly the senior officers, to follow basic guidelines for good policing, e.g. failing to secure the crime scene, and the failure to follow correct procedure in relation to the calling of a critical incident.

At the time of writing the Commission was drafting its report to Parliament in relation to this investigation.

¹⁷ *Police Integrity Commission Annual Report 2003-2004*, page 12.

6. TRACKING THE COMMISSION'S RECOMMENDATIONS

Making recommendations to NSW Police is a critical aspect of the Commission's work. It is through recommendations that the Commission:

- proposes changes to – and the development of – policies, procedures and practices to reduce the opportunities for serious police misconduct, improve transparency and accountability, and otherwise deter police from engaging in serious police misconduct
- identifies those officers whom it believes should be considered for disciplinary action, and
- identifies those officers it believes should be subject to disciplinary action

This section of the Annual Report provides:

- an evaluation of the response of NSW Police to the recommendations made in the Commission's report concerning Operation Florida, and
- a progress report in relation to recommendations made prior to the 2004-2005 reporting year.

OPERATION FLORIDA

In June 2004 the Commission furnished its report to NSW Parliament on Operation Florida. As well as finding that 28 current and former officers had engaged in police misconduct, the report made five recommendations in relation to systems and management issues. On 24 September 2004 NSW Police responded to the Commission's recommendations.

Under section 99(2)(c) of the *Police Integrity Commission Act 1996*, the Commission is required to include in each Annual Report an evaluation of the Commissioner of Police's response to the Commission's findings and recommendations.

The following is an assessment of the NSW Police response to the Operation Florida recommendations.

Recommendation 1(a)

The Commission recommended:

... NSW Police give priority to improving technological resources related to Search

Warrants, for example, the provision of smaller and more efficient cameras for use during the execution of search warrants.

The NSW Police response indicates that it supports this recommendation and notes that a working group has been established to consider amendments to NSW Police search warrant procedures. The response further states: that NSW Police is in agreement regarding the value of using smaller cameras during the execution of search warrants; that the working group has endorsed the use of smaller digital video cameras; and that Investigative Systems Support is giving consideration to how NSW Police can best update its video camera technology.

The Commission has informed NSW Police that it welcomes its response. However, it further noted that the recommendation asked NSW Police to consider improvement of technological resources related to search warrants *per se* and that the suggestion regarding the use of smaller cameras was an example only.

The Commission has therefore indicated to NSW Police that it is interested in its views as to whether there are any other improvements in the use of technology that could be applied in the execution of search warrants.

The Commission will liaise further with NSW Police on this issue.

Recommendation 1(b)

The Commission recommended:

... from time to time Local Area Commanders accompany police during the execution of search warrants, and check and / or watch the videos taken during the execution of search warrants, to raise the level of supervision in this area.

The NSW Police response indicates that it does not support this recommendation, noting that the search warrants working group has concluded that it is not reasonably practicable or in any way efficient for Commanders to be compelled to attend the execution of search warrants. It further notes that the working group formed the view that there is sufficient supervision and accountability presently in place within current SOPs, particularly given the

6. TRACKING THE COMMISSION'S RECOMMENDATIONS

requirement that an independent observer attend all search warrants.

While the Commission supports the deployment of independent officers during search warrants, the experience of Operation Florida was that this was not enough on each occasion to prevent corrupt conduct from occurring.

The Commission did not intend that Commanders be compelled to attend on each and every occasion a search warrant is executed by their officers. The recommendation, in effect, leaves the issue of how often Commanders should attend these operations to their own discretion. The purpose of this recommendation was to commend to NSW Police a strategy the Commission believes has value in discouraging corruption associated with the execution of search warrants.

The Commission has indicated to NSW Police that it remains open to alternative strategies that can be demonstrated will achieve the same or similar outcomes. The overriding consideration is that the underlying problem identified by the Commission in its report – based on evidence uncovered by NSW Police – be addressed. In this instance, the Commission believes the issue that requires attention is the level of supervision associated with the execution of search warrants.

At the time of writing the Commission had not yet received a response from NSW Police on this issue. In the absence of any advice from NSW Police proposing a more effective alternative strategy, the Commission maintains the above recommendation ought to be accepted and implemented.

Recommendation 2

The Commission recommended:

... NSW Police put in place a structure and timetable for evaluation of the effectiveness of Duty Officer positions.

NSW Police response states it supports and has implemented this recommendation. The material provided by NSW Police indicates that it has established a project in connection with the deployment of duty officers, the broad aim of which is to design a conceptual model that reaffirms and enhances Inspectors and Chief Inspectors as active participants in command management teams.

The Commission advised NSW Police in its correspondence of 10 May 2005 that its response in connection with this recommendation, while detailed, did not explicitly explain how the project would evaluate the effectiveness of the position of Duty Officer – a key aspect of the recommendation. It further noted that the Commission's specific interest lay in the evaluation of the extent to which supervisory accountability is operating at this level.

On 19 August 2005 representatives of the Commission met with NSW Police staff involved in the project. The Commission has been informed that a trial of a new model for the duty officer position is currently in train and will conclude in November 2005. The advice from NSW Police is that the review will consider the effectiveness of the duty officer positions. Following the conclusion of the review, the Commission will be in a better position to determine the extent to which it has implemented its recommendation.

The Commission will continue to liaise with NSW Police in connection with the duty officer review project.

Recommendation 3

The Commission recommended:

... that NSW Police put in place an evaluation timetable for the CMF [Command Management Framework], and the iCMF once it has commenced.

NSW Police indicated in its response that it supported this recommendation in principle and noted that the Audit Group is constantly auditing how CMF is implemented.

It further indicated that:

Audit Group has kept records of all audits conducted since the mandatory introduction of the CMF in the form of a database called the "Portfolio Risk Analysis of Commands." It would be possible to interrogate this database to access the extent to which "compliance" has increased based on the state-wide average results. This type of evaluation of the CMF could be completed within three months.

At this stage, the Audit Group is currently considering how a more extensive evaluation of the CMF could be conducted on a statewide basis as recommended by the Commission. However, given the changing nature of the CMF, it has not yet been possible to determine how such an

evaluation could be achieved. Accordingly, Audit Group has not yet determined a structure and timetable for any such evaluation. NSW Police will provide further information to the Commission regarding evaluation of the CMF when available.

In correspondence with NSW Police on 10 May 2005, the Commission noted that if an evaluation of the CMF were to go ahead, the Commission would be interested in learning:

- the extent to which commands have met an acceptable standard for identifying corruption risks they face through their operations
- whether or not NSW Police has developed to an acceptable standard a plan to manage identified risks
- the extent to which the practice in each command conforms to the agreed corruption risk management plan
- the extent to which the Executive receive timely and sufficiently specific reporting of the satisfactory risk management performance of each command, and
- the extent to which the Executive ensures that command-specific action is taken to address risk management performance issues identified in commands.

On 28 July 2005, representatives of the Commission met with officers from the NSW Police Audit Group. At the time of writing liaison was continuing between the Audit Group and the Commission in relation to this recommendation.

Recommendation 4

The Commission recommended:

To ensure the ongoing transformation of its culture NSW Police must continue to actively embrace an ethos emphasising the importance of compliance with proper procedures and the use of proper investigative methods. The Commission recommends that the training of officers, both on entry to NSW Police and thereafter, emphasises both compliance with police procedures and the use of proper investigation methods to achieve results. Such training must be enforced and reinforced at the operational level by appropriate supervision.

It is noted that, as part of a separate exercise, the Commission wrote to NSW Police in February 2005 concerning the strategic change program in NSW

Police. That correspondence seeks advice from NSW Police regarding the apparent absence of reporting by NSW Police in its 2003-2004 Annual Report concerning a number of reform related initiatives.

The Commission is continuing to liaise with NSW Police regarding this recommendation.

OPERATION ACER

The Commission has provided information on this investigation in the section concerning the Summary Review of Operations.

In November 2004, the Commission formally recommended to the NSW Police that an officer who had come to attention in the course of this investigation be considered for removal under 181D of the *Police Act 1990* or, failing that, reviewable action under section 173 of the same legislation.

At the time of writing, NSW Police had not completed its assessment of this matter and is awaiting legal advice before determining whether to proceed.

OPERATION BANGKOK

Last year the Commission reported that there were seven recommendations made in its report on Operation Bangkok (December 2000), all of which were supported or supported with a satisfactory variation by NSW Police, and were awaiting one action before they could be finalised, namely the publication of amendments of the NSW Police Handbook.

In February 2005, the Commission received correspondence from NSW Police advising that the amendments to the Handbook had been completed.

The Commission now regards this matter as closed and these recommendations as implemented.

PROJECT DRESDEN II

In June 2003 the Commission tabled the report on Project Dresden II, the second audit of the quality of NSW Police internal investigations. Project Dresden II involved both quantitative and qualitative examination of NSW Police management (including investigation) of more than 400 complaints of serious police misconduct over the period from July 1998 to June 2001.

6. TRACKING THE COMMISSION'S RECOMMENDATIONS

The Commission made eleven recommendations in this report aimed to improve the effectiveness and quality of NSW Police internal investigations.

The response of NSW Police to the Commission's recommendations in this report were reported in detail in last year's Annual Report. The purpose of this section is to provide further updates and information that was not available for last year's Annual Report.

NSW Police reported in correspondence received by the Commission on 23 August 2005 that 4 recommendations (that is, numbered recommendations 1, 8, 10 and 11) had been implemented. Updates were provided for the remaining recommendations.

Recommendation 2

The Commission recommended:

Evaluating the effectiveness of the risk assessments carried out by Complaint Management Teams (CMTs) in detecting the associations between the Investigators and Involved Officers of Category 1 complaints. It is recommended that this evaluation should occur twelve months after CMTs are made mandatory.

Carrying out research to examine how often Investigators notify their supervisors of a conflict of interest in their investigation, what types of conflict are notified, and how they are dealt with.

The Commission noted last year that NSW Police was trialling a new process for the evaluation and management of conflict of interest risks with regard to complaint investigations. The process is called the Complaint Allocation Risk Appraisal (CARA).

NSW Police completed an evaluation of CARA in late 2004. However, following consultation with the Commission and the Ombudsman, it was agreed that a further evaluation of CARA focussing on the effectiveness and reliability of the decision-making tools was required. The Commission, together with the Ombudsman's Office, is participating in the review process. At the time of writing the review of CARA II had not been completed.

In terms of status, this matter is awaiting implementation.

Recommendation 3

The Commission recommended:

Including a specific reference in the Investigation Risk Assessment that an officer must be of at least the same rank as that of the Involved Officer to be investigated.

The NSW Police has in its correspondence of August 2005 restated its view that the introduction of Complaint Management Teams, given that they perform the role of complaint investigator and act as the owner of the complaint, implements the principle of this recommendation. NSW Police indicated that CMTs ensure that rank-related conflict of interest is not able to impact upon complaint investigations.

As indicated in last year's Annual Report, the Commission accepts there are some circumstances where rank parity is either unnecessary or impractical. In consultation with NSW Police regarding implementation of this recommendation the Commission raised the possibility of alternative measures which would ensure rank parity in the bulk of cases while allowing for such exceptional circumstances; for example by requiring such circumstances to be documented or by allowing oversight agencies the opportunity to express any concerns regarding rank parity for any given investigation.

The Commission has not altered its position and considers rank parity – in all but exceptional circumstances – as being a reasonable and responsible measure in ensuring the integrity of complaint investigations.

The Commission regards this recommendation as not implemented. No further reporting will be made on this recommendation.

Recommendation 4

The Commission recommended:

Closely monitoring the compliance rate of the submission and approval of investigation plans for Category 1 complaints.

Evaluating whether or not the 7 day timeframe for investigation plans is appropriate.

Using c@ts.i to record whether or not investigation plans are being submitted and approved for Category 1 complaints.

6. TRACKING THE COMMISSION'S RECOMMENDATIONS

The NSW Police response indicates that, amongst other things:

- the CMT policy requires CMTs to manage complaints in a timely manner overall (without specific reference to investigation plans)
- the submission of an investigation plan is required for complex investigations
- the timeliness review conducted by Professional Standards Command is relevant to the recommendation.

The Commission strongly supports the use of investigation plans as a means for strengthening and maintaining the quality and accountability of NSW Police complaint investigations. The Commission accepts the NSW Police response that CMTs need to manage the timeliness of complaint investigations as a whole, as opposed to the discrete subsections of investigations, such as the preparation and submission of plans. The Commission also accepts that investigation plans are appropriate for complex investigations but may not be required for inquiries considered to be simple or straightforward. While not wanting to be prescriptive, the Commission's expectation would be that in all but exceptional circumstances, investigation plans would be prepared for evidence-based investigations, particularly those where reviewable management action or criminal charges are a possibility.

The Commission accepts the NSW Police response and considers this recommendation has been satisfactorily addressed.

Recommendation 5

The Commission recommended:

The mandatory supply of an Involved Officer's complaint history to the Investigator/s responding to the Category 1 complaint, unless there are exceptional circumstances. Such circumstances should be documented.

In most circumstances if a CMT considers it inappropriate to release such information to the Investigator, then the complaint should be re-assigned to another Investigator.

Incorporating into their manual on internal investigations, that a core responsibility of an Investigator is to consider the entire complaint history of the Involved Officer/s they are investigating.

NSW Police has shifted its position on this recommendation a number of times. In the 2003-2004 Annual Report the Commission noted that the NSW Police initially supported this recommendation but that subsequently it had altered its view and had informed the Commission that the release of a subject officer's complaint history was at the discretion of the relevant CMT.

In its August 2005 correspondence to the Commission, NSW Police advised that it had released a state-wide complaint practice note which stated that:

In all circumstances the subject officer's complaint history should be examined during the complaint assessment process ... it is only in exceptional circumstances that an investigator should not be provided with a complaint history. If the complaint history is not provided the CMT must record their reasons for that decision in the CMT meeting minutes.

In view of the fact that this advice has been promulgated throughout the agency, the Commission regards it as NSW Police's final and settled position on the subject.

The Commission regards the status of this recommendation as implemented.

Recommendation 6

The Commission recommended:

Developing a means to measure and monitor the involvement of Professional Standards Managers and supervisors in Category 1 investigations, and what effect their involvement has upon Category 1 investigations.

The NSW Police response from August 2005 reports that since the Commission made its recommendation in June 2003 the role of Professional Standards Managers has changed and that the significance of the role played by CMTs in the management and conduct of complaint investigations has been enhanced.

The Commission acknowledges that the recommendation, in the manner in which it was framed, is unable to be implemented due to these changes. However, the Commission notes that more than three years has elapsed since the Commission's report on Project Dresden was published. It seems that earlier steps could have been taken to action this recommendation. Additionally, as with many

6. TRACKING THE COMMISSION'S RECOMMENDATIONS

recommendations made by the Commission, Recommendation 6 from Dresden II was designed to achieve outcomes not necessarily constrained by the particular structure or arrangements of the day. In the case of Recommendation 6, the Commission was keen that NSW Police ensure that it is on a state wide basis able to monitor and measure the effectiveness of the supervisory systems for complaint investigations. That the responsibility that once resided with line supervisors and Professional Standards Managers has been migrated to CMTs is not critical to the recommendation being actioned.

If NSW Police believes a recommendation is flawed in principle, or not able to be implemented for some other reason, then consultation and discussions between the two agencies need to centre on those things. However, in cases where a discrete and discernible responsibility has been shifted, the Commission's expectation would be that its recommendation, in consultation with the Commission, be tailored and modified accordingly. For these reasons, the Commission believes that NSW Police should consider the application of Recommendation 6 to CMTs.

Recommendation 7

The Commission recommended:

Evaluating the effectiveness of recent changes made concerning the provisions of sections 181D and 173(2) of the *Police Act 1990*.

In particular, assessing the ongoing validity of the Decision Making Framework and the Benchmarking Tool, and the extent to which they are being applied by Investigators and Complaint Management Teams when making recommendations.

The NSW Police has advised that this recommendation has been supported but that it has not yet been implemented due to the need to develop new procedures with regard to management action and some structural changes within the Professional Standards Command.

The status of this recommendation, therefore, is awaiting implementation.

Recommendation 8

The Commission recommended:

A review of the policies and practices used at this early stage of the complaint handling process [ie period from receipt of complaint to initiation of complaint on c@ts.i and up until the date of allocation of investigator], to discover what is causing delays. The review should develop strategies for improving timeliness, such as setting benchmarks and timeframes and assessing whether or not c@ts.i has the appropriate measures in place to assist with the timeliness of this stage of the complaint handling process.

NSW Police has conducted its review in connection with timeliness. The Commission was consulted in relation to this and provided comments and input.

The Commission now regards this recommendation as implemented.

Recommendation 9

The Commission recommended:

Conducting a review of the timeframes of Complaint Management Teams, Local Area and Region Commanders signing off Investigator's Final Reports for submission to the Ombudsman, and implementing measures to alleviate delays.

In its response of August 2005 NSW Police indicated that the Commander, supported by the CMT, manages the entire process of complaints, including the submission and signing off of investigator's reports. It further noted that NSW Police will be assessing a Commander's complaint management performance through formal performance agreements.

While not yet implemented the Commission welcomes this initiative. It notes, however, performance measures that relate to this issue need to be linked with agency-wide and Commissioner's Executive Team (CET)-endorsed standards.

The Commission regards the status of this recommendation as awaiting implementation.

Recommendations 10 & 11

Both recommendations 10 and 11 have now been implemented. The Commission requires no further action in relation to these two matters.

OPERATION MALTA

The Commission's report concerning Operation Malta was tabled in January 2003. One of the recommendations from that report (Recommendation 1) was that NSW Police review and amend its international (in-bound) secondment policy.

The Commission noted in its last Annual Report that the Commissioner or Police had authorised the establishment of a secondment unit and that the NSW Police was to review its secondment policies in the latter part of 2004.

In its August 2005 progress report on the implementation of recommendations, NSW Police reported that Human Resource Services had completed a review of the international (in-bound) secondment policy and found it to be adequate to meet the needs of NSW Police.

The Commission is satisfied with this response and considers no further reporting is required from NSW Police in connection with this recommendation.

7. COMPLAINTS ACTIVITY

The Commission receives complaints from NSW Police and the Ombudsman (known as referred complaints) and from a range of other sources (non-referred complaints) as set out in the following table.

The consideration of each complaint is conducted in two parts. The first part is concerned with whether the complaint is a Category 1 complaint as defined by the agreement between the Commission and the Ombudsman. The current agreement defines a Category 1 complaint as:

- A. A complaint that a police officer has or may have sought or may seek to pervert the course of justice by giving false evidence, by destroying or interfering with evidence, by withholding or refraining from giving evidence, by fabricating evidence or by influencing another so to act.
- B. A complaint that a police officer has or may have committed or may commit
 - (i) an assault which has caused or may cause a serious injury and which could lead to a charge of maliciously wounding or inflicting grievous bodily harm upon a person pursuant to section 35 of the *Crimes Act 1900*; or
 - (ii) an offence (including larceny) relating to property where the value exceeds \$5000; or
 - (iii) any offence (other than assault occasioning actual bodily harm) punishable on conviction on indictment by a maximum sentence of imprisonment or penal servitude for five years or more.
- C. A complaint that a police officer has or may have solicited or accepted, or may solicit or accept, a benefit for himself/herself or for another in return for failing to carry out his/her duties.
- D. A complaint that a police officer has or may have sought or may seek to interfere improperly in the investigation by another police officer of an alleged offence.
- E. A complaint that a police officer investigating an offence alleged to have been committed by another police officer has or may have improperly failed to carry out, or may improperly fail to carry out, his/her duties in the course of that investigation.

- F. A complaint that a police officer has or may have manufactured, or may manufacture, a prohibited drug, cultivated or may cultivate a prohibited plant, or supplied or may supply a prohibited drug or a prohibited plant, unless the amount or number of such drug or plant is less than the indictable quantity therefore as specified in the *Drug Misuse and Trafficking Act 1985*.

The second part is concerned with whether the Commission ought to activate an investigation into the allegations. Complaints that do not reach the threshold of a Category 1 complaint are generally referred to NSW Police pursuant to sub-section 131(1)(b) of the *Police Act 1990* and are dealt with in the same manner as complaints from other sources.

During the reporting year, the Commission assessed a total of 994 complaints. Of these, 626 were determined to be Category 1 complaints and 368 were determined to be Category 2 complaints. The types of allegations raised in the 626 Category 1 complaints are shown in Figure 1¹⁸. Figure 2 indicates the decisions made regarding these Category 1 complaints. Both figures also contain, for comparison, the corresponding numbers for the previous reporting year.

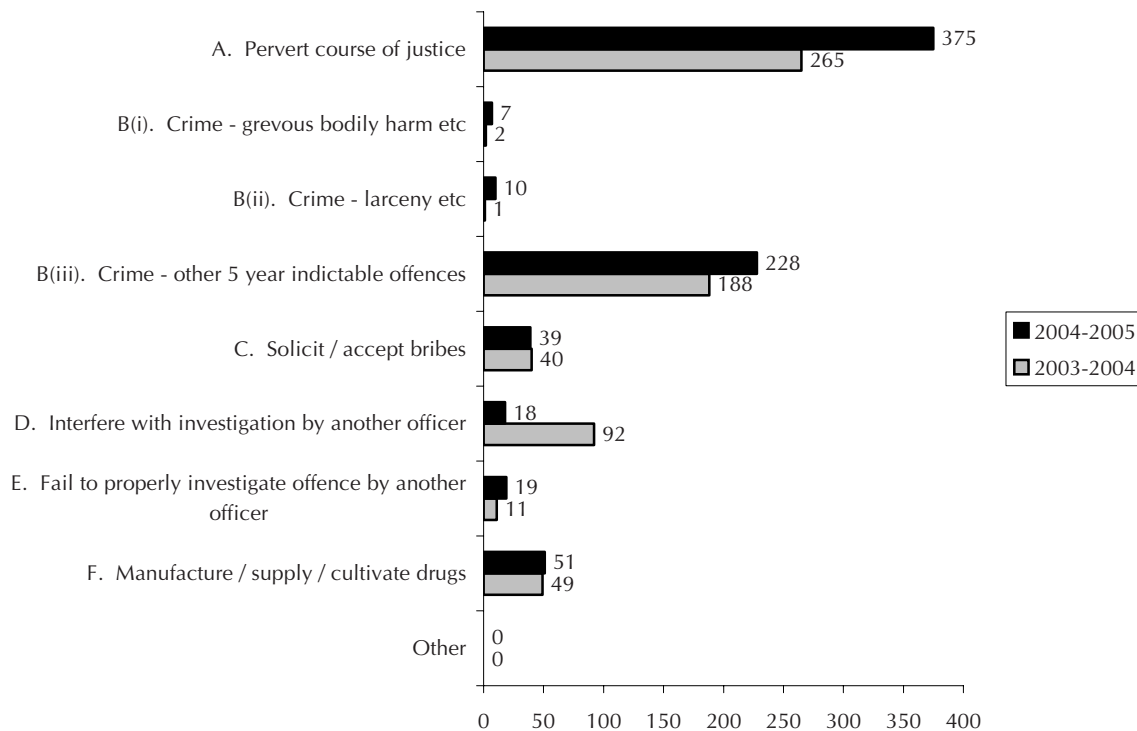
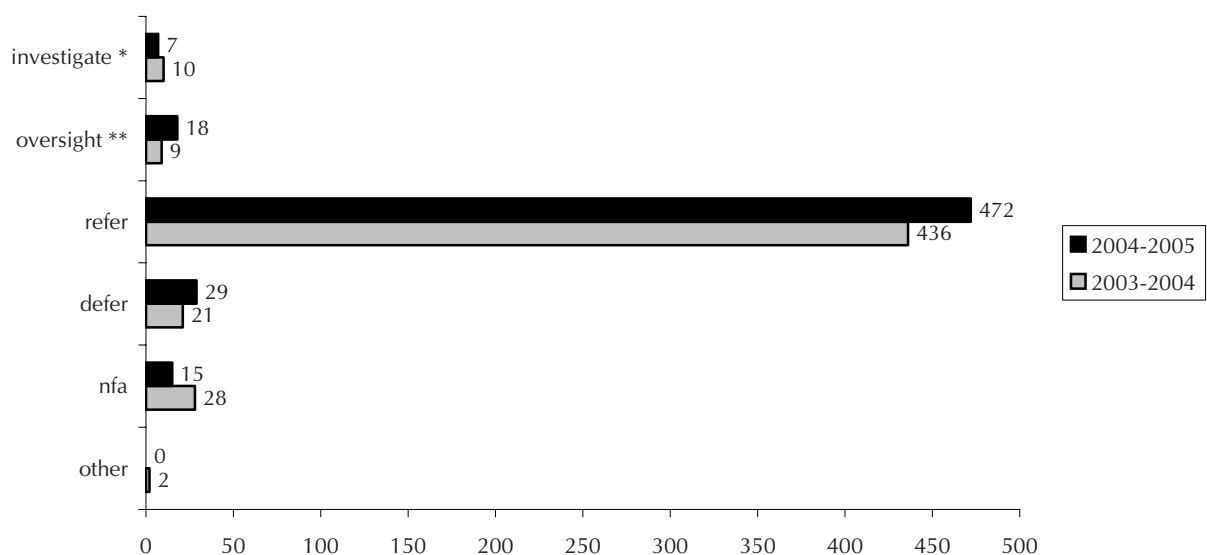
During the reporting year the Commission continued to access complaints registered by NSW Police on its Customer Assistance Tracking System (c@ts.i). The proportion of the types of allegations raised in Category 1 complaints are similar to those of the previous reporting year. Seven (7) of the complaints assessed were under investigation during the reporting period, some of which were continuing as at 30 June 2005. A further 18 were oversighted. Consistent with previous years, the majority of Category 1 complaints were referred to the Ombudsman to be dealt with in accordance with Part 8A of the *Police Act 1990*.

¹⁸ The total number of allegations is much higher than the total number of Category 1 complaints because one complaint may contain more than one allegation.

7. COMPLAINTS ACTIVITY

Source of Complaints Assessed

SOURCE	July 2004– June 2005	July 2003– June 2004
Referred	596	525
NSW Police	529	478
Ombudsman	51	43
Both NSW Police & Ombudsman	16	4
Non-referred	384	303
Anonymous	53	54
AUSTRAC	0	0
Australian Crime Commission	1	
Australian Federal Police	0	1
Crime & Misconduct Commission (Qld)	0	1
Independent Commission Against Corruption (ICAC)	5	4
Legal Aid NSW	0	1
Legal Practitioner	11	8
Member of Clergy	0	1
Member of the Judiciary	3	2
Member of NSW Parliament	13	3
Member of Parliament & Anonymous	0	1
Member of Parliament & Police Officer	0	0
Member of Public	281	209
Ministry for Police	2	3
NSW Crime Commission	0	1
NSW Department of Health	1	
NSW Lotteries	0	1
Office of the Director of Public Prosecutions NSW	1	2
Police Integrity Commission	0	0
Police Officers / NSW Police employees	13	10
Premier's Department	0	1
Queensland Police	0	0
Roads & Traffic Authority NSW	0	0
Referred & Non-Referred	14	5
NSW Police & Anonymous	0	0
NSW Police & ICAC	1	
NSW Police & Insurance Company	0	0
NSW Police & Judiciary	0	1
NSW Police & Legal Practitioner	1	
NSW Police & Ministry	0	0
NSW Police & Member of Public	6	0
Ombudsman & Anonymous	0	0
Ombudsman & ICAC	1	0
Ombudsman & Legal Practitioner	1	0
Ombudsman & Police Officer	0	1
Ombudsman & Member of Public	4	3
TOTAL	994	833

Figure 1: Types of Allegations Raised in Category 1 Complaints - 2004-2005 and 2003-2004**Figure 2: Decisions Made Regarding Category 1 Complaints 2004-2005 and 2003-2004**

* The 7 matters investigated included two complaints that were determined to be Category 2.

** The 18 matters oversighted included six complaints that were determined to be Category 2.

8. INITIATIVES / OTHER ACTIVITIES

INTER-AGENCY RESEARCH COMMITTEE – DEVELOPMENT OF EARLY WARNING SYSTEM

The Inter-agency Research Committee was established in January 2003 and included representation from the Ombudsman, NSW Police and the Commission. The Committee met on four occasions in 2004-2005, principally in relation to the development of an Early Warning System in relation to police misconduct. Throughout the year the Commission provided detailed written advice regarding issues relating to both the project to develop the system and the system itself, including planning, methodology, purpose and scope.

In 2004-2005 – and in previous years – the Commission voiced its support for the establishment of an Early Warning System in NSW Police as a potentially valuable component of an agency-wide corruption risk management plan. Accordingly, the Commission was prepared to invest its resources in providing input at key stages in the life of the project.

In May 2005, the Commission was informed NSW Police intended the Commissioner's Executive Team (CET) consider a recommendation for deferral of development of the Early Warning System in favour of a separate process - Officer Risk Assessment Process (ORA). Two of the reasons provided by NSW Police for deferring its work on the Early Warning System were possible high costs and complications associated with the Mainframe Replacement Project. In a letter to the Acting Commissioner of Police on 20 May 2005, the Commission stated:

Having been involved in the process of the research and development of the Early Warning System for more than two years at the recommendation of its Parliamentary Joint Committee the Commission is concerned about the process that has led to the PSC proposing that the Early Warning System be deferred in favour of another risk management process. Principally, in the absence of agency-level corporate requirements stemming from strategic-level objectives regarding corruption prevention, there does not appear to be a sound or reasonable basis for considering the merits of one risk management system over another.

One of the principal reasons PSC has proposed that consideration of the Early Warning System be deferred is that the NSW Police IT environment will

be undergoing some changes as a result of the Mainframe Replacement Program (MRP). During the meeting of 5 May, it was noted by PSC staff that any Early Warning System that is developed in the present context would be problematic given that the IT systems are going to change. The Commission would take the view, however, that the impending changes to the Mainframe represent an opportunity as opposed to an impediment. It would seem timely that at this stage in the planning process NSW Police seek to integrate its strategic requirements for corruption prevention with its other high level requirements for the MRP...

...

The Commission believes that any decision about costs in relation to the Early Warning System should follow on from, firstly, a decision as to whether or not the system would be desirable and would meet the agency's strategic level corruption prevention requirements and, secondly, a structured and formal costing process. Of course the same can be said about the proposed ORA process. The Commission urges NSW Police to consider the issues in more depth before reaching a concluded view.

...

In response to this letter, CET deferred consideration of the recommendation. Further discussion is to occur and a final decision by NSW Police is yet to be made.

The Joint Research Committee has not met since May 2005.

DISCHARGE OF POLICE FIREARMS

The Commission receives notification of each occasion where a police officer discharges his or her firearm, irrespective of whether any person is injured or dies as a consequence of the discharge. The arrangements set in place for notification do not extend to firearms training or the destruction of animals where there is no injury or death occasioned to any person. The Commission received two discharge of firearm reports from NSW Police during the reporting period which were considered and finalised. No further action was required by the Commission.

DEATHS IN CUSTODY

The Commission did not receive any reports from NSW Police concerning deaths in custody during the reporting year.

POLICE CORRUPTION EDUCATION AND PREVENTION PROGRAMS

One of the Commission's functions under s14(c) of the Act is:

...to make recommendations concerning police corruption education programs, police corruption prevention programs, and similar programs, conducted within NSW Police or by the Ombudsman or the Independent Commission Against Corruption for NSW Police.¹⁹

From time to time the Commission makes recommendations concerning police corruption education and prevention programs in its reports to Parliament.

Additionally, the Commission reports its performance in its education and corruption prevention role in terms of the number of occasions on which staff members participate in education or prevention programs or discussion panels, or make special presentations on these subjects.

During the year, Commission staff attended a total of 38 such sessions, including:

- Presentations on professional standards and detective training courses held at Police Colleges and a number of NSW country centres.
- Meetings with NSW Police to discuss and resolve issues associated with corruption prevention, including matters arising from Commission Investigations and Reports, NSW Police policy and procedures and associated internal reviews.
- Meetings with senior police staff concerning proposed changes in drug policy in respect of Operation Abelia.

LEGISLATIVE MATTERS AND LAW REFORM

During the reporting year, there were a number of legislative reviews and initiatives of significance to the Commission's functions. These matters are discussed in Appendix 3.

PRACTICE GUIDELINES AND PRACTICE NOTES

In July 2004, the Commission adopted and published a set of Practice Guidelines and Practice Notes to guide and inform the public and legal practitioners about the nature of its functions, powers and practices.

The Guidelines and Notes deal in detail with:

- the nature and functions of the Commission
- the exercise of discretionary and coercive powers, including the discretion to hold public or private hearings and the abrogation of privileges
- the conduct of hearings and appearances and legal representation
- the concepts of evidence, relevance and admissibility in relation to a hearing before the Commission, and
- the disclosure of information obtained in the course of its investigations and those of the Royal Commission into the New South Wales Police Service.

The Guidelines and Notes are reviewed and updated yearly, or more frequently as required. They may be accessed through the Commission's website at www.pic.nsw.gov.au, and have also received publication in the legal service *Criminal Practice and Procedure NSW* (RN Howie QC and PA Johnson SC, Butterworths 1998).

INTEGRITY REPORTS

Prior to appointing a person to a NSW Police executive or non-executive police officer position, the Commissioner of Police is required to make enquiries concerning the integrity of the person with the Commission. The Commission is required to furnish an integrity report on the basis of the information available to it and without the need for any special investigation or inquiry. The Commissioner of Police

¹⁹ *Police Integrity Commission Act 1996*.

may inquire as to the integrity of a person proposed for appointment to a NSW Police non-executive administrative position. The Commission is authorised, but not required to furnish a report in relation to such an enquiry. In all cases, the Commissioner of Police is required to have regard to the contents of any report provided by the Commission, as well as any other information that comes to the Commissioner's attention as to the person's integrity.

During the reporting year, the Commission provided reports in response to 728 inquiries received from NSW Police regarding the integrity of officers nominated for appointment, compared with 829 the previous year.

The Commission also provided reports in response to 23 requests from NSW Police regarding the integrity of officers for reasons other than that of consideration for promotion, and provided 92 responses to requests from other agencies considering current or former NSW Police officers for employment.

CRIMINAL ASSETS RECOVERY ACT 1990

Under the *Criminal Assets Recovery Act 1990*, the Supreme Court may order the payment of money assessed as the value of proceeds derived from illegal activities, or order the forfeiture of property acquired by serious crime related activities. During the reporting year, the Commission concluded confiscation proceedings arising from its Operation Cobalt investigation, discussed in Section 5 of this report. In accordance with its statutory obligations, the Commission reports the following:

PROCEEDINGS UNDER <i>CRIMINAL ASSETS RECOVERY ACT 1990</i>		
Name	Assets forfeited	Proceeds Ordered
Christopher John LAYCOCK	—	\$38, 433

WITNESS ASSISTANCE

Persons assisting the Commission in its investigations, whether members of the general public or serving NSW Police officers, are an important resource in the detection and investigation of serious police misconduct.

The Commission may make arrangements to ensure the safety of these persons, and to protect them from

intimidation and harassment as a result of their assistance to its inquiries. Where necessary, the Commission engages in consultation with specialist witness protection agencies to better ensure the safety and well-being of its witnesses and other persons who have been of assistance.

RESPONSE TO SUBPOENAS

Subpoenas are frequently directed to the Commission purporting to require the production of documents or divulging of information acquired in the exercise of its functions.

Section 56(2) of the Act enjoins an officer of the Commission (or other person to whom the section applies) from divulging or communicating to any person any information acquired by the officer by reason of, or in the course of, the exercise of their functions. Officers of the Commission (or other person to whom the section applies) cannot be required to produce documents in or give evidence to any court unless:

for the purposes of a prosecution, disciplinary proceedings or proceedings under Division 1A or 1C of Part 9 of the *Police Act 1990*, arising out of an investigation conducted by the Commission in the exercise of its functions.

Where the Commission is served with a subpoena falling outside these exceptions, the issuing party is informed of the provisions of s56(3), and invited to make application for the disclosure of any relevant information pursuant to the dissemination provisions of s56(4)(c).

SECTION 56(4) DISSEMINATIONS

The Act imposes stringent secrecy requirements upon officers of the Commission with regard to information acquired in the exercise of the Commission's functions.

The disclosure of information for purposes other than the exercise of the Commission's functions, or otherwise than in accordance with a provision of the Act, is governed by s56(4)(c) of the Act. This provision commonly provides the basis for an officer of the Commission to disclose information to members of the general public and bodies in respect of which it has no direct power of disclosure under the Act, provided the Commissioner certifies that it is "necessary to do so in the public interest".

8. INITIATIVES / OTHER ACTIVITIES

To assist in the process of applying for the release of information under s56(4)(c), the Commission has published comprehensive guidelines as part of its Practice Guidelines. The Practice Guidelines and an application form may be downloaded from the Commission's website at www.pic.nsw.gov.au.

STAKEHOLDER AND EXTERNAL RELATIONS

General nature and extent of information provided under the Act

During the reporting period, regular liaison occurred with the Ombudsman, the ICAC, the NSW Crime Commission, NSW Police and other police agencies in regard to the exchange of relevant information, coordination of activities in respect of common responsibilities and/or in undertaking joint investigations. Information disseminated to agencies during the reporting period included relevant investigation information, intelligence and reports concerning matters of interest and complaints or allegations of misconduct.

Types of matters referred to the Commission

Matters referred to the Commission during the reporting period typically related to complaints or allegations of police misconduct, or, to police investigations surrounding which police misconduct had been alleged.

Relations with other agencies

In addition to providing relevant information, as described above, the Commission also provided assistance to the ICAC during the reporting period.

The Commission continued to maintain relations with a range of local and international police and other agencies, particularly in regard to the Commission's Operation Abelia.

Presentations were provided to, or discussions held with representatives from local and international agencies and from government including:

- Chief Examiner - VicPol
- UK Independent Police Complaints Commission

- UK Director of Public Prosecutions
- Victorian Ombudsman
- Commission for the Eradication of Corruption (KPK) - Republic of Indonesia
- Chairman Royal Commission to Enhance the Operation and Management of the Royal Malaysia Police
- Parliamentary Crime & Misconduct Committee - QLD
- National Counter Corruption Commission of Thailand
- Secretary of State – Cambodia
- Victoria Police Minister
- Victoria and NT Police.

SIGNIFICANT COMMITTEES

Operations Advisory Group

The Commissioner²⁰, Director Operations, Director Intelligence & Executive Services and the Executive Officer (Mr James Slater) met fortnightly and as required to consider the status, direction and priorities for investigations and projects.

Commission/Professional Standards Command Weekly Liaison Meeting

The Commissioner, the Director Operations and the Commander of NSW Police Professional Standards Command met weekly to discuss matters relevant to the functions of both the Commission and the Command.

Police Complaints Case Management (PCCM) Inter-Agency Executive Forum

The Director Intelligence & Executive Services represents the Commission on this Committee, which is chaired by NSW Police. The Forum is to meet on an *ad hoc* basis in order to resolve high level policy

²⁰ The names of the Commissioner and executive level officers are included in Section 4. Names of officers are reported only where their positions first appear in this section.

issues relating to, and to oversight the progress of, sub-projects included in the PCCM.

Protected Disclosures Act Implementation Steering Committee

The Protected Disclosures Act Implementation Steering Committee was established by the Premier, following the enactment of the *Protected Disclosures Act 1994*, to develop strategies to implement that Act more effectively across the NSW public sector. The Steering Committee is comprised of representatives from the ICAC, the Office of the Auditor General, the Ombudsman, the Cabinet Office, the Department of Local Government, NSW Police, the Premier's Department and the Commission. The Commission is represented by the Manager of Assessments & Reports (Mr Peter Barnett). The Steering Committee met on three occasions during the year.

Smaller Agency CEOs Executive Committee

This Committee meets to exchange ideas and to discuss issues faced by small agencies. The Committee is attended by representatives from the Premier's Department, the Police Ministry and other organisations. The Commissioner is the Commission's representative on this Committee.

Internal Audit Committee

The Internal Audit Committee considers and reports on matters affecting the proper management of the Commission, including:

- internal controls and financial reporting
- external audits and reports
- implementation of approved recommendations
- fraud control
- risk management
- compliance with legislation.

The Committee meets quarterly and is comprised of the Executive Officer, Manager of Assessments & Reports, Manager Security (Mr Kevin Gaddes), Information Manager (Ms Julie Wynn) and Manager of Finance & Administration (ex-officio – Mr Ian McDonald) and an external member, Director and

Solicitor to the NSW Crime Commission (Mr John Giorgutti)

Security Committee

This Committee is responsible for ensuring the Commission's compliance with Australian Standard AS7799 concerning information security and developing an Information Security Plan and Risk Management program. The Committee meets bi-monthly and is comprised of the Executive Officer, the Manager Security, the IT Security Advisor (Mr Dean Wallace) and Information Manager.

Information Systems Steering Committee

The Information Systems Steering Committee (ISSC) considers issues relating to the management of Commission information and the systems that support it. The ISSC replaced the former Systems User Group. The ISSC generally meets fortnightly and its membership includes the Information Manager, PIC Business Manager (Mr Digby Morrison) and Information Communications & Technology Manager (Mr Bill Sharpe). Major stakeholders in projects carried out by the ISSC, such as the Finance Manager or Manager Telephone Interception, may also attend meetings when required.

9. APPENDICES

APPENDIX 1 – PRESCRIBED ANNUAL REPORTING REQUIREMENTS (STATUTORY AND DEPARTMENTAL)

Industrial Relations

The Commission's Industrial Relations (IR) environment has remained free of any serious disputes for a number of years.

The 2004-05 year saw the drafting and development of Managing Organisational Restructure, Disciplinary Action, Grievance Procedures and Working Hours policies, designed to clearly define the Commission's desire to stay abreast of modern IR practices.

Commission staff are employed on a contractual basis in accordance with s10(2) of the *Police Integrity Commission Act 1996*. Staff are contracted to the Commission for a period of either three (3) or five (5) years.

Personnel Policies

The Human Resources section reviewed, updated, drafted and developed a number of personnel related policies throughout the course of the reporting period. Policies and guidelines were developed for a wide range of leave options available to Commission staff. Other policies, procedures and guidelines updated and developed throughout the 2004-05 year concerned: flexible working hours, stand-down time, managing misuse and abuse of alcohol and other drugs in the workplace, new starters induction and recruitment and selection.

During the second half of the reporting year approval was granted to pursue a formal arrangement with an Employee Assistance Program (EAP) provider, for the benefit of all staff. Through this program the Commission's staff will be able to confidentially access professional assistance for any issues that may be of concern in either their personal or professional life. The program will be available to all staff in the 2005-06 financial year.

Staff Movement

During the 2004-05 reporting year, seventeen (17) new employees commenced employment with the Commission, and, twenty (20) employees ceased employment.

Exceptional Movements in Wages and Salaries

There were no exceptional movements in wages and salaries during the 2004-05 year. Apart from the Commissioner whose salary is set by the Statutory and Other Officers Remuneration Tribunal, all other staff received a 4% salary increase effective after 1 July 2004, in line with the Public Sector employees settlement of claims agreement.

Training and Development

A number of staff members attended relevant external training courses throughout the 2004-05 reporting year. Courses included IT Project Management, first aid, firearms training and effective business writing skills. Four (4) staff members used the Commission's study leave policy to assist in their pursuit of enhanced academic qualifications.

The Commission's commitment to providing development opportunities over the reporting period saw a total of eleven (11) staff members develop skills and gain experience by acting in higher duties positions.

Occupational Health and Safety

During the reporting period, four (4) workplace accidents/incidents were reported, resulting in a single instance of a time loss workers' compensation claim being lodged with a total of eight (8) working days lost. All four (4) reported incidents occurred whilst employees were off-site. One officer suffered a fainting spell. Others suffered minor injuries due to: being struck by a small metal object thrown up by the wheel of a passing motor vehicle, a scrape against a furniture fitting; and, an apparent allergic reaction to a scratch from a plant.

There were no prosecutions under the Occupational Health and Safety Act 2000.

The work of the OH&S Committee continues to be constrained by a turnover in staff representatives on the Committee. A number of OH&S related policies have not progressed beyond the draft stage as a result of the conflicting priorities of Committee members. The Commission is taking steps to encourage more regular participation.

Code of Conduct

The Commission's Code of Conduct remained unchanged throughout the 2004-05 year and its contents continue to be relevant to the Commission. New staff members are provided with a copy of the Code of Conduct during their initial induction into the Commission.

Executive Remuneration – Level 5 and above

The Commissioner for the Police Integrity Commission, Terence P Griffin, is appointed by the Governor pursuant to s7 of the *Police Integrity Commission Act 1996*, and, pursuant to clause 9 of Schedule 1 to the Act, is not subject to the *Public Sector and Employment Management Act 2002*.

The Commissioner's remuneration is set by the Statutory and Other Officers Remuneration Tribunal, which, for the reporting period, was \$338,430 pa. As the holder of an independent public office, the Commissioner is not subject to an annual performance review, and is responsible to Parliament in the performance of the functions of the office.

During the reporting year no persons were employed by the Commission in executive positions under the *Public Sector and Employment Management Act 2002*.

With the exception of the Commissioner, all members of the Commission's Executive, whose names are shown in section 4 of this Report, were employed under a private contract, the terms of which provide for regular performance assessment.

Consumer Response

The key services provided by the Commission are:

1. Investigations:

- Investigations into serious police misconduct
- Evidence for prosecutions and disciplinary action
- Public hearings (in the public interest)

2. Research Program:

- Research programs and reports including recommendations for reform on issues associated with serious police misconduct

3. Complaints Management:

- Commission involvement in complaint investigations
- Manage relevant complaint processes.

While some informal suggestions, recommendations or requests are routinely made by other agencies or individuals concerning the Commission's investigation strategies (in the context of joint investigations), or more formally in regard to the content of briefs of evidence (from ODPP), these relate to the specific circumstances of the investigation in question. Such suggestions rarely lead to across the board changes in procedures or other improvements. There were no such changes or improvements during the reporting period.

Complaints of abuse of power, impropriety and other forms of misconduct concerning the Commission and Commission staff are dealt with by the Inspector of the Police Integrity Commission under s89(1)(b) of the Act. All complaints made to the Commission are referred to the Inspector.

As outlined in the 2004-2005 Annual Report of the Inspector of the Police Integrity Commission, the Inspector dealt with 14 complaints relating to the activities of the Commission. Complaints received by the Inspector concerned, amongst other things: an alleged breach of confidentiality; exclusion of a member of the public from Commission premises during hearings being conducted by another agency; and, decisions by the Commission not to investigate matters. All new matters were resolved

by way of preliminary inquiry. No new matter proceeded to full investigation.

Disability Action Plan

A comprehensive review of the Commission's Disability Action Plan commenced in the second half of the reporting year. The focus of the review is on ensuring that the Commission meets legislative obligations and strengthening the existing commitment to the government's Disability Policy Framework.

The objectives of the Commission's Disability Action Plan are to provide clear and uninterrupted access to the Commission's physical environment and to relevant public information. Communication practices, in particular the Commission's information dissemination and complaints handling procedures, are being reviewed with a view to better accommodate the needs of the disabled.

The review of the Commission's Disability Action Plan will be completed in the next reporting period.

Action Plan For Women

The NSW Government's existing Action Plan For Women relies on the principles of equity, access, rights and participation opportunities to provide a framework within which women, particularly women with the least access to social and economic resources, may be provided with appropriate assistance. The main objective of the Action Plan is to provide the basis upon which women have the opportunity to achieve full economic and social participation in NSW society.

The Commission commits to this government initiative by promoting and implementing policies, procedures and practices within the workplace that provide women with equal access to opportunities which enhance their economic and social status.

During the reporting year the Commission reviewed and re-drafted a number of policies which directly affect the opportunities available to women.

A review of the Commission's approach to flexible working hours has given a number of women the opportunity to engage in part-time work and job-share arrangements.

Objective	Results / Plans
An equitable workplace responsive to all aspects of women's lives	<p>A total of 14% of the Commission's female employees are currently employed on approved part-time working arrangements.</p> <p>One female staff member was temporarily transferred from shift-work to a standard work hour position in order to better accommodate family obligations.</p> <p>A total of 62% of the Commission's female staff took advantage of the Commission's FACS leave arrangements on one or more occasions during the reporting year.</p> <p>A combination of extended leave at half pay and leave without pay was also approved for a total of 3 female staff members to accommodate personal needs.</p>
Equitable access for women to educational and training opportunities	<p>Training was provided to 42% of the Commission's female staff. This represents about 38% of all training participants.</p>
Promote the position of women	<p>Women make up a total of 43% of the Commission's workforce. A total of 27% of the Commission's management level positions are held by women and 76% of the Commission's female staff are remunerated at the equivalent of NSW Public Sector Grade 5 or above.</p>

The Commission will continue to promote and implement policies, procedures and guidelines which will provide opportunities for women to find a suitable balance to their personal and professional responsibilities.

Ethnic Affairs Priority Statement

The Commission recognises and upholds the principles of multiculturalism and is committed to the ongoing support of these principles, both within the workplace and in order that the full range of services provided by the Commission be better understood and embraced by all ethnic groups.

Information Packages attached to vacant positions advertised by the Commission, contain details about the Commission's responsibilities in relation to Ethnic Affairs Priority Statements (EAPS).

Throughout this year the Commission has also continued to use interpreters, as required, to assist in dealing with people from Non English Speaking Backgrounds. A new policy focused on improving accessibility for people of Non English Speaking

APPENDIX 1 - PRESCRIBED ANNUAL REPORTING REQUIREMENTS (STATUTORY AND DEPARTMENTAL)

Backgrounds to the Commission's complaints and general enquiries processes has been adopted. The policy allows for the use of audio recordings, video recordings, structured telephone interviews and transcribed face to face interviews, all of which are designed to provide reasonable access to the Commission's services by members of ethnic groups.

During the reporting year, the Commission has continued its program to keep members of ethnic communities informed of the Commission's role and functions within the society. Commission officers have met throughout the year with key members of Non English Speaking Background community

groups to discuss the role of the Commission. Information brochures covering the role and functions of the Commission have been produced in Arabic, Turkish and Vietnamese, and, distributed to NSW Police Ethnic Community Liaison Officers for their use.

The strategy for the forthcoming year is for the Commission to provide appropriate information brochures and services for members of ethnic community groups that have not, thus far, been covered by the Commission's EAPS initiatives.

The Commission's EAPS is outlined in the table below:

Ethnic Affairs Priority Statement

Initiative	Strategies / Tasks	Timeline	Outcomes
Improved access for people from non-english speaking backgrounds (NESB) to services and materials provided by the Commission	1. Ensure brochures, other material produced, and, information services are made available to people from NESB in multi-lingual formats	1. Ongoing as appropriate	1. To reach as many key ethnic groups as possible in order to increase community awareness of the services that the Commission provides
	2. Provide interpreter services as required for witnesses and complainants from NESB	2. Ongoing	2. To provide support to people accessing Commission services, or, appearing before the Commission
	3. Target Information campaigns to Ethnic community groups that have not previously been subject to the Commission's formal attention.	3. Next 12 months.	3. Design & distribute Information brochures & conduct information sessions to raise community awareness of the Commission's role in targeted groups.

Number of Employees

Number of officers and employees by category & comparison to prior three years

	2002	2003	2004	2005
Statutory appointments	1	1	1	1
Executive appointments*	4	4	3	2
Operational staff	67.7	74.8	71.8	74
Support staff	22	22	24	24
<i>Total</i>	<i>94.7</i>	<i>101.8</i>	<i>99.8</i>	<i>101</i>

Equal Employment Opportunity (EEO)

The Commission maintained a commitment to achieving and preserving the key principles of Equal Employment Opportunity in the NSW Public Sector throughout the reporting period. This included developing and encouraging work practices that provided support for the EEO principles of Diversity, Equity and Opportunity.

Of particular significance to EEO principles of Equity and Opportunity is the ongoing review of existing policies and the development of new policies designed to provide for a more family friendly workplace. The Commission introduced working from home arrangements, part-time employment and job-sharing arrangements to facilitate the domestic circumstances of 11% of existing staff members during the reporting period. The Commission adopted a new Grievance Management policy which will ensure that staff grievances continue to be treated in a fair and equitable manner.

Competing priorities resulted in a planned review of the Commission's EEO Management Plan being postponed, however, it is envisaged that the review will be undertaken in the next reporting period. A key aspect of this review will be the development and conduct of an Organisational Climate Survey designed to obtain staff feedback on the current work practices of the Commission.

The size and specialised nature of the responsibilities of the Commission are such that it is not always operationally viable to meet EEO quotas, however, the Commission will continue to be committed to maintaining the key principles of Equal Employment Opportunity in its work practices.

Trends in the Representation of EEO Groups

% of Total Staff ²¹

EEO Group	Bench-mark or Target	2002	2003	2004	2005
Women	50%	46%	44%	46%	43%
Aboriginal People & Torres Strait Islanders	2%	2.30%	1.10%	1%	1%
People whose first language was not English	19%	6%	7%	8%	8%
People with a Disability	12%	7%	6%	4%	6%
People with a disability requiring work-related adjustment	7%	1.20%	1.10%	1.1%	0.9%

Trends in the Distribution of EEO Groups

% of Total Staff ²²

EEO Group	Bench-mark or Target	2002	2003	2004	2005
Women	100	87	81	89	88
Aboriginal People & Torres Strait Islanders	100	N/A	N/A	N/A	N/A
People whose first language was not English	100	N/A	N/A	N/A	N/A
People with a Disability	100	N/A	N/A	N/A	N/A
People with a disability requiring work-related adjustment	100	N/A	N/A	N/A	N/A

²¹ Staff numbers are at 30 June. Excludes casual staff.

²² A Distribution Index of 100 indicates that the centre of the distribution of the EEO group across salary levels is equivalent to that of other staff. Values less than 100 mean that the EEO group tends to be more concentrated at lower salary levels. Values more than 100 indicate that the EEO group is less concentrated at lower salary levels. The Distribution Index is automatically calculated by software provided by Office of the Director of Equal Opportunity in Public Employment. The Distribution Index is not calculated where EEO group or non-EEO group numbers are less than 20.

Plans for Human Resource Policy Development 2005-2006

Comprehensive reviews are planned for the Commission's Disability Action Plan and the EEO Management Plan during 2005-2006.

Information Communication and Technology Management

The completion of the resource-intensive Police Oversight Data Store (PODS) project in 2004 provided the impetus for initiating a comprehensive review of the Commission's IT Branch operation.

The review resulted in the development and implementation of a significant change management program aimed at improving the utilisation of technology and the delivery of services. Key elements of the improvement program are:

- IC&T Team Organisation Structure – restructure of the team and the termination of long-term contractor personnel.
- Governance – the implementation of a formal Governance framework and a Project Management Methodology to improve ICT planning, decision-making, project execution and the performance management of the IC&T team.
- ICT Architecture Management – the establishment of ICT Architecture Management objectives and the development of an ICT Asset management strategy and supporting processes.
- Information Security Standards, Policies and Procedures – the adoption of a revised strategy and program of work aimed at achieving certification against AU/NZS 7799.2, the Information Security Management System standard; this work includes the development and testing of Business Continuity and Disaster Recovery plans with a revised target of 2nd Q 2006 to achieve provisional certification.
- Replacement of the old Telephone system with a modern convergent telephony solution that will deliver improved functionality, position the Commission to lower support costs and take advantage of unified messaging functionality.
- Upgrading of the Commission's front and back office computing environments through the replacement of leased hardware and the migration to standard operating environments based on modern software (eg. Microsoft XP, Office XP, Server 2003, Exchange 2003).
- Upgrading of the network, enterprise server and storage systems to meet projected network capacity, server processing and storage requirements, and to enhance network security and disaster recovery capability.
- A broadening of the Information Systems Steering Committee (ISSC) membership to ensure key stakeholder involvement in the development and execution of the ICT applications enhancement and maintenance program of work.
- A comprehensive review of the existing Investigation and Administration business systems oversight by the ISSC; The outcomes of this review to be fed into an ICT Strategic Planning process that will be undertaken later this calendar year.
- In consultation with representatives from the Ombudsman's Office and the New South Wales Police Professional Standards Command, further development of the Police Oversight Data Store (PODS); over the next 12 months the addition of further external information/data feeds will be progressed.

The newly formed Information Technology Governance Committee chaired by the Commissioner has adopted an interim ICT operational plan that takes forward the change program. Additionally the plan commits 2005-2006 resources to the following work:

Major Works

Whilst no major projects were undertaken during the reporting period, the Commission commenced a number of technology upgrades, driven by the need to replace leased assets. The upgrade project commitments during 2004-2005 are shown in the following table.

Technology Upgrade Projects	Cost 2004-2005 (\$'000)	Acquisition	Implementation
Desktop and Portable Computers	240	Jun 2005	Jul 2005
Network Switches	66	Jun 2005	Sep 2005
Office Printers	23	Jun 2005	Jul 2005

Delivery of Electronic Services

All relevant Commission services continue to be maintained on our website. During the reporting period, the Commission's website attracted 44,691 visitors, at an average of 122 per day. This figure represents an increase of 38% over the previous reporting period. The Commission ensures that its Web presence conforms with all relevant objectives outlined in the Premier's "connect.nsw: An Internet Strategy for NSW" initiative.

FINANCIAL SERVICES

Audits

The Audit Office of NSW was engaged to carry out the audit of the Commission's 2004-05 financial statements. A copy of the Independent Audit Report appears with the Financial Statements at Appendix 7.

Accounts Payable Policy

The Commission has set a benchmark for paying 85 per cent of all accounts received within creditors' trading terms. This benchmark was achieved and surpassed for all quarters. The Commission paid \$68.17 interest on outstanding accounts during the reporting year.

Aged analysis at the end of each quarter 2004-05

Quarter	Current (ie within due date) \$	Less than 30 days overdue \$	Between 30 and 60 days overdue \$	Between 60 and 90 days overdue \$	More than 90 days overdue \$
September	89,604.20	37,528.42	14,851.77	0.00	540.00
December	292,312.99	82,679.11	4,286.76	31.05	0.00
March	387,585.17	171,682.99	10,323.46	97.46	2,836.08
June	73,131.62	128,823.32	5,626.57	23,532.85	2,484.42

The majority of overdue amounts are due to late invoicing from Commission creditors, or invoicing for non-delivered or incorrect goods in which case the Commission withholds payment until it is satisfied that goods and services have been received as contracted.

Accounts paid on time within each quarter 2004-05

Quarter	Total Accounts Target %	Paid On Time Actual %	Total Accounts Paid \$	Paid On Time* \$
September	85	98.3	3,174,491.51	3,121,571.32
December	85	97.1	2,961,684.22	2,874,687.30
March	85	93.8	3,006,794.51	2,821,854.52
June	85	96.1	4,077,084.36	3,916,617.20

* includes employee-related expenses

Statutory Reporting

The Commission's Financial Statements for 2004-05 were prepared and submitted to the Audit Office of NSW within the required timeframe.

Consultants

Consultants equal to or more than \$30,000

Consultant	Title/Purpose	Amount (\$)
Colin Brown	Strategic Review of Information Technology	46,250
Total		46,250

Consultancies less than \$30,000

Consultants	
Area of consultancy	Amount (\$)
Management Services (4)	5,453
Engineering (1)	6,600
Research (1)	10,955
Training (1)	3,000
Total Consultancies less than \$30,000	26,008

Land Disposal

The Commission does not hold any real property.

Insurance

Insurance during the reporting year was undertaken through the NSW Treasury Managed Fund Scheme, self-insurance for government agencies. The fund manager sets the premiums paid by the Commission in direct relation to the number of claims made by the agency during the previous year.

Disclosure Of Controlled Entities

The Commission does not have any controlled entities.

Credit Card Certification

There were no known instances of misuse of credit cards during the year.

Major Assets

The Commission has no major assets. The Commission's minor assets include leasehold improvements, computer equipment and technical plant and equipment.

Risk Management And Internal Control

The Internal Audit Committee has continued its work conducting audits of Commission activities throughout the year and found that internal controls were adequate. The review of a number of policies and procedures continues.

Energy Management Plan

Consistent with NSW Government requirements, the Commission has an ongoing contract with its energy supplier to provide 6% green power.

Any office equipment purchased by the Commission must meet the appropriate energy management accreditation from approved Government contract suppliers as outlined in the Waste Reduction and Purchasing Policy. Timers continue to be used on all appropriate office equipment.

Air-conditioning is also run on timers and is constantly monitored. The running times are reduced during the cooler months of the year or whenever possible.

Waste Management

In accordance with the Government's Waste Reduction and Purchasing Policy the Commission continues to implement waste reduction management.

The Commission continues to use paper containing at least 35% of recycled content.

Other measures to achieve compliance include reducing the generation of waste by

- recycling all paper, toner cartridges, and other items where recycling is possible
- continuing the use of photocopiers capable of double-sided copying
- using re-manufactured toner cartridges, and
- printing corporate and other stationery on recycled paper

The following Commission staff undertook overseas travel on official business during 2004–05:

Officer	Destination	Purpose	Cost
Manager, Physical Surveillance Unit	Holland	Conference/training on physical surveillance methodologies	\$4,351.09

Assumed Identities

The *Law Enforcement and National Security (Assumed Identities) Act 1998* provides for the acquisition and use of assumed identities by officers of law enforcement agencies such as the Commission, on authorisation by its chief executive officer. An authorisation permits an officer to use an assumed identity in the course of carrying out official duties.

Section 12 requires that an agency report details relating to assumed identity approvals granted, varied or revoked in its Annual Report for the relevant reporting period. The results of the most recent audit of assumed identity records, as reported to the chief executive officer of the agency, must be also be reported so far as they “disclose any fraudulent or other criminal behaviour.” The audit of assumed identities records for the reporting period did not disclose any fraudulent or other criminal behaviour.

The results of the annual audit for 2004-2005 were:

Assumed Identities:	Granted	Revoked	Varied	Duty Type (Granted)		
				Surveillance	Investigations	Administration
Number:	12	10	2	3	6	3

Privacy Management

The information protection principles of the Privacy and Personal Information Protection Act 1998 (“the PPIP Act”) apply to administrative and educative functions of the Commission only. The investigative and complaint handling functions of the Commission are exempt from the operation of the PPIP Act. During the reporting period, there were no requests made to the Commission for a review under Part 5 of the PPIP Act in relation to those Commission functions to which the PPIP Act applies

APPENDIX 2 – STATISTICAL DATA ON EXERCISE OF COMMISSION POWERS

The following table indicates the frequency with which the Commission exercised its various powers in 2004-2005, compared with the two previous reporting years.

FUNCTIONS	YEAR ENDING 30 JUNE 2005	YEAR ENDING 30 JUNE 2004	YEAR ENDING 30 JUNE 2003
<i>Under Police Integrity Commission Act 1996</i>			
s 16 — Establishment of task forces within the state	NIL	1	1
s 25 — Requiring public authority or public official to produce a statement of information	14	5	1
s 26 — Requiring a person to attend before an officer of the Commission and produce a specified document or other thing	257	279	162
s 29 — Commission may authorise an officer of the Commission to enter and inspect premises etc	NIL	NIL	NIL
s 32 and s 33 — Hearing days:			
• public	34	17	28
• private	6	35	55
s 38 — Commissioner may summon a person to appear before the Commission and give evidence or produce documents or other things	88	70	99
s 45(1) — Authorised justice may issue search warrant	NIL	NIL	4
s 45(2) — Commissioner may issue a search warrant	NIL	NIL	NIL
s 50 — Number of warrants obtained under <i>Listening Devices Act 1984</i>	24	63	33
<i>Under Law Enforcement (Controlled Operations) Act 1997</i>			
Applications granted by Commissioner for authority to conduct controlled operations	12	9	3
Applications granted by Commissioner for variation of authority to conduct controlled operations	2	3	NIL
<i>Under Law Enforcement (Assumed Identities) Act 1998</i>			
Applications of assumed identity approvals granted	12	20	10
Applications of assumed identity approvals revoked	10	4	2
<i>Under Telecommunications (Interception) Act 1979</i>			
Warrants issued for the interception of Communications	59	66	81
<i>Under Protected Disclosures Act 1994</i>			
Complaints received by the Commission that constitute Protected Disclosures	17	11	21

APPENDIX 3 – LEGISLATIVE MATTERS AND LAW REFORM

Police Integrity Commission Amendment Act 2005

The Police Integrity Commission Amendment Act 2005 commenced on 1 June 2005.

The Act implements recommendations made in the statutory review of the Police Integrity Commission Act 1996 conducted and undertaken taken by the Minister for Police. Among other matters, it was concluded that “the [Police Integrity Commission] Act, and the Police Integrity Commission in giving effect to its provisions, has proved effective in detecting, investigating and preventing police corruption and other serious police misconduct.”²³

The Act amends the Police Integrity Commission Act 1996 so as:

- to confirm the independent and accountable nature of the Commission
- to remove the necessity to establish which of two irreconcilable statements made by a defendant is false in relation to the offence of giving false and misleading evidence to the Commission, and to prevent the acquittal of a defendant where there is some technical defect in any statement or evidence given on oath
- to amend the secrecy obligation attaching to information communicated by the Commission where referring a matter to the Commissioner of Police or other authority, so that it applies only where the Commission communicates it on the understanding that the information is confidential
- to require the Commission to notify the Inspector of the Police Integrity Commission when it authorises a police officer to exercise investigative, surveillance or enforcement functions under or for the purposes of the Act rather than seek ministerial concurrence
- to enable the Commission to apply to the Local Court for directions to dispose of seized documents and things where there is no person entitled to possession or the person so entitled does not wish they be returned

- to permit the service of documents by facsimile and by e-mail: s 139(2) & (3)
- to provide for a further review of the Police Integrity Commission Act at the end of 5 years from assent to the amendment Act.

Statute Law (Miscellaneous Provisions) Act 2004 No 55

The Act amends the Police Integrity Commission Act 1996 by updating references to the Drug Trafficking (Civil Proceedings) Act 1990 to refer to the Criminal Assets Recovery Act 1990.

Independent Commission Against Corruption Amendment Act 2005

The Act commenced on 1 July 2005. It amends the *Police Integrity Commission Act* by expanding the definition of “police officer” to include a reference to any member of NSW Police, whether or not a police officer. This brings non-sworn (civilian) employees of NSW Police within the scope of the Commission’s jurisdiction and functions

The Commission is engaging in discussions with relevant agencies concerning the transfer of jurisdiction intended by the amendment. Those discussions have also indicated there may be some potential uncertainty in relation to the extent to which the Commission’s functions might apply to unsworn members of NSW Police, and the Commission is taking further steps to address any possible difficulties.

Statute Law (Miscellaneous Provisions) Act 2005

The Act commenced on 1 July 2005. It amends the Police Act 1990 by inserting a requirement that the Commissioner of Police consult with the Commission before taking the following action against a police officer: making an order under sub-sections 173(2), (3) or 181D(1), commencing or authorising the commencement of criminal proceedings with respect to a police officer under investigation by the Commission.

The Act also effects a minor amendment to clarify that a person presiding over a hearing of the Commission may require a person appearing at the hearing (as opposed to appearing “at the Commission”) to produce a document or other thing”.

²³ Hon J Watkins MP, Minister for Police, *Legislative Assembly Hansard*, 16 September 2004.

***Crimes Legislation Amendment
(Telecommunications Offences and Other
Measures) Act (No 2) 2004***

The Act repeals a number of existing telecommunications offences from the *Crimes Act 1914* and inserts a number of new and revised telecommunications offences into the *Criminal Code*.

The Act contains new and amended offences covering topics such as the ‘rebirthing’ of stolen mobile telephones and the copying of SIM cards, the use of telecommunications services, including the Internet, to menace or harass, or to make threats or hoaxes, as well as the improper use of emergency service numbers.

Other offences included in the Act are personal financial information offences and the use of telecommunications services and the internet to deal with child pornography and child abuse material.

***Telecommunications (Interception)
Amendment (Stored Communications) Act
2004 (Cth)***

This Act commenced on 15 December 2004 and amends the *Telecommunications (Interception) Act 1979*. The amendments limit the prohibition against telecommunications interception in the *Telecommunications (Interception) Act* for 12 months to real-time communications and exclude communications that have been stored.

A “stored communication” is a communication that is stored on equipment or any other thing, but does not include a voice over Internet protocol (VOIP) communication or any other communication stored on a highly transitory basis as an integral function of the technology used in its transmission.

An inquiry was recently concluded. Mr Tony Blunn examined whether the present interception regime, including the provisions concerning stored communications, remain effective and suited to modern forms of communications.

***Crimes Legislation Amendment
(Telecommunications Interception and
Other Measures) Act 2005 (Cth)***

This Act contains provisions amending the *Criminal Code Act 1995* and the *Telecommunications (Interception) Act 1979*. One of the purposes of the Act is to extend the circumstances in which communications can be intercepted without warrant.

The Act amends the *Criminal Code* by including, *inter alia*, in the definition of “law enforcement officer”, the Commissioner of the Police Integrity Commission of New South Wales, an Assistant Commissioner of that Commission or a member of the staff of that Commission.

The Act amends the *Telecommunications (Interception) Act* in relation to the following: communications to or from emergency service facilities, interception by radiocommunications inspectors, ancillary offences, civil forfeiture proceedings and named person warrants and the definition of “employees of carriers”.

APPENDIX 4 – COMMISSION INVESTIGATIONS AS AT 30 JUNE 2005

Primary allegation prompting investigation	Ongoing during 2004-2005	Closed ²⁴ during 2004-2005
Pervert the course of justice	4	3
Soliciting or accepting bribes	1	1
Being involved in the manufacture, cultivation or supply of prohibited drugs	2	5
Assault causing serious injury	0	0
Complaint made against an officer who is of, or above, the rank of Superintendent	0	0
Improperly accessing/disclosing information	1	1
Improper associations	5	4
Improperly investigating or interfering with an investigation by another officer	0	1
Financial misconduct	2	4
Managerial/procedural issues	4	0
Reckless discharge of firearms	0	0
Offence punishable, on conviction, by 5 years or more imprisonment	4	2
Total²⁵	23	21

²⁴ For the purposes of this table, an investigation is considered 'Closed' when a public report has been submitted to Parliament (if appropriate), a referral is submitted to NSW Police (if appropriate), a brief of evidence has been referred to the Director of Public Prosecutions (if appropriate), or the Commissioner has decided that no further action (NFA) is required.

²⁵ The table includes investigations that were not active throughout the year.

APPENDIX 5 – PROSECUTIONS IN 2004-2005 ARISING FROM COMMISSION AND JOINT INVESTIGATIONS

PROSECUTIONS BY PIC		
Name	Offence	Status/Result
Ann MELOCCO	1 x s107 Give False Evidence at PIC	Sentenced to 2 years Periodic Detention to commence 29/10/04. Non parole of 18 months.
Roger ROGERSON	2 x s107 Give False Evidence at PIC	Sentenced to 30 months imprisonment, Non parole of 12 months. To be released to parole 17/2/06.
Ivan BROWN	4 x s107 Give False Evidence at PIC	Pleaded guilty to counts 2 & 3 under s107. Counts 1 & 4 withdrawn. Sentenced on 1/8/05 to imprisonment for 12 months, non-parole period of 8 months, concurrent for both counts, Suspended pursuant to s12. Good behaviour bond of 12 months. \$65 court costs for each count.
Albert DiFLORIANO	2 x ongoing supply prohibited drug 4 x supply prohibited drug	Matter continuing
Leif GOULD	4 x s.107 Give False Evidence at PIC	Listed for trial on a date to be fixed.
Terrence McMAHON	1 x supply cocaine 1 x supply > indictable qty methamphetamine	Matter continuing
Paul SUTTON	3 x s.107 Give False Evidence at PIC	Matter continuing
Adam TURNER	1 x supply > indictable qty cocaine	Matter continuing

PROSECUTIONS BY NSW POLICE (evidence supplied by PIC)		
Name	Offence	Status/ Result
*Ivan BROWN	1 x Pervert the course of justice	Pleaded guilty to alternate charge under s200 Police Act 1990 matter. Sentenced 1/10/04 to 200 hours CSO. Dismissed from NSWP under 181D 27/4/05.
*Jennifer DODD	Conspiracy - aggravated break and enter; commit serious indictable offence in company (1 count)	No billed
*Wayne DODD	Conspiracy - aggravated break and enter; commit serious indictable offence in company (1 count)	Committed for trial
Tim GALJUF	4 x Supply prohibited drug 1 x Knowingly take part in supply	Pleaded guilty to two charges. Awaiting sentence
*Jane KING	2 x Supply prohibited drug 1 x Supply Cannabis 3 x Possess prohibited drug Suspected stolen goods	Pleaded guilty to supply charges. Sentence to commence from 1/7/05, earliest date for release 28/2/06.
*Frank OUDENHOVEN	1 x Pervert the course of justice	Convicted of making collusive agreement with police. Sentenced to 200 hours CSO.
*Darren RYAN	Conspiracy - aggravated break and enter; commit serious indictable offence in company Possess unregistered firearm	Committed for trial
Mark SMITH	3 x s107 Give false Evidence at PIC	Listed for hearing in Local Court 24/10-28/10/05
*Jacqueline SOMMERVILLE	1 x Supply prohibited drug, ind qty, not cannabis	No Billed on 27/7/04
*William STOREY	1 x Pervert the course of justice	Dismissed at Committal
Scott TRACEY	2 x s107 Give false Evidence at PIC	Listed for hearing in Local Court 24/10-28/10/05
*Richelle VARNEY	Supply prohibited drug: indictable quantity (not cannabis) (2 counts) Possess prohibited drug (5 counts) Goods in custody Carry cutting weapon (1 count)	Sentenced 26/8/05 to two years periodic detention, to commence 2/9/05
*Sylviane VINCENT-ASPIN	Supply prohibited drug (1 count) Possess prohibited drug (2 counts)	On bail awaiting hearing date
*Gavin WILLIAMS	Supply prohibited drug: indictable quantity (not cannabis) Goods in custody suspected stolen	No Billed on 27/7/04

* Denotes ongoing from previous reporting period

APPENDIX 6 – FREEDOM OF INFORMATION STATEMENT OF AFFAIRS

Structure and Functions of the Commission

The Commission is a statutory corporation established under the Act, the principal function of which is to detect, investigate and prevent serious police misconduct and other police misconduct. Detailed descriptions of the Commission's structure, functions, objectives and performance measures are contained elsewhere in this Report.

Effect of Functions on Members of the Public

While not providing services directly to members of the public, the Commission can have an impact on members of the public when dealing with complaints of serious police misconduct. The Commission exercises powers to investigate police misconduct which may affect members of the public. For example, the Commission may issue a notice requiring a member of the public to produce documents to assist an investigation into misconduct.

Participation by Members of the Public in Policy Formulation and Exercise of Functions

The Commission is exempt from the *Freedom of Information Act* (the "FOI Act") in relation to its corruption prevention, complaint handling, investigative and report functions. In relation to its non-exempt functions, the Commission tends to adopt policies and practices adopted by the NSW Public Service. In these circumstances, the Commission has not found it necessary to involve members of the public in policy formulation or the exercise of statutory functions.

Nature of Documents Held by the Commission

A list of publications available to the public was printed in the Commission's 2000-2001 Annual Report and a list of new publications is included in each subsequent Annual Report. All publications and other public documents are available on the Commission's website.

Categories of other documents available include:

- administrative policy and education documents
- guides for recipients of Commission Notices and witnesses.

Obtaining Access to and Seeking Amendment of the Commission's Records

Access to administrative policy and education documents and guides for recipients of Notices or witnesses may be obtained by contacting the Registry Manager. All other enquiries may be directed to the FOI Coordinator. The contact details for the Commission are contained in Appendix 9. Copies of these policy documents are generally available free of charge.

The Commission reserves the right to charge for photocopies of more than 10 pages. Access may also be provided by way of inspection at the Commission's premises.

Statistics and Assessment of Statistical Report for Year Ending 30 June 2005

The Commission received one FOI request during the reporting year. This request had been made erroneously to the Commission and the applicant was advised to contact the NSW Police. The impact on the Commission of fulfilling its requirements under the FOI Act during the reporting year has been negligible. No major issues have arisen during the reporting year in connection with the Commission's compliance with FOI requirements.

APPENDIX 7 – FINANCIAL STATEMENTS



Financial Statements 2004–2005

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GPO BOX 12
SYDNEY NSW 2001

INDEPENDENT AUDIT REPORT
POLICE INTEGRITY COMMISSION

To Members of the New South Wales Parliament

Audit Opinion

In my opinion, the financial report of the Police Integrity Commission:

- presents fairly the Police Integrity Commission's financial position as at 30 June 2005 and its financial performance and cash flows for the year ended on that date, in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia, and
- complies with section 45E of the *Public Finance and Audit Act 1983* (the Act).

My opinion should be read in conjunction with the rest of this report.

The Commissioner's Role

The financial report is the responsibility of the Commissioner of the Police Integrity Commission. It consists of the statement of financial position, the statement of financial performance, the statement of cash flows, the summary of compliance with financial directives and the accompanying notes.

The Auditor's Role and the Audit Scope

As required by the Act, I carried out an independent audit to enable me to express an opinion on the financial report. My audit provides *reasonable assurance* to members of the New South Wales Parliament that the financial report is free of *material* misstatement.

My audit accorded with Australian Auditing and Assurance Standards and statutory requirements, and I:

- evaluated the accounting policies and significant accounting estimates used by the Commissioner in preparing the financial report, and
- examined a sample of the evidence that supports the amounts and other disclosures in the financial report.

An audit does *not* guarantee that every amount and disclosure in the financial report is error free. The terms 'reasonable assurance' and 'material' recognise that an audit does not examine all evidence and transactions. However, the audit procedures used should identify errors or omissions significant enough to adversely affect decisions made by users of the financial report or indicate that the Commissioner had not fulfilled his reporting obligations.

My opinion does *not* provide assurance:

- about the future viability of the Police Integrity Commission,
- that the Police Integrity Commission has carried out its activities effectively, efficiently and economically,
- about the effectiveness of its internal controls, or
- on the assumptions used in formulating the budget figures disclosed in the financial report.

Audit Independence

The Audit Office complies with all applicable independence requirements of Australian professional ethical pronouncements. The Act further promotes independence by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General, and
- mandating the Auditor-General as auditor of public sector agencies but precluding the provision of non-audit services, thus ensuring the Auditor-General and the Audit Office are not compromised in their role by the possibility of losing clients or income.



Mark Abood
Director, Financial Audit Services CPA, CA

SYDNEY
15 September 2005

Police Integrity Commission

Statement by Department Head

Pursuant to Section 45F of the *Public Finance and Audit Act 1983*, and based on information provided to me by the Commission, I have formed the opinion that:

- (a) the accompanying financial statements in respect of the year ended 30 June 2005 have been prepared in accordance with the provisions of the *Public Finance and Audit Act 1983* and Regulations, the *Financial Reporting Code for Budget Dependent General Government Sector Agencies*, and the *Treasurer's Directions*
- (b) the statements exhibit a true and fair view of the financial position and transactions of the Commission, and
- (c) there are no circumstances that would render any particulars included in the financial statements to be misleading or inaccurate.



T P Griffin
Commissioner
15 September 2005

Police Integrity Commission

Statement of Financial Performance for the Year Ended 30 June 2005

	Notes	Actual 2005 \$'000	Budget 2005 \$'000	Actual 2004 \$'000
Expenses				
Operating Expenses				
Employee related	2(a)	10,523	11,769	10,120
Other operating expenses	2(b)	5,350	3,870	5,154
Maintenance		161	219	224
Depreciation and amortisation	2(c)	1,824	1,674	2,139
Total expenses		17,858	17,532	17,637
Less:				
Retained Revenue				
Sale of goods and services	3(a)	--	--	9
Investment income	3(b)	40	51	63
Other revenue	3(c)	--	--	8
Total Retained Revenue		40	51	80
Gain/(loss) on disposal of non-current asset	4	--	--	(8)
Net Cost of Services	29	17,818	17,481	17,565
Government Contributions				
Recurrent appropriation	6	14,721	14,693	14,735
Capital appropriation	6	864	700	1,050
Acceptance by the Crown Entity of employee benefits and other liabilities	10	1,238	1,249	1,049
Total Government Contributions		16,823	16,642	16,834
SURPLUS/(DEFICIT) FOR THE YEAR		(995)	(839)	(731)
TOTAL REVENUES, EXPENSES AND VALUATION ADJUSTMENTS RECOGNISED DIRECTLY IN EQUITY		--	--	--
TOTAL CHANGES IN EQUITY OTHER THAN THOSE RESULTING FROM TRANSACTIONS WITH OWNERS AS OWNERS	24	(995)	(839)	(731)

The accompanying notes form part of these Statements

Police Integrity Commission

Statement of Financial Position as at 30 June 2005

	Notes	Actual 2005 \$'000	Budget 2005 \$'000	Actual 2004 \$'000
ASSETS				
Current Assets				
Cash	13	1,263	626	761
Receivables	14	125	145	145
Other	18	225	401	401
Total Current Assets		1,613	1,172	1,307
Non-Current Assets				
Plant and equipment	17	2,510	2,479	3,453
Total Non-Current Assets		2,510	2,479	3,453
Total Assets		4,123	3,651	4,760
LIABILITIES				
Current liabilities				
Payables	20	108	(13)	257
Provisions	22	770	741	741
Other	23	459	--	--
Total Current Liabilities		1,337	728	998
Non-Current Liabilities				
Provisions	22	138	119	119
Total Non-Current Liabilities		138	119	119
Total Liabilities		1,475	847	1,117
Net Assets		2,648	2,804	3,643
EQUITY				
Accumulated funds	24	2,648	2,804	3,643
Total Equity		2,648	2,804	3,643

The accompanying notes form part of these Statements

Police Integrity Commission

Statement of Cash Flows for the Year Ended 30 June 2005

	Notes	Actual 2005 \$'000	Budget 2005 \$'000	Actual 2004 \$'000
CASH FLOWS FROM OPERATING ACTIVITIES				
Payments				
Employee related		(9,918)	(11,469)	(10,058)
Other		(6,056)	(4,759)	(6,103)
Total Payments		(15,974)	(16,228)	(16,161)
Receipts				
Sale of goods and services		11	--	--
Interest received		48	51	81
Other		576	670	648
Total Receipts		635	721	729
Cash flows from Government				
Recurrent appropriation		14,897	14,693	14,735
Capital appropriation		1,147	700	1,050
Cash reimbursements from the Crown Entity		678	679	618
Cash transfers to the Consolidated Fund		--	--	(849)
Net Cash Flows from Government		16,722	16,072	15,554
NET CASH FLOWS FROM OPERATING ACTIVITIES	29	1,383	565	122
CASH FLOWS FROM INVESTING ACTIVITIES				
Purchases of plant and equipment		(881)	(700)	(1,209)
NET CASH FLOWS FROM INVESTING ACTIVITIES		(881)	(700)	(1,209)
NET INCREASE/(DECREASE) IN CASH				
Opening cash and cash equivalents		502	(135)	(1,087)
		761	761	1,848
CLOSING CASH AND CASH EQUIVALENTS	13	1,263	626	761

The accompanying notes form part of these Statements

Police Integrity Commission

Summary of Compliance with Financial Directives for the Year Ended 30 June 2005

	2005				2004			
	Recurrent Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000	Capital Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000	Recurrent Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000	Capital Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000
ORIGINAL BUDGET APPROPRIATION/ EXPENDITURE								
• Appropriation Act	14,693	14,223	700	529	14,774	14,735	1,050	1,050
	14,693	14,223	700	529	14,774	14,735	1,050	1,050
OTHER APPROPRIATIONS/ EXPENDITURE								
• Treasurer's Advance	463	463	83	--	--	--	--	--
• Additional appropriation	35	35	--	--	--	--	--	--
• Transfers from Crown Finance Entity (s27 of the Appropriation Act)	--	--	1,031	335	--	--	--	--
	498	498	1,114	335	--	--	--	--
Total Appropriations/ Expenditure/Net claim on Consolidated Fund	15,191	14,721	1,814	864	14,774	14,735	1,050	1,050
Amount drawn down against Appropriation		14,897		1,147		14,735		1,050
Liability to Consolidated Fund		176		283		--		--

The accompanying notes form part of these Statements

The Summary of Compliance is based on the assumption that Consolidated Fund moneys are spent first (except where otherwise identified or prescribed).
The liability to the Consolidated Fund represents the difference between the amount drawn down against Appropriation and the total expenditure/net claim on consolidated fund.

Police Integrity Commission

**Summary of Compliance with Financial Directives
for the Year Ended 30 June 2005 (cont)**

Recurrent Appropriation

The Commission's recurrent appropriation of \$15.191m was not fully drawn down as the agency was able to achieve global savings during the year.

Capital Appropriation

The Commission's capital appropriation of \$1.814m was not fully expended during the year, due to delays in delivery of capital purchase order items, and also the delays caused by the selection of vendors providing goods and services for the replacement of the Commission's IT Master Lease equipment.

The accompanying notes form part of these Statements

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2005

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) *Reporting entity*

The Police Integrity Commission is constituted by the *Police Integrity Commission Act 1996*, and comprises a single entity. The Commission is a separate reporting entity and there are no reporting entities under its control. This financial report covers the Commission's activities for the 2004–05 period. The Commission is consolidated as part of the NSW Total State Sector Accounts and as part of the NSW Public Accounts.

(b) *Basis of accounting*

The Commission's financial statements are a general purpose financial report that has been prepared on an accruals basis and in accordance with:

- applicable Australian Accounting Standards
- other authoritative pronouncements of the Australian Accounting Standards Board (AASB)
- Urgent Issues Group (UIG) Consensus Views
- the requirements of the *Public Finance and Audit Act 1983* and Regulations, and
- the Financial Reporting Directions published in the Financial Reporting Code for Budget Dependent General Government Sector Agencies or issued by the Treasurer under section 9(2)(n) of the Act.

Where there are inconsistencies between the above requirements, the legislative provisions have prevailed.

In the absence of a specific Accounting Standard, other authoritative pronouncements of the AASB or UIG Consensus View, the hierarchy of other pronouncements as outlined in AAS 6 "Accounting Policies" is considered.

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

The Commission has applied accounting policies consistent with those of the previous year, unless otherwise stated.

(c) *Administered activities*

The Commission does not administer activities on behalf of the Crown Entity.

(d) *Revenue recognition*

Revenue is recognised when the Commission has control of the good or right to receive, it is probable that the economic benefits will flow to the Commission and the amount of revenue can be measured reliably. Additional comments regarding the accounting policies for the recognition of revenue are discussed below.

Parliamentary Appropriations and Contributions from Other Bodies

Parliamentary appropriations and contributions from other bodies (including grants and donations) are generally recognised as revenues when the Commission obtains control over the assets comprising the appropriations/contributions. Control over appropriations and contributions is normally obtained upon the receipt of cash.

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2005

An exception to the above is when appropriations are unspent at year end. In this case, the authority to spend the money lapses and generally the unspent amount must be repaid to the Consolidated Fund in the following financial year. As a result, unspent appropriations are accounted for as liabilities rather than revenue.

Any liability is disclosed in Note 23 as part of 'Current / Non-Current Liabilities–Other'. The amount will be repaid and the liability will be extinguished next financial year.

Sale of Goods and Services

Revenue from the sale of goods and services comprises revenue from the provision of products or services ie user charges. User charges are recognised as revenue when the Commission obtains control of the assets that result from them.

Investment Income

Interest revenue is recognised as it accrues.

(e) *Employee benefits and other provisions*

(i) Salaries and Wages, Annual Leave, Sick Leave and On-costs

Liabilities for salaries and wages (including non-monetary benefits) and annual leave are recognised and measured in respect of employees' services up to the reporting date at nominal amounts based on the amounts expected to be paid when the liabilities are settled.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

The outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax, that are considered consequential to employment, are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised.

(ii) Long Service Leave and Superannuation

The Commission's liabilities for long service leave and superannuation are assumed by the Crown Entity. The Commission accounts for the liability as having been extinguished resulting in the amount assumed being shown as part of the non-monetary revenue item described as "Acceptance by the Crown Entity of Employee Benefits and Other Liabilities".

Long service leave is measured on a present value basis. The present value method is based on the remuneration rates expected to be paid when the liability is settled.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (ie Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (ie State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2005

(iii) *Other Provisions*

Other provisions exist when the entity has a present legal, equitable or constructive obligation to make a future sacrifice of economic benefits to other entities as a result of past transactions or other past events. These provisions are recognised when it is probable that a future sacrifice of economic benefits will be required and the amount can be measured reliably.

Any provisions for restructuring are recognised either when a detailed formal plan has been developed or will be developed within prescribed time limits and where the entity has raised a valid expectation in those affected by the restructuring that it will carry out the restructuring.

(f) *Insurance*

The Commission's insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self insurance for government agencies. The expense (premium) is determined by the Fund Manager based on past experience.

(g) *Accounting for the Goods and Services Tax (GST)*

Revenues, expenses and assets are recognised net of the amount of GST, except where:

(i) the amount of GST incurred by the Commission as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of the cost of acquisition of an asset or as part of an item of expense.

(ii) receivables and payables are stated with the amount of GST included.

(h) *Acquisition of Assets*

The cost method of accounting is used for the initial recording of all acquisition of assets controlled by the Commission. Cost is determined as the fair value of assets given as consideration plus the costs incidental to the acquisition. Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and revenues at their fair value at the date of acquisition. Fair value means the amount for which an asset could be exchanged between a knowledgeable, willing buyer and a knowledgeable, willing seller in an arm's length transaction.

(i) *Plant and equipment*

Plant and equipment costing \$5,000 and above are individually capitalised, as is plant and equipment costing less than \$5,000 that forms part of an overall asset.

(j) *Re-valuation of Physical Non-Current Assets*

There has been no re-valuation of any of the Commission's physical non-current assets during the reporting period.

(k) *Assets not able to be Reliably Measured*

The Commission does not hold any assets that have not been recognised in the financial statements.

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2005

(l) *Depreciation of Non-Current Physical Assets*

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the Commission.

The Commission has adopted the following depreciation rates for the reporting period:

Computer equipment	4 years
Office machines	7 years
Other plant and equipment	7 years
Leasehold improvements	The initial period of the lease

(m) *Maintenance and repairs*

The costs of maintenance are charged as expenses as incurred, except where they relate to the replacement of a component of an asset, in which case the costs are capitalised and depreciated.

(n) *Leased Assets*

The Commission's motor vehicle fleet and rental property are the only assets subject to an operating lease. Operating lease payments are charged to the *Statement of Financial Performance* in the periods in which they are incurred.

(o) *Receivables*

Receivables are recognised and carried at cost, based on the original invoice amount less a provision for any collectable debts.

(p) *Inventories*

The Commission holds no inventories.

(q) *Trust funds*

The Commission does not hold any trust funds.

(r) *Other Assets*

Other assets including prepayments are recognised on a cost basis.

(s) *Equity transfers*

There were no equity transfers between the Commission and any other agency.

(t) *Payables*

These amounts represent liabilities for goods and services provided to the Commission and other amounts, including interest. Interest is accrued over the period it becomes due.

(u) *Budgeted amounts*

The budgeted amounts are drawn from the budgets as formulated at the beginning of the financial year and with any adjustments for the effects of additional appropriations, s 21A, s 24 and /or s 26 of the *Public Finance and Audit Act 1983*.

The budgeted amounts in the *Statement of Financial Performance* and the *Statement of Cash Flows* are generally based on the amounts disclosed in the NSW Budget papers (as adjusted above). However, in the *Statement of Financial Position*, the amounts vary from the Budget Papers, as the opening balances of the budgeted amounts are based on carried forward actual amounts ie per the audited financial statements (rather than the carried forward estimates).

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2005

(v) *Impact of Adopting Australian Equivalents to IFRS*

The Commission will apply the Australian Equivalents to International Financial Reporting Standards (AEIFRS) from the reporting period beginning 1 July 2005.

The following strategy is being implemented to manage the transition to AEIFRS:

- keeping up to date with the latest AEIFRS developments, NSW Treasury Analysis and Indicative Mandates
- changing systems, policies and procedures relating to assets.

The Commission has determined the key areas where changes in accounting policies are likely to impact the financial report. Some of these impacts arise because AEIFRS requirements are different from existing AASB requirements (AGAAP). Other impacts are likely to arise from options in AEIFRS. To ensure consistency at the whole-of-government-level, the NSW Treasury has advised agencies of options it is likely to mandate (referred to as “indicative mandates”) for the NSW public sector.

Shown below is management’s best estimate, at the date of preparing the 30 June 2005 financial report, of the estimated financial impact of AEIFRS on the Commission.

(i) Re-classification of Plant and Equipment to Intangible Assets

The adoption of AASB 138 results in certain computer software being re-classified from plant and equipment to intangible assets. As a result, gross value of plant and equipment has decreased by \$3.9m and accumulated depreciation has decreased by \$2.5m.

The actual effects of the transition may differ from the estimated figures above because of pending changes to the AEIFRS, including the UIG interpretations and/or emerging accepted practice in their interpretation and application.

The Commission’s accounting policies may be affected by a proposed standard to harmonise accounting standards with Government Financial Statistics. However, the impact is uncertain because it depends on when the standard is finalised and whether it can be adopted in 2005–06.

Apart from the above, the Commission does not anticipate any material impact on its equity, profit/loss and cash flow.

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2005

2. EXPENSES

(a)	Employee related expenses comprise the following specific items:	2005 \$'000	2004 \$'000
	Salaries and wages (including recreation leave)	8,535	8,319
	Superannuation	753	699
	Long Service Leave	418	313
	Workers' compensation insurance	112	132
	Payroll tax and fringe benefits tax	623	594
	Other	82	63
		10,523	10,120
(b)	Other operating expenses		
	Administration charges	914	436
	Books and periodicals	38	49
	Auditor's remuneration	25	23
	Board, tribunals & meetings	--	1
	Consultancies	72	35
	Contractors	599	786
	EDP expenses (including equipment leasing charges)	825	808
	Insurance	44	41
	Rent and outgoings	1,658	1,642
	Minor equipment	244	353
	Motor vehicle costs (including leasing charges)	211	225
	Advertising	59	77
	Printing and stationery	41	62
	Staff development	27	26
	Travelling expenses	92	71
	Telephones	205	244
	Other	296	275
		5,350	5,154
(c)	Depreciation and amortisation expense		
	Depreciation		
	Computer Equipment	1,197	1,458
	Office Equipment	553	618
	Office Furniture and Fitting	2	--
	Amortisation of Leasehold Improvements	72	63
		1,824	2,139

Police Integrity Commission**Notes to and forming part of the Financial Statements for the year ended 30 June 2005****3. REVENUES**

	2005 \$'000	2004 \$'000
(a) Sale of goods and services		
Sale of software licence	--	9
	<u>--</u>	<u>9</u>
(b) Investment income		
Interest	40	63
	<u>40</u>	<u>63</u>
(c) Other Revenue		
Commission on salary deductions, conduct fees, fines	--	8
	<u>--</u>	<u>8</u>

4. GAIN/(LOSS) ON DISPOSAL OF NON-CURRENT ASSETS

In 2003–04 the Commission disposed personal computers and monitors in accordance with the NSW Government computer re-use pilot guidelines called *ReConnect.NSW Computer Program*.

Gain/(loss) on disposal of computer equipment

Written down value of assets disposed	--	(8)
Gain/(loss) on disposal of non-current assets	<u>--</u>	<u>(8)</u>

5. CONDITIONS ON CONTRIBUTIONS

The Commission did not receive any contributions during 2004–05.

6. APPROPRIATIONS**Recurrent appropriations**

Total recurrent drawdowns from Treasury (per Summary of Compliance)	14,897	14,735
Less: Liability to Consolidated Fund (per Summary of Compliance)	176	--
	<u>14,721</u>	<u>14,735</u>
Comprising:		
Recurrent appropriations (per Statement of Financial Performance)	14,721	14,735
Transfer payments	--	--
Total	<u>14,721</u>	<u>14,735</u>

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2005

	2005 \$'000	2004 \$'000
Capital appropriations		
Total capital drawdowns from Treasury (per Summary of Compliance)	1,147	1,050
Less: Liability to Consolidated Fund (per Summary of Compliance)	283	--
	<u>864</u>	<u>1,050</u>
Comprising:		
Capital appropriations (per Statement of Financial Performance)	864	1,050
Less: Transfer payments	--	--
Total	<u>864</u>	<u>1,050</u>

7. FUNDAMENTAL ERRORS

No fundamentals errors have been discovered.

8. INDIVIDUALLY SIGNIFICANT ITEMS

There are no individually significant items during the reporting period.

9. EXTRAORDINARY ITEMS

There were no extraordinary items during the reporting period.

10. ACCEPTANCE BY THE CROWN ENTITY OF EMPLOYEE BENEFITS AND OTHER LIABILITIES

The following liabilities and/or expenses have been assumed by the Crown Entity

Superannuation	774	694
Long Service leave	418	313
Payroll tax	46	42
	<u>1,238</u>	<u>1,049</u>

11. TRANSFER PAYMENTS

There were no transfer payments during the reporting period.

12. PROGRAMS/ACTIVITIES OF THE AGENCY

(a) Program 1: *Prevention of Serious Police Misconduct*

Objective: *To effectively contribute to the State response in combating serious police misconduct.*

Police Integrity Commission**Notes to and forming part of the Financial Statements for the year ended 30 June 2005****13. CURRENT ASSETS—CASH**

For the purposes of the *Statement of Cash Flows*, cash includes cash on hand and cash at bank. Cash assets recognised in the *Statement of Financial Position* are reconciled to cash at the end of the financial year as shown in the *Statement of Cash Flows* as follows:

	2005 \$'000	2004 \$'000
Cash at bank	1,251	749
Cash on hand	<u>12</u>	<u>12</u>
Closing Cash and Cash Equivalents (per Statement of Cash Flows)	<u>1,263</u>	<u>761</u>

14. CURRENT / NON-CURRENT ASSETS—RECEIVABLES

Sale of goods and services	--	10
Other debtors	<u>125</u>	<u>135</u>
	<u>125</u>	<u>145</u>

No provision for doubtful debts has been raised as all amounts are considered to be collectable.

15. CURRENT / NON-CURRENT ASSETS—INVENTORIES

The Commission had no inventories in the current year or the prior year.

16. CURRENT / NON-CURRENT ASSETS—OTHER FINANCIAL ASSETS

The Commission had no other financial assets in the current year or the prior year.

17. NON-CURRENT ASSETS—PLANT AND EQUIPMENT**Plant and Equipment**

At Fair Value	<u>15,954</u>	<u>15,126</u>
	<u>15,954</u>	<u>15,126</u>
Accumulated Depreciation	<u>13,444</u>	<u>11,673</u>
	<u>13,444</u>	<u>11,673</u>
Total Plant and Equipment at Net Book Value	<u>2,510</u>	<u>3,453</u>

Reconciliations

Reconciliations of the carrying amounts of each class of plant and equipment at the beginning and end of the current and previous financial year are set out below.

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2005

	Plant & Equipment \$'000
2005	
Carrying amount at start of year	3,453
- Additions	881
- Disposals – cost	(53)
- Disposals – depreciation	53
- Depreciation Expense	(1,824)
Carrying amount at end of year	<u>2,510</u>

	Plant & Equipment \$'000
2004	
Carrying amount at start of year	4,391
- Additions	1,209
- Disposals – cost	(384)
- Disposals – depreciation	376
- Depreciation Expense	(2,139)
Carrying amount at end of year	<u>3,453</u>

There has been no re-valuation of physical non-current assets during the reporting period. The Commission considers that the written down value of assets approximates the fair value of these assets.

18. CURRENT / NON-CURRENT ASSETS—OTHER

	2005 \$'000	2004 \$'000
Prepayments	<u>225</u>	<u>401</u>
	<u>225</u>	<u>401</u>

19. RESTRICTED ASSETS

The Commission holds \$65,888 (2003–04 \$83,554) in its Operating Account, being the balance of the Police Oversight Data Store (PODS) grants funding.

20. CURRENT LIABILITIES—PAYABLES

Accrued salaries, wages and on-costs	1	115
Creditors	<u>107</u>	<u>142</u>
	<u>108</u>	<u>257</u>

21. CURRENT / NON-CURRENT LIABILITIES—INTEREST BEARING LIABILITIES

The Commission does not have any current or non-current interest bearing liabilities.

Police Integrity Commission**Notes to and forming part of the Financial Statements for the year ended 30 June 2005****22. CURRENT / NON-CURRENT LIABILITIES—PROVISIONS**

	2005 \$'000	2004 \$'000
Employee benefits and related on-costs		
Recreation leave	736	713
Long service leave on-costs	153	127
FBT provision	19	20
	<u>908</u>	<u>860</u>
Aggregate employee benefits and related on-costs		
Provisions—current	770	741
Provisions—non-current	138	119
Accrued salaries, wages and on-costs (note 20)	1	115
	<u>909</u>	<u>975</u>

23. CURRENT / NON-CURRENT LIABILITIES - OTHER

Liability to Consolidated Fund	459	--
	<u>459</u>	<u>--</u>

24. CHANGES IN EQUITY

Accumulated funds		
Balance at 1 July	3,643	4,374
Surplus/(Deficit) for the Year	(995)	(731)
Balance at 30 June	<u>2,648</u>	<u>3,643</u>

25. INCREASE / DECREASE IN NET ASSETS FROM EQUITY TRANSFERS

During the reporting period, there were no equity transfers affecting the Commission.

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2005

26. COMMITMENTS FOR EXPENDITURE

	2005 \$'000	2004 \$'000
(a) Capital Commitments		
Aggregate capital expenditure, for the acquisition of computer equipment, PABX and hearing room upgrade, contracted at balance date and not provided for:		
Not later than one year	411	--
Total (including GST)	<u>411</u>	<u>--</u>
(b) Other Expenditure Commitments		
Aggregate other expenditure, for the acquisition of computer related and minor equipment, contracted for at balance date and not provided for:		
Not later than one year	28	44
Total (including GST)	<u>28</u>	<u>44</u>
(c) Operating Lease Commitments		
Future non-cancellable operating lease rentals not provided for and payable:		
Not later than one year	2,074	2,225
Later than one year and not later than five years	2,177	3,713
Later than five years	--	--
Total (including GST)	<u>4,251</u>	<u>5,938</u>

These operating lease commitments relate to the Commission's rental of property, lease of equipment and its motor vehicle fleet, and are not recognised in the financial statements as liabilities.

(d) Finance Lease Commitments

The Commission has no finance lease commitments.

(e) GST on Commitments

The total commitments for 2005 include an input tax credit of \$426,433 (2003-04 \$543,824) that is expected to be recoverable from the Australian Taxation Office.

27. CONTINGENT LIABILITIES

As at the reporting date, the Commission is not aware of any contingent liabilities that will materially affect its financial position.

28. BUDGET REVIEW

Net cost of services

The Net Cost of Services was higher than budget by \$0.3m because of an increase in expenditure on Other Operating expenses such as administration charges. Depreciation and Amortisation also contributed to the increase in Net Cost of Services, however Employee-Related expenses decreased due to vacancies.

Police Integrity Commission**Notes to and forming part of the Financial Statements for the year ended 30 June 2005***Assets and liabilities*

The reported increase in assets was due mainly to a higher cash balance than expected as a result of unspent allocations at year end. Repayment to the Consolidated Fund has been recognised by increasing liabilities.

Cash flows

Additional supplementation for recurrent and capital during the year were approved, however total funding received was not fully expended, thereby increasing the cash balance at year end. Higher cash flows in Other Payments were otherwise offset by a decrease in Employee-Related payments.

29. RECONCILIATION OF CASH FLOWS FROM OPERATING ACTIVITIES TO NET COST OF SERVICES

	2005 \$'000	2004 \$'000
Net cash from operating activities	1,383	122
Cash Flows from Government Appropriations	(16,044)	(15,785)
Acceptance by Crown Entity of Employee liabilities and other liabilities	(1,238)	(1,049)
Depreciation	(1,824)	(2,139)
Decrease/(increase) in provisions	(48)	254
Increase/(decrease) in prepayments and other assets	(196)	188
Decrease/(increase) in creditors	149	852
Net loss on disposal of non-current assets	--	(8)
Net cost of services	<u>(17,818)</u>	<u>(17,565)</u>

30. NON-CASH FINANCING AND INVESTING ACTIVITIES

There were no non-cash financing and investing activities undertaken by the Commission for the reporting period.

31. TRUST FUNDS

The Commission does not hold any trust funds

32. ADMINISTERED ASSETS AND LIABILITIES

The Commission does not hold any administered assets, nor does it hold any administered liabilities.

33. ADMINISTERED REVENUE - DEBTS WRITTEN OFF

The Commission does not hold any administered revenue.

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2005

34. ADMINISTERED REVENUE - SCHEDULE OF UNCOLLECTED AMOUNTS

The Commission does not administer any uncollected monies.

35. FINANCIAL INSTRUMENTS

The Commission's accounting policies, including the terms and conditions of each class of financial asset, financial liability and equity instrument, both recognised and unrecognised at the balance date, are detailed as follows:

(i) Cash

Cash comprises cash on hand and bank balances within the Treasury banking system. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (TCorp) 11.00am unofficial cash rate adjusted for a management fee to Treasury.

(ii) Receivables

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Debts that are known to be uncollectable are written off. A provision for doubtful debts is raised when some doubt as to collection exists. The credit risk is the carrying amount (net of any provision for doubtful debts). No interest is earned on trade debtors. The carrying amount approximates the net fair value. Sales are made on a 14 day term.

(iii) Bank Overdraft

The Commission does not have any bank overdraft facility.

(iv) Trade Creditors and Accruals

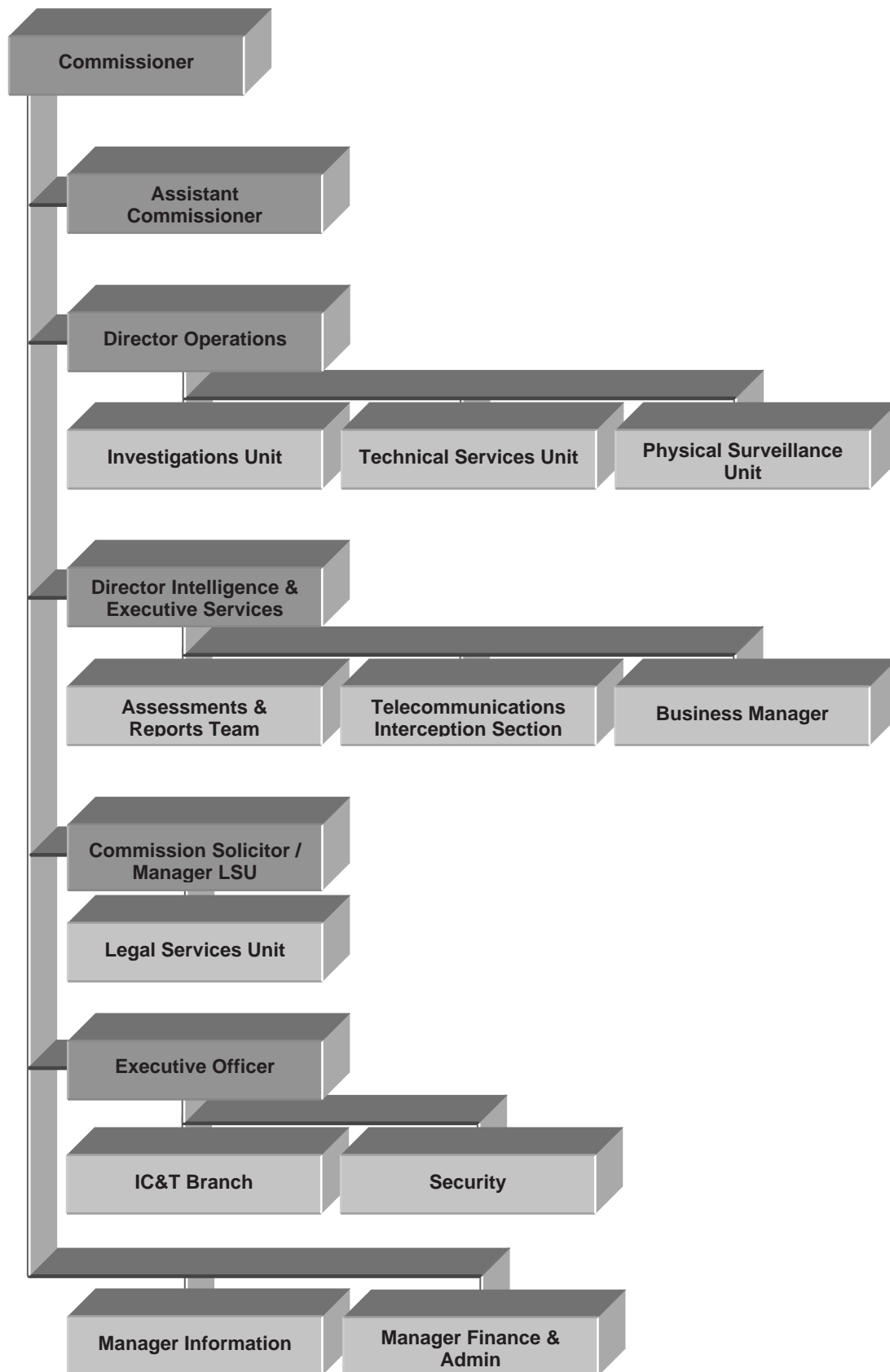
The liabilities are recognised for amounts due to be paid for future goods or services received, whether or not invoiced. Amounts owing to suppliers (that are unsecured) are settled in accordance with the policy set out in Treasurer's Direction 219.01. If trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or statement is received. Treasurer's Direction 219.01 allows the Minister to award interest for late payment. No interest was applied during the year.

36. AFTER BALANCE DATE EVENTS

There are no known after balance date events.

End of audited financial statement

APPENDIX 8 – ORGANISATION STRUCTURE



APPENDIX 9 – DIRECTORY, PUBLICATIONS AND PRINTING REQUIREMENTS

DIRECTORY

Address:

Level 3, 111 Elizabeth Street
SYDNEY NSW 2000

Postal Address:

GPO Box 3880
SYDNEY NSW 2001

Website:

www.pic.nsw.gov.au

Telephone Enquiries:

Telephone: (61 2) 9321 6700

Freecall: 1800 657 079

Facsimile: (61 2) 9321 6799

Office Hours:

8.30am – 5.00pm

PUBLICATIONS

The Commission's publications fall into the following categories:

- reports to Parliament following an investigation which involved public hearings (s96(2))
- special Reports to Parliament on any administrative or general policy matter relating to the functions of the Commission (s98)
- annual Reports
- brochures concerning the making of a complaint in regard to serious police misconduct.

A full list of publications available to the public is posted on the Commission's website.

The following publications were released by the Commission during the reporting year:

Publication Name**Publication Date**

Report to Parliament, Operation Vail

June 2005

Annual Report 2003-2004

October 2004

The Commission's Practice Guidelines and Notes were also finalised during the year and published in July 2004.

ANNUAL REPORT COSTS

Total External Costs: \$5445 (including GST)

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