



REPORT TO PARLIAMENT ON OPERATION WARSAW

February 1999

**POLICE INTEGRITY COMMISSION REPORT TO PARLIAMENT ON OPERATION WARSAW
FEBRUARY 1999**

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The Hon. Virginia Chadwick MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

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

Dear Madam President and Mr Speaker

In accordance with section 96(2) of the *Police Integrity Commission Act 1996*, the Commission hereby furnishes to you a report regarding Operation Warsaw, being a report in relation to a matter as to which the Commission has conducted a public hearing.

I draw your attention to section 103(2) of the Act, pursuant to which I recommend that this report be made public forthwith.

Yours faithfully

Judge P D Urquhart QC
Commissioner

February 1999

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EXECUTIVE SUMMARY

In July 1997 the Police Integrity Commission commenced a preliminary investigation, code named Operation Warsaw, into allegations of non-compliance with legislation and regulations in the procurement of goods and services by certain departments within the New South Wales Police Service. At that time the Commission had also recognised the potential for police corruption in relation to Olympic Security and had established a 'watching brief' on this matter.

One matter that came to the Commission's attention was the 1995 Internal Affairs investigation into the conduct of former Chief Inspector Angus Graham in relation to his involvement in the procurement of computers for the State Intelligence Group (SIG). Of additional interest was Mr Graham's resignation from the Service in November 1996 after admitting to charges arising from that investigation and, later, his application for the position of Commander, SIG in June 1997. Mr Graham was short-listed and interviewed for the position but was unsuccessful in his application. It was also noted that shortly after leaving the Service, Mr Graham had found employment as the General Manager of a private security company, Business Risks International Pty Ltd (BRI). The Commission was aware that BRI had supplied services to the New South Wales Police Service and the Sydney Organising Committee for the Olympic Games (SOCOG).

Those issues raised questions about the possible existence of professional and personal networks between serving and former police. Operation Warsaw was extended to cover those areas.

In February 1998, a number of newspaper articles were published concerning the internal police investigation of Mr Graham and his current links to Olympic consultancies. Police Commissioner Ryan referred the allegations in the articles to the Police Integrity Commission.

On 6 March 1998 the Commission announced a public hearing. The purpose of the hearing was to investigate the involvement of current or former police officers and civilian employees of the Service in relation to the supply of security related goods and services, and in particular, their supply for the Sydney 2000 Olympic Games. The hearing would also examine the role and impact of networks and relationships in the Service.

Public hearings were conducted between 14 April and 26 August 1998. The majority of the evidence provided related to various issues surrounding the internal Police Service investigation of Angus Graham and his later application for the position of Commander, SIG. It was not the intention of the Commission to re-investigate the allegations concerning the procurement of the computers. Evidence in relation to this matter was heard in the context of its relevance to networks within the New South Wales Police Service.

Issues relating to Olympic contracting were explored in private hearings conducted by the Commission. The evidence and exhibits relating to those matters were taken in private because of their confidential and commercial nature and it is considered appropriate that they remain private at this time. The Commission is, however, in a position to form certain opinions in relation to the private evidence which are included in this Report.

The Police Service Investigation into the Conduct of Angus Graham

In relation to the 1995 internal investigation of Angus Graham by the Police Service the Commission heard evidence that:

- While preparing Mr Graham's case for a hearing before the Police Tribunal in September 1996, the Police Service officer preparing the case, Mr Redfern, and Counsel for the Police Service became concerned about the conduct of Senior Constable Cottrell who was to be a witness in the proceedings. Mr Redfern was concerned that Mr Cottrell (who had been departmentally charged along with Mr Graham in relation to the acquisition of computers for the SIG but had already been dealt with by the Tribunal) was not being fully frank and open in terms of his recollection of events and that he had possibly been suborned.
- On 1 July 1996 Mr Grahame Smith, then Chief of Staff to Acting Commissioner Taylor, had approached Mr Geoffrey Schuberg, then head of Professional Responsibility, to enquire about the charges facing Mr Graham. When summarising that conversation in his diary, Mr Schuberg wrote that Mr Smith had questioned whether 'anything could be done' for Mr Graham. Those words generated concern that Mr Smith may have sought to exert some improper influence in aid of Mr Graham.
- Acting Commissioner Taylor had, in fact, tasked Mr Smith to approach Mr Schuberg on the basis that Mr Graham had made certain representations to Mr Smith relating to his charges. Mr Smith reported the results of his conversation with Mr Schuberg to Mr Taylor.
- Ms Burton, an intended witness at the Police Tribunal hearing on the charges against Mr Graham, believed that adverse working conditions she experienced at Region Support in 1995-1996 were due to victimisation resulting from her role in the investigation of Angus Graham. Further, that Inspector Lemme had approached her in early 1996 and stated that Angus Graham had sworn to 'destroy her'.
- A complaint in relation to those issues was made on Ms Burton's behalf and this had led to an investigation of her complaint by her commander, Superintendent Hobden. Following an interview with Superintendent Hobden, Ms Burton withdrew the complaint.

In relation to these matters the Commission considers that:

- The internal investigation of Angus Graham and preparation of the case for the Police Tribunal were conducted in a thorough, competent and professional manner.
- Despite the concerns raised by persons involved with this matter, there is no evidence that Angus Graham or any other person engaged in the suborning of witnesses, improper approaches, or the victimisation or harassment of witnesses in that investigation.
- The example of Ms Burton demonstrates how allegations of victimisation or harassment can be difficult to prove or disprove. The Police Service should ensure that strategies and procedures are in place that not only morally support internal witnesses (as happened in this case), but also ensure that such allegations are appropriately investigated and dealt with.

Decisions Made by Deputy Commissioner Jarratt in Relation to Angus Graham

In relation to decisions made by Deputy Commissioner Jarratt concerning Angus Graham, the Commission heard evidence that:

- Mr Jarratt appointed Mr Graham to the Royal Commission Implementation Unit around March 1996 and maintained him there until June 1996 despite concerns being voiced by Acting Commissioner Taylor and, more strongly, by Mr Sturges of the Police Board.
- Mr Jarratt, as a member of a panel, interviewed Mr Graham in July 1997 for the publicly advertised position of Commander SIG after Mr Graham had admitted to the departmental charges and resigned from the Service in November 1996. This was despite statements by Commissioner Ryan to Mr Jarratt that Mr Graham was not to get the job. According to Mr Jarratt, Angus Graham was interviewed on the basis that he would provide a good 'barometer' against which to compare the other candidates.

The Commission considers that:

- The decisions made by Mr Jarratt in both the instances described above represent bad judgment on his part. This bad judgment can be directly attributed to his relationship with Mr Graham, which was based on mutually high regard as colleagues. This relationship resulted in Mr Jarratt failing to give proper weight to significant issues - such as the seriousness of the charges facing Mr Graham and how the Service in general would understand Mr Jarratt's actions when making decisions regarding Mr Graham.
- Mr Jarratt was faced with a conflict of interest in respect of Mr Graham in which the interest created by his relationship with Mr Graham conflicted with his responsibility to make sound management decisions. Mr Jarratt failed to recognise this conflict of interest.

- The Service must give consideration to improving the training of its senior officers on recognising and avoiding conflicts of interest, especially those forms of conflict of interest that would likely only be encountered upon entering more senior management levels.

Olympic Security Matters

In respect of the private hearings on Olympic Security matters, the Commission is in a position to state that there was evidence that BRI had undertaken limited work for both the New South Wales Police Service and SOCOG. There was no evidence of impropriety on the part of any serving or former police officer in relation to how that work was awarded.

The Commission has also found no evidence of any misconduct by members of the New South Wales Police Service in relation to the provision of goods and services to SOCOG by private security companies.

It should be noted that business dealings between SOCOG and private security companies, where they do not involve police officers, fall outside the jurisdiction of this Commission. Moreover, at the time the Commission hearings were conducted, the 2000 Olympic Games were more than two years away. The Commission is mindful that the potential for corrupt or improper conduct will increase as the 2000 Olympics draw nearer and the contracts for the provision of private security services during the Games are awarded. Accordingly, the Commission will maintain its interest in the involvement of the Police Service in Olympic security contracting and exercise its statutory functions as appropriate.

Recommendations

On the basis of the information presented in this Report, the Commission has recommended that:

- the Commissioner of Police undertake a review of current training and procedures relating to conflict of interest recognition, avoidance and management, especially in terms of the senior ranks, with a view to developing training and procedures that accord with world's best practice; and
- Deputy Commissioner Jarratt participate in such conflict of interest recognition, avoidance and management programs as the Commissioner of Police may determine. The Commission further recommends that, for future evaluations and assessments of Mr Jarratt's performance as Deputy Commissioner, the Commissioner of Police, in addition to such other matters as he may take into account, have regard to Mr Jarratt's performance in the management of conflicts of interest.

1/ INTRODUCTION

BACKGROUND

- 1.1 On 28 July 1997 the Police Integrity Commission (“the Commission”) commenced a preliminary investigation, code named Operation Warsaw, into allegations of non compliance with legislation and regulations in the procurement of goods and services by certain departments within the New South Wales Police Service (“the Police Service”). At that time the Commission had also recognised the potential for police corruption in relation to Olympic Security and had established a ‘watching brief’ in regard to this area.
- 1.2 One matter which came to the attention of Operation Warsaw investigators was the involvement of the former Acting Commander of the State Intelligence Group (SIG), Chief Inspector Angus Graham, in the procurement of computer equipment for the SIG in June 1995. This matter had been the subject of an internal investigation by the Police Service which resulted in a number of departmental charges against Mr Graham and one other officer.
- 1.3 Of additional interest to the Commission was the fact that Mr Graham admitted the departmental charges and then resigned prior to the imposition of any penalty, only to apply to rejoin the Police Service some months later in the position of Commander, SIG, a position for which he was short-listed and interviewed in 1997.
- 1.4 Mr Graham was unsuccessful in his application to rejoin the Police Service. He had, however, already secured employment as General Manager of a private security company, Business Risks International Pty Ltd (BRI), a position he took up in November 1996 immediately following his resignation from the Police Service. The Commission was aware that BRI had supplied services to the Police Service and the Sydney Organising Committee for the Olympic Games (SOCOG). The Directors of the company were a former New South Wales police officer, Mr Mytch Jeffrey and his wife.
- 1.5 The manner of Mr Graham’s exit from and attempted re-entry to the Police Service, together with the links between BRI and the Police Service, raised questions about the possible existence of professional and personal networks between serving and former police officers. The Commission’s investigation was expanded to examine the possible existence of such networks and the role of Police Service personnel in facilitating the awarding of contracts to private security firms for the provision of goods and services, including those for the Sydney 2000 Olympic Games.

MEDIA REPORTS

- 1.6 In February 1998, a number of media reports were published concerning the Angus Graham investigation and Mr Graham's links to Olympic consultancies.
- 1.7 A Sydney newspaper ran a story on 15 February 1998 alleging that senior officers intervened regularly on Mr Graham's behalf during the internal investigation of the computer procurement matter. Mr Graham was described in the article as "General Manager of Business Risks International, a company engaged in Olympic consultancies over the past few months by SOCOG" and as "receiving lucrative Olympic employment working as a private security consultant".¹
- 1.8 In another article in the same paper, the links between BRI and the Police Service were further explored. BRI's involvement in Olympic security was described as follows:²

One firm in particular, BRI, has been instrumental in providing preliminary plans and guidance to SOCOG on how many police, private security guards and volunteers will be needed.

Critics claim it gives BRI and its contacts in the security world an inside run for the top jobs when they are finally allocated.

- 1.9 The same paper also reported that New South Wales Commissioner of Police, Peter Ryan had launched an independent corruption inquiry into allegations of "secret Olympic security deal links". Commissioner Ryan was quoted as saying:³

The allegations and the inferences surrounding the whole issue, in my view, impinge on the credibility of the whole process and the characters still within the police service.

Therefore, I think to clear the air, if for no other reason, it needs an investigation. And it needs to be carried out by the Police Integrity Commission.

There are people of senior rank. Having had this discussion, I am referring these matters to the Police Integrity Commission.

- 1.10 As these allegations were relevant to the Commission's existing investigation, the Commission decided to announce a public hearing on 6 March 1998 in order to publicise its interest in the matter and to encourage people with information to come forward.

¹ Goodsir, Darren, 'Ryan demands inquiry into security deal links', *The Sun Herald (Sydney)* 15 February 1998, p4.

² Goodsir, Darren, 'Police play the Games', *The Sun Herald (Sydney)* 15 February 1998, p 45.

³ Goodsir, Darren, 'Ryan demands inquiry into security deal links', *The Sun Herald (Sydney)* 15 February 1998, p4.

PUBLIC HEARINGS

1.11 In his opening address on 14 April 1998, Counsel Assisting the Commission stated:⁴

It will come as no surprise to the public, Mr Commissioner, to hear that many former police officers are involved in the commercial security industry. Their police training and investigative skills are compatible with private security work and it is not surprising that many former Police Service members would regard the private security industry as a career alternative at the end of their Police Service...

It may therefore seem only natural that private security companies may have informal links with senior members of the Police Service through former senior police employed by them and may also have an interest in providing security services for the Sydney 2000 Olympic Games.

No doubt many of these relationships are perfectly proper. However, if their existence does or may work to the commercial advantage of particular sections of the private security industry, then they warrant close scrutiny by this Commission.

1.12 The scope and purpose of the public hearings for Operation Warsaw were announced as follows:⁵

To investigate:

(1) The involvement of current or former New South Wales police officers and civilians employed by the New South Wales Police Service in relation to the supply of security related goods or services for the Sydney 2000 Olympic Games.

(2) The involvement of current or former New South Wales police officers and civilians employed by the New South Wales Police Service in relation to the supply of security related goods or services.

(3) The informal and formal networks and relationships which have developed within the New South Wales Police Service and how they affect or have affected disciplinary and criminal internal investigations, the sanctions and penalties imposed as a result of disciplinary and criminal internal investigations, the employment and promotions of New South Wales police officers and civilians employed by the New South Wales Police Service.

⁴ PIC Transcript 14 April 1998 p 5.

⁵ PIC Transcript 14 April 1998 pp 2-3.

(4) The informal and formal networks and relationships which are developing in the New South Wales Police Service.

(5) Whether there has been or whether there is a potential for police misconduct in the aforesaid matters, 1,2,3 and 4.

1.13 Public hearings were conducted between 14 April 1998 and 26 August 1998. The majority of the public evidence heard revolved around issues involving the internal Police Service investigation of Angus Graham, the circumstances in which he resigned from the Police Service, his application to rejoin the Police Service and his employment as a security consultant with BRI. It was not the intention of the Commission to re-investigate the allegations concerning the procurement of the computers. Evidence in relation to this matter was heard in the context of its relevance to networks within the Police Service.

1.14 Some evidence was also obtained in the public hearings about Olympic contracting and police networks. Those issues have also been further explored in private hearings conducted by the Commission.

PRIVATE HEARINGS

1.15 The private hearings conducted at the Commission concentrated on:

- The relationship between present and/or former members of the Police Service and BRI.
- The relationship between the Police Service and SOCOG.
- The relationship between SOCOG and BRI (in so far as the Police Service is involved).
- Olympic security contracts awarded by the Police Service.

1.16 The evidence and exhibits relating to those matters were taken in private because of their confidential nature, and it is considered appropriate that they remain confidential at this stage. The Commission is, however, in a position to form certain opinions in relation to the private evidence, and it does so in this Report.

THIS REPORT

1.17 This Report, prepared and furnished pursuant to sections 96 and 97 of the *Police Integrity Commission Act 1996* ("the Act"):

- summarises the public evidence heard by the Commission on the matters involving Angus Graham and makes assessments and forms opinions in relation thereto;

- expresses opinions regarding the evidence taken in private on Olympic contracting; and
- summarises and discusses the public evidence heard by the Commission on the issue of networks and relationships in the Police Service.

2/ THE COMMISSION'S APPROACH

ROLE AND FUNCTIONS OF THE COMMISSION

2.1 The Commission was established under the Act on the recommendation of the Royal Commission into the New South Wales Police Service. The principal functions of the Commission, set out in section 13 of the Act, are:

- a) to prevent serious police misconduct and other police misconduct,
- b) to detect or investigate, or manage other agencies in the detection or investigation of, serious police misconduct,
- c) to detect or investigate, or oversee other agencies in the detection or investigation of, other police misconduct as it thinks fit,
- d) to receive and assess all matters not completed by the Police Royal Commission, to treat any investigations or assessments of the Police Royal Commission as its own, to initiate or continue the investigation of any such matters where appropriate, and otherwise to deal with those matters under this Act.

2.2 As far as practicable, the Commission is required to turn its attention principally to serious police misconduct (section 13(2)).

2.3 Other functions of the Commission are set out in sections 14, 14A and 15 of the Act. Section 14 sets out the Commission's functions in regard to police activities and education programs including, *inter alia*:

- a) to undertake inquiries into or audits of any aspect of police activities for the purpose of ascertaining whether there is police misconduct or any circumstances that may be conducive to police misconduct,
- b) in particular, to monitor the quality of the management of investigations conducted within the Police Service and to undertake audits of those investigations,
- c) to make recommendations concerning police corruption education programs, police corruption prevention programs, and similar programs, conducted within the Police Service or by the Ombudsman or by the Independent Commission Against Corruption for the Police Service,
- d) to advise police and other authorities on ways in which police misconduct may be eliminated.

- 2.4 Section 14A sets out the Commission's functions with regard to the special audit reform process.
- 2.5 Section 15 sets out the Commission's functions in regard to the collection of information and evidence.

POLICE MISCONDUCT

- 2.6 "Police misconduct" is not specifically defined by the Act but includes the following (see section 5(2)):

- a) police corruption,
- b) the commission of a criminal offence or disciplinary offence by a police officer,
- c) corrupt conduct within the meaning of the *Independent Commission Against Corruption Act 1988* involving a police officer,
- d) any other matters about which a complaint can be made under the *Police Service Act 1990*.

- 2.7 As a means of providing more detailed guidance to the New South Wales Ombudsman and the Police Service as to the type of complaints regarding police about which the Commission is likely to have an interest, the Commission and the Ombudsman entered into an agreement pursuant to section 67 of the Act to specify the class or kind of complaints that are to be considered as Category 1 complaints. The Act requires that the Commission be notified of all Category 1 complaints. An initial agreement was entered into on 20 December 1996. On 15 January 1998, this agreement was amended to take effect from 1 February 1998. Since that date, Category 1 complaints now consist of the following:

- 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 therefor as specified in the *Drug Misuse and Trafficking Act 1985*.

2.8 In practice, most Category 1 complaints are referred back to be dealt with under Part 8A of the *Police Service Act 1990*. The Commission may elect, however, to take over the investigation of a Category 1 or any other complaint (section 23(1) and 70(3)(a)). It may also conduct an investigation on its own initiative (section 23(1)).

INVESTIGATIONS

2.9 In matters where the Commission does decide to conduct an investigation (whether or not in the nature of a preliminary investigation), it has a wide range of powers at its disposal in order to compel the production of information. For example, the Commission may:

- require public officials and public authorities to produce statements of information (section 25);
- require any person (whether or not a public official or public authority) to produce documents or other things (section 26);
- enter public premises (section 29);
- obtain search warrants (section 45);
- obtain warrants under the *Telecommunications (Interception) Act 1979*;

- obtain warrants under the *Listening Devices Act 1984* (section 50 of the Act); and
- require persons to attend and give evidence, either in public or in private (section 38).

REPORTS TO PARLIAMENT

2.10 The Commission may prepare reports in relation to any matter that has been, or is, the subject of an investigation (section 96(1)). In the event that the Commission holds public hearings as part of an investigation, the Commission must prepare a report in relation to the matter (section 96(2)). The report must be furnished to the Presiding Officer of each House of Parliament as soon as possible after the Commission has concluded its involvement in the matter, unless it is considered desirable, in the public interest, for the making of the report to be deferred.

2.11 The Commission may include in a report to Parliament:

- a) statements as to any of its assessments, opinions and recommendations (section 97(1)(a)), and
- b) statements as to the Commission's reasons for any of its assessments, opinions and recommendations (section 97(1)(b)).

2.12 The Commission is an investigative agency. It is not a court or tribunal, nor is it responsible for determining whether persons are in fact prosecuted for criminal or disciplinary offences.

2.13 Assessments which the Commission may make and opinions which the Commission may form may relate, under section 16(1), to whether police misconduct or other misconduct:

- has or may have occurred, or
- is or may be occurring, or
- is or may be about to occur, or
- is likely to occur.

2.14 An opinion that a person has engaged, is engaging or about to engage in police misconduct or other specified conduct (being conduct that constitutes or involves or could constitute or involve police misconduct) is not a finding or opinion that the person is guilty of or has committed, or is committing or is about to commit a criminal offence (section 16(3)). The Commission may not make a finding or form an opinion that a specified person is guilty of or has committed, is committing or is about to commit a criminal or disciplinary offence (section 16(2)(a)).

- 2.15 The Commission may make recommendations as to whether consideration should or should not be given to the prosecution of or the taking of other disciplinary action against persons (section 16(1)(b)). It may also make recommendations for the taking of other action that it considers should be taken in relation to the subject-matter of its assessments or opinions or the results of any such investigations (section 16(1)(c)). The Commission may not make a recommendation that a specified person be, or in its opinion that a specified person should be, prosecuted for a criminal or disciplinary offence (section 16(2)(b)).

“AFFECTED” PERSONS

- 2.16 Where the Commission makes a report to Parliament and, in the Commission’s opinion, substantial allegations have been made in the course of or in connection with an investigation to which the report relates, the person against whom the allegations are made is deemed to be an “affected” person (section 97(3)). The Commission’s report must include, in respect of each “affected” person, a statement as to whether or not in all the circumstances the Commission is of the opinion that consideration should be given to the following:

- a) prosecution of a person for a specified criminal offence,
- b) the taking of action against the person for a specified disciplinary offence,
- c) the taking of action against the person as a police officer on specified grounds, with a view to dismissing, dispensing with the services or otherwise terminating the services of the police officer (section 97(2)).

3/ ASPECTS OF THE 1995/96 INTERNAL POLICE INVESTIGATION INTO THE CONDUCT OF ANGUS GRAHAM

3.1 In his opening remarks, Counsel Assisting the Commission stated:⁶

One matter which the Commission will fully examine through public hearings and which bears on the possible existence of networks and relationships in the New South Wales Police Service concerns the circumstance in which former Chief Inspector Angus Graham resigned from the Police Service shortly after three charges of misconduct against him had been referred to the Commissioner of Police for a penalty determination. He immediately took up the position of General Manager of Business Risks International Pty Limited, a company which is prominent in the provision of private security services and which is controlled by another former Police Service member, Mr Mytch Jeffrey.

3.2 This chapter will review the evidence presented to the Commission on the internal investigation and departmental charging of former Chief Inspector Angus Graham. It will also examine a number of additional issues which arose during the course of the hearings including:

- whether prior to the Police Tribunal hearing of the charges against Mr Graham there had been any attempt to suborn any of the witnesses that were to appear at that hearing, and if so, by whom;
- perceptions of an improper approach in support of Mr Graham made to the Assistant Commissioner in charge of Professional Responsibility;
- whether a former member of the SIG staff, Ms Samantha Burton, had been subjected to harassment or victimisation in consequence of her involvement in the Graham investigation, and if so, by whom; and
- the lack of a penalty indication at the time charges were preferred against Mr Graham and the apparent failure to provide him with the penalty determination after his Tribunal appearance.

⁶ PIC Transcript 14 April 1998 p 6.

SUMMARY OF THE INTERNAL INVESTIGATION AND DEPARTMENTAL CHARGES

- 3.3 On 20 April 1998, Counsel Assisting the Commission summarised the 1995-96 case involving Angus Graham as follows:⁷

It appears that in June 1995 there was a surplus of funds in the stores account of the State Intelligence Group, but not in the capital account.

An anonymous complaint was received by the Internal Affairs Branch of the Police Service that Chief Inspector Graham and Senior Constable Iain Cottrell, as they then were, had circumvented proper procedures by purchasing computer hardware from Harris Technology of North Sydney under the guise of software and had arranged for the invoices for the goods to misdescribe the goods actually sold and delivered and to break down the cost of the goods into three separate invoices, each being under \$5,000, so that the invoices in terms of the description and costs of the goods appeared to reflect transactions that did not require finance approval.

It was further alleged that payment for the goods was made before delivery, contrary to both statutory and departmental requirements, and that, upon delivery, the existence of the new computers in the State Intelligence Group was not duly recorded, nor was the fact of the purchase and receipt of the computers disclosed to persons responsible for ensuring compliance with financial controls and the preservation of Police Service property.

- 3.4 After a lengthy investigation of the matter by Detective Chief Inspector Gary Matthews of the Professional Integrity Branch, three departmental charges of misconduct were preferred against Mr Graham on 30 November 1995:⁸

- That between the 1st day of June 1995 and the 30th day of July 1995, in your involvement in the purchase of computer equipment in accordance with Purchase Orders 3255000079, 3255000080, 3255000081, you failed to comply with the prescribed requirements of the Police Service.

Police Service Regulation 1990, Clause 9(4).
Public Finance and Audit Act 1983, section 62 and section 12.
Commissioner's Instruction 27.03

- That between the 1st day of June 1995 and the 30th day of July 1995 you failed to exercise the strictest honesty and truthfulness to wit, you did sign Purchase Orders 3255000079, 3255000080, 3255000081, knowing they contained false statements.

⁷ PIC Transcript 20 April 1998 p 10.

⁸ Exhibit 64.

Police Service Regulation 1990, Clause 9(3) & (4)

- That on the 21st day of August 1995 you failed to exercise the strictest honesty and truthfulness in your answers to questions asked of you by Chief Inspector Matthews in relation to your knowledge and involvement in the purchase of computer equipment in accordance with Purchase Orders 3255000079, 3255000080, 3255000081.

Police Service Regulation 1990, Clause 9(3) & (4)

Departmental vs Criminal Charges

- 3.5 Prior to a decision being made to proceed with departmental charges, the advice of the Solicitor for Public Prosecutions was sought as to whether there was sufficient evidence for criminal charges to be laid against Chief Inspector Graham and Senior Constable Cottrell together with another Senior Constable. The advice, provided to the Service on 24 October 1995, was that there existed sufficient evidence to warrant the laying of criminal charges against each of those officers pursuant to the *Public Finance and Audit Act 1983*. The Solicitor for Public Prosecutions also advised that he would be prepared to decline criminal charges if the Service proceeded with departmental charges.⁹
- 3.6 It should be noted that the maximum penalty under section 62 of the *Public Finance and Audit Act 1983* is a fine of \$2,000. At that time the range of departmental penalties available were more serious in their potential effect as they included demotion or dismissal.
- 3.7 Ultimately the Police Service elected to proceed with the departmental charges. Mr Graham did not admit those charges, requesting instead that they be heard by the Police Tribunal of New South Wales. Three days prior to that hearing, however, his solicitors advised the Commissioner of Police that he would admit the charges. The matter duly came before the Police Tribunal on 30 September 1996, the charges were formally admitted by Mr Graham, and the matter was remitted to the Commissioner of Police for a penalty determination.
- 3.8 Senior Constable Cottrell was charged departmentally with two counts of misconduct in terms identical to the first two counts brought against Chief Inspector Graham. In August 1996, Senior Constable Cottrell admitted the two charges brought against him after his solicitors had obtained a penalty indication from the Commissioner of Police. Mr Cottrell received a penalty of parade and reprimand before the Commander, Region Support.

Assessment

- 3.9 It has not been the intention of the Commission to re-conduct the investigation into the conduct of Mr Graham. Based on the evidence presented, the Commission considers that the investigation of this matter as conducted by Mr Matthews was done in a

⁹ PIC Transcript GE Schuberg 23 April 1998 pp 106-107; Exhibit 59.

thorough, competent and professional manner. The Commission also considers that the preparation of the case and the prosecution of the charges of Mr Graham before the Police Tribunal was conducted in a thorough, competent and professional manner by the Police Service.

CONCERNS OF WITNESS SUBORNMENT

3.10 Evidence emerged, during the course of the hearings, of possible attempts to influence witnesses who were to appear before the Police Tribunal in relation to the charges against Mr Graham.

3.11 On 23 April 1998, Acting Inspector Robert Redfern, Senior Advocate in the Legal Services Branch, provided evidence that, while preparing the case to go before the Police Tribunal with Mr Saidi of Counsel, they both become concerned that Senior Constable Cottrell was not being fully frank and open in terms of his recollection of events. This conclusion was formed in light of their awareness of the detail provided by Mr Cottrell in his initial record of interview with Inspector Matthews. The following exchange took place between Mr Redfern and Counsel Assisting the Commission:¹⁰

Q. What do you recall of the circumstances which gave rise to a concern in relation to Mr Cottrell's frankness?

A. Mr Cottrell, when we first conferenced with him, approached the conference on the basis of continually indicating that he was there to assist in whatever way he was able in the inquiry and the prosecution of Mr Graham. When both Mr Saidi and I asked questions of him, it seemed that there was a reluctance to provide any detail of places where conversations occurred, the nature of those conversations, the timing of those conversations, the details of those conversations. His memory, in effect, seemed to be almost utterly gone with respect to the circumstances that gave rise to the prosecution.

3.12 According to Mr Redfern's evidence, this inability to recall detail was maintained despite their providing Mr Cottrell with an opportunity to refresh his memory by reading the record of interview he had made with Inspector Matthews.¹¹

3.13 Mr Redfern added that it was the "professional view" of Mr Saidi and himself that Mr Cottrell was trying not to assist, a view formed upon their experience with conferencing witnesses and calling witnesses.¹² In the following exchange with Counsel Assisting the Commission Mr Redfern described the extent to which he had found Mr Cottrell not helpful.¹³

Q. No doubt over your dozen or so years in this area of the law, you've met this kind of problem in the past, or have you?

¹⁰ PIC Transcript RJ Redfern 23 April 1998 p 76.

¹¹ PIC Transcript RJ Redfern 23 April 1998 pp 76-77.

¹² PIC Transcript RJ Redfern 23 April 1998 p 77.

¹³ PIC Transcript RJ Redfern 23 April 1998 p 77.

A. I think it would be unrealistic to say that I haven't conducted cases where it seemed that not everybody was trying to be as helpful as they might otherwise be.

Q. And in terms of your experience of other such matters, is this a stark example or was it just par for the course?

A. I think it was more pronounced.

3.14 According to Mr Redfern's evidence, the day following the conference, he raised the possibility of Mr Cottrell's subornment with Mr Geoffrey Schuberg, then Assistant Commissioner in charge of Professional Responsibility. This action is confirmed by Mr Schuberg who gave evidence that, while Mr Redfern had not provided evidence of subornment, he had been sufficiently concerned himself to raise the possibility with Commissioner Ryan.¹⁴

3.15 Mr Cottrell in his evidence to the Commission, stated that while he was aware that Mr Redfern and Mr Saidi were having difficulty in obtaining the information they sought from him, this was due in part to the stress he was under at the time and the specificity of the questions they were asking:¹⁵

Q. Do you recall Mr Saidi and Mr Redfern in conference with you expressing concerns to you about lapses of memory on your part which they questioned you about?

A. I think they were having difficulty in getting the information they sought from me. I think it was in the context at the time I was under a lot of stress for other issues, whether it be because of my studies and work performance and that, and I think they were asking me specific questions as far as what time of day did particular conversations take place exactly. I think they were trying to form a time line of in fact events and I was finding it difficult to be specific about what took place when, who was spoken to, and it took a long time up until I was able to eventually reread my brief and reconsider things as far as recalling what took place.

Q. Do you recall an occasion when either Mr Saidi or Mr Redfern, when they were both together with you at Mr Saidi's chambers, gave you a copy of your audio recorded interview and asked you to go outside and read it and refresh your recollection and then to come back in and they would speak to you further?

A. That's correct.

Q. Did reading the record of interview assist your memory at that time?

¹⁴ PIC Transcript RJ Redfern 23 April 1998 p 78; and PIC Transcript GE Schuberg 23 April 1998 p 110.

¹⁵ PIC Transcript IJW Cottrell 14 May 1998 pp 389-390.

A. I believe so.

Q. Were you conscious after going back in of any perception that they had that your memory was still impaired beyond what they would have expected?

A. They didn't - they did not express that to me.

3.16 As is seen below, Mr Cottrell was adamant, in replying to questions put by Counsel Assisting the Commission, that he had not been trying to assist Mr Graham:¹⁶

Q. All right. At that time was there any wish on your part to assist Mr Graham by not being as forthcoming as you could have been in relation to your knowledge of the relevant events?

A. No, that wouldn't have been the motivation. My motivation at that time was to assist the Police Service as best as I could to consider any other reasons. As to why I had difficulty in recalling what exactly took place and what was said when, to assist Mr Graham would not be correct.

3.17 Counsel Assisting the Commission further questioned Mr Cottrell (who was working for BRI while on leave without pay from the Police Service at the time he gave evidence to the Commission) about the extent of his contact with Mr Graham at that time:¹⁷

Q. At that stage did you have any contemplation at all of possibly doing any work for Business Risks International in the future?

A. At that stage I hadn't even heard of the organisation.

Q. Did you, following the admission of your own charges or before, ever discuss with Mr Angus Graham the evidence that you would give or the evidence he would give if either matter went before the Police Tribunal?

A. No, I did not.

Q. Did he ever approach you in any way in relation to either your prospective tribunal hearing or his?

A. No, he did not.

3.18 In his evidence Mr Cottrell also expressed his high regard for Mr Graham and a high degree of faith in him.¹⁸

3.19 Mr Graham, in his evidence to the Commission, implicitly denied any attempt on his part to influence Mr Cottrell in his favour in respect of evidence that Mr Cottrell might give to

¹⁶ PIC Transcript IJW Cottrell 14 May 1998 p 390.

¹⁷ PIC Transcript IJW Cottrell 14 May 1998 p 391.

¹⁸ PIC Transcript IJW Cottrell 14 May 1998 p 391.

the Police Tribunal. This can be inferred from the evidence he provided the Commission on his reaction when he was advised by Mr Jarratt that Commissioner Ryan had been informed that he had attempted to suborn witnesses. His reaction was:¹⁹

Upon receiving that advice about suborning witnesses I felt it was totally scurrilous and [it] just confirmed my decision [to resign].

Assessment

- 3.20 There is no evidence that Mr Graham sought to suborn Mr Cottrell as a witness, or influence him in any way in respect of the evidence that he might give if called as a witness before the Police Tribunal. If there was any intentional feigning of absence of memory by Mr Cottrell with a view to potentially assisting Mr Graham (as discussed below) it is the Commission's opinion that there is insufficient evidence to warrant such a finding) it may well have been entirely of Mr Cottrell's own volition, given his admiration for Mr Graham.
- 3.21 It is the Commission's opinion that Mr Redfern and Mr Saidi each formed a genuine professional opinion, based on their extensive experience, that Mr Cottrell, in conference with them, was feigning an absence of memory of relevant facts with a view to potentially assisting Mr Graham. It was proper that these concerns should have been reported to Assistant Commissioner Schuberg. Although an element of suspicion attaches to Mr Cottrell's conduct in respect of the matter and in respect of his evidence to this Commission on this issue, the evidence is not sufficient to warrant the Commission forming any adverse opinion in relation to him.

PERCEPTION OF AN IMPROPER APPROACH IN AID OF MR GRAHAM

- 3.22 On the page of his 1996 diary for Sunday 30 June, then Assistant Commissioner Schuberg made an entry against the time 2:45 pm of a telephone conversation he had with Superintendent Grahame Smith, the then Chief of Staff to Acting Commissioner Taylor.²⁰
- 3.23 The entry was predominantly in shorthand and below it Mr Schuberg wrote the following:

SHORTHAND READS-

Seeking advice on whether anything could be done for A. Graham. It's suggested that the brief was weak. Advised that in my opinion the brief was strong. Advised that nothing could be done for A.G. and that the matter should go to the Tribunal.

¹⁹ PIC Transcript AA Graham 15 May 1998 p 467.

²⁰ Exhibit 85AC

3.24 According to Mr Schuberg's evidence of the circumstances in which he made the diary entry, although the entry is recorded on the page for Sunday 30 June, the telephone conversation actually took place on Monday 1 July 1996.²¹

3.25 The words "whether anything could be done for A. Graham" were a matter of concern to this Commission due to the implication arising from them that Mr Smith may have been seeking to exert some improper influence in aid of Mr Graham, either at his own instigation or at the instigation of someone else.

3.26 Counsel Assisting the Commission questioned Mr Schuberg on his reaction to the conversation at the time:²²

Q. Looking at the expression in the English part of your diary note "advice sought on whether anything could be done for A. Graham", given that the three charges were pending for hearing by the Police Tribunal, were you concerned about an inquiry put in the terms "can anything be done"? Did that have any connotation in your mind which troubled you?

A. Yes, it did, and not just on this occasion, but on a number of occasions, because I was aware of networks and connections within the Service and I was probably more curious than anything else as to who would have put Grahame Smith up to this. By the same token, by talking to me they were talking to the wrong person and I think most people in the Service knew that, but I'd known Grahame Smith for a long time. We worked closely together many years ago and he probably felt that he could make that inquiry of me without me being greatly alarmed at it. For that reason, I told him how I felt and that was the end of it. I think he got the message.

3.27 Mr Schuberg made clear in his evidence that he was not suggesting that Mr Graham was the person who put Mr Smith up to contacting him and he did not know whether Mr Smith was acting on his own initiative or at the behest of someone else.²³

3.28 For his part, Mr Smith readily conceded that he contacted Mr Schuberg about Mr Graham around mid 1996. In providing evidence on 16 April 1998, Mr Smith described a conversation he had had with Mr Graham regarding the charges Mr Graham was facing. According to Mr Smith, Mr Graham had approached him in order to seek his assistance in making a direct representation to Acting Commissioner Taylor. Mr Smith stated that he had advised Mr Graham that this would not be appropriate and that he, Mr Smith, would raise the matter with the Acting Commissioner and be guided by his advice.²⁴

3.29 Mr Smith went on to say that he did raise the matter with Mr Taylor who in turn had said that he would be guided by Mr Schuberg in this matter. As Mr Taylor was also requesting a briefing on the matter from Mr Schuberg at that time, he asked Mr Smith to

²¹ PIC Transcript GE Schuberg 23 April 1998 pp 129, 134.

²² PIC Transcript GE Schuberg 23 April 1998 p 132.

²³ PIC Transcript GE Schuberg 23 April 1998 p 133.

²⁴ PIC Transcript GP Smith 16 April 1998 pp 13-14.

see Mr Schuberg. According to Mr Smith, Mr Taylor had said “‘you’d better get down there’, and used a few other words ‘and see Schuberg and just find out what’s going on with the briefing and also put the substance of these representations to Schuberg and find out what his attitude is in relation to them’”.²⁵

- 3.30 As to his conversation with Mr Schuberg, Mr Smith stated that he was told that the case against Angus Graham was strong and that Mr Schuberg intended to pursue it.²⁶
- 3.31 In his evidence, Mr Taylor corroborated Mr Smith’s recollections on this matter. Mr Taylor stated that he recalled Mr Smith raising Mr Graham’s pending appearance before the Police Tribunal with him “‘with a request by Mr Graham that we might consider some withdrawing of charges on the basis that he might plead guilty to others’”.²⁷ Mr Taylor went on to state that he referred Mr Smith back to the Professional Responsibility Command to obtain Mr Schuberg’s advice about the approach that was made and to advise him of the result. He further recalled that Mr Smith had informed him that Mr Schuberg’s advice was that the matter should rest with the Tribunal.
- 3.32 Mr Taylor also gave evidence that, at the time, any officer, including Mr Graham was entitled to approach the Acting Commissioner on any matter of concern. Furthermore, the normal process for such an approach was through Mr Smith.²⁸
- 3.33 Mr Graham’s evidence, however, was that he had never approached Mr Smith with the intent of having him approach Mr Taylor or Mr Schuberg on his behalf. In his view, their discussions had been of a purely general nature. He stated that he would not have asked for a face to face meeting with Acting Commissioner Taylor as he felt the Acting Commissioner would have been offended by such a request. Mr Graham also stated that Mr Smith had never informed him that he had discussed his charges with Acting Commissioner Taylor, nor had Mr Smith ever informed him that he had made an inquiry of Mr Schuberg in relation to the charges.²⁹

Assessment

- 3.34 The Commission is of the opinion that a legitimate basis existed for Mr Schuberg to be concerned about Mr Smith’s purpose in telephoning him in relation to Mr Graham on 1 July 1996.
- 3.35 The evidence establishes, however, that Mr Smith did not act of his own initiative but on the instructions of Acting Commissioner Taylor. Having spoken to Mr Schuberg he gave a full and prompt report of Mr Schuberg’s position to Acting Commissioner Taylor.
- 3.36 The evidence establishes that Mr Schuberg’s diary entry records a condensed summary of his conversation with Mr Smith. It is not a verbatim account. There is no doubt that Mr Schuberg made his essential views clearly known to Mr Smith, namely that there

²⁵ PIC Transcript GP Smith 16 April 1998 p 14.

²⁶ PIC Transcript GP Smith 16 April 1998 p 14.

²⁷ PIC Transcript NO Taylor 11 May 1998 p 288.

²⁸ PIC Transcript NO Taylor 11 May 1998 p 297.

²⁹ PIC Transcript AA Graham 15 May 1998 pp 462-465.

was a strong case against Mr Graham, nothing could be done for him, and the matter should go to the Police Tribunal. Mr Smith in turn conveyed Mr Schuberg's opinion to Acting Commissioner Taylor, who accepted it and directed that Mr Graham be informed accordingly.

- 3.37 The evidence does not disclose any basis for criticism of any person in respect of this issue.

ALLEGATIONS OF WITNESS HARASSMENT

- 3.38 On 12 May 1998 Ms Samantha Burton, former Computer Systems Administrator for the SIG, gave evidence to the Commission on her involvement in the matters that became the subject of the investigation of Mr Graham. She then went on to give evidence that included allegations of subsequent victimisation and a description of an incident of possible harassment.

Allegations of Victimisation

- 3.39 Counsel Assisting the Commission asked Ms Burton about her experiences in her work environment subsequent to her involvement in the investigation. The following exchange took place:³⁰

Q. Did you ever experience any pressure or anything that you regarded as untoward in terms of police conduct towards you which you regarded as being connected with your involvement in this investigation?

A. Yes, I did.

Q. Could you tell us when it was that you first, in your mind, became conscious of something and then what that was?

A. I was transferred over to Region Support during the course of this investigation. How I would term it was and how I did term it to the internal witness branch was that I treat my dogs better than what I was being treated by certain police officers.

Q. Who were those police officers?

A. Inspector Sutton and Superintendent Col Hobden.

Q. In relation to Inspector Sutton, what was it that you experienced and when did it occur?

A. I was treated fairly badly at my job again. I was computer systems officer and I was required to carry around very heavy equipment. When I arrived over at Region Support to start work there, my immediate supervisor, being Michael

³⁰ PIC Transcript ST Burton 12 May 1998 pp 326-328.

Sobb, who worked at Parramatta, advised me that I was to catch a train, a bus or walk to the locations and I was to carry all my equipment with me, that they would not provide transport.

I went and explained to Inspector Sutton that the equipment was too heavy to carry and he just virtually shrugged his shoulders and said that under no circumstances would transport be supplied. That was one incident.

3.40 Ms Burton then went on to relate other incidents where she considered she was treated unfairly. She stated that initially she did not attribute this to her involvement in the investigation of Angus Graham, but that she came to realise that her treatment differed from the other staff in the office.

3.41 She went on to state that during an interview with Superintendent Hobden and Ms Helen Rintoul (Manager Staff Administration, Region Support) in 1996 she told Superintendent Hobden that she felt she was being intimidated. In her evidence she stated that he replied “if there was harassment being carried out, it would stop at that minute” and according to Ms Burton it did.³¹

3.42 When questioned whether she had ever discussed these matters with Inspector Sutton, Ms Burton stated:³²

I felt it was actually Mr Sutton who was harassing me, not Mr Hobden, but Mr Hobden’s attitude when I went to him was always to send me back to Bob Sutton. So I thought - to my way of thinking I felt that while he was not applying the pressure, he was not doing anything to alleviate it.

3.43 Superintendent Hobden, Inspector Sutton and Ms Helen Rintoul each gave evidence on the issue of the possible harassment or victimisation of Ms Burton as a result of her involvement in the Graham matter. In that evidence they each describe difficulties in the work relationship between Inspector Sutton and Ms Burton. Various explanations for this situation were provided, including personality differences and Inspector Sutton’s lack of experience supervising computer support staff.³³

3.44 In his evidence Mr Sutton denied that Ms Burton was subjected to victimisation by him and it is his contention that her difficulties had nothing to do with the investigation into the conduct of Mr Graham. He asserts that he had sought to address and resolve problems with her working conditions as best he could.³⁴ In this respect Inspector Sutton’s evidence was generally corroborated by Ms Rintoul and Superintendent Hobden.

Allegations of Harassment

3.45 Ms Burton gave evidence of a separate incident which took place during 1996:³⁵

³¹ PIC Transcript ST Burton 12 May 1998 p 329.

³² PIC Transcript ST Burton 12 May 1998 p 329.

³³ PIC Transcript HR Rintoul 22 May 1998 p 7; PIC Transcript RA Sutton 22 May 1998 p 7.

³⁴ PIC Transcript RA Sutton 22 May 1998 p 11.

³⁵ PIC Transcript ST Burton 12 May 1998 p 334.

Chief Inspector Lemme came up to me while I was sitting in my cubicle at Region Support and asked me to turn around so my back was to him, and when I queried it he said he wanted to see the holes in my back and I said, "Excuse me?" He said, "Oh, I thought you knew. Angus Graham has said he'll destroy you if it's the last thing he does". At this point I expressed that Angus had been at Region Support and was always very nice to me, and he said that was to my face and behind my back he was setting about destroying me.

- 3.46 Mr Lemme retired from the Police Service in March 1997 with the rank of Detective Chief Inspector. On 28 May 1998 Mr Lemme gave evidence before the Commission that: he had no knowledge that Ms Burton was a witness in the police case against Mr Graham; that he had never said words as described above to Ms Burton; that he had never overheard Mr Graham say anything adverse about anybody in relation to the charges; and that he had heard no rumours that Mr Graham held any animosity against any person in relation to the charges.³⁶
- 3.47 On 15 May 1998, Mr Graham gave evidence that he never told anybody he would destroy Samantha Burton. He stated that he always made sure he treated her with utmost respect and dignity.³⁷
- 3.48 Ms Burton concurred that Mr Graham had always treated her well when meeting her at Region Support.³⁸

Investigation of Ms Burton's Complaint

- 3.49 A complaint on the issues related above was made on Ms Burton's behalf through the Internal Witness Support Program in August 1996. The complaint was passed to Superintendent Hobden to investigate.
- 3.50 Superintendent Hobden, together with Ms Rintoul, interviewed Ms Burton on 26 August 1996 in relation to her complaint.³⁹ Ms Burton subsequently withdrew her complaint on the basis of lack of evidence and no further investigation of the allegations were made by Mr Hobden. Ms Burton gave evidence that she was satisfied with the outcome of this process as it was her perception that her conditions improved dramatically after the interview.⁴⁰
- 3.51 In giving evidence on 12 May 1998 Superintendent Hobden was questioned by Counsel Assisting the Commission as to whether he should have recognised a potential conflict of interest in investigating Ms Burton's complaint as it included issues to do with her working conditions while she was under his command. In reply, Mr Hobden noted that the matter had been referred to him for attention and he was not aware that Ms Burton had concerns about him dealing with it.⁴¹

³⁶ PIC Transcript RC Lemme 22 May 1998 pp 7-10.

³⁷ PIC Transcript AA Graham 15 May 1998 p 481.

³⁸ PIC Transcript ST Burton 12 May 1998 p 334.

³⁹ PIC Transcript CM Hobden 12 May 1998 p 42.

⁴⁰ PIC Transcript ST Burton 12 May 1998 pp 329-330, 339, 352.

⁴¹ PIC Transcript CM Hobden 12 May 1998 p 48.

3.52 Counsel Assisting also questioned Superintendent Hobden on his decision not to interview Chief Inspector Lemme.⁴²

Q. Do you say it simply never occurred to you to inquire as to what Chief Inspector Lemme's position was as to whether he'd ever said such a thing to Miss Burton and, if so, whether there was any basis for it?

A. I think my position would have been this, that when she withdrew the complaint then I would not have considered those issues as serious, if you like.

Q. She expressly says she withdraws the complaint because she has no evidence to support her claim, in paragraph 3?

A. Yes.

Q. But surely that's not good enough, to let someone withdraw a complaint because they have no evidence when the means of seeing if there is any evidence is as plain as the nose on one's face?

A. Yes.

3.53 Superintendent Hobden went on to acknowledge that in hindsight that he should have contacted Mr Lemme.⁴³

Assessment

3.54 It is clear that there were difficulties experienced in the working conditions of Ms Burton on her arrival at Region Support and in her relations with her supervisor Inspector Sutton. All witnesses appear to agree on that, although there are clear differences between Ms Burton and the others on the exact nature of those difficulties (eg. whether or not legitimate attempts were made to resolve her transportation problems).

3.55 Of interest to the PIC, however, is whether these difficulties represent victimisation of Ms Burton as a result of her involvement in the investigation of Angus Graham, and whether such actions would indicate the existence of networks within the Police Service that acted to disadvantage persons in her position.

3.56 No evidence has been presented that demonstrates that Inspector Sutton, Superintendent Hobden or Ms Rintoul were motivated by a desire to pressure Ms Burton in her role as a witness or to "punish" her for her part in the investigation. The Commission found no evidence that Superintendent Hobden or Inspector Sutton were involved, directly or indirectly, in any victimisation or harassment of Ms Burton.

3.57 It is impossible to determine conclusively whether the conversation between Mr Lemme and Ms Burton took place as there is little chance of corroboration. If Ms Burton is

⁴² PIC Transcript CM Hobden 12 May 1998 p 47.

⁴³ PIC Transcript CM Hobden 12 May 1998 p 47.

correct in her evidence of her conversation with Mr Lemme, however, then it can be concluded that she justly felt herself a victim of harassment.

- 3.58 There is no evidence that Mr Graham was involved, directly or indirectly, in any victimisation or harassment of Ms Burton.
- 3.59 The victimisation of internal witnesses was recognised in the final report of the Royal Commission into the New South Wales Police Service. The report states: “There is a body of evidence to suggest that, most of all, internal witnesses fear harassment and ostracism as a result of reporting the misdeeds of their colleagues”.⁴⁴ It also noted the resulting dangers victimisation creates for the Service as it discourages the reporting of corruption. The report made a number of recommendations designed to strengthen the support received by internal witnesses.⁴⁵
- 3.60 The evidence indicates that the Internal Witness Support program was largely successful in its support of Ms Burton, as attested to by Ms Burton herself. The Commission, however, considers that the Police Service could have dealt more effectively with Ms Burton’s allegations of victimisation. This would have included ensuring that an independent group or person investigated her complaint, and that the details of her complaint were fully investigated before she was able to, or permitted to, withdraw it.

PENALTY AND RESIGNATION

- 3.61 Evidence presented to the Commission indicated that Mr Graham did not receive a penalty indication prior to his Tribunal appearance. Evidence was, however, received of a recommendation made on 20 November 1995 by the Penalty Review Committee of a penalty of parade and reprimand by the State Commander.⁴⁶ The disciplinary practices of the Police Service at that time were such that, while not required, a penalty indication was often provided to officers facing departmental charges.⁴⁷ It appears, however, that the Committee’s recommendation was not communicated to Mr Graham and, in his evidence, Mr Redfern stated that to the best of his memory no penalty indication was ever provided to Mr Graham.⁴⁸
- 3.62 It would also appear that after Mr Graham had admitted the charges, he was never provided with notification of his penalty determination as made by Commissioner Ryan.
- 3.63 Mr Graham appeared before the Police Tribunal and admitted the charges against him on 30 September 1996. A penalty recommendation was presented by Assistant Commissioner Schuberg to Commissioner Ryan on 11 October 1996. That recommendation included stronger penalty measures than the ‘parade and reprimand’ noted above. In the recommendation, Mr Schuberg explained that the additional measures were the result of having obtained additional evidence of Mr Graham’s

⁴⁴ Royal Commission into the New South Wales Police Service *Final Report Volume II: Reform*, May 1997 p 405.

⁴⁵ Royal Commission into the New South Wales Police Service *Final Report Volume II: Reform*, May 1997 p 421.

⁴⁶ PIC Exhibit 60. Barcode 5218027-30.

⁴⁷ PIC Transcript RJ Redfern 20 April 1998 p 63.

⁴⁸ PIC Transcript RJ Redfern 23 April 1998 p 99.

untruthfulness in his statements to Investigator Matthews while preparing the prosecution case.⁴⁹

3.64 The Commissioner agreed to proceed with the penalty determination recommended by Mr Schuberg as follows:⁵⁰

- (1) On the misconduct charge relating to the purchase of computer equipment, that Chief Inspector Graham be paraded and reprimanded by the State Commander;
- (2) On the two misconduct charges for untruthfulness, that Chief Inspector Graham be fined the sum of \$250 per charge, being a total of \$500;
- (3) That Chief Inspector Graham be transferred to a patrol under the direct supervision of a superintendent with demonstrated managerial and leadership qualities and that his performance be monitored for a period of six months. Subject to a satisfactory report, that he then be transferred to an appropriate posting approved by the State Commander;
- (4) That the Commissioner request a review by the Executive Director, Education and Training, on the question of Chief Inspector Graham's suitability to undertake the Postgraduate Diploma in Public Administration at Macquarie University during 1996 a part of the senior executive development program which is funded by the Police Service;
- (5) That the Commissioner, subject to approving these recommendations, advise the Chairman of the Police Board of his intended action and return the papers to the Office of Professional Responsibility for notification of penalty to Chief Inspector Graham.

3.65 The penalty recommendation document⁵¹ includes notations indicating Commissioner Ryan's acceptance of the penalty recommendation. There are further notations indicating to whom the document was forwarded, including its passing to an officer charged with the preparation of the notification of the penalty.⁵² In its investigations, however, the Commission did not uncover an original or copy letter with Mr Schuberg's signature advising Mr Graham of his penalty. In giving evidence Mr Schuberg also could not recollect sighting a letter advising Mr Graham of the penalty. There is every likelihood therefore that this letter was never provided to Mr Graham.⁵³

3.66 Mr Graham's evidence indicates that the only information he received on a prospective penalty came from two sources. According to Mr Graham's evidence, Deputy Commissioner Jeffrey Jarratt (then Assistant Commissioner) had spoken to him on the

⁴⁹ PIC Exhibit 88. Memorandum of 11/10/1996 of the Commander, Professional Responsibility, Endorsed by the Commissioner of Police and others. Barcode 5218104-105.

⁵⁰ PIC Transcript Counsel Assisting the Commission 20 April 1998 pp 13-14.

⁵¹ Exhibit 88

⁵² Exhibit 88.

⁵³ PIC Transcript GE Schuberg 19 May 1998 pp 560-61.

weekend before his Tribunal appearance of 30 September 1996. Mr Jarratt related to Mr Graham the results of a discussion he had with Mr Ryan in which he had told Mr Ryan of Mr Graham's plans to resign. According to Mr Graham, Mr Jarratt had told him that Mr Ryan's position was that he intended Mr Graham to be sent to a region for five or six years and prove himself again but that, subject to appropriate performance, his career was not necessarily over.⁵⁴ Mr Graham also gave evidence that at this time his legal team had indicated to him that the Police Service had signalled that he might face dismissal.⁵⁵

- 3.67 Both Mr Schuberg and Commissioner Ryan gave evidence that they did not view the penalty they had formulated as ending Mr Graham's career in the Police Service, although they both acknowledge that it would delay any future promotions until he had "proven" himself once again.⁵⁶
- 3.68 In his resignation letter of 8 November 1996 Mr Graham stated that his decision to resign had been influenced by the manner in which he was investigated and subsequently departmentally charged. He went on to say that he believed that the entire process was inappropriate and demonstrated a lack of capacity to understand the entire situation and was a wrongful manipulation of the discipline system.⁵⁷
- 3.69 Evidence has been received by the Commission that Mr Graham's exit record provides "job dissatisfaction" as the reason for his resignation. Furthermore, that there is no record of Mr Graham having been departmentally charged at the time of his resignation on his exit record. Concern was expressed by Mr Matthews that the record of why Mr Graham resigned could be misleading, especially for any future government employment applications.⁵⁸
- 3.70 Mr Schuberg stated that the acceptance of the resignation was unusual in that, normally in such circumstances, the resignation would be brought to his attention and he would be asked for an opinion as to whether the resignation should be accepted or not.⁵⁹
- 3.71 Mr Graham testified that he did not resign in order to avoid the recommended penalty as he was not aware of its existence.⁶⁰ Commissioner Ryan, however, made a number of strong statements against officers resigning and thereby avoiding penalties.⁶¹

Assessment

- 3.72 Evidence provided to the Commission demonstrates that the lack of penalty indication and then the apparent failure to provide the penalty determination to Mr Graham, appear to have created a number of difficulties for persons involved with this matter. Mr Graham, at least, was not in an informed position when making decisions about his

⁵⁴ PIC Transcript AA Graham 15 May 1998 pp 467, 482.

⁵⁵ PIC Transcript AA Graham 15 May 1998 p 483.

⁵⁶ PIC Transcript GE Schuberg 23 April 1998 p 145 PIC Transcript PJ Ryan 15 April 1998 p 7; and PIC Transcript PJ Ryan 20 May 1998 p 621.

⁵⁷ PIC Transcript AA Graham 15 May 1998 p 471.

⁵⁸ Exhibit 26 Memorandum from GP Matthews dated 1/7/1991. Barcode 5054769-5054770.

⁵⁹ PIC Transcript GE Schuberg 19 May 1998 p 558.

⁶⁰ PIC Transcript AA Graham 15 May 1998 p 470.

⁶¹ PIC Transcript PJ Ryan 15 April 1998 p 9; PIC Transcript PJ Ryan p 621.

Tribunal case, and ultimately in his decision to end his career as a police officer. Accordingly, the Commission is not able to form an opinion on the use of resignation to avoid penalty in this instance, as it would appear that Mr Graham was unaware of his penalty at the time of his resignation.

- 3.73 While it is obvious that the failure of the Police Service to communicate its intentions in regard to Mr Graham was unfortunate, no recommendations of a procedural nature can be made as the current disciplinary process is significantly different from the practices in place in 1995 and 1996.⁶²
- 3.74 The failure to record any reference of Mr Graham's departmental investigation on his exit record is of concern to the Commission. If this is a practice of the Police Service it creates a risk that former officers, who have left after attention by Internal Affairs, could reapply for positions in the Police Service or related positions with no reference being made to the previous matters.

⁶² PIC Transcript RJ Redfern 20 April 1998 p 63.

4/ DECISIONS MADE BY DEPUTY COMMISSIONER JARRATT IN RELATION TO ANGUS GRAHAM

4.1 This chapter will examine two areas where evidence was provided on Mr Jarratt's actions in relation to Mr Graham, namely:

- Mr Jarratt's decision to appoint Mr Graham to the Royal Commission Implementation Unit while he was facing departmental charges; and
- the selection of Mr Graham for interview for the position of Commander, State Intelligence Group in June 1997.

APPOINTMENT OF MR GRAHAM TO THE ROYAL COMMISSION IMPLEMENTATION UNIT

4.2 In February/March 1996 the Police Service established the Police Royal Commission Implementation Unit for the purpose of bringing about structural and policy changes recommended in the interim report of the Royal Commission into the New South Wales Police. In March 1996, after he had been charged departmentally, Mr Graham was recruited into the Unit by Deputy Commissioner Jarratt. Mr Jarratt was, at that time, an Assistant Commissioner charged with establishing this new Unit.

4.3 The appointment became a matter of concern for a number of individuals connected to the Graham matter.

4.4 Mr Schuberg gave evidence to the Commission that he had not thought it appropriate for an officer in Mr Graham's circumstances, that is facing disciplinary charges, to be involved in the reform process:⁶³

The implementation unit at that stage was looking at police reforms as a result of the Royal Commission. They were looking at the future structure of the Police Service, a number of very sensitive and what I would regard as highly confidential matters. I did not think it was appropriate for any officer in these circumstances to be privy to that information or to participate in that reform process.

4.5 When asked if other members of the Service had expressed their concerns directly to him about Mr Graham being in the Implementation Unit, Mr Schuberg responded:⁶⁴

Yes, it was a - it was a topic of discussion and, you know, I'm not saying that they came to my office to express that view, but if I went anywhere, if I was having a cup of coffee or a cup of tea or I was at a meeting, then on occasions people would indicate to me that they felt it was wrong that he was working there. But that's - that was a system which existed in the Police Service well

⁶³ PIC Transcript GE Schuberg 23 April 1998 p 134.

⁶⁴ PIC Transcript GE Schuberg 23 April 1998 p 136.

and truly prior to that, and a lot of police just accepted it. I couldn't accept those things.

- 4.6 He also stated that he had contacted Acting Commissioner Taylor to voice his concerns. According to Mr Schuberg, Mr Taylor was very concerned about the situation and had spoken to Mr Jarratt about the issue.⁶⁵

- 4.7 When asked by Counsel Assisting whether he had held any concern about Mr Graham being in the Implementation Unit, Mr Taylor stated:⁶⁶

It came to my notice that he was working in the unit and I raised the matter on an informal basis with Mr Jarratt on the desirability of Mr Graham working there. Mr Jarratt's response to that was that he was aware of Mr Graham's situation. He took the view that at that time Mr Graham had not been convicted of any issue at all and in fact strongly denies the allegations made.

- 4.8 He later went on to say that when discussing the placement with Mr Jarratt:⁶⁷

He gave me a response which was his view of the issue. I might say I didn't entirely agree from the point of view of perceptions, but I didn't feel so strongly about it to push the issue, for the reason I've explained earlier.

- 4.9 He went on to note that Mr Jarratt had also argued that he was having difficulty in staffing the unit with suitably qualified people. Mr Taylor also gave evidence that he had felt that he should leave the organisation of the unit to Mr Jarratt:⁶⁸

I gave him the responsibility of organising and implementing the unit. I didn't feel it was my position to push the issue about staffing with him to any extent, and that's where the matter rested.

- 4.10 4.10 Mr Taylor could not recall being approached by Mr Schuberg on this matter. Mr Taylor did provide evidence though of a Police Board meeting where a member, possibly Mr Sturgess, had questioned the Graham appointment. It was his recollection that he had suggested to the Board member at the meeting that the member discuss the issue with Mr Jarratt.⁶⁹

- 4.11 4.11 Mr Sturgess gave evidence to the Commission of his concerns regarding Mr Graham's appointment to the Unit. He regarded the posting as a sensitive one. His perception was, and as he saw things the general perception in the Police Service was, that anyone who was dealing with the Royal Commission Implementation Unit "...was perceived to be a person in whom considerable trust could be placed".⁷⁰

⁶⁵ PIC Transcript GE Schuberg 23 April 1998 p 134.

⁶⁶ PIC Transcript NO Taylor 11 May 1998 p 285.

⁶⁷ PIC Transcript NO Taylor 11 May 1998 p 293.

⁶⁸ PIC Transcript NO Taylor 11 May 1998 p 285.

⁶⁹ PIC Transcript NO Taylor 11 May 1998 p 287.

⁷⁰ PIC Transcript GL Sturgess 18 May 1998 p 526.

4.12 Mr Sturgess was asked to read into the record his diary note for 4 April 1996 which related to the Police Board meeting in which Mr Graham's appointment to the Implementation Unit was discussed. Counsel Assisting the Commission asked Mr Sturgess about a margin note relating to that diary entry as follows:

Q. You have a marginal note at the left?

A. Yes. This has been entered in the course of the same series of entries, but it is something I've recalled later, but it has been entered that day:

"Several board members commented on it being another example of Jarratt's poor judgment."

Q. Did you share that view?

A. Yes.

4.13 Counsel Assisting the Commission went on to ask:⁷¹

Q. So we are clear, why did you hold the view that it was an illustration of poor judgment by Mr Jarratt?

A. Mr Graham was the subject - then the subject of disciplinary proceedings. I considered that for a person who was at that point in time a senior officer, the subject of police disciplinary proceedings and known throughout the Service to be so, for that officer to be appointed to the Royal Commission Implementation Unit appeared to be making a judgment before the event and providing a message to the Police Service that Mr Graham was a person of high trust and that the disciplinary proceedings were matters of no import.

4.14 Counsel Assisting the Police Service later referred Mr Sturgess to the decision of the Penalty Review Committee in November 1995, which indicated a penalty of parade and reprimand (Exhibit 60). He asked Mr Sturgess whether this document might suggest that the assessment of Mr Graham's conduct was such that it was not regarded as serious.⁷²

Q. It might have indicated his assessment of his conduct at the time was such that it wasn't regarded as particularly serious and could be dealt with by way of reprimand and admonishment. If that be a reflection of the gravity as it was perceived at the time, would that necessarily have disqualified him in your mind from being used in the implementation unit?

A. Yes, it would have because he was subject of, as I understood it, I think Tribunal matters at that point in time, but he was the subject of disciplinary proceedings, and that matter remained unresolved and while it was unresolved, to promote

⁷¹ PIC Transcript GL Sturgess 18 May 1998 p 526.

⁷² PIC Transcript GL Sturgess 18 May 1998 p 538.

him while not in rank but to promote him in status by giving him such a privileged position was, in my view, totally improper.

4.15 Mr Sturgess went on to state:⁷³

His transfer into the Royal Commission Implementation Unit would, in the eyes of the organisation, have been, as I said, not a promotion of rank but without a doubt a promotion of status within the organisation in a significant way.

4.16 And later again:⁷⁴

Q. Did you consider in your assessment of the situation that he may have been entitled to some presumption of innocence?

A. There was no question of his guilt at this point of time. He was under investigation and for him to be promoted - and I use that term quite deliberately - advanced into a position of high trust while under investigation, it was not a question of guilt or innocence, it was a question of due process and the seriousness with which we the Board and the Police Service took the question of disciplinary hearings.

4.17 Mr Graham gave evidence that around June 1996 Mr Jarratt told him that he would have to leave the Unit as a result of Mr Sturgess' representations about his presence there.⁷⁵

4.18 Deputy Commissioner Jarratt defended his decision to post Mr Graham to the Unit. When questioned about the qualities that Mr Graham possessed for work in the Unit he replied:⁷⁶

He certainly had a good organising mind. He was familiar with a number of the issues that were to be dealt with. He has very good people skills. He could bring a disparate group of people together to bring the best out of them. They were things that I thought would be quite valuable to the group.

4.19 He also stated that the work was not deemed to be of a sensitive nature in terms of the confidentiality of the information or issues.⁷⁷

4.20 Mr Jarratt stated that his awareness of the charges facing Mr Graham at that time had largely come from Mr Graham himself. While he did not discuss the appointment with Mr Schuberg he did speak with Acting Commissioner Taylor and Mr Redfern from the Police Service Solicitor's office about the general nature of the charges and their

⁷³ PIC Transcript GL Sturgess 18 May 1998 p 538.

⁷⁴ PIC Transcript GL Sturgess 18 May 1998 p 539.

⁷⁵ PIC Transcript AA Graham 15 May 1998 p 470.

⁷⁶ PIC Transcript JT Jarratt 9 April 1998 p 29.

⁷⁷ PIC Transcript JT Jarratt 9 April 1998 p 29.

potential consequences. He believed that Acting Commissioner Taylor was initially supportive of the Graham appointment to the unit.⁷⁸

421 Mr Jarratt also argued that the penalty indication would provide guidance on the seriousness of the charges and that he had learned, either from Mr Redfern or Mr Graham, that the penalty indication was for parade and reprimand. He noted that this indication is at the lower end of penalties and would tend to indicate that the charges were also at the “milder” end of the spectrum.⁷⁹

422 Mr Jarratt provided evidence that Acting Commissioner Taylor had instructed him to contact Mr Sturgess in order to discuss the matter and attempt to resolve it. Mr Jarratt gave evidence that he had put Mr Graham’s case to Mr Sturgess, however, Mr Sturgess had maintained his view that the appointment was inappropriate. Mr Jarratt went on to say that he had told Mr Sturgess he would wait for the direction of the Police Board and the Commissioner before taking any action.⁸⁰ He conveyed the results of the conversation to Acting Commissioner Taylor.

Assessment

4.23 It is clear from the evidence provided that:

- Mr Jarratt assigned Mr Graham to the Royal Commission Implementation Unit knowing that Mr Graham faced three departmental charges of misconduct.
- Mr Graham was entitled to the presumption of innocence in facing those charges.
- Mr Jarratt believed that Mr Graham was well qualified to perform the tasks required of him in the Implementation Unit and that few other members of the Service, if any, who were suitably qualified for the job were available.
- Acting Commissioner Taylor acquiesced in this posting, taking the view that it was a managerial decision for Mr Jarratt to make and being conscious that he occupied the position of Acting Commissioner on a short term basis. He accepted the criticisms made by Mr Sturgess and other members of the Police Board as valid and conveyed them to Mr Jarratt. He was not, however, prepared to override Mr Jarratt on the issue.
- The appointment was a matter of concern to at least some members of the Police Board, but in particular to Mr Sturgess. He held strong views that the appointment was inappropriate in the circumstances and made these views known in clear terms to Mr Jarratt.

⁷⁸ PIC Transcript JT Jarratt 24 April 1998 p 168.

⁷⁹ PIC Transcript JT Jarratt 24 April 1998 p 170.

⁸⁰ PIC Transcript JT Jarratt 24 April 1998 p 169.

- 4.24 It is the Commission's opinion that Mr Jarratt exercised bad judgment in deciding to assign Mr Graham to the Implementation Unit in circumstances where he was confronting a hearing of departmental charges against him, two of which were effectively charges of dishonesty and untruthfulness. This was destined to send entirely the wrong message to other members of the Police Service and was likely to be seen as an unwarranted preferment of Mr Graham by the senior command of the Police Service, most specifically by Mr Jarratt. As a senior executive with the Police Service it could be expected that Mr Jarratt should have recognised the dangers these broader issues presented.
- 4.25 In forming this opinion, the Commission does not want to suggest that senior managers should not be able to appoint qualified colleagues that they know, and have worked with in the past, to certain unadvertised positions such as those in working parties or task forces. Such decisions are made by taking proper consideration of the relevant factors. This differs from Mr Jarratt's decision in that while he may have correctly assessed Mr Graham as having the requisite skills for the Implementation Unit position, he failed to take into consideration those other serious factors which should have excluded Mr Graham.
- 4.26 Similarly, this opinion is not inconsistent with maintaining Mr Graham's entitlement to a presumption of innocence in relation to his charges. At question is Mr Jarratt's ability to weigh that presumption of innocence with competing factors which included the negative perceptions that the appointment would generate within the Service.

THE GRANTING OF AN INTERVIEW TO MR GRAHAM FOR THE POSITION OF COMMANDER OF THE STATE INTELLIGENCE GROUP

- 4.27 Mr Graham had a long standing interest in the position of Commander of the SIG. He had first applied for the position in December 1994 and was advised in June 1995 that the Board had selected him for the job. He subsequently acted in the position from July through to December 1995. As a consequence of the departmental changes the Board made a decision to move him out of the SIG entirely.
- 4.28 Mr Graham gave evidence that upon his resignation from the Police Service in November 1996 he had no intention of seeking any other position or employment within the Police Service or in any civilian capacity allied with the Police Service. He states that he did not make a decision to apply for the position until he saw public advertisements for the position in mid 1997.⁸¹
- 4.29 Included in the 1997 selection criteria for applicants was an essential qualification of a demonstrated understanding of integrity, responsibility and personal accountability.⁸²
- 4.30 Mr Graham submitted his application for the position on 16 May 1997. In his application Mr Graham stated that he acted as a role model and guardian with respect to counter-corruption and ethical standards, and genuinely held integrity to be above all. As to the circumstances of his resignation from the Police Service he said in his application.⁸³

It is a consequence of my principles and my need to maintain personal integrity that I made a difficult decision to resign from the New South Wales Police Service. I maintain I have properly taken the high ground and have made my stand. Therefore I can now return to the Police Service with dignity.

- 4.31 A little later he noted that:⁸⁴

Previously in June 1995 the former Police Board selected me, over a competitive field of internal and external applicants, for this same position. Due to a very unfortunate set of circumstances, and despite performing the role for six months, my nomination was not validated. I am now even a better person for this position.

Concerns Expressed over Interview of Mr Graham

- 4.32 Ultimately, Mr Graham was short-listed and interviewed for the position. This caused some concern amongst members of the Police Service, including Commissioner Ryan

⁸¹ PIC Transcript AA Graham 15 May 1998 p 473.

⁸² PIC Exhibit 95.

⁸³ PIC Exhibit 132 p 5.

⁸⁴ PIC Exhibit 132 p 7.

who, as he said in evidence, had a policy of appointing staff from outside the Police Service to senior positions, a policy that included not appointing former police.⁸⁵

4.33 When asked by Counsel Assisting whether he was surprised or concerned to learn that Mr Graham had been short-listed for the position Mr Ryan replied:⁸⁶

A. Yes, I was very concerned.

Q. What was the essence of your concern? Was it limited to your policy or did it go beyond that?

A. I think it was inappropriate. We had a clear policy and, of course, there were non-police on the shortlist. Indeed, a non-police person did get the job in the end. But also the fact that Graham had already left the Police Service, he'd left it under something of a cloud, because of the discipline case that was there, to bring him back in was inappropriate.

Q. Did you express any views of that kind to Mr Jarratt?

A. Yes, that's why I said to him, "Jeffrey, he doesn't get the job." I know one could be - I could be criticised for that, but the point is that we had an ex-police - I didn't know Graham, as I've said, but the point is that he'd left under a cloud; we were going through a tortuous, most horrendous period in our Police Service history, and we had to show quite clearly that we were making positive reform changes. The appointment of non-police to key roles was part of my reform agenda.

Q. Would you have had any concern about the message that might have been sent to other members of the Service from someone in Mr Graham's circumstances being appointed to that post?

A. Yes, it would have sent a very bad message.

Q. Do you think that a bad message might also have been sent or at least been picked up by some members of the Service not from the fact of his appointment - because that didn't happen - but from knowledge that he was shortlisted, in the sense that he was invited for interview as one of only 6 interviewees out of 21 applicants?

A. Yes, that probably sent a bad message as well.

4.34 Mr Schuberg had learned at the time that Mr Graham had applied for the position of Commander, SIG, but had not known he was interviewed until recently. He was asked by Counsel Assisting for his view on this matter. He responded:⁸⁷

⁸⁵ PIC Transcript PJ Ryan 20 May 1998 pp 622-623.

⁸⁶ PIC Transcript PJ Ryan 20 May 1998 p 625.

⁸⁷ PIC Transcript GE Schuberg 23 April 1998 pp 142-3.

Once again my observations aren't directed at Angus Graham, the individual, but any person who had been in a similar circumstance. I just can't believe that they would be interviewed for a position like that. I just can't see how it could have happened. It certainly wouldn't have happened when the Police Board existed and I just can't see how it could have happened on this occasion. But I accept the fact that it took place.

- 4.35 Mr Sturgess had resigned from the Police Board prior to learning that Mr Graham was to be interviewed for the position, but when asked his view of the appropriateness of this he replied:⁸⁸

Given the conventions and practices of the Police Board when I was involved and the processes for interviewing senior officers I regarded that as most unusual.

- 4.36 A memorandum written by Chief Inspector Matthews at that time, and tendered as an exhibit before the Commission, expresses his views of the situation:⁸⁹

If Angus Graham has been given an interview for this subject position I would be frustrated and disillusioned. This single act, which is already spreading on the rumour mill, will certainly harm the efforts of those genuinely attempting to change the culture to ensure professionalism and ethical policing. If those who agreed to granting such an interview and/or those who supplied references or support were aware of the circumstances of his 'resignation' then I would regard their actions as an act of corruption. If Graham was appointed to the position then professional police may as well give up and pack their bags.

Discussions between Deputy Commissioner Jarratt and Commissioner Ryan relating to the interview of Mr Graham

- 4.37 There were a number of differences between the evidence given to the Commission by Deputy Commissioner Jarratt and Commissioner Ryan in relation to their discussions prior to the interview of Mr Graham for the position.
- 4.38 In giving evidence on 15 April 1998, Commissioner Ryan explained the circumstances in which he learned of Mr Graham's application, and the action he took on learning of it.⁹⁰

I discovered quite late - after the short list had been drawn up - that Graham was on the list. And I said to Jeff Jarratt "He'd better not get the job. I told you I wanted someone from outside. I don't want any former police officers being re-employed in the Service, particularly where they've left under a cloud". Now, I'd made that position quite clear because there had been in the past - and I was having difficulty with some people on this issue, that I didn't want former

⁸⁸ PIC Transcript GL Sturgess 18 May 1998 p 531.

⁸⁹ PIC Exhibit 26.

⁹⁰ PIC Transcript PJ Ryan 15 April 1998 p 12.

or retired police officers, retired after 35 years service - coming back into the Service and performing jobs in a civilian capacity or as a consultant or in an advisory capacity, when these were the very people who'd managed to put the Service into the state it was in when I took over as the Commissioner.

- 4.39 On 20 May 1998 Commissioner Ryan affirmed that he had made it well known from the time he had commenced as Commissioner, that he wanted external applicants for senior positions in the Police Service:⁹¹

I think everybody from the newest recruit to myself knew what my policy was in relation to the civilianisation of some of our policing roles, some of the jobs within the organisation, and particularly those at senior level.

- 4.40 Mr Jarratt first gave evidence regarding the interview of Mr Graham for the SIG position on 9 April 1998. Mr Jarratt stated that his understanding of the charges faced by Mr Graham were that they involved the splitting of an order for the purchase of a computer and "...I think there were some allegations of being not strictly honest and truthful, those quaint words were used, in terms of his answers to questions in interview and they were obviously regarded as very serious matters that he should answer to."⁹²

- 4.41 When questioned by Counsel Assisting the Commission why he regarded Mr Graham as suitable for interview he replied:⁹³

I think on the basis of his application and the fact that the Board had previously appointed him to that position. Bev Lawson [Deputy Commissioner and member of the interview panel] and I talked about, obviously aware of the other matters that were there, whether that would automatically exclude him or whether in fact, having been established by the board as the most suitable applicant earlier, he would be at least a good barometer for us to measure against, recognising that if he turned out to be the most - the person with the most merit, we would then have to deal with the other issue before making any final decisions that would be part of our consideration. So we on that basis thought it was appropriate to call him for interview.

- 4.42 Mr Jarratt gave conflicting evidence of his understanding of the status of the charges against Mr Graham at the time of his resignation and the penalty he faced. On 9 April 1998 he gave evidence that he understood that Mr Graham had resigned from the Police Service when the charges against him were unresolved, thus the charges remained unproved. He also stated that he thought that Mr Graham had received a penalty indication, as part of the normal course of events, and that this had involved dismissal.⁹⁴

- 4.43 Mr Jarratt acknowledged in later evidence that his memory on these matters had been incorrect and that it had been refreshed by documents provided to him by his counsel.⁹⁵

⁹¹ PIC Transcript PJ Ryan 20 May 1998 p 624.

⁹² PIC Transcript JT Jarratt 9 April 1998 p 11.

⁹³ PIC Transcript JT Jarratt 9 April 1998 p 14.

⁹⁴ PIC Transcript JT Jarratt 9 April 1998 pp 14, 17.

⁹⁵ PIC Transcript JT Jarratt 24 April 1998 p 174.

Q. Did you ever at any time have an understanding that the recommended penalty in respect of the offences committed by Mr Graham was his dismissal from the Police Service?

A. I had - as I've mentioned on a previous occasion there, that was on my mind. It was only after leaving here and my counsel saying that that - counsel had no recollection, I had thought that at the tail end of the process dismissal was a part of the process.

4.44 At a hearing on 15 April 1998 Commissioner Ryan was shown a letter, dated 9 April 1998 which was sent by Mr Jarratt to the Commission. Counsel Assisting the Commission showed Mr Ryan that in that letter Mr Jarratt stated that he believed that while Mr Schuberg had initially made a recommendation for dismissal, this had been changed by Commissioner Ryan, who made a determination of a lesser penalty.⁹⁶

4.45 Commissioner Ryan, however, gave evidence that he had not seen a penalty recommendation that differed from the one he ultimately approved and that he had never intended to impose a lesser penalty than the one that he ultimately approved.⁹⁷

4.46 On 24 April 1998 Mr Jarratt gave evidence indicating his understanding of Mr Ryan's position regarding the potential rehabilitation of Mr Graham. He recalled that in relation to Mr Graham, "Commissioner Ryan had said to me, that he had said that I think the lad ought to be given a chance to recover himself and he's going to send him out on patrol". Mr Jarratt inferred from this, that if Mr Graham did go out and perform appropriately and re-establish himself then the prospect of promotion wasn't completely removed.⁹⁸

4.47 Further on that point the following exchange took place between Mr Jarratt and Counsel Assisting the Commission:⁹⁹

Q. Look, you don't seriously say, do you, that with a man that you've known for decades who'd come to you pleading his case, getting you to go to Acting Commissioner Taylor, resigning having admitted the charges, in his case you put the assessment of his personal integrity last when you decide his suitability for the position of the Commander of the State Intelligence Group? You don't say that, do you?

A. No, I don't. I think what I am saying is that at the time I believe that Commissioner Ryan made a determination where he said he would send him to another part of the Service to carry out separate duties for a period and then would look to reconstitute his career and said that he had not - at least in the Commissioner's mind at the time - disqualified himself from further consideration at some point down the track.

⁹⁶ PIC Transcript PJ Ryan 15 April 1998 p 15.

⁹⁷ PIC Transcript PJ Ryan 15 April 1998 p 15.

⁹⁸ PIC Transcript JT Jarratt 24 April 1998 p 175.

⁹⁹ PIC Transcript JT Jarratt 24 April 1998 p 204.

4.48 Mr Jarratt also gave evidence that day that, while in previous evidence he had been confused about the penalty indication for Mr Graham, on the day he interviewed Mr Graham for the position of Commander SIG he believed that Mr Graham had resigned before any determination had been made of whether or not he was guilty of the charges. Counsel Assisting the Commission asked Mr Jarratt to explain how it could be possible that he was unaware Mr Graham had admitted the charges:¹⁰⁰

Q. Are you able to explain how it could be that when Mr Graham was interviewed for the SIG position in mid-1997, you were unaware that he had admitted the charges?

A. What I think I was aware of is that the penalty indication that had - sorry, the penalty that had been determined by the Commissioner and the fact that it was underway at the time he resigned, in order for that to occur, there would have had to have been an admission of the charges, and so I had - I'd simply not made that obvious connection. In order for the penalty - I knew that the penalty had begun to be imposed on reflection. That could only occur either by way of the tribunal finding the matters proved or the admission. So again my recollection at that point was incomplete. It only really began to come together when I read the paper subsequently.

Q. Does it follow that at the time of the 1997 SIG interview of Mr Graham for the position of Commander your state of mind was not that in terms of these charges he was innocent?

A. No, my state of mind was that he had resigned prior to the charges [sic] being imposed.

4.49 Mr Jarratt also provided evidence that at the time of calling applicants for interview Mr Ryan had indicated to him that he was looking for 'new blood' but he could not recall anything specifically being said about Mr Graham. When the views of Mr Ryan (based on evidence provided by Mr Ryan on 15 April 1998) were put to him he stated:¹⁰¹

...certainly I was in no doubt before I went in to talk to Commissioner Ryan or in subsequent time that he did not want anyone other than a piece of new blood from outside the organisation. If he did say to me - I don't doubt what you're saying that he said to me, that he didn't want Angus Graham appointed. That may well have been true. I'm just saying I don't have a specific recollection of those words being used to me.

4.50 In his evidence of 9 April 1998 Mr Jarratt indicated that, in short-listing candidates, Mr Graham was not ruled out for interview on personal integrity grounds because it was the practice that if he was found at interview to be the best candidate, only then would security and integrity checks be conducted. At that stage a decision would be made as to whether the issue of personal integrity disqualified him from the position. This position

¹⁰⁰ PIC Transcript JT Jarratt 24 April 1998 p 202.

¹⁰¹ PIC Transcript JT Jarratt 24 April 1998 p 192, 213.

was substantially repeated in evidence on 24 April 1998 as constituting the reason why Mr Jarratt did not read Mr Graham's file in order to determine what had in fact happened to his charges at the time of interviewing him. Mr Jarratt did admit that, in hindsight he should have put the relevant files relating to the charges against Mr Graham before the selection committee.¹⁰²

The Interview

4.51 Mr Graham was interviewed for the position of Commander, SIG in July 1996 by Deputy Commissioner Jarratt, then Deputy Commissioner Bev Lawson and a third independent panel member.

4.52 Evidence was given that the issue of integrity was raised to some extent during Mr Graham's interview. The following exchange took place when Counsel Assisting asked Mr Graham if there was any discussion during the interview about anything to do with his personal integrity, or the charges, or his admission of them.¹⁰³

A. Mr Jarratt put a question to me along the lines is there anything which may prohibit my re-employment in the Police Service and, yes, from that we did talk about my matter.

Q. An in substance, what did you tell the panel?

A. That I still made statements along the lines that I believed it to be a very unfortunate experience, but from that I think that I'd learned a great deal and that basically I suppose from - I probably would have been a better person because of all that experience.

Q. Did anyone respond or make any statement that they perceived any problem about you as an applicant because of any personal integrity concerns?

A. That wasn't directly raised to me, but once again when I left that interview room I didn't think that it was a successful interview from my perspective. I didn't walk out of it thinking that I was a chance of getting the job. I thought the whole tone of the interview was such that I was almost wasting my time being there.

4.53 The evidence of the third interview panel member supports that of Mr Jarratt and Mr Graham in terms of the actual conduct of the interview. It also supports Mr Jarratt's contention that he intended to use Mr Graham as a barometer.

4.54 As to the selection process itself, the independent member stated:¹⁰⁴

It was a normal - all the way through it was a normal selection process following normal procedures. All my other experience has been within the

¹⁰² PIC Transcript JT Jarratt 24 April 1998 p 179.

¹⁰³ PIC Transcript AA Graham 15 May 1998 p 480.

¹⁰⁴ PIC Transcript IH Cousins 18 May 1998 p 548.

Commonwealth Public Service. This was the first time with the State Public Service, but the procedures were very compatible.

- 4.55 The independent panel member also stated that, in considering Mr Graham's application during the initial culling process, Mr Jarratt had said something like "There's a bit of history there to his departure from the Police Force, but it would be interesting to see how others measure up." That person had also concluded, while not fully aware of Mr Graham's admission to misconduct charges, that Mr Graham ought to be interviewed on the strength of his application.¹⁰⁵
- 4.56 The independent member also recalled that before Mr Graham was invited to come into the room for interview there was a discussion which Mr Jarratt initiated. He recalled Mr Jarratt "saying that there was some history here and that there had been some issues surrounding purchase of computers and there had been some charges around - I don't remember the exact details of that - but that he had resigned before they had come to a particular point."¹⁰⁶
- 4.57 The witness went on to give evidence that after the interview "there was a discussion to the effect that the previous history of Graham was such that neither of the Deputy Commissioners would be happy to - or would be prepared to recommend that particular candidate for appointment."¹⁰⁷
- 4.58 This evidence corroborates that part of Mr Jarratt's evidence in which Mr Jarratt stated that Mr Graham was being used as a "barometer" or "measuring stick" against which to assess other candidates - except in regard to personal integrity - and that Mr Jarratt did not intend to see Mr Graham appointed to the position.
- 4.59 Mr Jarratt gave evidence that in hindsight it was inappropriate to have used Mr Graham as a barometer without informing him of this.¹⁰⁸

Assessment

- 4.60 The Commission is mindful that the decision to short-list Mr Graham for interview for the position of Commander SIG in 1997 was made jointly by the interview panel. It is, however, the Commission's opinion that given his knowledge of the circumstances leading to Mr Graham's resignation from the Service and his awareness of Mr Ryan's policies on hiring "new blood", Mr Jarratt exercised bad judgment in short-listing Mr Graham for interview.
- 4.61 Commissioner Ryan, on learning that Mr Graham was shortlisted, directed Mr Jarratt in clear terms that Mr Graham was not to get the job. In these circumstances Mr Jarratt also exercised bad judgment in failing to notify Mr Graham that his application could not succeed and cancelling the interview.

¹⁰⁵ PIC Transcript IH Cousins 18 May 1998 p 549.

¹⁰⁶ PIC Transcript IH Cousins 18 May 1998 p 550.

¹⁰⁷ PIC Transcript IH Cousins 18 May 1998 p 551.

¹⁰⁸ PIC Transcript 24 April 1998 p 207, 208.

- 4.62 The fact that Mr Graham was shortlisted for interview was bound to become known, either before or after the event, to many Police Service members who knew of Mr Graham's relevant history. This was likely to be perceived by them as grossly inappropriate and cause them to doubt the effectiveness of the reform process Commissioner Ryan was in the course of implementing and thus diminish their confidence in Commissioner Ryan.
- 4.63 Mr Jarratt exercised further bad judgment in deciding to use Mr Graham as a "measuring stick" or "barometer" against which the other interviewees could be assessed except on the issue of integrity. It was unfair of Mr Jarratt to have held out false hope to Mr Graham that his application might be successful by proceeding with the interview. In this respect Mr Graham was ill-used by Mr Jarratt.
- 4.64 The independent panel member was not made fully aware of the relevant disciplinary history of Angus Graham before determining that he should be interviewed. As such, while he was aware that Mr Graham was to be used as a standard to see how other candidates would "measure up" he would have been unaware prior to the interview that there was no possibility of Mr Graham succeeding in his application. It is the opinion of the Commission that no criticism can be made of the other panel members in relation to this matter.
- 4.65 As will be made clear in Chapter 5, the instances of bad judgement described in this chapter can be directly attributed to Mr Jarratt's relationship with Mr Graham. This relationship created a conflict of interest for Mr Jarratt which he failed to recognise. This issue will be further examined in Chapter 5.

5/ NETWORKS

NETWORKS AND RELATIONSHIPS: SIGNIFICANT FEATURES

- 5.1 The announced scope and purpose for the Operation Warsaw public hearings included a focus on ‘informal and formal networks and relationships’. These terms require some discussion.
- 5.2 While not wishing to define the term ‘networks’ categorically, it can be understood that they are basically the sum of relationships any individual develops over time. These can intersect with the networks of other individuals at a number of points, even to the extent that a network is formed of intersecting relationships amongst a group of people. They are a fact of the human condition and inevitable in our socialisation.
- 5.3 Although networks will develop in any business environment, there are a number of factors that would encourage this process in the police environment. These include:
- The length of time officers spend within police services. Many make a lifetime career in the police service thereby developing numerous internal contacts over the years, a process facilitated by the tendency for officers to serve in a number of different areas.
 - The stressful and sometimes hostile environment that police can face which would encourage and strengthen the development of bonds between colleagues.
 - Police culture which, while a separate issue, would serve to strengthen the comradeship and mutual support that fosters development of relationships and networks.
- 5.4 It is necessary to stress that the development of networks is not only inevitable, but can be beneficial to both an individual and an organisation. There have been countless books written and courses conducted over the past two decades which have extolled and promoted ‘networking’.
- 5.5 It is possible, however, that network relationships can lead to impropriety or even corruption.
- 5.6 As noted by Counsel Assisting the Commission:¹⁰⁹

The existence of informal and formal networks and relationships within the New South Wales Police Service, if they do exist or are developing, is not something from which police corruption or misconduct can necessarily be inferred, but it is certainly proper that they be scrutinised with a view to detecting any actual or potential illicit conduct.

¹⁰⁹ PIC Transcript 14 April 1998 p 6.

5.7 The issue of networks and relationships emerged through the public hearings in two significant ways:

- evidence provided by certain witnesses on their perceptions of networks in the Service in general; and
- evidence of the relationship between Mr Angus Graham and Deputy Commissioner Jarratt.

EVIDENCE PROVIDED ON NETWORKS IN THE NEW SOUTH WALES POLICE

Evidence of Mr Geoffrey Schuberg

5.8 On 23 April 1998 Mr Schuberg was questioned by Counsel Assisting the Commission on his knowledge of groups within the senior officers of the Service. The following exchange took place:¹¹⁰

Q. Can I just take you back in time a little to the period when the Commissioner was Mr Avery. I think you made reference to, was it a policy group connected with Mr Avery? From about that time through to the appointment of Commissioner Ryan, from your observations and from your experience, was there any group of senior officers that seemed to more or less travel together; that is, proceed along the path and up it to some extent as a group?

A. Yes, and there was a view within the Service at that particular time that there were two groups, although there was some connection between those groups. One group were based at the South West Region, where Lance Stirton was the Region Commander and then later became the Deputy Commissioner, and there was another group at headquarters that appeared to be quite close to John Avery. As I recall it, they were the dominant groups within the Police Service as police perceived it.

Q. Who were the main members of the group involved with Mr Stirton?

A. People like Paul MacKinnon, Clive Small, John Garvey, Brian Harding, and there may have been others; I just can't remember. In that Commissioner's policy group there was Jeff Jarratt, Christine Nixon, Clive Small, Paul MacKinnon joined that group at some stage, and there may have been others there that I'm just not aware of. It was generally felt within the Service, particularly in relation to that Commissioner's group, that those people seemed to enjoy advantages that others didn't enjoy in the Service.

Q. What is the basis upon which you describe these different individuals as members of one group or another?

A. When you say "the basis" –

¹¹⁰ PIC Transcript GE Schuberg 23 April 1998 pp 137-138.

Q. Yes, if we take the people you've associated with Mr Stirton, for your part why did you think they were in a group?

A. They were a group of people who - I'm not suggesting there's anything wrong with this, but they were very supportive of one another. Whenever there was any sort of a task force formed to look at a specific problem, it would always seem as if it were the same group of people that would be involved in that task force or that group. It wasn't the sort of thing that was generally advertised around the Service to try to see whether there were others who were perhaps equally as good at doing the task as what that particular group of individuals were. That was a perception that existed in the Service, that those individuals were favoured.

5.9 When questioned on 19 May 1998 by Counsel for the Police Service, Mr Schuberg stated that he did not perceive those two groups as opposing each other. It was his view that even using the word "group" was too strong. "They were people that had strong associations with one another. They obviously felt comfortable in their own company and they were groups of people that were able to get things done, perhaps easier than others."¹¹¹

5.10 When it was put to him that previously he had said he did not perceive anything "wrong" particularly with the two groups he replied:¹¹²

It depends on sort of what you call wrong. Some members of the Service probably saw it as wrong because they felt that those groups might have got privileges that others didn't enjoy. Once again, I think these things happen in any organisation.

5.11 When Counsel for the Police Service further questioned him on the issue of advantages received by groups the following exchange took place:¹¹³

Q. I suppose the underlying concern in the term of this inquiry which looks at networking is that there may be an association between people which either advantages themselves improperly or disadvantages others. Did you see the groups of which you have spoken improperly seeking to advantage themselves or disadvantage others?

A. There's absolutely no doubt in my mind, Mr Hastings, that some of these individuals were in a position where they could advantage themselves in a way that many other people in the Service couldn't do because of their close association with very senior police officers.

Q. Advantaging themselves in what respect -

¹¹¹ PIC Transcript GE Schuberg 19 May 1998 p 566.

¹¹² PIC Transcript GE Schuberg 19 May 1998 p 565.

¹¹³ PIC Transcript GE Schuberg 19 May 1998 p 566.

A. In a number of ways - promotions, the opportunity to do courses and obtain scholarships, travel overseas, a number of different things like that.

Q. You spoke in that previous answer of individuals who could act in a way to advantage themselves. Are you speaking of particular individuals of prominence and influence or individuals who took their strength from some alliance with others within the Service?

A. Oh, I think a bit of both.

5.12 When questioned by Counsel for Mr MacKinnon,¹¹⁴ however, Mr Schuberg acknowledged that the human resources section, for certain ranks, and the Police Board, for other ranks, played important roles in the selection process. Moreover, individuals involved in selections to a non-commissioned rank had a right to appeal selection committee decisions. He also stated that he was not making any specific allegations in relation to the favouritism examples listed above.¹¹⁵

Evidence of Mr Neil Taylor

5.14 Former Acting Commissioner Taylor gave evidence on 11 May 1998 on the existence of networks within the senior levels of the Service. He stated that “there would be loose groups of people which could be formed, I suppose, some on personal associations or likenesses”. He was not aware, however, of any network which had been formed for any ulterior or clandestine matter, or where individuals had abused their positions by virtue of those associations.¹¹⁶

5.15 The differences between officers who made a career at headquarters in contrast to those who made their career in operational areas of the Service was highlighted by Mr Taylor. When asked by Counsel Assisting the Commission if officers working at headquarters were favoured when it came to being on task forces, working parties and the like he replied:¹¹⁷

I think people would say those things, quite clearly, but some of the people that worked at headquarters worked there because they had abilities, they had abilities in administrative tasks, they had abilities in a range of areas that were useful to task forces, but it wasn't always the case that they got the guemsey. It has been my experience that people were selected for their background and their abilities. I don't think headquarters produced great advantages or disadvantages as well as advantages in working there.

¹¹⁴ Superintendent Paul MacKinnon is currently commander of the Police Service's Olympic Security Command Centre

¹¹⁵ PIC Transcript GE Schuberg 19 May 1998 pp 578-580.

¹¹⁶ PIC Transcript NO Taylor 11 May 1998 pp 293-294.

¹¹⁷ PIC Transcript NO Taylor 11 May 1998 p 294.

Evidence of Mr Gary Sturgess

5.15 Former Police Board member Mr Sturgess also made a number of comments about networks within the Police Service in answer to questions by Counsel for the Police Service. He gave evidence that he saw Mr Jarratt as part of a group that included Superintendent Paul MacKinnon, Angus Graham and Jenny Davidson (an officer currently working at the Olympic Security Command Centre).¹¹⁸

5.16 When asked how he viewed such groups or networks the following exchange took place:¹¹⁹

Q. Again, and endeavouring to be reasonably neutral about it, do you see it as an undesirable or unacceptable situation that people who may see themselves to be of similar approach or intellectual outlook to aspects of policing, should group together?

A. No, that in or of itself is not undesirable or unsurprising.

Q. Was there some added component of that situation which caused you some concern?

A. Mr MacKinnon's close association with some extremely undesirable people and the reputation which this particular network had of preferring each other and their friends in forming new teams and in promotions.

Q. Did you see that as something which should not happen or simply should be monitored?

A. It shouldn't happen in the way it was happening.

5.17 Like Mr Schuberg, Mr Sturgess nominated promotions as an area of concern in that promotions were not occurring "in an entirely evenhanded way". Mr Sturgess made clear that this comment was based on "stories" and he did not provide specific examples.¹²⁰

Assessment

5.18 In assessing the information provided to the Commission it is necessary to be mindful of Mr Schuberg's own frank admission of feelings of resentment towards Mr Jarratt and others that resulted from the dis-establishment of his former position and the subsequent ending of his career in the Service. He also gave evidence, however, that he felt he could be objective in the views he expressed.¹²¹

¹¹⁸ PIC Transcript GL Sturgess 18 May 1998 pp 534-535.

¹¹⁹ PIC Transcript GL Sturgess 18 May 1998 p 535. Reference to "undesirable people" is a reference to former officers of the CIB. PIC Transcript GL Sturgess 18 May 1998 p534.

¹²⁰ PIC Transcript GL Sturgess 18 May 1998 pp 535-6.

¹²¹ PIC Transcript GE Schuberg 23 April 1998 p 141.

- 5.19 It is also necessary to be mindful that both Mr Schuberg and Mr Sturgess spoke of the networks they mentioned in general terms and neither provided details of specific incidents that would further assist the Commission. Moreover, it should be noted that a number of the persons named by Mr Schuberg and Mr Sturgess as being part of various groupings have not had those statements put to them and have not had an opportunity to provide their perspective to the Commission.
- 5.20 Given those cautions, however, there are a number of comments that can be made on the evidence presented to the Commission as they relate to the issue of networks and relationships in the Police Service in a general sense.
- 5.21 Mr Schuberg, Mr Taylor and Mr Sturgess each provided views which indicate they perceived networks in the Service as exhibiting a number of the features described in the outset of this chapter. They each perceived networks to be a natural product of working relationships within the Police Service. The two groups described by Mr Schuberg were largely based around specific work locations or individuals.
- 5.22 It is of interest that the groups described by Mr Schuberg and Mr Sturgess consisted of different combinations of individuals. Two points can be drawn from this. One is that “membership” of a network is ephemeral and the inclusion of individuals is often based on the subjective assessment of the person describing a network. There are no objective criteria to determine who is, or is not, part of a network, or when an individual becomes part of a network. A second point is that any individual may be perceived to be part of a number of different networks. This is the result of each individual having their own unique network of relationships. There will never be perfect boundaries between distinct networks.
- 5.23 Mr Schuberg, Mr Taylor and Mr Sturgess all noted that there was nothing inherently wrong with networks in the Service. Mr Schuberg noted that persons in a network could be very supportive of each other.
- 5.24 In examining the undesirable impact of networks, both Mr Schuberg and Mr Sturgess commented that they perceived the persons involved in the networks they described as having some advantage over other officers, particularly in the areas of promotion and recruitment to task forces. Information relating to specific examples of such favouritism was not provided to the Commission, however.
- 5.25 Mr Taylor also provided a note of caution in regard to such concerns. In his opinion, what might sometimes appear to be favouritism to those outside, can in fact be a proper selection of those most suited for a job. In this case he noted that those with talents in administration generally worked at headquarters where those skills were required, and those individuals also tended to have the sort of skills required for task force work.

THE JARRATT / GRAHAM RELATIONSHIP

- 5.26 The nature and strength of the relationship between Mr Jarratt and Mr Graham emerged as an issue from the evidence presented to the Commission in the course of the public

hearings. Both individuals stressed that they had not worked directly together for much time at all within the Service, nor did they socialise together outside of the business environment. They did, however, acknowledge significant respect for each other as colleagues.

5.27 Mr Jarratt gave the following evidence on their working relationship:¹²²

I had - I first met Angus when he was about 15, I guess. He joined the Service as a cadet. He worked as the cadet in the office that I was at at the time. He came back there subsequently as a constable for a period of time. I found him to be a fellow of high capacity. He was a fellow who, even as a kid, frankly, got things done more effectively than most people I had contact with. He had a real skill in getting people to work together. He appeared to operate according to the principles which I hold pretty dear. So I developed quite a high regard for him.

In that period, which would have been, I think, in the mid -70s, I had quite regular contact with him. Thereafter, I don't recall having anything directly in a formal sense to do with him for quite a number of years, but I think our regard continued right through that period and the most recent contact was when he came to the implementation unit in 1996, I think was - I think was the next time I actually worked in any direct way with him.

5.28 He added some information about working parties they had served on together during the 1980s.

5.29 On 9 April 1998 Mr Jarratt gave evidence that since Mr Graham had left the Police Service he had only had contact with him on three occasions "...on one occasion he rang in his new role [at BRI] and said there were some issues that his company was involved in dealing with tow trucks in Wollongong and he wished to speak to me about that. I met with him in relation to that and referred the matter to Chief Superintendent Harvey to follow up." The second instance had to do with Mr Graham's interview for the position of Commander SIG. A final incident had to do with a phone call from Mr Graham to Mr Jarratt to tell him that he had been contacted by a journalist in connection with the press articles referred to earlier.¹²³

5.30 Mr Graham gave evidence of a similar nature to Mr Jarratt's in terms of their working history and the extent of their contact since he had left the Police Service. When questioned by Counsel Assisting the Commission on how he regarded his relationship with Mr Jarratt at the time he joined the Implementation Unit the following exchange took place:¹²⁴

A. I had a fair amount of respect for Mr Jarratt. I thought we had a good working relationship. I didn't think there were any negatives there.

¹²² PIC Transcript JT Jarratt 24 April 1998 p 165.

¹²³ PIC Transcript JT Jarratt 9 April 1998 p 9.

¹²⁴ PIC Transcript AA Graham 14 May 1998, p 399.

Q. Did that continue from then until your retirement from the Service?

A. It continues until this day.

5.31 While both Mr Jarratt and Mr Graham gave evidence of the limited nature of their working and social relationship, Mr Jarratt also gave evidence of his support for Mr Graham in the following exchange with Counsel Assisting the Commission:¹²⁵

Q. Would you resist a suggestion that in relation to bringing Mr Angus Graham into the Royal Commission Implementation Unit and in supporting his continuation there, despite Mr Sturgess' views, that you have been, as it were, an advocate in Mr Angus Graham's cause, a supporter of his, a promoter of his?

A. Yeah, I found myself in a very difficult position, I guess, in the sense that I thought, if there is some substance to what Angus Graham is saying to me, what obligations do I have to him and/or to the Service in trying to find an appropriate balance? I thought that, yes, I was a respectable conduit for him to, if there were some miscarriage - as I say, intentional or otherwise - to bring that to notice. So I think it would be fair to say that I was a conduit for him.

Impact of the Jarratt / Graham Relationship

5.32 Chapter 4 describes decisions made and actions undertaken by Mr Jarratt in relation to Mr Graham. Specifically, that he placed Mr Graham in a prestigious unit at a time when Mr Graham faced serious departmental charges, despite concerns and criticism being voiced by senior persons, and that he interviewed Mr Graham for a position in the Service for which he would clearly have been ineligible on integrity grounds.

5.33 As already noted in Chapter 4 Mr Jarratt demonstrated bad judgment on these matters. This bad judgment can be directly attributed to his relationship with Mr Graham. He allowed his regard for Mr Graham, and his willingness to accept Mr Graham's assertions that the investigation into him was flawed and overly vindictive, to take precedence over proper appreciation of the seriousness of the charges facing Mr Graham and the negative perceptions that would be generated in the Service as a result of his decisions regarding Mr Graham.

5.34 It is also of concern to the Commission that Mr Jarratt was unable to recognise the conflict of interest he faced, where the interest created by his relationship with Mr Graham conflicted with his responsibility to make sound management decisions.

5.35 The Commission recognises that considerable caution should be exercised by someone, having the benefit of hindsight, in criticising errors in the exercise of discretion or judgment of another. Officers such as Mr Jarratt must constantly exercise their judgment on a wide range of issues in a high pressure environment. In many instances it will be impossible to know whether a decision advantages or disadvantages the Police Service until it is implemented. No adverse implication can arise merely from the fact that a

¹²⁵ PIC Transcript JT Jarratt 24 April 1998 p 195

decision turns out to have disadvantageous results. It must also be acknowledged that not all situations involving a conflict of interest will be readily apparent to the decision maker. Taking all of these factors into account, however, it is clear that Mr Jarratt failed to recognise that his personal association with Mr Graham was likely to cloud his judgment in circumstances where, objectively, this should have been all too apparent to him.

- 5.36 It is to be acknowledged that Mr Jarratt has conceded, with hindsight, some errors of judgement. Moreover, it is not possible to say, based on the evidence, whether his misjudgments were deliberate or not. The fact, however, that such errors of judgement were made by an officer of Mr Jarratt's seniority and experience is a matter of concern to the Commission.

Implementing Conflict of Interest Training

- 5.37 An inability of Police Service officers to recognise and avoid conflict of interest situations has been found by the Commission in other investigations, including Police Integrity Commission Operation Jade.¹²⁶ Other examples were found during the Royal Commission into the NSW Police Service. It is evident to the Commission that conflicts of interest can have serious adverse consequences for the Police Service, leading not only to bad judgments but potentially even corruption. An associated problem is the negative perceptions created within the wider Service when conflicts of interest remain unchecked.
- 5.38 It is abundantly clear from this Report and those other investigations that the Police Service must closely examine its conflict of interest training and procedures. Officers must not only be able to recognise a conflict of interest when faced with one, they must also be provided with the means to avoid or manage such situations. Furthermore, officers should be mindful that they will be held accountable should they fail to act upon a conflict of interest when they become aware of such a situation in relation to themselves or their staff.
- 5.39 Special attention must be provided immediately to the conflict of interest training needs of the most senior officers in the Police Service. The Commission recognises that senior officers working in a largely management capacity may receive little management experience or management specific training as they rise through operational ranks. As such, there is a potential for senior officers to fail to recognise conflicts of interest that arise in their management role, as these can differ substantially from the types of conflicts of interest that would arise in an operational setting.
- 5.40 It is the opinion of the Commission that senior officers must be as able to recognise and act appropriately when faced with conflicts of interest arising from their management roles, as they are at recognising and acting on conflicts of interest arising through operational work.

¹²⁶ Police Integrity Commission *Report To Parliament Operation Jade*, October 1998 p 65.

- 5.41 **The Commission recommends that the Commissioner of Police undertake a review of current training and procedures relating to conflict of interest recognition, avoidance and management, especially in terms of the senior ranks, with a view to developing training and procedures that accord with world's best practice.**

6/ POLICE INVOLVEMENT IN OLYMPIC SECURITY CONTRACTS

- 6.1 The announced scope and purpose of the hearings for Operation Warsaw included the investigation of the involvement of current or former members of the New South Wales Police Service in relation to the supply of security related goods or services, particularly for the Sydney 2000 Olympic Games.
- 6.2 While some evidence of those matters was heard in public, the majority of the evidence in relation to Olympic contracting was taken in private. In addition, a significant volume of documentation was obtained by the Commission from the Sydney Organising Committee for the Olympic Games (SOCOG), from other statutory authorities, from BRI, from financial institutions, and from the Police Service. Following consideration of all of the documents, together with the private evidence, it is the Commission's opinion that while BRI has been awarded some consultancy work by SOCOG, there is no evidence of impropriety on the part of any serving or former police officer in relation to how that work was awarded. In light of this assessment, and having regard to the commercial nature of much of the information obtained by the Commission, as well as the secrecy applying generally to all dealings between SOCOG and private contractors, it is not considered appropriate for the Commission to place the evidence and documents into the public arena. Accordingly, the Commission does not propose to detail the evidence obtained by it in relation to Olympic security contracting, however, the Commission is in a position to publish certain opinions in relation to that material and does so in this chapter.

THE COMMISSION'S INQUIRIES

- 6.3 The investigation of the relationship between police and Olympic security contracts considered:
- The respective roles of the Police Service and of SOCOG in relation to Olympic security.
 - Any involvement by New South Wales police officers in the awarding of private security contracts by SOCOG.
 - The relationship between SOCOG and BRI (in so far as the Police Service is involved).
 - The relationship between BRI and present or former members of the Police Service.
- 6.4 The evidence disclosed that the Commissioner of Police will have overall responsibility for security matters at the Sydney 2000 Olympic Games. Security services will be supplied by the Police Service, private contractors and volunteers. SOCOG is responsible for the hiring of private contractors. At the time of the Commission's

hearings the Games were more than two years away and very few contracts for security services had actually been awarded.

- 6.5 There was evidence that BRI had been contracted by SOCOG to perform some consultancy work in 1997. The manner in which that work was awarded was explained to the Commission by a Deputy Chief Executive of SOCOG. SOCOG had received favourable reports about BRI from a number of sources, including, but not limited to, a few senior police. The Commission was satisfied that the decision to retain BRI was made by SOCOG alone, in accordance with SOCOG policy and procedures, and that there had been no interference or improper influence on the part of any New South Wales police officers in that process.
- 6.6 The senior police from whom SOCOG had received favourable reports about BRI, were not the same officers named earlier in this report in relation to matters involving Mr Angus Graham, namely, Deputy Commissioner Jarratt, former Acting Commissioner Taylor, former Assistant Commissioner Schuberg and Superintendent Smith. The Commission found no evidence of any relationship between those named officers and the awarding of work by SOCOG to Mr Graham's employer, BRI, following Mr Graham's departure from the Police Service in November 1996.
- 6.7 It should be noted that in investigating the role played by the Police Service, the Commission has been intent on looking for evidence of police misconduct. Business dealings between SOCOG and private security companies, where they do not involve police officers, fall outside the jurisdiction of this Commission. In the case of BRI, the favourable reports made to SOCOG by serving police did not, in the Commission's assessment, amount to police misconduct.
- 6.8 The Commission is conscious of the possibility that, because of its consultancy work, BRI may subsequently find itself positioned more favourably than its competitors when larger, more lucrative contracts are awarded closer to the Games. Beyond such bare possibility, however, there was no such evidence before the Commission, and it is not considered appropriate to include speculation about such possibilities in the opinions published by the Commission.
- 6.9 At the time of the Commission's hearings, SOCOG was in the process of evaluating tenders for security site surveys and project management services. The Police Service was represented on the tender assessment committee, along with representatives from various sections within SOCOG. The Commission heard evidence that the Service will continue to have a role in the selection process and in the vetting of tenders for the provision of private security services for the Olympic Games.

6.10 The Commission is mindful that the potential for corrupt or improper conduct will increase as the 2000 Olympics draw nearer and the contracts for the provision of private security services during the Games are awarded. Accordingly, the Commission will maintain its interest in the involvement of New South Wales police officers in Olympic security contracting and exercise its statutory functions as appropriate.

7/ AFFECTED PERSONS

- 7.1 Persons against whom, in the Commission's opinion, substantial allegations have been made in the course of, or in connection with, an investigation, are "affected" persons for the purposes of a report to Parliament by the Commission.
- 7.2 The Commission considers that the following persons are "affected" persons for the purposes of section 97(3) of the Act, namely:
- Angus Andrew Graham;
 - Colin Max Hobden;
 - Jeffrey Thomas Jarratt;
 - Grahame Phillip Smith; and
 - Robert Arthur Sutton.

Angus Andrew Graham

- 7.3 The Commission heard hearsay evidence that Mr Graham had allegedly stated words to the effect that he would destroy Ms Burton if it is the last thing he does.
- 7.4 No evidence was presented to the Commission that Mr Graham had made such a statement or was involved, directly or indirectly, in any victimisation or harassment of Ms Burton.
- 7.5 Past allegations of Mr Graham's involvement with the improper procurement of computers for the Criminal Research Bureau and allegations of untruthfulness in relation to the Internal Affairs investigation were also heard by this Commission. The Commission notes that Mr Graham appeared before the Police Tribunal in September 1996 to admit to charges on those matters. The Commission wishes to make no further comment on those allegations.
- 7.6 Pursuant to section 97(2) of the Act, the Commission states in respect of Angus Andrew Graham, that the Commission is **not** of the opinion that consideration should be given to criminal prosecution (subsection 97(2)(a)) and, in the circumstances that Mr Graham is no longer a serving police officer, the Commission is of the opinion that it is not necessary to consider action under subsection 97(2)(b) or subsection 97(2)(c).

Colin Max Hobden

- 7.7 The Commission heard evidence that Samantha Burton believed that she had been subject to workplace victimisation resulting from her role in the investigation of Angus Graham and that Colin Max Hobden was involved in that victimisation.

- 7.8 No evidence was presented to the Commission that demonstrated that Mr Hobden was motivated, in his actions towards Ms Burton, by a desire to pressure her in her role as a witness or to “punish” her for her part in the investigation.
- 7.9 Pursuant to section 97(2) of the Act, the Commission states in respect of Colin Max Hobden, that in all the circumstances, the Commission is **not** of the opinion that consideration should be given to the following:
- a) criminal prosecution.
 - b) the taking of disciplinary action.
 - c) the taking of action against Mr Hobden, as a police officer, with a view to dismissing, dispensing with the services or otherwise terminating the services of that officer.

Jeffrey Thomas Jarratt

- 7.10 In this report the Commission has assessed that Deputy Commissioner Jarratt exercised bad judgment in two instances, which arose as the result of a relationship with former Chief Inspector Angus Graham. Given Mr Jarratt’s position as a senior executive in the New South Wales Police Service, the Commission considers that this assessment is sufficiently substantial for Mr Jarratt to be an “affected” person for the purpose of this report.
- 7.11 Pursuant to section 97(2) of the Act, the Commission states in respect of Jeffrey Thomas Jarratt, that in all the circumstances, the Commission is **not** of the opinion that consideration should be given to the following:
- a) criminal prosecution.
 - b) the taking of disciplinary action.
 - c) the taking of action against Mr Jarratt with a view to dismissing, dispensing with the services or otherwise terminating the services of that officer.
- 7.12 **The Commission does recommend, however, that Deputy Commissioner Jarratt participate in such conflict of interest recognition, avoidance and management programs as the Commissioner of Police may determine. The Commission further recommends that, for future evaluations and assessments of Mr Jarratt’s performance as Deputy Commissioner, the Commissioner of Police, in addition to such other matters as he may take into account, have regard to Mr Jarratt’s performance in the management of conflicts of interest.**

Grahame Phillip Smith

- 7.13 As noted in Chapter 1 of this report, newspaper articles in February 1998 reported allegations that Mr Smith may have been involved in an improper approach in aid of Mr Graham prior to his appearance before the Police Tribunal.
- 7.14 Evidence presented to the Commission establishes that the approach by Mr Smith to Mr Schuberg, then Assistant Commissioner Professional Responsibility, was made at the behest of Acting Commissioner Taylor. Mr Smith also appropriately reported the results of their discussions back to Mr Taylor.
- 7.15 Pursuant to section 97(2) of the Act, the Commission states in respect of Grahame Phillip Smith, that in all the circumstances, the Commission is **not** of the opinion that consideration should be given to the following:
- a) criminal prosecution.
 - b) the taking of disciplinary action.
 - c) the taking of action against Mr Smith, as a police officer, with a view to dismissing, dispensing with the services or otherwise terminating the services of that officer.

Robert Arthur Sutton

- 7.16 The Commission heard evidence that Samantha Burton believed that she had been subject to workplace victimisation resulting from her role in the investigation of Angus Graham and that Robert Arthur Sutton was involved in that victimisation.
- 7.17 No evidence was presented to the Commission that demonstrated that Mr Sutton was motivated, in his actions towards Ms Burton, by a desire to pressure her in her role as a witness or to “punish” her for her part in the investigation.
- 7.18 Pursuant to section 97(2) of the Act, the Commission states in respect of Robert Arthur Sutton, that in all the circumstances, the Commission is **not** of the opinion that consideration should be given to the following:
- a) criminal prosecution.
 - b) the taking of disciplinary action.
 - c) the taking of action against Mr Sutton, as a police officer, with a view to dismissing, dispensing with the services or otherwise terminating the services of that officer.

8/ ASSESSMENT AND RECOMMENDATIONS

8.1 This chapter contains an assessment of the information and evidence presented in this Report.

THE INTERNAL POLICE INVESTIGATION INTO ANGUS GRAHAM

8.2 The Commission heard evidence that:

- While preparing the case to go before the Police Tribunal in September 1996, Acting Inspector Redfern and Mr Saidi of Counsel became concerned that Senior Constable Cottrell was not being fully frank and open in terms of his recollection of events and that he had possibly been suborned.
- On 1 July 1996 Mr Grahame Smith had approached Mr Schuberg, the head of Professional Responsibility, to enquire on the charges facing Mr Graham. In Mr Schuberg's subsequent diary entry summarising that conversation he had written that Mr Smith had questioned whether 'anything could be done' for Mr Graham. Those words had resulted in concern that Mr Smith may have sought to exert some improper influence in aid of Mr Graham.
- Acting Commissioner Taylor had, in fact, tasked Mr Smith with approaching Mr Schuberg on the basis that Mr Graham had made representations to Mr Smith inquiring on a plea bargain. Mr Smith reported the results of his conversation to Mr Taylor.
- Ms Burton, an intended witness at the Police Tribunal hearing on Mr Graham's matter, believed that her working conditions at Region Support in 1995-1996 represented victimisation on the basis of her role in the investigation of Angus Graham and further, that Inspector Lemme had approached her in early 1996 and stated that Angus Graham had sworn to 'destroy her'. Ms Burton experienced difficulties in Region Support where she had moved in August 1995.
- A complaint in relation to those issues was made on Ms Burton's behalf and this had led to an investigation of her complaint by her commander, Superintendent Hobden. Following an interview with Superintendent Hobden, Ms Burton withdrew the complaint.

8.3 The Commission considers that:

- The investigation of Angus Graham and preparation of that matter for the Police Tribunal hearing, was conducted in a thorough, competent and professional manner.
- Despite the concerns raised by persons involved with this matter, there is no evidence that Angus Graham or any other person engaged in the suborning of witnesses, improper approaches, or the victimisation or harassment of witnesses in that investigation.
- The example of Ms Burton demonstrates how allegations of victimisation or harassment can be difficult to prove or disprove. The Police Service should ensure that strategies and procedures are in place that not only morally support internal witnesses (as happened in this case), but also ensure that such allegations are appropriately investigated and dealt with.

DECISIONS MADE BY DEPUTY COMMISSIONER JARRATT IN RELATION TO ANGUS GRAHAM

8.4 The Commission heard evidence that:

- Mr Jarratt appointed Mr Graham to the Royal Commission Implementation Unit around March 1996 and maintained him there until June 1996 despite concerns being voiced by Acting Commissioner Taylor and, more strongly, by Mr Sturgess of the Police Board.
- Mr Jarratt interviewed Mr Graham in July 1997 for the publicly advertised position of Commander SIG after Mr Graham had admitted his charges and resigned from the Service in November 1996. This interview took place despite statements by Commissioner Ryan that Mr Graham was not to get the job. According to Mr Jarratt, Mr Graham was selected for an interview on the basis that he would provide a good “barometer” against which to compare the other candidates.

8.5 The Commission considers that:

- The decisions made by Mr Jarratt in both instances above represent bad judgment on his part. This bad judgment can be directly attributed to his relationship with Mr Graham, which was based on mutually high regard as colleagues. This relationship resulted in Mr Jarratt failing to give proper weight to significant issues - such as the seriousness of the charges facing Mr Graham and how the Service in general would understand his actions- when making decisions regarding Mr Graham.

- Mr Jarratt was involved in a conflict of interest in respect of Mr Graham yet failed to recognise it.

NETWORKS

8.6 The Commission considers that:

- Networks and relationships are expected to exist within the New South Wales Police Service.
- Networks are, by their nature amorphous. As such it would be extremely difficult to categorically list the membership of any particular network. Similarly it would be very difficult to establish any improper conduct, misconduct or corruption resulting from any network.
- Given that “networks” represent an extremely large and complex issue, the Commission would be best served to examine this area by examining examples of misconduct by networks as they emerge from its investigations over the next several years. By starting with concrete examples of misconduct it may be possible to draw wider conclusions about the formation and activities of corrupt networks within the Service.

OLYMPIC SECURITY

8.7 The Commission considers that:

- After extensive investigations and private hearings on this matter, thus far no evidence of police misconduct or potential police misconduct has emerged.
- The awarding of the major Olympic Security contracts in the near future requires that the Commission maintain an interest in these matters.

RECOMMENDATIONS

8.8 On the basis of the information presented in this Report, the Commission recommends that:

- the Commissioner of Police undertake a review of current training and procedures relating to conflict of interest recognition, avoidance and management, especially in terms of the senior ranks, with a view to developing training and procedures that accord with world’s best practice; and
- Deputy Commissioner Jarratt participate in such conflict of interest recognition, avoidance and management programs as the Commissioner of Police may determine. The Commission further recommends that, for future evaluations and assessments of Mr Jarratt’s performance as Deputy Commissioner, the Commissioner of Police, in addition to such other matters

as he may take into account, have regard to Mr Jarratt's performance in the management of conflicts of interest.