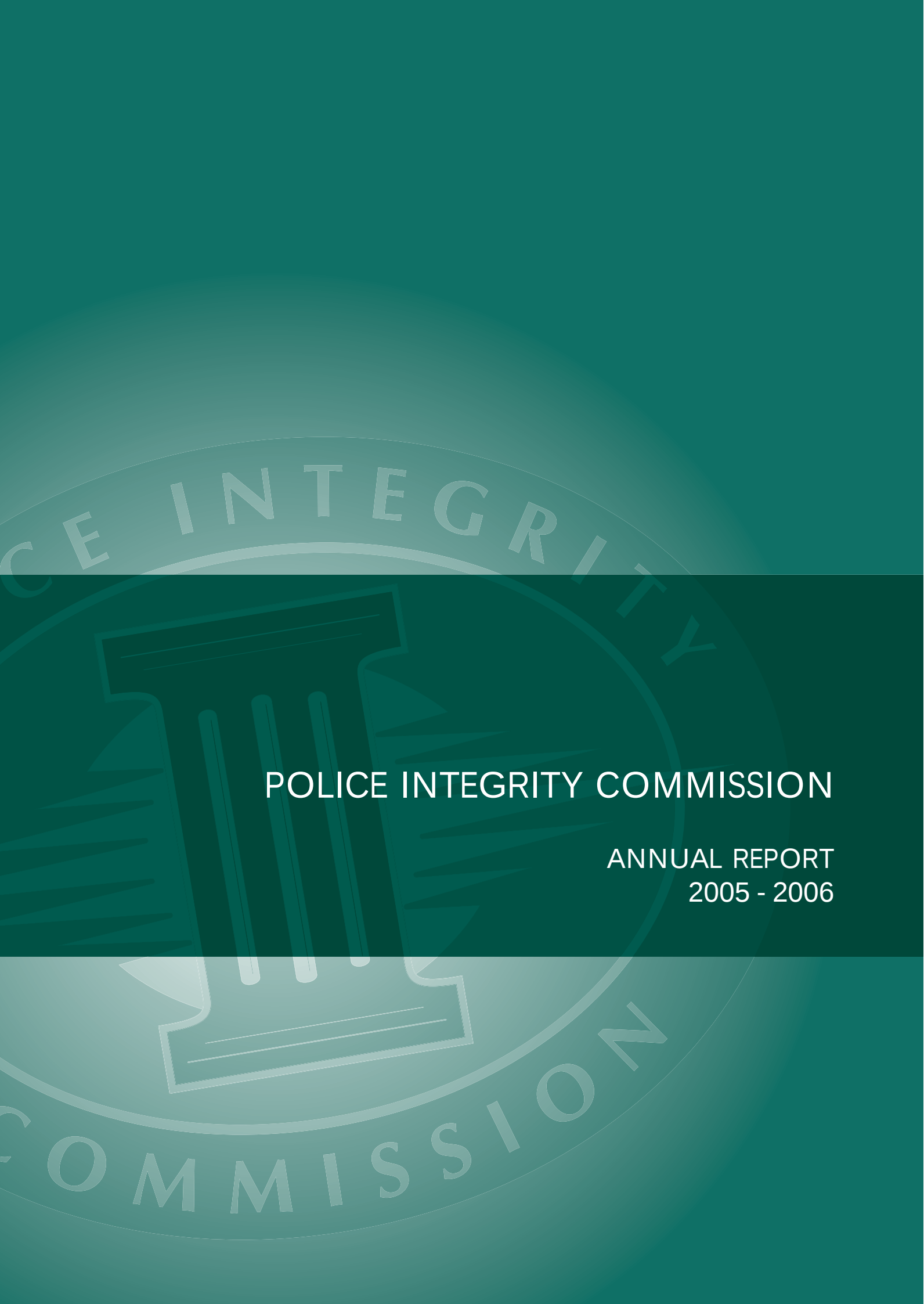




POLICE INTEGRITY COMMISSION

ANNUAL REPORT
2005 - 2006



ABN 22 870 745 340

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

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

Dear Madam President and Mr Speaker

In accordance with section 12 of the *Annual Reports (Departments) Act 1985* and section 99 of the *Police Integrity Commission Act 1996*, the Commission hereby furnishes to you the Police Integrity Commission Annual Report for the year ended 30 June 2006.

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

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

Yours faithfully

T P Griffin
Commissioner

October 2006

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1. COMMISSIONER'S FOREWORD

The finalisation of this Annual Report coincides with the end of my five year term as the Commissioner for the Police Integrity Commission. As such it provides the opportunity to reflect, not only on the year under review, but also on achievements over the longer term.

Overall, 2005-2006 has been a busy year with 51 investigations, of which 21 were major investigations involving sustained use of resources including the use of special powers and physical and/or electronic surveillance. This compares with 44 investigations, including 10 major investigations, open during 2004-2005. The Commission received and assessed 1141 written complaints during the year, a 15 per cent increase over the previous year and a 37 per cent increase over the number of complaints received in 2003-2004. Of the complaints received in 2005-2006, 666 were determined to be Category 1 (more serious) complaints.

During the year the Commission presented reports on four of its operations to the NSW Parliament. Three of these (Operations Cobalt, Whistler and Sandvalley) focused on misconduct allegations concerning individuals or small numbers of officers.

Operation Cobalt exposed evidence of a NSW Police detective sergeant and his associates engaging in criminal behaviour and serious misconduct over a period of nearly ten years. This included extortion and theft of money, perverting the course of justice, and the unauthorised release of confidential NSW Police documents and information. The Commission recommended that prosecution for criminal offences be considered in relation to the detective sergeant and six of his associates, one of whom is a former officer. In addition the Commission recommended that charges for giving false and misleading evidence should be considered against the detective sergeant and one serving officer and that consideration should be given to managerial action against the serving officer. Operation Cobalt also highlighted the critical role of supervision and sound informant management practices in minimising opportunities for corruption.

Operation Whistler investigated allegations of use of excessive force by some officers attached to the Southern Region of NSW Police. The Commission found evidence that during an arrest a constable assaulted a person causing severe facial injuries, including fractures, a fractured arm and fractured finger, as well as evidence that the duty officer took

steps to conceal the constable's conduct from his superiors. The Commission has recommended prosecutions be considered for two officers and managerial action in relation to seven officers. The Commission has also identified procedural issues relating to the NSW Police *Guidelines for the management and investigation of critical incidents*.

Operation Sandvalley investigated the involvement of a NSW Police senior constable in suspect financial dealings, both business and private. There was evidence of him taking \$250,000 in cash interstate, suspected to be the proceeds of a series of ATM robberies in Sydney. Approval has been given by the Director of Public Prosecutions to charge the officer with two fraud offences and further possible charges are being considered.

The Commission's four-volume Operation Abelia Report, which described its research and investigations into illegal drug use by some NSW Police officers, had a broader focus. In this report the Commission made 64 recommendations to strengthen NSW Police's capacity to minimise illegal drug use by its officers. While the process of implementing the Operation Abelia recommendations is likely to continue over several years, I am pleased to be able to report that progress in the implementation of these recommendations has commenced: with 12 of the recommendations implemented and a further 16 partly implemented at the time of preparing this Annual Report. Some of the recommendations proposed in the Operation Abelia Report require legislative amendment. These legislative amendments have been considered and endorsed by Cabinet and have been referred to Parliamentary Counsel for drafting. The NSW Government has further demonstrated its support for the Operation Abelia recommendations by allocating \$1 million to NSW Police to implement the recommendations concerning increased drug testing in its 2006-2007 budget.

Looking back past the year under review, one thing that stands out is the diversity of the Commission's work. Some operations have exposed the entrenched and serious corruption of groups of officers such as that in the Northern Beaches area of Sydney that was exposed in Operation Florida; while others have focused on serious corruption by individual officers such as the involvement of officers in the theft and sale of illegal drugs that was exposed in Operation Alpine. Other investigations, such as Operations Malta and Tower, which found little or no evidence of police misconduct, clarified

1. COMMISSIONER'S FOREORD

the circumstances in which misconduct had been alleged and in so doing provided assurance to the community that appropriate processes had been followed. Still other work, such as Operations Dresden and Abelia, focussed on improvements to NSW Police systems rather than focusing on the conduct of specific individuals.

The past five years has been a period for enhancing and developing the scope of the Commission. It has highlighted the value of partnerships between the Commission and other law enforcement agencies and the need to commit resources to long-term covert operations to uncover and collect evidence on the more serious and entrenched forms of police corruption. It has been a period during which the Commission has developed and demonstrated its capacity to examine broader misconduct issues in NSW Police through research-led initiatives. It has also been a time in which the Commission has demonstrated its capacity and approach in country NSW.

I would like to express my appreciation and thanks to the staff of the Commission for their diligence and commitment throughout the period of my term. As I have observed in previous years, it is widely acknowledged that dealing with police corruption involves complex and difficult work. None of the achievements of the past five years would have been possible without their expertise, dedication and professionalism.

A handwritten signature in black ink, appearing to read 'T P Griffin', with a stylized flourish at the end.

T P Griffin
Commissioner

2. CORPORATE OBJECTIVES AND PERFORMANCE MEASUREMENT FRAMEWORK

The Commission's performance is measured and reported in this Annual Report in the context of the Corporate Plan and Performance Measurement Framework 2003-2006.

The Commission has commenced work on the Corporate Plan and Performance Measurement Framework for the period 2007-2010. Like other public sector agencies, performance measurement for the Commission has been an evolving process. Much has been learned since the Commission's first attempt at results based performance measurement in the current Plan. The Commission will build on this experience, in particular, to improve on the quality of measures and to develop clearer linkages to other relevant planning documents such as the Commission's Results and Services Plan.

OUR VISION

Confidence in the integrity of NSW Police.

OUR MISSION

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

OUR VALUES

We value:

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

OUR BUSINESS

Our business is:

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

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

OUR CHARTER

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

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

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

During the reporting year the Commission's Charter was impacted by the commencement of the *Independent Commission Against Corruption Amendment Act 2005* ("the ICAC Act"). Amendments to the ICAC Act had the effect of expanding the scope of the Commission's jurisdiction and functions to include non-sworn (civilian) employees of NSW Police.

Full details of the impact of legislative changes occurring in this reporting year on the Commission's Charter are presented in Appendix 3 - Legislative Matters and Law Reform.

OUR OBJECTIVES

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

OBJECTIVE 1

Effective Deterrence

To contribute to the effective deterrence of serious police misconduct

OBJECTIVE 2

Ongoing Reform

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

OBJECTIVE 3

Improved Assurance

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

OUTCOME AREAS

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

PERFORMANCE MEASURES

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

3. PERFORMANCE OVERVIEW 2005-2006

IDENTIFICATION OUTCOMES

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

There were 51 full and preliminary investigations open during the year, including 21 major¹ investigations. There were 14 investigations concluded during the year.

In September 2005, the Commission released a s96(1) report to Parliament on Operation Abelia that resulted in a better understanding of the nature of illegal drug use by some NSW Police officers. In its report, the Commission proposed a nine-part integrated strategy aimed at minimising illegal drug use by police.

A s96(2) report was released to Parliament in December 2005 on the outcomes of Operation Cobalt, an investigation into the activities of an officer who was dismissed from NSW Police during the investigation, and his associates. The Commission recommended consideration be given to prosecutions for criminal offences against two former officers and six associates. Managerial action² was also recommended against the serving officer. Two procedural matters raised in the report highlighted the critical place of supervision and proper informant management in reducing opportunities for corruption.

The Commission released a s96(2) report to Parliament in December 2005 on Operation Whistler, an investigation into allegations of use of excessive force by some officers attached to the Southern Region of NSW Police, during an arrest incident in Wagga Wagga. The report recommended prosecutions be considered for two officers and managerial action be taken against seven officers. Relevant aspects of an earlier arrest incident were also considered in the course of the investigations. The Commission's report addressed procedural issues relating to NSW Police guidelines

for handling critical incidents, and the need to improve aspects of the education of police prosecutors.

In March 2006, the Commission released to Parliament a s96(2) report on Operation Sandvalley concerning suspicious financial dealings by an officer and his associates. The report recommended prosecution and s181D action against the police officer and prosecution of the officer and a number of associates. In the report, the Commission observed a failure in the management of the officer's secondary employment in the 'high risk' liquor industry in accordance with NSW Police guidelines.

Arising from Operation Sandvalley, the Commission undertook further inquiries concerning the risks associated with secondary employment undertaken by police officers. The results of these inquiries, codenamed Operation Cassava, have resulted in a number of suggestions to NSW Police for improvements in the management of the process for approval of secondary employment which have since been provided to the Commissioner of NSW Police.

Further details on each of these matters is included in the Summary Review of Operations in Section 5.

Measures	Target	Result
<i>Output Measure:</i> Ratio of the number of opportunities for police misconduct identified in Commission reports, to the number of recommendations made for corrective action.	1 : 0.8	1 : 0.9

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

² Includes s181D (loss of Commissioner's confidence), and reviewable and non-reviewable s173 action pursuant to the *Police Act 1990*.

EXPOSURE OUTCOMES

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

Public hearings were conducted for one out of 21 (4.8%) major investigations that were open during the reporting year. There was a total of three days of public hearings during which evidence was given in Operation Rani. The reduction in the number of public hearing days this year can be accounted for by the nature of the investigations on foot, the majority of which were disposed to the establishment of evidence through means other than public hearings. Details of each of the Commission's investigations can be found in the Summary Review of Operations.

In 2005, allegations were made to the Commission that a former NSW police officer may have been involved in the disappearance and suspected murder of a woman in Bathurst. Operation Rani commenced in September 2005 to investigate these and related allegations concerning the conduct of NSW Police involved in the investigation of the woman's disappearance.

The Commission held public hearings in Orange in June 2006 – the second occasion on which the Commission has conducted public hearings in country NSW. As a result of publicity in regard to this investigation and the public hearings, numerous people have come forward to provide information to the Commission. The investigation is ongoing, although some relevant matters have been referred to NSW Police.

The Commission provided a report to Parliament in September 2005 on Operation Abelia (including Operation Alpine), followed by reports on Operations Cobalt and Whistler in December 2005. A report on Operation Sandvalley was presented to Parliament in March 2006. The outcomes of these investigations are detailed in Summary Review of Operations in Section 5.

Public hearings were conducted, or reports issued, in respect of 6 (28.6%) out of 21 major investigations underway during the year.

There was a total of 40³ private hearings for Operation Rani and five other major investigations during the year, compared with 34⁴ and 35 days in 2004-2005 and 2003-2004 respectively.

Measures	Target	Result
<i>Output Measure:</i> Ratio of the number of opportunities for police misconduct identified in Commission reports, to the number of recommendations made for corrective action.	1 : 0.8	1 : 0.9
<i>Output Measure:</i> Proportion of major investigations for which public hearings are conducted and/or a report issued.	30%	28.6%
<i>Output Measure:</i> Number of public hearing days.	40 days	3 days

³ The average duration of a private hearing is 2.25 hours.

⁴ This figure was reported in error in the Annual Report 2004-2005 as 26 days.

CLARIFICATION OUTCOMES

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

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

This year the Commission did not release a report which predominantly focused on clarification. However, while not intended as a predominant outcome, the Operation Whistler report (released in December 2005) did provide some clarification surrounding allegations of a serious assault by police. Operation Whistler was also somewhat unique for the Commission, involving as it did the conduct of the Commission's first public hearings in country NSW and considerable local media attention. In that context it was determined that the Report would be suitable for external review and support reporting on performance in respect of the Commission's third objective: *Improved assurance*. Normally, the Commission's performance in respect of Operation Whistler would be discussed in terms of the acceptance of recommendations which were made for consideration of prosecutions and managerial action.

The Commission therefore asked the panel members to assess whether the report had adequately clarified the issues and the evidence upon which the Commission relied in forming its assessments and opinions. Details of Operation Whistler are contained in the Summary of Operations Review in Section 5.

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

All five responses indicated the report met or exceeded a satisfactory standard in respect of each of the criteria referred to above, confirming that the Operation Whistler report clarified the circumstances surrounding matters where serious police misconduct had been alleged. In addition, a panel member drew attention to a question which remained unanswered for an interested reader of the report – the wider context in which the misconduct addressed by the report occurred. Although not explicitly addressed by this investigation, effective management of corruption risk requires attention to police culture and supervision practices. Research and projects undertaken by the Commission will continue to focus on the need for specific improvements in these areas.

Each year, this process of review by an external panel adds value through the capacity of stakeholders and agencies with common interests to provide to the Commission specific advice on whether reasonable standards have been met by the report reviewed. The community can be assured by the favourable peer review of the quality of the Commission's reporting in such a high profile case.

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

ADDRESSING SERIOUS POLICE MISCONDUCT OUTCOMES

Serious police misconduct which has been identified is addressed

One officer was dismissed from NSW Police pursuant to s181D of the *Police Act 1990* (Commissioner's confidence provisions) following Operation Cycad. As reported in 2004-2005, two officers from Operation Acer and one from Operation Avillia are also being considered for removal under s181D. In all three cases, decisions are yet to be finalised regarding their removal, although NSW Police has advised that the process is nearing completion for the two involved in Operation Acer. Three officers have been referred for consideration for s181D dismissal during the reporting year following Operations Cobalt, Juniper and Sandvalley.

Managerial action is being considered against eight officers as a result of Operations Whistler, Cobalt and Mercury. Last year it was reported that managerial action was being considered against an officer involved in Operation Rustin. This process remains ongoing. Managerial action for an officer arising from Operation Vail has since been concluded.

Investigations resulted in briefs of evidence for 22 persons with a possible 103 charges being referred to the Office of the Director of Public Prosecutions ("ODPP") in the reporting period.

Decisions were taken by the State and Commonwealth ODPP in 2005-2006 in relation to a total of 12 persons involving 35 recommended charges. Proceedings have been approved against six⁵ persons involving 29 charges (50% of referred matters and 83% of recommended charges). Submissions against a further 12 persons involving 70 charges are awaiting determination by the ODPP. An additional 3 matters involving 10 possible charges referred in 2004-2005 are still awaiting determination.

Details of managerial action and prosecutions arising from a number of major investigations are contained in the Summary Review of Operations. The details of current prosecutions arising from Commission, and related, investigations are contained in Appendix 5.

In addition, proceedings under the *Criminal Assets Recovery Act 1990* arising from Operation Alpine resulted in orders being made in the NSW Supreme Court for a former officer to pay \$14,300 to the State.

During the year Commission staff participated in a total of 32 education / prevention sessions or made special presentations to NSW Police officers relating to education and prevention.

Measures	Target	Result
<i>Outcome Measure:</i> The proportion of recommendations relating to potential criminal charges which proceed to prosecution.	80%	83%
<i>Outcome Measure:</i> The proportion of recommendations relating to managerial action that are accepted by NSW Police. ⁶	80%	100%
<i>Outcome Measure:</i> Success rate for confiscation proceedings under the <i>Criminal Assets Recovery Act 1990</i> .	1 : 1	1:1
<i>Output Measure:</i> Number of participations/ representations in education or prevention programs/ seminars/ presentations/ reviews/ discussion panels.	N/A	32

⁵ The Commission's policy, when referring briefs to the ODPP for consideration of criminal charges, is to refer all matters where there is prima facie evidence of the commission of an offence. The ODPP then takes into account a range of considerations, in accordance with their prosecution guidelines, when coming to a decision whether to proceed or not.

⁶ Includes managerial action which arises as a direct result of Commission investigations but prior to release of a final report (where applicable) and therefore prior to formal recommendation for managerial action.

AWARENESS OUTCOMES

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

As noted, four reports were presented to Parliament during the reporting year. The reports contained the Commission's findings and recommendations from Operations Abelia, Whistler, Cobalt and Sandvalley. These are described in more detail in the Summary Review of Operations.

The increase reported last year in the number of documents downloaded from the Commission's website continued during the current period, with the figure for 2005-2006 increasing by 49%. The number of reports downloaded increased in the months following the release of a Commission report, by an average 50% over the average monthly rate⁷ for the year. The rate of downloading of both these and of earlier Commission reports stayed at a very high level for the remainder of the year.

These figures reinforce the view that accessibility to Commission reports by way of the Internet continues to be one of the best ways to increase public awareness of organisational performance.

References to the Commission in the media were lower in this reporting period, at 1251 total media items compared to 5864 in the previous period. Closer examination of the figures shows, however, that the number of references in the print media has remained relatively steady since last reported, while the biggest drop was in radio and TV coverage. It seems likely that the Commission's lower profile in the electronic media may reflect the reduced level of public hearings and the fact that the bulk of the Commission's work this year has been ongoing.

The rate at which Category 1 complaints are made directly to the Commission remains relatively constant around the target of 30%: the figures recorded for each of the last three years are 31% (2003-2004), 29% (2004-2005) and, in this reporting period, 28%. The slight downward trend may be a reflection of the increased number of complaints determined as Category 1 complaints through direct access by the Commission to the NSW Police complaints system and the increased number of complaints overall.

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

Measures	Target	Result
<i>Outcome Measure:</i> Number of references in media to Commission investigations / projects.	1500	1251
<i>Outcome Measure:</i> Proportion of Category 1 complaints which are made directly to the Commission.	30%	28%
<i>Outcome Measure:</i> Ratio of number of Commission reports downloaded from the Commission's website following public release to the annual average of reports downloaded.	1.5 : 1	1.5: 1
<i>Output Measure:</i> Number of public hearing days.	40 days	3 days

⁷ Calculated as the average of the months that did not follow release of a report.

IMPROVEMENTS IN PRACTICES OUTCOMES

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

Both the reports to Parliament on Operation Abelia and Operation Whistler contained specific recommendations for improvements to systems and practices. In the report on Abelia, the Commission proposed an integrated nine-part strategy to minimise illegal drug use by police. The report on Operation Whistler included recommendations for improvements to the education of police prosecutors, and also to the procedures associated with the identification and management of critical incidents.

Two further reports presented on Operations Cobalt and Sandvalley did not make specific recommendations for system improvements, however, they did identify procedural issues requiring attention. Arising from Operation Sandvalley, the Commission undertook further inquiries in Operation Cassava concerning the risks associated with secondary employment undertaken by police officers. These inquiries have resulted in a number of suggestions to NSW Police for improvements in the management of the process of approval of secondary employment.

Further details in regard to each of these investigations can be found in the Summary Review of Operations in Section 5.

During the current reporting period, NSW Police responded to 74 recommendations made by the Commission in respect of Operations Abelia, Whistler and Cassava. A total of 63 (85%) of the recommendations made have been accepted by NSW Police. Liaison continues in regard to the implementation of these recommendations. Further progress will be reported next year.

During the reporting period NSW Police further provided advice on the implementation of Commission recommendations arising from Operations Abelia, Whistler, Florida and Dresden II. A total of 10 recommendations were implemented during the period. The details of the implementation of these recommendations can be found in Tracking the Commission's Recommendations in Section 6.

Measures	Target	Result
<i>Outcome Measure:</i> Proportion of recommendations relating to law reform and improvements in the practices of NSW Police or other relevant agencies that are accepted.	80%	85%
<i>Output Measure:</i> Number of issues identified in Commission hearings and reports which result in a change in police practice.	N/A	10
<i>Output Measure:</i> Ratio of the number of opportunities or factors contributing to serious police misconduct identified to the number of recommendations for improvement made.	1 : 1	1:0.9
<i>Output Measure:</i> Proportion of recommendations for improvements in practices of NSW Police where consultation has occurred.	80%	91%

IMPROVEMENTS IN INVESTIGATIONS OUTCOMES

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

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

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

The Commission continues to have an involvement in oversight of specific investigations by NSW Police of complaints of serious police misconduct. However, as reported last year, the Commission has not undertaken any further audit of police investigations, due to changes to legislation that will remove the distinction between complaints based on offence type alone. The Commission intends to consider options for broad-based auditing of police investigations into serious misconduct following the implementation of the proposed changes.

The most recent Dresden II audit was conducted by the Commission in 2002-2003. Last year, the Commission reported that NSW Police had accepted 10 (91%) of 11 recommendations and that seven recommendations had been implemented. The Commission is now able to report that each of the remaining recommendations – or a satisfactory alternative – have since been implemented. Further details on the implementation of the final three Dresden II recommendations is included in Tracking the Commission's Recommendations in Section 6.

While these final Dresden II recommendations have now been actioned, the Commission's interest in Complaint Management Teams ("CMTs") and the tools and processes available to them to assist in making timely and appropriate decisions remains ongoing.

Measures	Target	Result
<i>Outcome Measure:</i> Proportion of recommendations relating to law reform and improvements in the practices of NSW Police or other relevant agencies that are accepted.	80%	85%
<i>Output Measure:</i> Number of special audits of the quality of investigations by police into serious police misconduct.	1 per 3 years	N/A
<i>Output Measure:</i> Proportion of investigations included in the sample used for special audits of the quality of investigations by police into serious police misconduct.	25%	N/A

PLANS FOR 2006-2007

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

- The Commission will finalise its strategic directions and publish its Corporate Plan & Performance Measurement Framework for 2007-2011.
- Investigations will be completed and reports are expected to be presented to Parliament in respect of Operations Rani and Banff.
- In the course of investigations the Commission will broadly consider NSW Police policies, supervisory practices and other factors which provide opportunities for minimising serious police misconduct, as applicable.
- Hearings will be held in public as appropriate to expose and deter serious police misconduct and to facilitate community and stakeholder awareness of the nature serious police misconduct.
- The Commission's assessment of the management of special misconduct risks attached to the work of the NSW Police Counter Terrorism Coordination Command will be completed and submitted to the Committee on the Ombudsman and the Police Integrity Commission inquiry: *Scrutiny of NSW Police Counter-Terrorism and Other Powers*.
- New projects will aim to optimise the use of the Commission's resources with improved linkages between research and investigations. Project selection criteria will be used to maintain the strategic focus of the Commission's program.
- The Commission will continue to provide accessibility for NSW Police through visits to regional areas. The Commission will further implement measures to improve access for people from non-English speaking backgrounds ("NESB") to services and materials provided by the Commission. Measures include consultation with community leaders, translation and distribution of information brochures and progressing multi-lingual access through the Commission's website.

4. GOVERNANCE

This section of the Annual Report contains details of the principal officers of the Commission and of the accountability framework established to monitor and review certain Commission activities.

THE EXECUTIVE

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

CHANGES IN ORGANISATIONAL STRUCTURE

There were no changes to the Commission's organisational structure during 2005-2006.

THE PARLIAMENTARY JOINT COMMITTEE

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

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

As at 30 June 2006 the members of the Committee were:

- Mr Paul Gerard Lynch, MP, Member for Liverpool (Chairperson) (ALP)
- The Hon Jan Burnswoods, MLC (Vice-Chairperson) (ALP)
- Mr Malcolm John Kerr, MP, Member for Cronulla (LIB)
- Ms Lee Rhiannon, MLC (The Greens)
- The Hon David Clarke, MLC (LIB)
- Mr Steven Chaytor, MP, Member for Macquarie Fields (ALP)
- Mr Geoffrey Corrigan, MP, Member for Camden (ALP)

Interaction between the Committee and the Police Integrity Commission

On 2 November 2005, the Commission attended a hearing conducted by the Committee for the purpose of its inquiry into s10(5) of the Act related to provision for inter-State recruitment.

The ninth General Meeting of the Committee took place at Parliament House on 23 November 2005. Commissioner Griffin and a number of senior Commission staff attended to give evidence before the Committee. The Committee provided written questions on notice. Answers to these questions were provided ahead of the meeting. The topics covered by the questions on notice included:

- Operations Vail and Banff
- Issues arising from the Commission's 2004-2005 Annual Report
- NSW Police s181D proceedings
- NSW Police Early Warning System

A transcript of proceedings for the Committee Inquiry into s10(5) was published in November 2005. The Committee's Report of the Annual General Meeting, including a copy of the Commission's responses to questions on notice and a transcript of proceedings, was published in May 2006. These documents are available through the Parliamentary website: <http://www.parliament.nsw.gov.au>

THE INSPECTOR, POLICE INTEGRITY COMMISSION

The Hon M D Ireland QC was appointed as the Inspector of the Police Integrity Commission on 12 June 2002. On 1 September 2005 the Hon J R T Wood QC was appointed as the Inspector of the Police Integrity Commission.

The principal functions of the Inspector⁸ are to:

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

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

⁸ Subsection 89(1) of the *Police Integrity Commission Act 1996*.

5. SUMMARY REVIEW OF OPERATIONS

The purpose of this section is to outline the main investigations initiated or progressed in the 2005-2006 reporting year. Outcomes are also reported where operational activity ceased prior to 2005-2006.

Nine-point plan for preventing & detecting drug use in NSW Police published by the Commission –

OPERATION ABELIA

Operation Abelia focused on providing a better understanding of the nature of the problem of illegal drug use by some NSW Police officers and what can be done to minimise illegal drug use by police officers. This was a comprehensive project which combined misconduct investigations and hearings with detailed national and international research.

The Commission released its report to Parliament in September 2005. In this report, the Commission proposed a nine-part integrated strategy which, in summary, involves:

1. Providing clear messages early and reinforcing them in different ways
2. Equipping officers with the knowledge and skills to respond appropriately
3. Addressing the welfare of officers
4. Deterring illegal drug use
5. Detecting illegal drug use
6. Effectively managing officers found to have used illegal drugs
7. Demonstrating accountability
8. Review and evaluation
9. Monitoring the implementation of recommendations.

There was both national and international interest in the Commission's work in this area. One indicator of this interest was the Toronto Police Service's invitation for an officer from the Commission to attend the 5th Annual Professional Standards Conference held in

Toronto in November 2005 as one of the keynote speakers.

During the period under review the Commission has liaised with NSW Police and the Ministry for Police to follow up on the implementation of the 64 recommendations that were made as a result of this research. Some of the recommendations proposed in the Operation Abelia report require legislative amendment. These legislative amendments have been considered and endorsed by Cabinet and have been referred to Parliamentary Counsel for drafting.

The NSW Government allocated \$1 million to NSW Police to implement the Operation Abelia recommendations concerning increased drug testing in its 2006-2007 budget.

Further information about the current status of the Operation Abelia recommendations can be found in Tracking the Commission's Recommendations in Section 6.

ASSESSMENT OF THE MANAGEMENT OF MISCONDUCT RISK - THE COUNTER TERRORISM COORDINATION COMMAND

During the year the Commission is preparing an assessment of the misconduct risks faced by officers working in the NSW Police Counter Terrorist Coordination Command ("the CTCC") to provide advice to NSW Parliament as to what, if any, special oversight or monitoring arrangements are needed to adequately manage the misconduct risks in the CTCC.

In particular, the Commission seeks to provide advice to two related inquiries being conducted by the Parliament of NSW Committee on the Office of the Ombudsman and the Police Integrity Commission ("the Committee"). One focus of these inquiries is to consider whether or not a specific oversight regime is needed for the CTCC and, if such oversight is required, the form it should take.

Why the Counter Terrorist Coordination Command is of particular interest

The CTCC is not the first unit of NSW Police that has had a responsibility for counter-terrorism policing. For half a century, the Special Branch was responsible for providing intelligence concerning politically motivated violence, including terrorist activity. The Special Branch was disbanded in March 1997 after evidence was heard in the Royal Commission concerning abuses of power and a lack of accountability.

The Protective Security Group (“PSG”) was established to replace the disbanded Special Branch. The Commissioner of Police, the Royal Commission and the NSW Government each identified the need for special oversight for any unit that was to replace the Special Branch. When establishing the PSG, the then Minister for Police noted that the “Government remains of the view that any unit with these unusual functions should be subject to high standards, and an even higher level of scrutiny than most”.⁹ To provide this oversight the NSW Government introduced legislation that required NSW Police to conduct annual audits of the operations of PSG and required the Commission to monitor and report on those audits.

In March 2003, the PSG’s functions were absorbed into the newly created CTCC and the annual audits ceased. This resulted in a legislative anomaly, whereby the sections of the *Police Act 1990* concerning the conduct of annual audits of the PSG and sections of the *Police Integrity Commission Act 1996* concerning the monitoring of those audits no longer had practical application. These provisions have not, at present, been amended or replaced by similar provisions to ensure monitoring and scrutiny of the CTCC’s activities. There was no explicit policy decision by Government determining that the Commission’s oversighting function or the need for regular audits of the work previously undertaken by the PSG, or the work currently undertaken by the CTCC, should come to an end.

The Committee has subsequently established two related inquiries. The first is an inquiry into the Commission’s jurisdiction to oversight the PSG and the second is an inquiry into scrutiny of NSW Police counter-terrorism and other powers.

In its submission to the first of these inquiries, the Commission suggested that any position regarding future arrangements for any preventative audit or oversight of the CTCC should be based on a clear understanding of the risks for police misconduct associated with its activities and structure. The Committee agreed and the Commission undertook to conduct an assessment of the management of misconduct risks associated with the work undertaken by the CTCC.

The misconduct risk assessment

In order to inform its advice as to what, if any, special oversight or monitoring arrangements are needed to adequately manage the misconduct risks faced by officers working in the CTCC, the Commission collected information about four main areas:

- the strategies used corporately by NSW Police and at the command-level by the CTCC to identify, to assess and to decide how to treat risks in general, and misconduct risks in particular
- the nature of the work undertaken by the CTCC and the misconduct risks associated with this work
- the strategies used to treat (manage or mitigate) these misconduct risks faced by officers working in the CTCC, and
- oversight arrangements currently in place and opinions about the most appropriate oversight arrangements for the future.

The Commission used a diverse and complementary range of sources to gather relevant information, including:

- formally and separately seeking NSW Police corporate-level views and CTCC command-level views on topics of interest
- conducting structured interviews with key staff of the CTCC
- reviewing the literature
- reviewing the legislation to identify new counter-terrorism policing powers and accountability measures incorporated in the legislation
- considering available prosecutions on terrorism suspects for any comments made about NSW Police investigations in these prosecutions
- reviewing complaints made about officers assigned to the CTCC, and

⁹ NSW Legislative Assembly, 23 June 1998, p. 6254

5. SUMMARY REVIEW OF OPERATIONS

- examining relevant NSW Police policies and other documentation.

At the end of the reporting year, information for the assessment had been collected and analysed. Drafting of the assessment was well underway.

Investigation into allegation a police officer misused his position to acquire a business –

OPERATION ALPAGO

An investigation commenced following an allegation that a serving police officer used his office to acquire an interest in a business – a restaurant – that was the subject of potential asset confiscation proceedings.

This matter commenced in the 2005-2006 reporting period and since that time the use of forensic accounting, telecommunications interception and physical surveillance has revealed evidence of possible State and Federal offences. In addition, an audit of the officer's access to the police database has revealed numerous apparently unauthorised inquiries in relation to the business and a number of other entities.

The Commission is presently conducting hearings to further this investigation. This matter is ongoing.

Court of Appeal decision confirms Commission may investigate “other misconduct” in addition to police misconduct –

OPERATION BANFF

Operation Banff commenced in November 2004 following a motor vehicle accident in Birchgrove and the subsequent disappearance of one of the blood samples taken at hospital from the responsible driver. It was alleged that NSW Police may have been involved in the disappearance of the blood sample, however, the evidence revealed that the missing sample had been in the possession of the driver from the time he was discharged from hospital.

In last year's Annual Report the Commission reported that following the Commission's public hearing in November 2004 the driver, former Supreme Court Justice Jeffrey Shaw QC, had

commenced proceedings in the Supreme Court of New South Wales seeking to prevent the Commission from presenting a report to Parliament which contained any opinions or assessments adverse to him. It was argued that because Mr Shaw was not a police officer and the investigation revealed no police misconduct then the Commission was precluded from expressing any opinion about Mr Shaw's conduct.

As reported last year, on 26 August 2005 the Supreme Court made orders declaring the Commission would be exceeding its jurisdiction if it made a report containing an assessment, conclusion or opinion that Mr Shaw had engaged in misconduct for the purposes of ss16 or 97 of the *Police Integrity Commission Act 1996*. The Commission appealed that decision and on 6 June 2006 the matter was heard by the NSW Court of Appeal.

On 30 June 2006 the Court of Appeal delivered judgement in favour of the Commission and ordered that the declarations made by the Supreme Court be set aside and that Mr Shaw pay the Commission's costs. It was held that the Commission could still publish a report about the conduct of a person other than a police officer even if there was found to be no police misconduct. As a result of this decision the Commission will proceed to present its Report to Parliament in accordance with the requirements of s96 of the *Police Integrity Commission Act 1996*.

Investigation into an aspect of a NSW Police internal investigation –

OPERATION BOULDER

Operation Boulder commenced in January 2006 following a complaint from a serving officer whose conduct had been investigated in Operation Orwell/Jetz. Operation Orwell/Jetz was a joint NSW Police / Commission investigation into the manipulation of the NSW Police promotion system. The Commission's report to Parliament in that matter was presented in January 2003.

Operation Boulder, which is now concluded, concerned the manner in which certain evidence was gathered by NSW Police for the purposes of Orwell/Jetz. The Commission's investigation found the allegations raised by the complainant not sustained. The Commissioner of Police and the complainant have been informed of the results of this investigation.

Investigation continues into allegation that police fabricated a record of interview and perverted the course of justice –

OPERATION CERDUNA

Operation Cerduna is an investigation into an allegation that police officers perverted the course of justice during the investigation of a murder. This matter commenced in the 2002-2003 reporting period. During the course of the 2003-2004 and 2004-2005 reporting years, the Commission used its research, investigation and analytical resources extensively for the purpose of this investigation. Private hearings were also held in 2004-2005 period. The investigation continued in 2005-2006, with an emphasis on the forensic analysis of material.

Operation Cerduna remains a confidential investigation.

Advice to NSW Police regarding secondary employment policies and practices –

OPERATION CASSAVA

The Commission's investigation codenamed Operation Sandvalley revealed information concerning the unauthorised secondary employment of an officer attached to the Marine Area Command. The Commission decided to conduct further enquiries to determine whether this officer's unauthorised secondary employment was an isolated incident and to more broadly examine the implementation of the *NSW Police Secondary Employment Policy and Guidelines* within this command.

The Commission:

- examined NSW Police records to identify how many officers at this command had obtained approval to undertake secondary employment
- cross-checked this information against the Department of Fair Trading database of registered businesses to identify officers from this command who had such registered businesses; and
- sought statements of information from selected officers in response to notices issued under s25 of the *Police Integrity Commission Act 1996*.

- Based on the information obtained through these inquiries, the Commission suggested a number of strategies to clarify and strengthen the NSW Police secondary employment policy in respect of: the application process, the approvals process, record keeping of decisions, and the definition of 'high risk' employment. NSW Police advised the Commission that it was reviewing its policy and that the Commission's recommendations would be taken into account. NSW Police provided a copy of the draft of the revised policy in late June 2006.

Serving police officer and civilian associates admit serious corrupt activity –

OPERATION COBALT

As reported last year, public hearings in late 2004 and early 2005 exposed evidence that Sergeant Christopher Laycock, together with former police officer Christopher Walker, David Hopes and another known criminal, and several civilians, was involved in the extortion and theft of money, perverting the course of justice and the unauthorised release of confidential NSW police documents and information. The corrupt activities of this officer and his associates were shown to have occurred over a period of nearly 10 years. The Commission's Report was tabled in Parliament on 14 December 2005.

The other serving police officer who came to attention during the course of Operation Cobalt was Sergeant Charles Khalifeh. In its report to Parliament, the Commission recommended NSW Police consider Khalifeh for dismissal under s181D of the *Police Act 1990* or reviewable management action under s173 of the *Police Act 1990*.

In the second half of 2005 briefs of evidence against Laycock and his associates for a number of serious offences examined during the public hearings were referred to the ODPP for consideration.

In December 2004 former police officer Christopher Walker was charged with contempt of the Commission after his failure to answer questions put to him at the public hearing. The proceedings in the Supreme Court of NSW were heard over several days in June 2006. On 14 July 2006 Walker was found guilty of contempt of the Commission and sentenced on 25 September 2006 to a custodial term of six months.

5. SUMMARY REVIEW OF OPERATIONS

Management and supervision issues were also raised in the Commission's report to Parliament on Operation Cobalt, particularly the fact that there were indicators or signs during his career that Laycock was an officer who required close supervision. The Commission noted in its report that as a result of its investigation, NSW police conducted a review of its records concerning some of Laycock's activities over a 10 year period. This review identified a number of indicators of Laycock's corrupt activity, including poor record keeping and the practice of accessing COPS while on leave. Amongst other things, NSW Police identified the need for a more integrated auditing system for the use of police computer systems. In its report to Parliament, the Commission endorsed the review conducted by NSW Police and commended the development of a more integrated auditing system. Subsequent to the publication of the Commission's report in connection with Operation Cobalt, NSW Police have noted that this process is restricted to the Professional Standards Command.

The Operation Cobalt report to Parliament also noted that informant management remains an area of constant attention and suggested that some of the information that had come to light during the course of this investigation could be used as a case study or reminder of the dangers inherent in contact between police and informants.

NSW Police has advised that a case study for an informant training program has been developed based on information from Operation Cobalt.

Investigation into whether a police officer had a corrupt relationship with a suspected drug dealer –

OPERATION JUNIPER

Operation Juniper commenced in the 2004-2005 reporting period and has since been finalised. This matter arose from information referred to the Commission by NSW Police that the subject officer had a corrupt or improper relationship with a civilian who was suspected of using and supplying steroids and other drugs.

The Commission's investigation, which included telecommunications interception and physical surveillance, revealed evidence that the officer had made a number of unauthorised checks on the NSW Police database.

In addition information was obtained suggesting the civilian in question was found to have links with drug traffickers and to have committed a number of fraud related offences. These matters were referred to NSW Police.

The subject officer was summoned to appear at a private hearing on two occasions and questioned about his relationship with the civilian. Audits of COPS indicate he had conducted a number of checks on this individual since 2001. He was also questioned about his relationship with a number of other persons in relation to whose names he had also conducted checks on the NSW Police database. Evidence obtained by the Commission indicated that these searches were not authorised.

Evidence from the Commission's investigation was referred to NSW Police for consideration as to whether or not to prosecute the officer for giving false evidence to the Commission and for consideration as to whether or not he should be removed from NSW Police under s181D of the *Police Act 1990*.

Investigation into allegations a senior police officer inappropriately involved himself in a criminal investigation and perverted the course of justice –

OPERATION MALLARD

Operation Mallard commenced in 2005-2006. This matter is an investigation into the allegation that a senior police officer perverted the course of justice during the investigation of a serious criminal offence. The Commission has used its research, analytical and investigation resources extensively for the purpose of this investigation.

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

Investigation into the handling of a complaint against a senior officer –

OPERATION MERCURY

Operation Mercury commenced in June 2005 following the conclusion of Operation Vail. Operation Vail examined the allegation that a senior NSW Police officer had unlawfully released telephone interception material during a meeting with the CEO of the Bulldogs Rugby

League Football Club in April 2004 (see separate entry this Annual Report). Operation Mercury turned its attention to the handling by NSW Police of the initial complaint against the senior officer.

The Commission's investigation relied on some of the evidence obtained during Operation Vail and on new evidence obtained by the issue of notices pursuant to ss 25 and 26 of the *Police Integrity Commission Act 1996*.

The Commission concluded that the officer responsible for the initial assessment of the complaint had made a number of errors of judgement in his handling of the matter. A report to that effect was sent to the Commissioner of Police with the recommendation that the officer be considered for non-reviewable action pursuant to s173 of the *Police Act 1990*.

The Commission notes that the procedures for the handling of complaints against senior members of NSW Police have been reviewed and amended since April 2004. This review took place in consultation with the NSW Ombudsman.

Evidence disseminated by the Commission for use in a kidnapping prosecution –

OPERATION OAK

Operation Oak was initiated in the 2004-2005 reporting period to investigate a police officer's association with individuals allegedly involved in car re-birthing and insurance fraud. In last year's Annual Report the Commission indicated that it had provided information to NSW Police which assisted in three persons being charged with kidnapping offences.

All have since pleaded guilty to Conspiracy to Intimidate. The sentences ranged from 18 months to three year good behaviour bonds. The briefs of evidence relied heavily on evidence obtained and disseminated by the Commission.

As a result of this intervention and assistance by the Commission, this investigation became overt. Further information arising from this matter has since been disseminated to NSW Police for assistance in other investigations relating to car re-birthing and insurance fraud.

Other material relating to the Operation is to be disseminated shortly.

Investigation into allegation a police officer may have been involved in the disappearance of a Bathurst woman in 2001 –

OPERATION RANI

Janine Vaughan disappeared from Bathurst in the early hours of 7 December 2001 and has not been seen or heard of since. NSW Police Strike Force Toko investigated her disappearance and suspected murder. In 2005 allegations were received that former Detective Sergeant Bradley Hosemans was associated with Janine Vaughan prior to her disappearance and may have been involved in her disappearance and suspected murder.

Operation Rani commenced in September 2005 to investigate these allegations and the conduct of NSW Police involved the investigation of Vaughan's disappearance.

The Commission held public hearings in Orange in June and in Sydney in August 2006. As a result of publicity in regard to this investigation and the recent public hearings, numerous people have come forward and provided information to the Commission.

Operation Rani remains ongoing, although some relevant matters have been referred to NSW Police.

Investigation into allegations that police are involved in the illegal sale of firearms and prohibited drugs –

OPERATION SALZBURG

Operation Salzburg, which was initiated during the 2005-2006 reporting period, is an investigation into allegations that a police officer is involved in the illegal sale of firearms and prohibited drugs. Various Commission electronic and physical surveillance resources have been used during the course of this investigation. This matter commenced during the present reporting period.

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

Officer to be prosecuted for fraud offences –

OPERATION SANDVALLEY

Last year the Commission reported on its investigation into the involvement of Senior Constable Daniel Ryan, then a serving police officer, in suspicious financial activities including suspected thefts from automatic teller machines. The Commission's Report on its investigation was tabled in Parliament on 3 March 2006.

As a result of its investigation, Senior Constable Daniel Ryan was suspended without pay. At the time of writing, action was being taken against Ryan for dismissal under s181D of the *Police Act 1990*.

During the course of the 2005-2006 reporting year, briefs of evidence against Ryan and his associates were referred to the ODPP for consideration of prosecution. The ODPP has approved two charges against Ryan for fraud offences and the Commission is presently awaiting advice in respect of additional charges against Ryan and some of his associates.

The related prosecutions by NSW Police of two persons for robbery offences, referred to in last year's Annual Report, resulted in guilty pleas and those matters are listed for sentence later this year.

NSW Police procedures for handling telecommunications interception material reviewed –

OPERATION VAIL

In June 2005 the Commission presented a report to Parliament in connection with Operation Vail.

The Report examined the allegation that in April 2004 in a meeting with the chief executive officer of the Bulldogs Rugby League Club, senior NSW Police officers breached the *Telecommunications (Interception) Act 1979 (Cth)* by disclosing information which had been obtained from telephone intercepts on a Bulldogs player's phone.

The Commission recommended that consideration be given to the prosecution of Deputy Commissioner David Madden and Assistant Commissioner Peter Parsons for an offence contrary to subs63(1) of the (then) *Telecommunications (Interception) Act 1979*

(*Cth*) and that consideration be given to the taking of reviewable action against both officers within the meaning of s 173 of the *Police Act 1990*.

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

On 12 December 2005 the Commissioner of Police formally counselled Assistant Commissioner Parsons pursuant to s 173 of the *Police Act 1990*. Deputy Commissioner Madden was discharged from NSW Police medically unfit on 2 December 2005 and no action was taken against him.

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

The Commissioner of Police replied on 3 August 2005, providing details of the NSW Police systems for the control and management of interception material and guidelines involving the self-monitoring and disclosure of telecommunications interception material under the relevant Commonwealth legislation. The Commission has assessed these documents and has informed the Commissioner of Police that it considers the NSW Police guidelines to be comprehensive and appropriate for reducing the risk of an unauthorised disclosure.

At the time writing, a final update regarding training and education from the Commissioner of Police was being evaluated by the Commission.

Recommendations for prosecution, disciplinary action and procedural change follow investigation of alleged serious police assault and planting of evidence in Wagga Wagga –

OPERATION WHISTLER

Operation Whistler was commenced in August 2004 following the referral of information to the Commission by Magistrate W Pierce. The matter arose out of an incident in February 2003 in Wagga Wagga, NSW, when Allan Hathaway was arrested after he was seen to be driving an unregistered vehicle. As a result of his arrest by Constable Christopher Jackson, Hathaway received a number of injuries, including broken bones in his face and one arm. Following Hathaway's arrest police located a knife at the house where Hathaway was apprehended. The Commission held a public hearing over eight days in February and March 2005. The first three days of the hearing were held in Wagga Wagga.

The Operation was reported on in detail in the Annual Report 2004-2005.

The Commission's Report to Parliament was tabled on 21 December 2005. The Report recommended that consideration be given to the prosecution of Jackson for assault occasioning actual bodily harm contrary to s59 of the *Crimes Act 1900* and for two offences of giving false or misleading evidence to the Commission pursuant to s107 of the *Police Integrity Commission Act 1996*. In addition the Report recommended that consideration be given to the prosecution of Inspector Thomas Patrick Murphy for perverting the course of justice pursuant to s319 of the *Crimes Act 1900*. Inspector Murphy was the duty officer in charge at the scene of the arrest. The Commission is of the opinion that he had failed to follow the established *Guidelines for the management and investigation of critical incidents* and that, knowing that Allan Hathaway's injuries had been caused by Constable Jackson, he took steps to conceal Jackson's conduct from his superiors.

Non-reviewable management action was recommended in relation to four officers. Reviewable action pursuant to subs173(2) of the *Police Act 1990* was recommended in relation to one officer. Two further officers were recommended for reviewable action pursuant to subs173(2) or removal from NSW Police under s181D of the *Police Act 1990*.

The Commission's Report to Parliament also recommended a number of procedural changes including changes to the NSW Police *Guidelines for the management and investigation of critical incidents*, the importance of careful note-taking and statement-making by NSW Police officers, and in relation to police prosecutors, the need for full disclosure of all relevant material to the defence and the need to recognise and act on conflicts of interest.

Briefs of evidence against Constable Jackson and Inspector Murphy were prepared and forwarded to the ODPP in April 2006. The ODPP is yet to make a decision in relation to the prosecution of Constable Jackson and Inspector Murphy.

On 8 May 2006, the Commission wrote to Professional Standards Command seeking advice in connection with the Critical Incident Investigation Report and the nature of the action taken by NSW Police in response to that report. Further discussion of the recommendations and suggestions arising out of the Operation Whistler report, along with the NSW Police response, can be found in section 6.

SPECIALIST ASSISTANCE PROVIDED TO NATIONAL TASK FORCE

During the reporting period the Commission provided specialist assistance to a confidential national investigation task force. The assistance was provided at a critical time in the investigation and played an important role in its overall success.

As the subjects of investigations become increasingly aware of - and take action to avoid - the strategies that agencies deploy against them, the more creative and varied strategies must become in order to maintain an advantage. It is not practical for all agencies, particularly small agencies, to develop and maintain 'leading edge' capabilities in all investigation areas, particularly as they may be deployed infrequently. Agencies therefore develop new capabilities and strategies which specifically suit their purposes, and, when appropriate, share them with agencies that may not have the capability or a capability which is overwhelmed. The *quid pro quo* is in the assistance routinely provided in return. In this instance the Commission was able to assist. In further instances during the year the Commission was assisted by other agencies, most notably Victoria Police.

UPDATES ON FINALISED INVESTIGATIONS

OPERATION ACER

Operation Acer commenced in 2003 as a result of information obtained by NSW Police in 2002. During the course of its investigation, the Commission heard evidence in private concerning, amongst other things, the supply of prohibited drugs.

Last year the Commission reported that two police officers had been charged with giving false evidence to the Commission. In 2005-2006 the Director of Public Prosecutions decided not to proceed with charges against one officer. The other officer charged with giving false evidence to the Commission has sought a permanent stay of the proceedings on the basis that he is unable to properly instruct his solicitors because of a medical condition. The police officer has been assessed by doctors appointed by the ODPP who have disputed the claim made by the officer. The court has listed the matters for committal on 17 October 2006.

Both police officers have been nominated for removal from NSW Police under s181D of the *Police Act 1990*. The Commission has been advised that the s181D action for both officers is nearing completion.

In addition to the Commission's misconduct investigation, evidence obtained by the Commission assisted in the prosecution of a number of civilians. In the reporting year 2005-2006, two civilians pleaded guilty to a number of charges including supply prohibited drug. Both were convicted and sentenced to terms of imprisonment of 2 years and 6 months and 3 years and 3 months respectively. A third civilian was also convicted of supply prohibited drug and has been sentenced to 9 months imprisonment. A fourth civilian was also charged with the offence of give false evidence at a hearing of the Commission and on conviction received a suspended sentence.

OPERATION ALPINE

In 2003-2004, the Commission reported that Detective Sergeant Sam Foster and another police officer were dismissed from NSW Police on the strength of evidence obtained by the Commission.

Prosecutions of twenty-three criminal offences from 2002 to 2004 have been commenced in NSW courts against Foster, his former NSW Police colleague, a former Victoria Police detective and another person. Actions have also commenced for recovery of assets derived from those offences.

OPERATION AVILLIA

During the course of Operation Avillia the Commission obtained evidence that a police sergeant had, amongst other things, used prohibited drugs, illegally accessed and made an unauthorised disclosure of police information and inappropriately used a firearm while intoxicated. This investigation concluded in September 2004.

In the 2004-2005 Annual Report, the Commission reported this officer had been suspended from duty without pay and had been nominated for removal from NSW Police under s181D of the *Police Act 1990*. The evidence obtained by the Commission contributed to the NSW Police decision to consider dismissal action. At the time of writing the s181D process had not been concluded.

OPERATION CYCAD

Last year the Commission reported a police sergeant had been suspended from duty and was being considered for removal under s181D of the *Police Act 1990* in connection with possible drug offences and the release of confidential police information on the basis of evidence collected by the Commission. In November 2005, this officer was removed from NSW Police.

OPERATION REGAL

Operation Regal was initiated in February 2002, information having come to light in late 2001 through electronic surveillance indicating that a number of police officers were using, and possibly supplying, illegal drugs. During the course of its investigation, which included private hearings, the Commission obtained evidence indicating a young police officer had used ecstasy, cocaine, and amphetamines.

In its 2004-2005 Annual Report the Commission reported that former police officer, Leif Gould, was charged with knowingly giving false or misleading evidence to the Commission. He entered a not guilty plea before the court in February 2005. At the time of writing, the court proceedings against this former officer for were still continuing.

5. SUMMARY REVIEW OF OPERATIONS

In June 2005 the Commission received advice from the Director of Public Prosecutions confirming there was sufficient evidence to prosecute another former police officer, Paul Bruce Sutton, with the offence of knowingly giving false or misleading evidence to the Commission. At the time of writing, the court proceedings against this former officer were continuing.

In 2005-2006 the Commission received advice from the Director of Public Prosecutions confirming there was sufficient evidence to prosecute a civilian, David Andrew Natoli, with the offence of knowingly giving false or misleading evidence to the Commission. Natoli was an associate of former officer Gould. At the time of writing, the court proceedings against this civilian were continuing.

OPERATION RUSTIN

In 2004-2005 the Commission reported that it had investigated an officer and others for inappropriate and corrupt interference in a prosecution. The Commission's Annual Report from last year indicated that the officer the subject of this investigation was being considered for reviewable management action on the basis of the evidence obtained by the Commission. At the time of writing, advice from NSW Police was that this officer was still being considered for reviewable management action.

6. TRACKING THE COMMISSION'S RECOMMENDATIONS

Under s99(2)(c) of the *Police Integrity Commission Act 1996*, the Commission is required to include in each Annual Report an evaluation of the responses by the Commissioner of Police, or senior police executives, to the Commission's findings and recommendations. The purpose of this section of the Annual Report is to provide an evaluation of the responses of NSW Police to the Commission's recommendations.

Recommendations are the principal means by which the Commission seeks to improve systems and practices in NSW Police, to reduce opportunities for misconduct, improve transparency and accountability and otherwise deter officers from engaging in acts of misconduct. They are also the means by which the Commission formally notifies the Commissioner of Police regarding officers it believes should be considered for managerial action.

OPERATION ABELIA

The Commission presented its Operation Abelia report, describing its research and investigations into illegal drug use by some NSW Police officers, to NSW Parliament on 30 September 2005. In this report the Commission made 64 recommendations, many of which proposed policy, procedural or legislative change to strengthen NSW Police's capacity to minimise illegal drug use by its officers.

Because of the large number of recommendations made in Operation Abelia, the following discussion is more abbreviated than is the usual Commission practice. For a complete listing of these recommendations and the codes used to describe the recommendations, see pp. s-31 to s-42 of the Commission's *Operation Abelia: Research and investigations into illegal drug use by some NSW Police officers. Volume 1: Summary Report*.¹⁰

In summary, NSW Police has accepted 54 of the 64 recommendations, either as drafted or with minor variation. In some cases NSW Police accepted these recommendations subject to funding being available. NSW Police has not accepted three of the Operation Abelia recommendations. Specifically, NSW Police has not accepted that:

- it should continue to arrange assistance in the form of rehabilitation, counselling and/or relapse for prevention for officers who come forward for help concerning their illegal drug use
- it should conduct a 12-month trial of the use of drug testing based on the analysis of hair samples, or
- there is a need to resolve a perceived inconsistency between clause 54 of the Police Regulation 2000 and police practice.

As a consequence of not accepting these three recommendations, seven others (such as the recommendation that concerns *promoting* the assistance available for those who come forward for help concerning their illegal drug use and the recommendation that concerns *reporting* the results of the 12-month trial of hair testing) are no longer relevant.

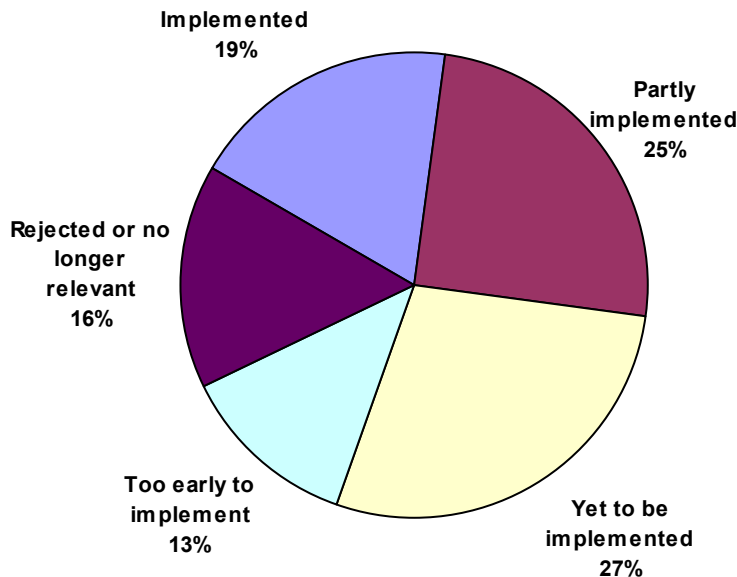
Of the 54 recommendations that NSW Police has accepted, at the time of preparing this report:

- 12 have been implemented
- 16 have been partly implemented, including three requiring legislative amendments which have been endorsed by Cabinet and referred to Parliamentary Counsel for drafting
- 18 which were able to be implemented have yet to be implemented
- eight were not able to be implemented because their implementation is dependent upon the prior implementation of other recommendations.

¹⁰ This Summary Report can be found on the Commission's website.

The percentages of the 64 recommendations that have reached the different stages of implementation are depicted in Figure 6.1.

Figure 6.1: Implementation status of the Operation Abelia recommendations at July 2006



The status of the implementation of selected Operation Abelia recommendations is discussed below.

Self-reporting illegal drug use

The Commission noted that the number of officers whose illegal drug use had been detected through self-disclosure and referral to amnesty was similar to the number of officers whose illegal drug use had been detected through targeted drug testing. Given the difficulties in detecting illegal drug use by officers, the Commission considers that encouraging officers to come forward to admit their prior drug use should be one of the strategies available to NSW Police to detect illegal drug use. The Commission made eight recommendations under the heading 'Self-reporting illegal drug use'. In summary these recommendations concerned providing assistance to those who come forward concerning their illegal drug use and collecting and using information from the officers who come forward.

NSW Police has advised that it does not accept the Commission's recommendation that it should continue to arrange assistance in the form of rehabilitation, counselling and/or relapse prevention of officers who come forward for help concerning their illegal drug use (Recommendation SR 1). Instead NSW Police has advised that it

intends to discontinue the assistance that it had been providing, referred to as 'Amnesty', on the basis that its preferred position is to adopt a zero-tolerance approach.

The NSW Police decision to discontinue Amnesty has, in turn, resulted in five other recommendations concerning further promotion of the amnesty provision and making use of information from officers who come forward under the amnesty, no longer being relevant (Recommendations SR 3, SR 4, SR 5, SR 7 and SR 8).

NSW Police accepted the remaining two recommendations. It has implemented one (Recommendation SR 6) and has yet to implement the other (Recommendation SR 2).

The Commission's position on encouraging officers to come forward to disclose their illegal drug use and the reasons for this position are detailed in Section 6.3 of its Operation Abelia report.

Targeted drug testing

The Commission made 11 recommendations concerning targeted drug testing. In summary, these recommendations concerned increasing NSW Police's capacity to detect illegal drug use by incorporating the power to conduct off-duty targeted drug testing when it is reasonable to do so in all circumstances, the power to test for non-prescribed use of anabolic androgenic steroids on a targeted basis, and to trial drug testing based on hair samples. The Commission's recommendations in this area also concerned improving the consistency, informed nature and documentation of the decisions regarding targeted drug tests that are made by decentralised Complaint Management Teams.

Of these 11 recommendations:

- nine were accepted by NSW Police as drafted or accepted with minor variation
- one was rejected (Recommendation TDT 8 concerning a 12-month trial of drug testing using hair samples)
- one was no longer relevant (Recommendation TDT 11) as consequence of rejection of 12-month hair testing trial.

NSW Police has not accepted the desirability of a 12-month trial of drug testing based on the use of hair samples, in addition to urine samples for all targeted drug tests (Recommendation TDT 8). Drug testing based on hair samples has the advantage that it has a longer 'window of detection' than the drug tests based on urine samples that are currently used by NSW Police. Drug testing based on hair samples, although it has not previously been used by NSW Police, is provided for within the current *Police Act 1990* and hair samples are used by a number of overseas law enforcement agencies to test for prohibited drugs. In contrast, NSW Police provided the following as its reasons for not accepting the recommendation to conduct a 12-month trial of hair testing:

- collection of hair samples is impractical and counter productive as it would alert the person singled out for a hair sample
- no Australian standard for hair samples
- risks of environmental contamination and not 100% guarantee
- clump of 30-40 hairs needed
- hair colour can affect the sample. Drugs easier to detect in black hair.

In summary, of the nine recommendations that were accepted:

- three have been implemented (Recommendations TDT 3, TDT 4 and TDT 5)
- two had been partly implemented (Recommendations TDT 7 and TDT 9) where the required legislative changes have been considered and endorsed by Cabinet and referred to Parliamentary Counsel for drafting
- four have yet to be implemented (Recommendations TDT 1, TDT 2, TDT 6 and TDT 10).

Random drug testing

In order to further deter illegal drug use amongst NSW Police officers, the Commission made 11 recommendations in relation to random drug testing. In summary, these recommendations concerned raising the profile of random drug testing amongst all ranks of officers through a number of different strategies.

In summary of the 11 recommendations made, 10 were accepted by NSW Police. In some cases the acceptance of these recommendations was contingent on funding. One recommendation (Recommendation RDT 5) became no longer relevant when NSW Police decided not to undertake a 12-month trial of the use of hair samples in addition to urine samples for targeted drug tests.

The NSW Government has approved the increase in the rate of random drug testing of NSW Police officers and provided funding for this in its 2006-2007 budget allocations. NSW Police has begun the process of recruiting additional drug testing staff. It commenced increasing the number of officers drug tested each month from July 2006, seeking to increase its number of random drug tests from between 500 to 600 each year, to 2250 tests in the financial year 2006-2007.

Of the 10 recommendations concerning random drug testing that NSW Police accepted:

- two recommendations (Recommendations RDT 4 and RDT 8) have been implemented
- implementation has commenced for five recommendations (RDT 1, RDT 2, RDT 3, RDT 6 and RDT 7)
- three (Recommendations RDT 9, 10 and 11) have yet to be implemented, where one would not expect to see an outcome pertaining to Recommendation RDT 11 before late 2011.

Managing officers found to use prohibited drugs

The practice within NSW Police is that officers who test positive to illegal drugs have been subject to an automatic notification under s181D of the *Police Act 1990*. This initiates a process in which management action against an officer, including possible dismissal, is considered. On average, for the cases where the officer has not resigned, the research undertaken for Operation Abelia indicated that it had taken almost one year from the date of the drug test to finalise the outcome for officers removed under s181D.

The Commission made seven recommendations under the heading 'Managing officers found to use prohibited drugs'. Amongst other things, these recommendations concerned reducing the time to finalise the outcome of management action and providing information to officers notified for reviewable action and to their commanders.

NSW Police has accepted six and rejected one of these recommendations. NSW Police has advised it does not accept Recommendation M5, concerning resolving the perceived inconsistency between clause 54 of the Police Regulation 2000 and NSW Police practice, both because it 'adopts a zero tolerance approach' and because legal advice has been received by the Ministry of Police that suggests there is no inconsistency in regards to clause 54 of the Police Regulation.

Of the six recommendations that NSW Police accepted, one has been implemented (Recommendation M1), the implementation of two recommendations has commenced (Recommendations M2 and M3), and the remaining three recommendations have yet to be implemented (Recommendations M4, M6 and M7).

Other Recommendations

The Commission made a number of other recommendations – each of which has been accepted either as drafted or with a satisfactory variation – concerning the following:

- mandatory drug testing (6 recommendations made) – one of which has been implemented (Recommendation MDT 1) and another is being implemented on an ongoing basis (Recommendation MDT 5)
- the NSW Police Code of Conduct and Ethics (5)
- the NSW Police Code of Behaviour (2) – one of which has since been implemented (Recommendation CoB 2)

- recruitment (6) – two of which have since been implemented (Recommendations R3 and R4)
- Education, Training and Communication (6)
- Supervision and support of sworn officers (2).

OPERATION COBALT

As indicated in the previous section, the Commission furnished its report to Parliament in relation to Operation Cobalt in December 2005. In that report, the Commission recommended that NSW Police consider removal under s181D or reviewable action under s173 of the *Police Act 1990* in connection with Sergeant Charles Khalifeh.

Under correspondence dated 21 August 2006, NSW Police advised that it will convene an Internal Review Panel or a Commissioner's Advisory Panel in relation to this recommendation.

OPERATION WHISTLER

On 21 December 2005, the Commission furnished its report to NSW Parliament on Operation Whistler. Further information regarding this investigation can be found in the preceding section.

On 8 May 2006, the Commission wrote to Professional Standards Command seeking advice as to, amongst other things, the status of the Commission's recommendations for disciplinary action. The Commission recommended:

- non-reviewable management action in relation to four officers.
- reviewable action pursuant to subs173(2) of the *Police Act 1990* in relation to one officer.
- reviewable action pursuant to subs173(2) or removal from NSW Police under s181D of the *Police Act 1990* for two officers.

Under correspondence dated 11 August 2006, NSW Police indicated that it is awaiting the ODPP's decision regarding whether or not charges will be laid as a result of the Commission's recommendations prior to making a decision on whether to proceed with reviewable management action or the removal of officers under s181D. The NSW Police correspondence also provided a response to the Commission's recommendations in the Operation Whistler report for non-reviewable action.

There are aspects of the NSW Police response to the Whistler recommendations for reviewable and non-reviewable management action (including removal under s181D of the *Police Act 1990*) that cause the Commission concern. The Commission will be making further inquiries with NSW Police.

Within the body of its report regarding this investigation, the Commission made a number of recommendations and suggestions as to ways in which improvements could be made to practices and systems. On 19 May 2006, the Commission wrote to NSW Police outlining those suggestions and recommendations contained in the report and requesting advice as to whether or not NSW Police had responded to these. For ease of reference each of these points has been referred to below as a recommendation and given a number, although the Commission acknowledges that some points were phrased as suggestions only.

Whistler Recommendation 1

The following statement appears on page 131 of the Whistler report (emphasis added):

The Commission is of the opinion that **NSW Police should give consideration to whether, in the Prosecutor's Training Program, there is sufficient emphasis on the requirement that prosecutors understand the duty of disclosure and the need to adhere to the ODPP Guidelines.**

Under correspondence dated 11 August 2006, NSW Police advised that its Prosecutors Training Program includes face to face delivery of 12 hours of Professional Standards education. This incorporates discussions about real life ethical dilemmas, an assignment regarding an ethical problem and a three-hour written examination on legislative obligations. NSW Police further indicated that in light of this recommendation, the material has been revised and amended.

The Commission is satisfied with this response and considers this recommendation implemented.

Whistler Recommendation 2

The following statement appears on page 132 of the Whistler report (emphasis added):

Further, the Commission is of the opinion that **NSW Police should give consideration to whether there is a need for prosecutors to be better educated on the policies and/or obligations surrounding access to documents relating to internal investigations if they**

are caught by a subpoena. In particular, whether there is sufficient attention given in the training program to the different nature of documents resulting from a Critical Incident Investigation, as opposed to documents resulting from an Internal Affairs Investigation arising as a result of a complaint made under Part 8A of the *Police Act 1990*.

Under correspondence dated 11 August 2006, NSW Police advised that its Prosecutors Training package includes two hours of education on both subpoenas and specifically 'legitimate forensic purpose'. NSW Police indicated that in light of this recommendation, Legal Services has reviewed the training material and determined that amendment is not warranted. However, lesson plan quality review processes have been amended to focus on the subject of the recommendation.

The Commission is satisfied with this response and considers this recommendation implemented.

Whistler Recommendation 3

The following recommendation appears on page 134 of the Whistler report (emphasis added):

As noted above, the Professional Standards Prosecutors Education Program contains considerably less treatment of the issue of conflict of interest than might be expected. **The Commission recommends that consideration be given to placing greater emphasis on the identification and resolution of potential conflict situations in the Prosecutors Training Course.** The Commission acknowledges the difficulties in having appropriate support on hand in country areas, so that in the event of a conflict arising alternative arrangements can be made to ensure police prosecutors fulfil their duties without bias or the appearance of bias.

Under correspondence dated 11 August 2006, NSW Police provided a response to this recommendation in the same terms as Whistler Recommendation 1 (see above).

The Commission is satisfied with this response and considers this recommendation implemented.

Whistler Recommendation 4

The following recommendation appears on page 136 of the Whistler report (in relation to the critical incident guidelines):

It is not unknown for people with a serious illness or injury to be treated at hospital without being admitted, and then sent home to await surgery or further treatment. It is also true that an injury can be serious even though the person suffering the injury has not lost consciousness or is still able to walk and talk. With this in mind **the Commission recommends that NSW Police gives consideration to clarifying the definition of "serious injury" in the Guidelines.** While not being prescriptive, it may be that a definition that excludes the requirement for "emergency admission to a hospital" and instead includes a requirement that the injury requires "significant medical treatment" is more appropriate.

The draft NSW Police *Guidelines for the management and investigation of critical incidents* (Revised as at 8 June 2006) contain a definition of serious injury. The draft definition, while not being prescriptive, offers a guide to the types of injuries which, of their nature, are likely to be serious. The Commission is satisfied the draft definition deals with its recommendation.

It is noted, however, that according to advice received from NSW Police in July 2006 in relation to Abelia recommendation MDT 3, the definition of serious injury has not been finalised, with the Police Association of NSW yet to provide its views.

Whistler Recommendation 5

The following statement appears at page 137 of the Whistler report (emphasis added):

NSW Police should consider the implications of Guidelines requiring all officers to make such a decision when in practice only senior officers ever make such decision. It is not an effective risk management strategy for NSW Police to adopt Guidelines that are contingent upon the ability to officers to exercise discretionary judgments if officers have not been adequately prepared and empowered to do so.

The revised NSW Police *Guidelines for the management and investigation of critical incidents* state at p. 8 that the Region Commander should:

where appropriate, declare a critical incident following consultation with the local area commander (and with the assistance of the region PSM, where required).

The revised guidelines appear to clarify that it is the Region Commander's responsibility, and no other's, to declare the critical incident.

The Commission is satisfied with this response and requires no further information or advice from NSW Police in connection with this recommendation.

Whistler Recommendation 6

The following statement appears at page 138 of the Whistler report (emphasis added):

The Commission suggests that NSW Police reviews the Critical Incident Guidelines and gives consideration to including a requirement that police issue appointments are secured for forensic testing following a critical incident where any appointments have been used, or are suspected of having been used.

The revised NSW Police *Guidelines for the management and investigation of critical incidents* state at p. 11 that the First Officer at the scene must:

Preserve the scene and exhibits (including, where relevant, any/all police appointments) for examination by representatives of the FSG.

The Commission is satisfied with this response and requires no further information or advice from NSW Police in connection with this recommendation.

Whistler Recommendation 7

The following statement appears at page 140 of the Whistler report (emphasis added):

However the issues regarding note taking and statement preparation identified in Whistler go to the most rudimentary of police functions. While acknowledging that NSW Police has made improvements the evidence uncovered in this Operation suggests that NSW Police should assess whether more needs to be done in this area to ensure that officers remain mindful of their basic responsibility to make, as a matter of course, comprehensive independent notes in respect of all relevant incidents to which they are a party or a witness.

Under correspondence dated 11 August 2006, NSW Police indicated that this issue was adequately dealt with in a range of police training programs, including management and workplace training programs and detective training programs. There was insufficient time to consider examining these training courses prior to publication of this report; the Commission is not, therefore, in a position to comment on their effectiveness. However, the Commission notes that over the years shortcomings in connection with note-taking and statement preparation have frequently come to its notice during the course of its misconduct investigations. The extent to which the NSW Police training programs are having an impact in improving the quality of note-taking and statement preparation is, therefore, unclear.

PROGRESS IN IMPLEMENTING RECOMMENDATIONS MADE PRIOR TO 2005-2006

Last year, the Commission reported on the responses made by NSW Police in connection with recommendations made in Operations Florida, Acer, Bangkok, Malta and Project Dresden II. It noted that the recommendations in relation to Operations Bangkok and Malta are now finalised.

OPERATION ACER

As noted in the preceding section, NSW Police has advised that s181D action for two officers is nearing completion. The Commission made a formal recommendation that one of these officers be considered for removal from NSW Police.

OPERATION FLORIDA

The Commission's 2004-2005 Annual Report contained an evaluation of the recommendations made in the Florida Report. The purpose of the following section is to report on the progress being made in implementing the recommendations and other developments.

Recommendation 1(a)

The Commission recommended that:

NSW Police give priority to improving the technology resources related to Search Warrants, for example, the provision of smaller, more efficient cameras for use during the execution of search warrants.

While the NSW Police indicated support for this recommendation, the terms of its support were narrower than the Commission had intended,

insofar as NSW Police focused only on improving its camera technology. The Commission asked NSW Police whether there are any other improvements in the use of technology that could be applied to the execution of search warrants. The Commission has sought further advice from NSW Police on this matter.

Recommendation 1(b)

The Commission recommended that:

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

NSW Police indicated that it did not support this recommendation, noting that an internal working group examining this issue had concluded that it was not practical or efficient for Commanders to be compelled to attend the execution of search warrants. The Commission remains open to alternatives, but believes that the underlying issue of the level of supervision associated with the execution of search warrants needs to be addressed. At the time of writing, the Commission had not yet received a response from NSW Police. It is a matter of some disappointment that this is the second successive year that the Commission has had to report that NSW Police has not responded to this request from the Commission that it consider alternative strategies.

Recommendation 2

The Commission recommended that:

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

In August 2005, officers from the Commission met with Assistant Commissioner Clifford and other police officers regarding the NSW Police review of the Duty Officer positions. On the basis of that presentation the Commission regards recommendation 2 as having been implemented, NSW Police having demonstrated that there was both a structure and a timetable around the review of the Duty Officer positions.

The Commission requires no further action or advice from NSW Police in connection with this recommendation.

Recommendation 3

The Commission recommended that:

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

In July 2005, officers from the Commission met with representatives of the NSW Police Audit Group. Subsequent to that meeting, additional information was obtained from NSW Police and evaluated. In April 2006, the Commission advised the Commissioner of Police that it had reviewed the material furnished by NSW Police and was satisfied that it addressed recommendation 3 from the Florida report.

The Commission requires not further action or advice from NSW Police in connection with this recommendation.

Recommendation 4

The Commission recommended that:

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

The Commission routinely reviews material used during police induction and training and a range of Police policies and procedures. The Commission is also involved in the review of the NSW Police Code of Conduct and Ethics. The Commission is satisfied that this material and the draft Code generally supports "compliance with police procedures and the use of proper investigation methods" and reinforcement by "appropriate supervision". The Commission considers this recommendation broadly implemented, however, supervision and the potential for weakness in procedure will remain an ongoing interest of the Commission in its investigations.

PROJECT DRESDEN II

The Commission made eleven recommendations in its report on the second audit on the quality of NSW Police internal investigations, which was tabled in June 2003. Eight of the eleven recommendations are now finalised. The purpose of the following section is to provide an update on the remaining three recommendations.

Recommendation 2

The Commission recommended:

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

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

In the last two Annual Reports, the Commission noted that NSW Police was trialling a new system, known as the Complaint Allocation Risk Appraisal. During the 2005-2006 reporting year, a second trial of the Complaint Allocation Risk Appraisal was conducted by NSW Police. Both the Ombudsman's Office and the Commission were involved in the evaluation of the trial. Following the conclusion of the trial the Commission is satisfied that the Complaint Allocation Risk Appraisal represents an effective tool for managing conflicts of interest and potential conflicts of interest as they relate to NSW Police internal investigations. The Commission has endorsed the implementation of the Complaint Allocation Risk Appraisal across NSW Police.

The Commission regards this recommendation as implemented. No further reporting will be made on this recommendation.

Recommendation 7

The Commission recommended:

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

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

Last year the Commission reported that the NSW Police supported this recommendation but had not yet implemented it due to the need to change some procedures. Recent advice from NSW Police indicates that NSW Police has conducted a review of the system for managing reviewable action. A range of changes have been, or will be, introduced in an attempt to strengthen and streamline the process.

The second part of the recommendation proposed NSW Police assess the ongoing validity of the Decision Making Framework and the Benchmarking Tool and the extent to which they were being used by Complaint Management Teams (CMTs) and Investigators.

With regard to the Decision Making Framework, NSW Police has noted that this tool was developed in 2001 to assist NSW Police implement Employee Management. The tool was designed to guide Complaint Management Teams through a decision making process to allow them to determine whether reviewable or non-reviewable action should be taken. NSW Police advises that it currently regards CMTs as being sufficiently experienced in the relevant legislation and in making decisions concerning non-reviewable action. In terms of reviewable action, and in respect of all matters involving multiple officers from multiple Commands, CMTs cannot make those decisions without referring them to an Internal Review Panel.

The Commission notes that CMTs are not static and that new members are frequently becoming part of this process who will not have had the benefit of years of experience in contributing to the decision making process. If it is not already occurring, the Commission sees there is value in guidance being provided via training or through some other means so as to ensure that new CMT members are equipped with the necessary skills and knowledge to be able to effectively contribute

to the CMT decision making process regarding non-reviewable action.

With regard to the Benchmarking tool, NSW Police has advised the Commission that the Benchmarking tool is now redundant as it was developed for a short term purpose. However, NSW Police also has within its information holdings data that could be used for benchmarking purposes.

The Commission regards recommendation 7 as having been implemented. However, it notes that it has an ongoing interest in CMTs and the tools and processes available to them to assist them in making effective and timely decision in connection with all aspects of complaint management.

Recommendation 9

The Commission recommended:

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

Advice from NSW Police indicates that it has implemented a range of measures to deal with delays. Of primary relevance, the Complaint Management Support Unit within the Professional Standards Command provides support to all CMT delegates with regard to the issue of timeliness. This includes the monitoring of compliance with timelines standards for the completion of complaint matters.

The Commission considers this recommendation has been implemented.

7. COMPLAINTS ACTIVITY

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

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

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

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

The second part is concerned with whether the Commission ought to activate an investigation into the allegations. Complaints that do not reach the threshold of a Category 1 complaint are generally referred to NSW Police pursuant to subs131(1)(b) of the *Police Act 1990* and are dealt with in the same manner as complaints from other sources.

During the reporting year, the Commission assessed a total of 1141 complaints. Of these, 666 were determined to be Category 1 complaints and 441 were determined to be Category 2 complaints. The types of allegations raised in the 666 Category 1 complaints are shown in Figure 1.¹¹ Figure 2 indicates the decisions made regarding these Category 1 complaints. Both figures also contain, for comparison, the corresponding numbers for the previous reporting year.

Seventeen of the complaints assessed were under investigation during the reporting period, some of which were continuing as at 30 June 2006. A further 9 were oversighted. Consistent with previous years, the majority of Category 1 complaints were referred to the Ombudsman to be dealt with in accordance with Part 8A of the *Police Act 1990*.

The Commission also received over 1000 telephone calls raising various complaint issues.

¹¹ The total number of allegations is much higher than the total number of Category 1 complaints because one complaint may contain more than one allegation.

Source of Complaints Assessed

SOURCE	July 2005 – June 2006	July 2004– June 2005
Referred	682	596
NSW Police	623	529
Ombudsman	54	51
Both NSW Police & Ombudsman	5	16
Non-referred	457	384
Anonymous	62	53
Australian Crime Commission	3	1
Department of Commerce	1	0
Independent Commission Against Corruption (ICAC)	3	5
ICAC & Member of Public	1	0
Insurance company	1	0
Legal Practitioner	19	11
Member of the Judiciary	2	3
Member of NSW Parliament	5	13
Member of Public	338	281
Ministry for Police	0	2
NSW Crime Commission	1	0
NSW Department of Health	0	1
Office of the Director of Public Prosecutions NSW	1	1
Police Officers / NSW Police employees	17	13
Queensland Police	1	0
Referred & Non-Referred	2	14
NSW Police & ICAC	0	1
NSW Police & Legal Practitioner	0	1
NSW Police & Member of Public	0	6
Ombudsman & ICAC	0	1
Ombudsman & Legal Practitioner	0	1
Ombudsman & Member of Public	1	4
Ombudsman & Member of Public & Police Officer	1	0
TOTAL	1141	994

7. COMPLAINTS ACTIVITY

Figure 1: Types of Allegations Raised in Category 1 Complaints - 2005-2006 and 2004-2005

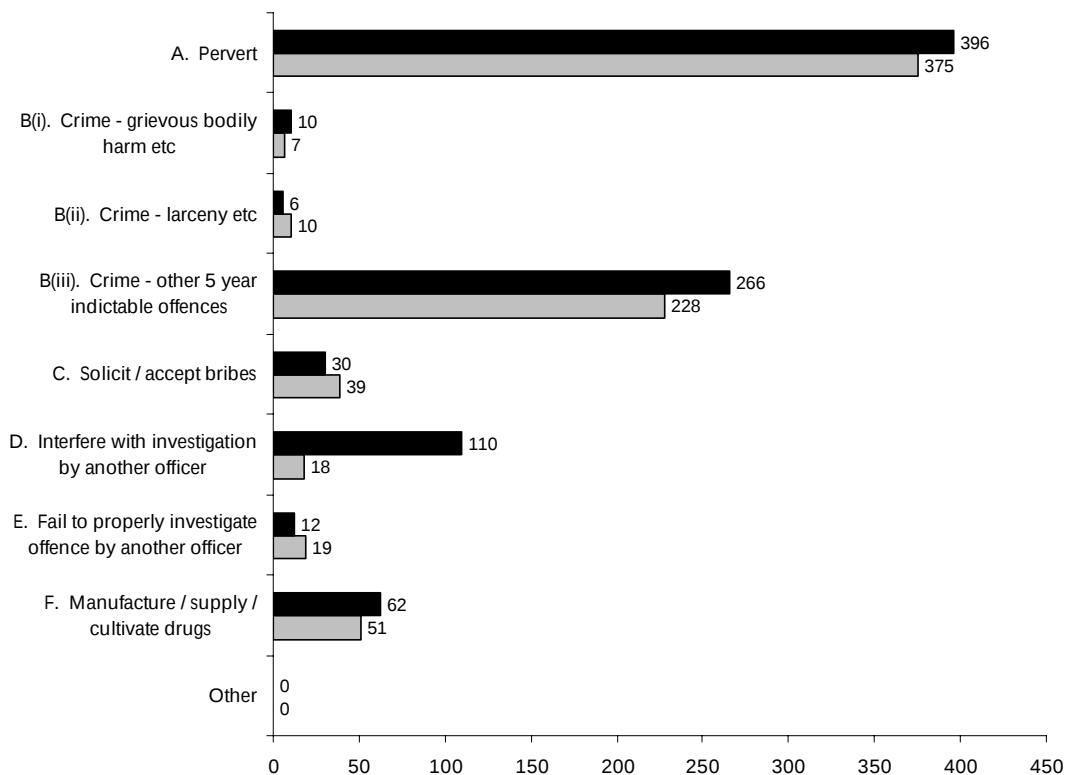
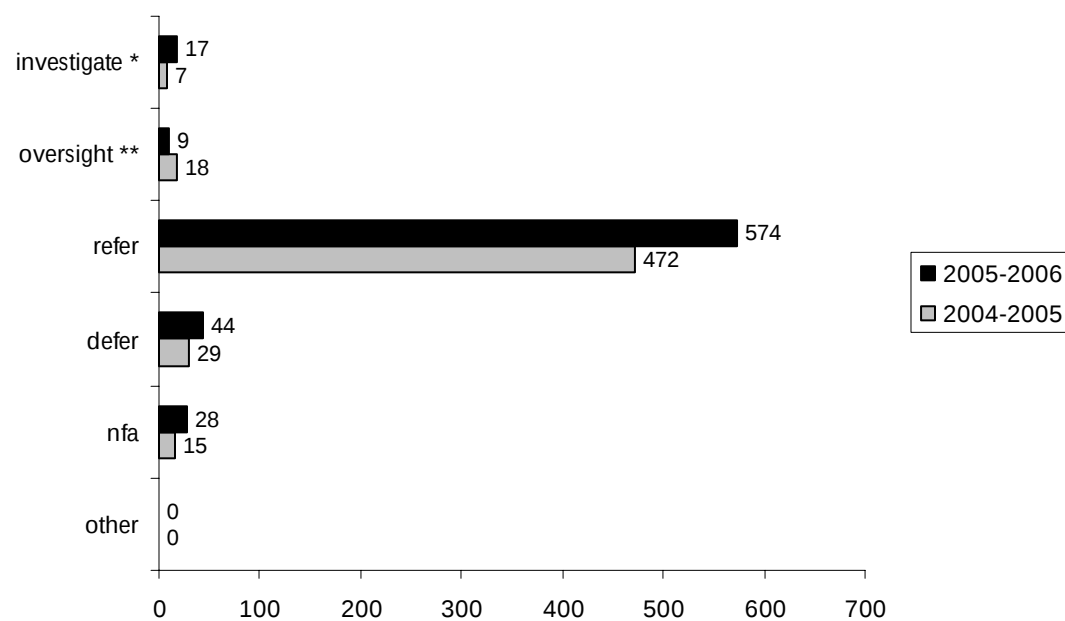


Figure 2: Decisions Made Regarding Category 1 Complaints 2005-2006 and 2004-2005



* The 17 matters investigated included four complaints that were determined to be Category 2.

** The 9 matters oversights included two complaints that were determined to be Category 2.

8. INITIATIVES / OTHER ACTIVITIES

EARLY INTERVENTION PROCESSES

Early identification and intervention systems – sometimes known as early warning systems – are, in effect, misconduct risk management processes. Their principal purpose is to assist organisations, particularly law enforcement agencies, identify behaviour which, if left unchecked, could potentially lead to serious misconduct.

Commencing in January 2003, the Commission was involved in a process with NSW Police and the NSW Ombudsman under the auspices of the Inter-Agency Research Committee to provide advice and input in connection with the development of such a system.

Last year the Commission reported that it provided detailed written advice to NSW Police regarding issues relating to the project. It also noted that in May 2005, NSW Police had informed the Commission that it proposed to defer the development of an early intervention system in favour of a separate process – the Officer Risk Assessment process (ORA).

An Early Identification and Intervention System is typically assisted by a computer-based system which identifies and collates information which is predetermined as possibly indicative of an emerging behavioural problem (eg numbers and types of complaints) makes use of behavioural indicators to flag or identify possible officers of interest and is to some extent coordinated by a central unit of an agency. The ORA, while making use of behavioural indicators, does not make use of computer technology and is best characterised as a risk management tool to assist local managers identify and manage misconduct risk. The difference between the two processes can be best characterised in the following way: whereas Early Identification and Intervention Systems seek to identify potential officers of interest through a combination of observations from managers and ‘warning flags’ generated through a computer system, the ORA depends entirely observations from managers.

Two of the reasons provided by NSW Police for deferring the development of this project were possible high costs of development and implementation and complications associated with the Mainframe Replacement Project. The Commission raised its concerns with NSW Police about this and highlighted the need to consider this

issue in a structured manner, ensuring that it considered the benefits of ORA accorded with agency-level requirements for corruption prevention.

The Commission met and exchanged correspondence with NSW Police on a number of occasions in March and April 2006. NSW Police informed the Commission that:

- Implementation of an Early Identification and Implementation System remains the intention of NSW Police
- NSW Police are specifying requirements for an Early Identification and Implementation System as part of the NSW Police Mainframe Replacement Project; and
- NSW Police are remaining alert for other ‘off the shelf’ packages which might become available.

NSW Police indicated that it wanted to proceed to implement ORA across all commands and asked the Commission to provide its endorsement. The Commission declined to endorse ORA noting that it believed, amongst other things, further work was required by NSW Police to validate the inclusion of the behavioural indicators adopted by NSW Police and the method by which they are used to trigger intervention action. However, the Commission advised the NSW Police that it would be happy to discuss with both NSW Police and the Ombudsman research strategies and evaluation arrangements as a means of overcoming its concerns and that, subject to the outcome of these processes, it would be prepared to reconsider its position regarding the endorsement of ORA. Subsequently a meeting has been held between representatives of NSW Police, NSW Police Association, the NSW Ombudsman and the Commission in September 2006 where it was agreed that roll-out of ORA would be deferred pending further consideration.

DISCHARGE OF POLICE FIREARMS

The Commission receives notification of each occasion where a police officer discharges his or her firearm, irrespective of whether any person is injured or dies as a consequence of the discharge. The arrangements set in place for notification do not extend to firearms training or the destruction of animals where there is no injury or death occasioned to any person. The Commission

received two discharge of firearm reports from NSW Police during the reporting period which were considered and finalised. No further action was required by the Commission. From next year, the Commission intends only reporting on the discharge of police firearms which specifically lead to a Commission investigation or other action.

DEATHS IN CUSTODY

There were six deaths in NSW Police custody reported during the year, none of which resulted in action by the Commission. From next year, the Commission intends only reporting on deaths in custody which specifically lead to a Commission investigation or other action.

POLICE CORRUPTION EDUCATION AND PREVENTION PROGRAMS

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

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

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

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

During the year, Commission staff attended a total of 32 such sessions, including:

- Presentations on professional standards and detective training courses held at Police Colleges and a number of NSW country centres.
- Meetings with NSW Police to discuss and resolve issues associated with corruption prevention, including matters arising from Commission investigations and reports, NSW Police policy and procedures and associated internal reviews.

- Meetings with senior police concerning proposed changes in drug policy in respect of Operation Abelia.

LEGISLATIVE MATTERS AND LAW REFORM

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

INTEGRITY REPORTS

Prior to appointing a person to a NSW Police executive or non-executive police officer position, the Commissioner of Police is required to make enquiries concerning the integrity of the person with the Commission. The Commission is required to furnish an integrity report on the basis of the information available to it and without the need for any special investigation or inquiry. The Commissioner of Police may inquire as to the integrity of a person proposed for appointment to a NSW Police non-executive administrative position. The Commission is authorised, but not required to furnish a report in relation to such an enquiry. In all cases, the Commissioner of Police is required to have regard to the contents of any report provided by the Commission, as well as any other information that comes to the Commissioner's attention as to the person's integrity.

During the reporting year, the Commission provided reports in response to 576 inquiries received from NSW Police regarding the integrity of officers nominated for appointment, compared with 728 the previous year.

The Commission also provided reports in response to 17 requests from NSW Police regarding the integrity of officers for reasons other than that of consideration for promotion, and provided 120 responses to requests from other agencies considering current or former NSW Police officers for employment.

CRIMINAL ASSETS RECOVERY ACT 1990

Under the *Criminal Assets Recovery Act 1990* ("CARA"), the Commission may apply to the Supreme Court for orders to recover proceeds derived from illegal activities and/or the forfeiture of illegally acquired property.

During the reporting year, the Commission commenced proceedings under the CARA against two (now former) police officers arising from its Operation Abelia/Alpine investigation. In accordance with its statutory obligations the Commission reports the following:

Proceedings under <i>Criminal Assets Recovery Act 1990</i>		
Name	Assets forfeited	Proceeds Ordered
Baljeet DHADLIE	—	\$14,300

Samuel FOSTER Proceedings ongoing

WITNESS ASSISTANCE

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

The Commission may make arrangements to ensure the safety of these persons, and to protect them from intimidation and harassment as a result of their assistance. This may range from the making of non-publication directions to, where necessary, consulting with specialist witness protection agencies to better ensure the safety and well-being of its witnesses and other persons who have been of assistance.

RESPONSE TO SUBPOENAS

From time to time, the Commission is served with subpoenas requiring the production of documents or divulging of information acquired in the exercise of its functions, this most often being information obtained in its investigations into police misconduct.

Officers of the Commission (or other person to whom the section applies) cannot be required to produce documents in or give evidence to any court unless for the purposes of a prosecution, disciplinary proceedings or proceedings under Division 1A or 1C of Part 9 of the *Police Act 1990* that arise out of an investigation conducted by the Commission in the exercise of its functions. Where the Commission is served with a subpoena falling outside these exceptions, the issuing party is informed of the provisions of subs56(3), and invited to make application for the disclosure of any relevant information pursuant to subs56(4)(c) of the Act.

SECTION 56(4) DISSEMINATIONS

The Act imposes strict obligations of secrecy upon officers of the Commission with regard to the communication of information acquired in the exercise of their functions under the Act.

Generally, the disclosure of information other than for the purposes of the Act, purposes connected with prosecution or disciplinary proceedings arising from a Commission investigation or law enforcement and investigative purposes is dealt with under subs56(4)(c) of the Act.

Under this provision, the Commissioner, or the Inspector of the Police Integrity Commission, may direct that otherwise confidential information held by the Commission be released, but only if it is certified to be necessary in the public interest to do so.

The Commission has published comprehensive guidelines as part of its *Practice Guidelines* dealing with applications for the release of information under subs56(4)(c) among other things. The *Practice Guidelines* and an application form may be downloaded from the Commission's website.

STAKEHOLDER AND EXTERNAL RELATIONS

General nature and extent of information provided under the Act

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

Types of matters referred to the Commission

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

Relations with other agencies

In addition to providing relevant information, as described above, the Commission also provided specialist assistance to a national investigation task force. This assistance is discussed further in Section 5.

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

- 5th Annual Professional Standards Conference (Toronto, Canada)
- Victorian Ombudsman & the Office of Police Integrity
- Crime and Corruption Commission, WA
- Queensland Police
- Queensland Crime and Misconduct Commission
- The National Police, Malaysia
- The Malaysian Institute of Integrity
- President of the Malaysian Senate
- The Office of the National Counter- Corruption Commission, Thailand
- Anti-Corruption Commission, Nepal
- New Zealand Police
- Anti-Corruption Agency, Albania
- National Counter Corruption Commission of Thailand
- Office of the People's Procuratorate of Guangdong Province, China.

SIGNIFICANT COMMITTEES

Operations Advisory Group

The Commissioner,¹² Director Operations, Director Intelligence & Executive Services and the Executive Officer (Mr James Slater) met fortnightly and as required to consider the status, direction and priorities for investigations and projects.

¹² The names of the Commissioner and executive level officers are included in Section 4. Names of officers are reported only where their positions first appear in this section.

Commission / Professional Standards Command Weekly Liaison Meeting

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

Management Advisory Group

The Commissioner, the Director Operations, the Director Intelligence & Executive Services, the Executive Officer, the Manager Finance & Administration (Mr Ian McDonald), the Information Manager (Ms Julie Wynn) and the Commission Solicitor (Ms Michelle O'Brien) met approximately every 1-3 months to discuss matters relevant to the management and functioning of the Commission.

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

The Director Intelligence & Executive Services represents the Commission on this Committee, which is chaired by NSW Police. The Forum meets on an *ad hoc* basis in order to resolve high level policy issues relating to, and to oversight the progress of, sub-projects included in the PCCM.

Protected Disclosures Act 1994 Implementation Steering Committee

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

Smaller Agency CEOs Executive Committee

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

Internal Audit Committee

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

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

The Committee meets quarterly and is comprised of the Executive Officer, Manager, Assessments & Research, Manager Security (Mr Kevin Gaddes), Information Manager and Manager, Finance & Administration and an external member, Director and Solicitor to the NSW Crime Commission (Mr John Giorgutti).

Security Committee

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

Information Systems Steering Committee

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

9. APPENDICES

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

Industrial Relations

The Commission's Industrial Relations environment was dominated by the effects of the introduction of the *Public Sector Employment Legislation Amendment Act 2006*. This Act has taken away the power of NSW Government Statutory Corporations, including the Commission, to employ staff directly. Therefore, staff of the Commission are no longer employed under s10(2) of the *Police Integrity Commission Act 1996*, but rather as employees of the Crown under Chapter 1A of the *Public Sector Employment and Management Act 2002* ("PSEMA").

Under the new legislation, the Commission has been granted "Special Employment Division" status, thereby allowing employees to continue to be employed other than as public servants under the PSEMA. Having been delegated "employer" authority by the PSEMA, the Commissioner has deemed that staff of the Police Integrity Commission Division will continue to be employed on the basis of individual Employment Agreements of a duration that is usually either three or five years in length.

Despite the pressure of time constraints imposed by the deadlines associated with the implementation of the new legislation, the transition was smooth and achieved with minimal staff disruption.

Personnel Policies

The Commission relies on a wide range of personnel policies to establish and maintain acceptable levels of performance and conduct across the organisation. These policies are made available to all staff in electronic format. Particular focus was applied during the reporting period to maintaining and enhancing those policies that support a balanced approach to an employee's work and home-life. These policies allowed for the introduction or continuation of more flexible working arrangements for over 10% of the Commission's staff.

The focus during the next reporting period will be on reviewing Commission policies on discrimination and workplace harassment.

Arrangements have been made with an Employee Assistance Program (EAP) provider on a trial basis to determine the value of such a program to the staff of the Commission. Although sparsely used, immediate access to this program did assist in the resolution of a difficult personal issue for a staff member during the reporting period. A formal assessment of the value of the program will be undertaken in the early part of the 2006-2007 financial year.

Staff Movement

Staff Movement 2005-06

No. staff commenced employment	No. staff ceased employment
11	8

Exceptional Movements in Wages and Salaries

There were no exceptional movements in wages and salaries during the 2005-2006 year. Apart from the Commissioner whose salary is set by the Statutory and Other Officers Remuneration Tribunal, all other staff received a 4% salary increase effective from 1 July 2005, in line with the latest Public Sector employees settlement of claims agreement.

Training and Development

Training and Development opportunities made available to staff during the 2005-2006 reporting period were wide and varied. Specialist training included Introduction to Protective Security, Intelligence - Truth & Accountability, Corruption Prevention, Firearms Training and Solicitor's MCLE. More generic training undertaken included Business/Report Writing and Team Leadership and First Aid training.

Three staff members obtained approval under the Commission's study leave policy for assistance in the pursuit of enhanced academic qualifications and 18 staff members developed their skills, knowledge and experience by acting in higher duties arrangements during the reporting period.

Occupational Health and Safety

During the reporting period, nine workplace accidents/incidents were reported, involving 10 staff members. The most serious incident involved a staff member breaking her shoulder following a fall down a set of stairs. This incident resulted in a total of 37.50 working days time loss.

Two incidents were travel related. In the first, two staff members were in a Commission vehicle when it was involved in an accident. Neither staff member lost any work time. In the second incident, a staff member was involved in an accident whilst riding a motorcycle on his way to work. This incident resulted in 1.50 working days time loss. All other incidents were notifications only and did not result in time loss. The minor nature of injuries related to these notifications include neck, back, elbow jarring, cut knee, foot bruising and swelling and stinging eyes and hands.

The OH&S Committee has welcomed three new members who will undergo necessary training in the early part of the 2006-2007 reporting year. A number of OH&S issues were identified as requiring attention following a staff questionnaire that was distributed by the OH&S Committee, including: carpet wear in places; weekend and evening security; lack of storage. Arrangements to address these issues are in the process of being made. There were no OH&S related prosecutions under during this reporting year.

Code of Conduct

The Commission's Code of Conduct has been the subject of a comprehensive review throughout the 2005-2006 year. Feedback has been sought from a cross-section of staff across the organisation and it is envisaged that a new, revised and updated Code of Conduct will be adopted in the next reporting period.

Executive Remuneration – Level 5 and above

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

The Commissioner's remuneration is set by the Statutory and Other Officers Remuneration Tribunal, which, for the reporting period, was \$351,965 pa. As the holder of an independent public office, the Commissioner is not subject to an annual performance review, and is responsible to Parliament in the performance of the functions of the office.

During the reporting year no persons were employed by the Commission in executive positions under the PSEMA.

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

Consumer Response

The key services provided by the Commission are:

1. Investigations

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

2. Research Program

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

3. Complaints Management

- Commission involvement in complaint investigations
- Manage relevant complaint processes

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

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

As outlined in the 2005-2006 Annual Report of the Inspector of the Police Integrity Commission, the Inspector dealt with 35 complaints relating to the activities of the Commission. Complaints received by the Inspector concerned, for the most part, decisions made by the Commission in response to individual complaints of police misconduct, and, complaints about NSW Police officers rather than Commission staff. All new matters were resolved by way of preliminary inquiry. No new matter proceeded to full investigation.

Disability Action Plan

A comprehensive review and updating of the Commission's Disability Action Plan was completed in the second half of the reporting year.

The Disability Action Plan reinforces the Commission's commitment to the government's Disability Policy Framework. The objectives of the Commission's Plan are to provide the disabled with clear and uninterrupted access to Commission premises and to relevant public information about the Commission. Staff who deal directly with the public can assist with alternative methods of making complaints or of obtaining information depending on the specific needs of the individual concerned.

Action Plan For Women

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

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

Objective	Results / Plans
An equitable and balanced workplace responsive to all aspects of women's lives	During the reporting period a total of 21% of the Commission's female employees were employed on approved part-time working arrangements as a means of balancing work and home life responsibilities. This is an increase of 7% on the last reporting period. Approval was granted for one female staff member to take an extra period of 6 weeks leave without pay following a period of maternity related leave, in order for appropriate child care arrangements to be finalised. A total of 47% of the Commission's female staff accessed the Commission's FACS leave arrangements on one or more occasions during the reporting year.
Equitable access for women to educational and training development opportunities	7 of a total of 18 HDA staff development opportunities across the organisation were filled by women during this reporting period. 21 of a total of 45 external training placements were filled by women during this reporting period.
Promote the position of women	A new NSW Women's Spokesperson was elected from amongst the Commission's female staff to represent the interests of women employed by the Commission.

Women currently make up a total of 44% of the Commission's workforce. A total of 27% of the Commission's management level positions are held by women and 77% of the Commission's female staff are remunerated at the equivalent of NSW Public Sector Grade 5 or above.

Ethnic Affairs Priority Statement

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

The focus of the Commission's Ethnic Affairs Priority Statement throughout the reporting period has been to develop new communication channels, and, to strengthen existing communication channels to groups of a non-English speaking background ("NESB"). Information brochures describing the role and functions of the Commission, and advice on how to make a complaint, have again been produced in Arabic, Turkish and Vietnamese to meet the particular demands of these communities. A total of 1,050 brochures were distributed amongst various NESB community groups.

Research has now begun with a view to determine those other NESB groups which might benefit from advice on the role and functions of the Commission in their native language.

Throughout the reporting period, the Commission has continued to use interpreters from a variety of ethnic backgrounds where necessary to assist in dealing with people and information arising from operational matters. The introduction of new complaints and general enquiries processes and procedures have also assisted the Commission in providing improved access to services for individuals of non-English speaking backgrounds.

The focus for the forthcoming year will be on communicating with a wider range of NESB groups.

Ethnic Affairs Priority Statement

Initiative	Strategies / Tasks	Timeline	Outcomes
Improved access for people from non-English speaking backgrounds (NESB) to services and materials provided by the Commission	1. Ensure brochures, other material produced, and, information services are made available to people from NESB in multi-lingual formats	1. Ongoing as appropriate	1. To reach as many key ethnic groups as possible in order to increase community awareness of the services that the Commission provides
	2. Provide interpreter services as required for witnesses and complainants from NESB	2. Ongoing	2. To provide appropriate support to people accessing Commission services, or, appearing before the Commission
	3. Target information campaigns to Ethnic community groups that have not previously been subject to the Commission's formal attention	3. 2006-2007 financial year	3. Distribute information brochures &, where appropriate, conduct information sessions to raise community awareness of the Commission's role in relevant ethnic groups

Number of Employees

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

	2003	2004	2005	2006
Statutory appointments	1	1	1	1
Executive appointments	4	3	2	2
Operational staff	74.8	71.8	74	74.8
Support staff	22	24	24	25
<i>Total</i>	<i>101.8</i>	<i>99.8</i>	<i>101</i>	<i>102.8</i>

Equal Employment Opportunity (EEO)

The Commission maintained its commitment to achieving and preserving the key principles of Equal Employment Opportunity in the NSW Public Sector throughout the reporting period. The Commission also continued its commitment towards providing a more family friendly workplace by developing, implementing and reviewing policies that are geared towards greater flexibility of conditions in the workplace.

A review of the Commission's EEO Management Plan revealed that the plan remains relevant in relation to EEO targets. The small size of the Commission, combined with the specialised nature of the role of the Commission, provides for an environment within which it is not always operationally viable to meet EEO quotas.

An Organisation Climate Survey, with an Occupational Health and Safety focus, was responded to by nearly 50% of staff. The responses showed that the Commission is viewed by its staff to be a professional, friendly work environment with flexible work conditions that are appreciated by the staff for the mutual benefits that arise.

The number of female employees who are currently employed in part-time working arrangements in a bid to better balance their home and work life responsibilities has risen to 21% of the Commission's female staff. This is an increase of 7% on the figures of the previous reporting year. A number of staff have also taken advantage of the flexible arrangements in relation to working from home, when their home life or parental responsibilities required.

In the coming year the Commission will commence reviewing its existing policies to ensure that equality in opportunities are available for all current and prospective staff of the Commission. Particular attention will be focused on the area of harassment and discrimination in a bid to ensure that any such issues are treated promptly in a fair and equitable manner. Further effort will also be directed to ensure staff access to relevant EEO related information.

Trends in the Representation of EEO Groups

% of Total Staff ¹³

EEO Group	Bench-mark or Target	2003	2004	2005	2006
Women	50%	44%	46%	43%	44%
Aboriginal People & Torres Strait Islanders	2%	1.10%	1%	1%	2%
People whose first language was not English	19%	7%	8%	8%	9%
People with a Disability	12%	6%	4%	6%	6%
People with a disability requiring work-related adjustment	7%	1.10%	1.1%	0.9%	0.90%

¹³ Staff numbers are at 30 June. Excludes casual staff.

Trends in the Distribution of EEO Groups

% of Total Staff ¹⁴

EEO Group	Bench- mark or Target	2003	2004	2005	2006
Women	100	81	89	88	84
Aboriginal People & Torres Strait Islanders	100	N/A	N/A	N/A	N/A
People whose first language was not English	100	N/A	N/A	N/A	N/A
People with a Disability	100	N/A	N/A	N/A	N/A
People with a disability requiring work- related adjustment	100	N/A	N/A	N/A	N/A

Plans for Human Resource Policy Development 2006-2007

The focus in the 2006-2007 reporting year will be on reviewing the Commission's discrimination, harassment and bullying policies to ensure that they remain relevant, fair and equitable in the modern work environment.

The recruitment and selection policy will also be reviewed to ensure its continuing relevance during the next reporting period.

Information Communication and Technology Management

In 2005-2006 the establishment of the revised ICT Branch structure was completed along with the implementation of the new ICT Governance Framework. As a result, an enhanced business-centric oversight and involvement is now in place in relation to ICT planning, decision-making, project execution and service delivery.

Over the last 12 months a major focus has been on the replacement of leased assets and a modernisation of the infrastructure. Major achievements over the period include:

- The deployment of PCs and Monitors to replace leased equipment and the deployment of a new standard desktop operating environment incorporating an upgraded office automation software suite.
- The implementation of a new enterprise server and storage solution and the upgrading of the server operating software, database environment and back office systems.
- The enhancement and further integration of the Commission's Investigation/Intelligence applications, providing improved information capture and analysis capabilities.
- The addition of data feed and functional improvements to the Police Oversight Data Store (PODS) system which supports the Police Complaints Case Management framework operated in conjunction with NSW Police and the Ombudsman.
- The strengthening of liaison, service delivery and change management strategies in relation to IT application access and data feed services provided to the Commission by NSW Police.
- Work commenced in the 1st quarter of 2006 on the development of a new ICT Strategic Plan. Following a series of consultation meetings with each of the management groups, the Information Technology Governance Committee chaired by the Commissioner will meet later this year to ratify the plan which will then direct the ICT work programs and resource allocations over the next 24 to 36 months.

Major Works

The Commission continued with its leased asset replacement and infrastructure upgrade program. The upgrade project component which comprised 'major works' during 2005-2006 is shown in the following table.

Technology Upgrade Projects	Cost (\$'000)	Acquisition	Implementation
Servers and Storage replacement	656	Dec 2005	Apr-Jul 2006

¹⁴ A Distribution Index of 100 indicates that the centre of the distribution of the EEO group across salary levels is equivalent to that of other staff. Values less than 100 mean that the EEO group tends to be more concentrated at lower salary levels. Values more than 100 indicate that the EEO group is less concentrated at lower salary levels. The Distribution Index is automatically calculated by software provided by Office of the Director of Equal Opportunity in Public Employment. The Distribution Index is not calculated where EEO group or non-EEO group numbers are less than 20.

Delivery of Electronic Services

All relevant Commission services continue to be maintained on our website. During the reporting period, a total of 59580 visits were made to the Commission's website, at an average of 162 per day. This figure represents an increase of 33.2% over the previous reporting period. The Commission ensures that its Web presence conforms with all relevant objectives outlined in the Premier's *ReConnect.nsw: An Internet Strategy for NSW* initiative.

FINANCIAL SERVICES

Audits

The Audit Office of NSW was engaged to carry out an audit of the 2005–2006 Financial Statements of both the Police Integrity Commission and the Police Integrity Commission Division. Copies of the Independent Audit Reports appear with the Financial Statements at Appendix 7.

Accounts Payable Policy

The Commission has set a benchmark for paying 85 per cent of all accounts received within creditors' trading terms. This benchmark was not achieved in all quarters, the majority of delays were due to either late invoicing from Commission creditors, or invoicing for non-delivered or incorrect goods in which case the Commission withholds payment until it is satisfied that goods and services have been received as contracted. Account payment improved in the 4th quarter and is expected to remain above the 85 per cent benchmark.

The Commission paid no interest on outstanding accounts during the reporting year.

Aged analysis at the end of each quarter 2005-2006

Qtr	Current (ie within due date)	Less than 30 days overdue	Between 30 and 60 days overdue	Between 60 and 90 days overdue	More than 90 days overdue
	\$	\$	\$	\$	\$
Sept	73,131	295,354	44,800	0	110
Dec	107,217	82,046	7,301	224	929
March	69,405	834,106	7,238	0	438
June	54,942	72,465	14,106	123	3,300

Accounts paid on time within each quarter 2005–06

Qtr	Total Accounts Target %	Paid On Time Actual %	Total Accounts Paid \$	Paid On Time* \$
Sept	85	87.3	2,686,396	2,346,131
Dec	85	83.7	2,802,967	2,712,465
March	85	77.2	3,690,823	2,849,040
June	85	97.7	3,862,113	3,772,117

*includes employee-related expenses

Statutory Reporting

The Commission and Division Financial Statements for 2005–2006 were prepared and submitted to the Audit Office of NSW within the required timeframe.

Consultants

During the year, there was no single engagement equal to or more than \$30,000. The Commission engaged the services of three consultants, in the following areas:

Area of consultancy	Amount (\$)
Management Services	2,700
Organisational Review	8,925
Research	2,250
TOTAL	13,875

Land Disposal

The Commission does not hold any real property.

Insurance

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

Disclosure of Controlled Entities

Enactment of the *Public Sector Employment Legislation Amendment Act 2006* on 17 March 2006 resulted in the establishment of the Police Integrity Commission Division and the Office of the Police Integrity Commission.

The Police Integrity Commission Division is a special purpose entity; its only function is to provide staff to the Police Integrity Commission.

The Office of Police Integrity Commission is regarded as the employer for Fringe Benefits tax purposes. No Financial Statements have been prepared for the Office.

Credit Card Certification

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

Major Assets

In 2005–2006 the Commission commenced installing a SAN/server solution as part of the IT Master Lease replacement program. This equipment has not yet been capitalised as at year end it was classified as Works-In-Progress. The total cost of this solution is expected to be approximately \$685,000.

Risk Management And Internal Control

The Internal Audit Committee has continued its work conducting audits of Commission activities throughout the year and found that internal controls were adequate. The review of a number of policies and procedures continues. Copies of the minutes of Internal Audit Committee meetings are provided to the Audit Office of NSW.

Energy Management Plan

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

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

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

Waste Management

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

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

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

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

Overseas Visits

The following Commission staff undertook overseas travel on official business during 2005-2006.

Officer	Destination	Purpose	Cost
Principal Analyst	Toronto, Canada	5th Annual Professional Standards Conference	Nil
Principal Analyst	Turin, Italy	UN Expert Group Meeting	Nil

Assumed Identities

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

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

The results of the annual audit for 2005-2006 were:

Assumed Identities

Granted	Revoked	Varied	Duty Type (Granted): Surveillance
1	2	1	1

Privacy Management

The information protection principles of the *Privacy and Personal Information Protection Act 1998* (“the PPIP Act”) apply in connection with the exercise of the administrative and educative functions of the Commission only. The investigative and complaint handling functions of the Commission are exempt from the operation of the PPIP information protection principles.

During the reporting period, no internal reviews were applied for or undertaken in relation to those Commission functions to which the PPIP Act applies

APPENDIX 2 – STATISTICAL DATA ON EXERCISE OF COMMISSION POWERS

The following table indicates the frequency with which the Commission exercised its various powers in 2005-2006, compared with the two previous reporting years.

FUNCTIONS	YEAR ENDING 30 JUNE 2006	YEAR ENDING 30 JUNE 2005	YEAR ENDING 30 JUNE 2004
<i>Under Police Integrity Commission Act 1996</i>			
s 16 – Establishment of task forces within the state	NIL	NIL	1
s 25 – Requiring public authority or public official to produce a statement of information	12	14	5
s 26 – Requiring a person to attend before an officer of the Commission and produce a specified document or other thing	406	257	279
s 29 – Commission may authorise an officer of the Commission to enter and inspect premises etc	NIL	NIL	NIL
s 32 and s 33 – Hearing days:			
• public	3	26 ¹⁵	17
• private	40	34	35
s 38 – Commissioner may summon a person to appear before the Commission and give evidence or produce documents or other things	68	88	70
s 45(1) – Authorised justice may issue search warrant	NIL	NIL	NIL
s 45(2) – Commissioner may issue a search warrant	NIL	NIL	NIL
s 50 – Number of warrants obtained under <i>Listening Devices Act 1984</i>	25	24	63
<i>Under Law Enforcement (Controlled Operations) Act 1997</i>			
Applications granted by Commissioner for authority to conduct controlled operations	13	12	9
Applications granted by Commissioner for variation of authority to conduct controlled operations	3	2	3
<i>Under Law Enforcement (Assumed Identities) Act 1998</i>			
Applications of assumed identity approvals granted	1	12	20
Applications of assumed identity approvals revoked	2	10	4
<i>Under Telecommunications (Interception) Act 1979</i>			
Warrants issued for the Interception of Communications	51	59	66
<i>Under Protected Disclosures Act 1994</i>			
Complaints received by the Commission that constitute Protected Disclosures	27	17	11

¹⁵ Note: In the 2004 – 2005 Annual Report Statistics relating to Public and Private Hearing days were reversed in error and have been corrected in this report.

APPENDIX 3 – LEGISLATIVE MATTERS AND LAW REFORM

Independent Commission Against Corruption Amendment Act 2005

On 1 July 2005, the functions of the Commission were extended to enable it to investigate misconduct and corruption by all members of NSW Police. Previously, the Commission's functions directly applied to misconduct only by 'sworn' police officers and not unsworn members of NSW Police where there was no involvement of sworn police officers.

Statute Law (Miscellaneous Provisions) Act 2005 No 64

On 1 July 2005, the *Police Act 1990* was amended to provide for consultation between the Commissioner of Police and the Commission prior to the taking of managerial action (including dismissal) or commencement of criminal proceedings against a police officer notified as being under investigation by the Commission. The amendment was introduced to ensure that Commission investigations would not be prejudiced by the taking of such action.

Public Sector Employment Legislation Amendment Act 2006

From 17 March 2003, the *Public Sector Employment and Management Act 2002* provides that employees of statutory authorities, including the Police Integrity Commission, will no longer be employed directly by the statutory authority. The Act establishes the Government Service of NSW. Staff employed to assist the Commission to carry out its functions are now employed by the Police Integrity Commission Division, a division of the Government Service.

The Act does not make any changes to the functions of the Commission, or alter its status as an independent body.

Law Enforcement (Powers and Responsibilities) Act 2002 No 103

The Act is intended to both simplify and consolidate the law in relation to law enforcement powers by setting out the most commonly used criminal law enforcement powers and their safeguards. Broadly, the Act brings into the one document many of the powers of police previously found across different legislation and in judicial precedent, with the aim of helping to strike a balance between the need for effective law enforcement and the protection of individual rights.

Most notably, the Act deals with police powers in relation to entry, search and seizure (both under warrant and without), requiring identification, crime scenes, arrest, investigations and questioning, drug detection powers, the use of force and safeguards regarding the exercise of police powers. As originally enacted and since amended, the Act also provides significantly enhanced powers to police in certain respects, such as in establishing crime scenes and dealing with large scale public disorder.

The majority of the Act commenced on 1 December 2005, with other provisions concerning the use of police in car video equipment having commenced earlier on 17 December 2004.

Officers of the Commission who are seconded or approved former police officers may also exercise the powers set out under the Act when acting in their capacity as an officer of the Commission.

Telecommunications (Interception and Access) Act 1979 (Cth)

The *Telecommunications (Interception and Access) Act 1979* (formerly the *Telecommunications (Interception) Act 1979*) ("the Interception and Access Act") was amended during the reporting year in a number of respects that were of relevance and interest to the Commission.

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

The *Crimes Legislation Amendment (Telecommunications Interception and Other Measures) Act 2005* amended the Criminal Code to permit agencies exercising powers under the Interception and Access Act a defence to various telecommunications offences under the Criminal Code. There were amendments to the Interception and Access Act itself, most notably permitting telecommunications interception warrants to be obtained in connection with the investigation of the ancillary offence of accessory after the fact for a class 1 offence, implementing earlier recommendations in relation to statistical information for "named person" telecommunications interception warrants and clarifying the meaning of employee of a carrier.

Criminal Code Amendment (Trafficking In Persons Offences) Act 2005 (Cth)

The Act introduced a number of new and extended trafficking in persons offences. The Interception and Access Act was also amended to provide that telecommunications interception warrants were to be available to investigate these offences.

Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Act 2005 (Cth)

The Act introduced new offences principally targeted at organised illicit drug traders and commercially motivated drug crime. The Act was amended so law enforcement agencies could seek telecommunications interception warrants in connection with the investigation of these offences in a manner consistent with the (then) current interception regime.

Telecommunications (Interception) Amendment (Stored Communications and Other Measures) Act 2005 (Cth)

The Act extended for six months (from 14 December 2005) provisions enabling access to stored communications without the need for a warrant pending consideration of recommendations by Mr A S Blunn AO in his review of the Interception and Access Act. The definition of an "officer of a state" was also clarified to include police officers.

Telecommunications (Interception) Amendment Act 2006 (Cth)

By far the most significant changes to the Interception and Access Act in the reporting year were made by the *Telecommunications (Interception) Amendment Act 2006*. This Act followed the report on the review by Mr A S Blunn AO, tabled in Parliament in September 2005 ("the Blunn review"). The review considered the policy options for the regulation of access to telecommunications, with emphasis on new and emerging telecommunications technologies. Particular attention was given to the ongoing appropriateness of the current telecommunications interception regime.

Of particular note, the Act amends the Interception and Access Act by:

- establishing a warrant regime to authorise access to stored communications held by a telecommunications carrier

- enabling interception of communications of a person known to communicate with a person of interest ("B-party interception");
- permitting the interception of telecommunications services on the basis of the telecommunications device; and
- removing the distinction between class 1 and class 2 offences for which telecommunications interception powers are available to law enforcement agencies. Formerly, the Interception and Access Act required certain additional factors to be taken into account in the issue of a telecommunications interception warrant for the investigation of the less serious class 2 offences. The removal of the distinction has the effect that those factors are to be considered in relation to warrants for all offences.

SIGNIFICANT JUDICIAL DECISIONS

During the reporting year, there were two cases of interest concerning the Commission's powers.

Police Integrity Commission v Shaw [2006] NSWCA 165

In *Police Integrity Commission v Shaw* [2006] NSWCA 165, the Court of Appeal clarified the extent to which the Commission might, in the course of an investigation into police misconduct, inquire into and report upon the conduct of persons who were not police officers.

Giles JA, Hodgson JA agreeing, held that the conduct of others besides police officers was properly within the scope of the Commission's investigative scope if that conduct was relevant to the investigation of police misconduct. Basten JA considered that the valid exercise of the powers of the Commission did not depend upon the existence of police misconduct as a jurisdictional fact.

Police Integrity Commission v Walker [No 2] [2006] NSWSC 696

In December 2004, the Commission held hearings for the purposes of its Operation Cobalt. Walker, a witness called to give evidence, professed to be unable to recall any details of certain incidents of serious criminal conduct in which he was alleged to have been involved, asserting medical reasons for his failure to recall.

The Commissioner considered the witness's failure to recall to be feigned and an attempt to avoid answering questions. As a result, proceedings for contempt of the Commission were commenced in the Supreme Court.

The matter was heard towards the end of the reporting period, and a decision was rendered shortly afterwards. The court found that Walker was guilty of contempt of the Commission in that he falsely asserted an inability to recollect in relation to certain questions, and so must be taken thereby to have refused or otherwise failed to answer questions.

APPENDIX 4 – COMMISSION INVESTIGATIONS AS AT 30 JUNE 2006

Primary allegation prompting investigation	Ongoing during 2005-2006	Closed ¹⁶ during 2005-2006
Pervert the course of justice	10	2
Soliciting or accepting bribes	3	0
Being involved in the manufacture, cultivation or supply of prohibited drugs	3	3
Assault causing serious injury	1	0
Complaint made against an officer who is of, or above, the rank of Superintendent	0	0
Improperly accessing/disclosing information	1	0
Improper associations	7	5
Improperly investigating or interfering with an investigation by another officer	0	0
Financial misconduct	4	0
Managerial/procedural issues	2	3
Reckless discharge of firearms	0	0
Offence punishable, on conviction, by 5 years or more imprisonment	6	1
Total¹⁷	37	14

¹⁶ For the purposes of this table, an investigation is considered 'Closed' when a public report has been submitted to Parliament (if appropriate), a referral is submitted to NSW Police (if appropriate), a brief of evidence has been referred to the Director of Public Prosecutions (if appropriate), or the Commissioner has decided that no further action (NFA) is required.

¹⁷ The table includes investigations that were not always active throughout the reporting year.

APPENDIX 5 – PROSECUTIONS IN 2005-2006 ARISING FROM COMMISSION INVESTIGATIONS

PROSECUTIONS BY PIC		
Name	Offence	Status/Result
Peter BEZKOROWAJNY	1 x Pervert the course of justice 2 x Perjury	Guilty plea accepted to Pervert charge in full satisfaction Listed for sentence 29/10/06
Baljeet Singh DHADLIE	1 x 25(2) Attempt supply not less commercial quantity 1 x 178BA Attempt to obtain benefit by deception 1 x s200(2)(b) Police Act - Corruption	Listed for committal 23/10/06
Samuel FOSTER	1 x 97(2) Robbery whilst armed 1 x 25(2) Supply not less commercial quantity 2 x 25(1) Supply prohibited drug 1 x 25(1) Conspiracy to supply 3 x 25(1) Supply prohibited drug 1 x 25(2) Attempt supply not less commercial quantity 1 x 178BA Attempt to obtain benefit by deception 1 x s200(2)(b) Police Act - Corruption 2 x 25(1) Supply prohibited drug 3 x 25(1) Supply prohibited drug	Charges with co-defendant McCabe listed for committal on 23/10/06
Leif GOULD*	4 x s107 Give false evidence	Listed for hearing 29/11/06
Laurence LUKE	1 x Pervert the course of justice 2 x Perjury	Guilty plea accepted to Pervert charge in full satisfaction Listed for sentence 27/10/06
Emile MATTAR	1 x 25(1)/26 Conspiracy to supply prohibited drug 1 x 25(1) Supply prohibited drug	Listed for trial 13/11/06
James MCCABE	1 x 97(2) Robbery whilst armed 1 x 25(2) Supply not less commercial quantity	Listed for committal 23/10/06
David NATOLI*	5 x s107 Give false evidence	Listed for mention 4/11/06
Paul SUTTON*	1 x s107 Give false evidence	Pleaded guilty 22/8/06 Listed for sentence 22/9/06
Christopher WALKER	1 x 118 Contempt of the Commission	Found guilty on 14/7/06 Sentenced 25/9/06 to a 6 month custodial term

* Denotes matters carried over from previous reporting period.

PROSECUTIONS BY NSW POLICE (evidence supplied whole or in part by PIC)		
Name	Offence	Status/Result
Sam CANTALI	1 x Supply cannabis 1 x Supply amphetamines	25/7/05 Pled guilty 29/9/05 Sentenced to a term of imprisonment for 2 years and 6 months with a non-parole period of 1 year and 10 months Eligible for release to parole 28/7/07
Wayne DODD	1 x Conspiracy – Aggravated break and enter, commit serious indictable offence in company	Listed for trial 24/7/06. Pled guilty and listed for sentence 20/10/06
Tim GALJUF	4 x Knowingly supply prohibited drug 1 x Knowingly take part in supply	Pled guilty to 2 charges of supply methylamphetamine 23/6/06 sentenced to a term of imprisonment for 18 months, suspended and released on 18 month Good Behaviour Bond
Darren RYAN	1 x Conspiracy – Aggravated break and enter, commit serious indictable offence in company 1 x Possess unregistered firearm	24/7/06 Pled guilty 15/9/06 Sentenced to a term of imprisonment for 2 years, suspended and released on 2 year Good Behaviour Bond.
Andrew ROFE	2 x Supply prohibited drugs ongoing	30/6/06 Convicted and sentenced to 9 months imprisonment
Guerino SCEVOLA	1 x Supply cannabis 1 x Possess cocaine	25/7/05 Pled guilty 29/9/05 Sentenced to a term of imprisonment for 3 years and 3 months with a non-parole period of 1 year and 10 months Eligible for release to parole 28/7/07
Mark SMITH	3 x s107 Give false evidence	Listed for committal 17/10/06
Scott TRACEY	2 x s107 Give false evidence	30/1/06 Sentenced to a term of imprisonment for 9 months, with a minimum term of 6 months to be suspended
Sylviane VINCENT-ASPIN	1 x Supply prohibited drug 2 x Possess prohibited drug	24/10/05 Supply charge withdrawn by ODPP, received section 10 dismissal on possession charges
Richelle VARNEY	2 x Supply prohibited drug (not cannabis) 5 x Possess prohibited drug Goods in custody	Pled guilty to all charges 26/8/05 sentenced to 2 years periodic detention to commence from 2/9/05

APPENDIX 6 – FREEDOM OF INFORMATION STATEMENT OF AFFAIRS

Structure and Functions of the Commission

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

Effect of Functions on Members of the Public

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

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

The Commission is exempt from the *Freedom of Information Act 1989* (the "FOI Act") in relation to its corruption prevention, complaint handling, investigative and report functions. In relation to its non-exempt functions, the Commission tends to adopt policies and practices adopted by the NSW Public Service. In these circumstances, the Commission has not found it necessary to involve members of the public in policy formulation or the exercise of statutory functions.

Nature of Documents Held by the Commission

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

Categories of other documents available include:

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

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

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

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

Statistics and Assessment of Statistical Report for Year Ending 30 June 2006

The Commission did not receive any FOI requests during the reporting period. There were no requests determined or still under consideration in the reporting period.

The Commission has had no requests for amendment or notation of personal records. There have been no internal reviews, Ombudsman reviews or District Court appeals in respect of FOI requests finalised from an earlier period or in the reporting period.

The impact on the Commission of fulfilling its requirements under the FOI Act during the reporting year has been negligible. No major issues have arisen during the reporting year in connection with the Commission's compliance with FOI requirements.

APPENDIX 7 – FINANCIAL STATEMENTS



Financial Statements 2005–06

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Police Integrity Commission



GPO BOX 12
Sydney NSW 2001

INDEPENDENT AUDIT REPORT POLICE INTEGRITY COMMISSION

To Members of the New South Wales Parliament

Audit Opinion

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

- presents fairly the Police Integrity Commission's and the consolidated entity's (defined below) financial position as at 30 June 2006 and their performance for the year ended on that date, in accordance with Accounting Standards and other mandatory financial reporting requirements in Australia, and
- complies with section 45E of the *Public Finance and Audit Act 1983* (the Act) and the *Public Finance and Audit Regulation 2005*.

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

Scope

The Financial Report and Commissioner's Responsibility

The financial report comprises the operating statements, statements of changes in equity, balance sheets, cash flow statements, summary of compliance with financial directives and accompanying notes to the financial statements for the Police Integrity Commission and consolidated entity, for the year ended 30 June 2006. The consolidated entity comprises the Police Integrity Commission and the entities it controlled during the financial year.

The Commissioner is responsible for the preparation and true and fair presentation of the financial report in accordance with the Act. This includes responsibility for the maintenance of adequate accounting records and internal controls that are designed to prevent and detect fraud and error, and for the accounting policies and accounting estimates inherent in the financial report.

Audit Approach

I conducted an independent audit in order to express an opinion on the financial report. My audit provides *reasonable assurance* to Members of the New South Wales Parliament that the financial report is free of *material* misstatement.

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

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

Police Integrity Commission

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

My opinion does *not* provide assurance:

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

Audit Independence

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

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



M P Abood, CPA
Director, Financial Audit Services

SYDNEY
5 October 2006

Police Integrity Commission

Police Integrity Commission

Statement by Department Head

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

- (a) the accompanying financial statements in respect of the year ended 30 June 2006 have been prepared in accordance with the provisions of the *Public Finance and Audit Act 1983* and Regulations, the *Financial Reporting Code for Budget Dependent General Government Sector Agencies*, and the *Treasurer's Directions*
- (b) the statements exhibit a true and fair view of the financial position and transactions of the Commission, and
- (c) there are no circumstances that would render any particulars included in the consolidated financial statements to be misleading or inaccurate.



T/P Griffin
Commissioner
4 October 2006

Police Integrity Commission

Operating Statement for the Year Ended 30 June 2006

	Notes	Parent Entity (Police Integrity Commission)			Economic Entity (Consolidated)
		Actual 2006 \$'000	Budget 2006 \$'000	Actual 2005 \$'000	Actual 2006 \$'000
Expenses excluding losses					
Operating Expenses					
Employee related	2(a)	7,692	11,782	10,523	10,888
Other operating expenses	2(b)	4,281	4,717	5,511	4,281
Personnel services		3,075	--	--	--
Depreciation and amortisation	2(c)	917	1,473	1,824	917
Total Expenses excluding losses		15,965	17,972	17,858	16,086
Less:					
Revenue					
Investment revenue	3(a)	86	31	40	86
Other revenue	3(b)	1	--	--	1
Total Revenue		87	31	40	87
Gain/(loss) on disposal	4	--	--		--
Net Cost of Services	27	15,878	17,941	17,818	15,999
Government Contributions					
Recurrent appropriation	6	14,850	16,116	14,721	14,850
Capital appropriation	6	1,550	2,549	864	1,550
Acceptance by the Crown Entity of employee benefits and other liabilities	9	295	562	1,238	416
Total Government Contributions		16,695	19,227	16,823	16,816
SURPLUS/(DEFICIT) FOR THE YEAR		817	1,286	(995)	817

The accompanying notes form part of these financial statements

Police Integrity Commission

Statement of Changes in Equity for the Year Ended 30 June 2006

Notes	Parent Entity (Police Integrity Commission)			Economic Entity (Consolidated)
	Actual 2006 \$'000	Budget 2006 \$'000	Actual 2005 \$'000	Actual 2006 \$'000
Net increase / (decrease) in property plant and equipment asset revaluation reserve				
Other net increases / (decreases) in equity				
TOTAL INCOME AND EXPENSES RECOGNISED DIRECTLY IN EQUITY	<u>--</u>	<u>--</u>	<u>--</u>	<u>--</u>
Surplus / (deficit) for the year	<u>817</u>	<u>1,286</u>	<u>(995)</u>	<u>817</u>
TOTAL INCOME AND EXPENSES RECOGNISED FOR THE YEAR	<u>817</u>	<u>1,286</u>	<u>(995)</u>	<u>817</u>

The accompanying notes form part of these financial statements

Police Integrity Commission

Balance Sheet as at 30 June 2006

	Notes	Parent Entity (Police Integrity Commission)			Economic Entity (Consolidated)
		Actual 2006 \$'000	Budget 2006 \$'000	Actual 2005 \$'000	Actual 2006 \$'000
ASSETS					
Current Assets					
Cash and cash equivalents	12	1,114	1,482	1,263	1,114
Receivables	13	632	395	350	632
Total Current Assets		1,746	1,877	1,613	1,746
Non-Current Assets					
Plant and equipment	16	2,932	2,761	2,097	2,932
Intangible assets	17	211	825	413	211
Total Non-Current Assets		3,143	3,586	2,510	3,143
Total Assets		4,889	5,463	4,123	4,889
LIABILITIES					
Current liabilities					
Payables	19	151	150	108	151
Provisions	21	990	782	770	990
Other	22	283	459	459	283
Total Current Liabilities		1,424	1,391	1,337	1,424
Non-Current Liabilities					
Provisions	21	--	138	138	--
Total Non-Current Liabilities		--	138	138	--
Total Liabilities		1,424	1,529	1,475	1,424
Net Assets		3,465	3,934	2,648	3,465
EQUITY					
Accumulated funds	23	3,465	3,934	2,648	3,465
Total Equity		3,465	3,934	2,648	3,465

The accompanying notes form part of these financial statements

Police Integrity Commission

Cash Flow Statement for the Year Ended 30 June 2006

	Notes	Parent Entity (Police Integrity Commission)			Economic Entity (Consolidated)
		Actual 2006 \$'000	Budget 2006 \$'000	Actual 2005 \$'000	Actual 2006 \$'000
CASH FLOWS FROM OPERATING ACTIVITIES					
Payments					
Employee related		(7,494)	(11,166)	(9,918)	(10,448)
Other		(5,035)	(5,347)	(6,056)	(5,035)
Personnel services		(2,954)	--	--	--
Total Payments		(15,483)	(16,513)	(15,974)	(15,483)
Receipts					
Sale of goods and services		--	--	11	--
Interest received		59	36	48	59
Other		601	580	576	601
Total Receipts		660	616	635	660
Cash flows from Government					
Recurrent appropriation		14,850	16,116	14,897	14,850
Capital appropriation		1,833	2,549	1,147	1,833
Cash reimbursements from the Crown Entity		--	--	678	--
Cash transfers to the Consolidated Fund		(459)	--	--	(459)
Net Cash Flows from Government		16,224	18,665	16,722	16,224
NET CASH FLOWS FROM OPERATING ACTIVITIES	27	1,401	2,768	1,383	1,401
CASH FLOWS FROM INVESTING ACTIVITIES					
Purchases of Plant and Equipment		(1,538)	(2,549)	(881)	(1,538)
Purchases of Intangible Assets		(12)	--	--	(12)
NET CASH FLOWS FROM INVESTING ACTIVITIES		(1,550)	(2,549)	(881)	(1,550)
NET INCREASE/(DECREASE) IN CASH					
Opening cash and cash equivalents		(149)	219	502	(149)
		1,263	1,263	761	1,263
CLOSING CASH AND CASH EQUIVALENTS	12	1,114	1,482	1,263	1,114

The accompanying notes form part of these financial statements

Police Integrity Commission
Summary of Compliance with Financial Directives
for the Year Ended 30 June 2006

	2006				2005			
	Recurrent Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000	Capital Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000	Recurrent Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000	Capital Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000
ORIGINAL BUDGET APPROPRIATION/ EXPENDITURE								
• Appropriation Act	16,116	14,850	2,549	779	14,693	14,223	700	529
	16,116	14,850	2,549	779	14,693	14,223	700	529
OTHER APPROPRIATIONS/ EXPENDITURE								
• Treasurer's Advance	--	--	950	771	463	463	83	--
• Additional appropriation	--	--	--	--	35	35	--	--
• Transfers from Crown Finance Entity (s27 of the Appropriation Act)	--	--	--	--	--	--	1,031	335
	--	--	950	771	498	498	1,114	335
Total Appropriations/ Expenditure/Net claim on Consolidated Fund	16,116	14,850	3,499	1,550	15,191	14,721	1,814	864
Amount drawn down against Appropriation		14,850		1,833		14,897		1,147
Liability to Consolidated Fund		--		283		176		283

The accompanying notes form part of these financial statements

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

Police Integrity Commission

**Summary of Compliance with Financial Directives
for the Year Ended 30 June 2006 (cont)**

Recurrent Appropriation

The Commission's recurrent appropriation of \$16.116m was not fully drawn down as the agency did not employ the full number of staff expected during the year, and was able to make additional savings on other operating expenses.

Capital Appropriation

The Commission's capital appropriation of \$2.549m was not fully expended during the year, due to delays in delivery of capital purchase order items, and also the delays caused by the selection of vendors providing goods and services for the replacement of the Commission's IT Master Lease equipment. The NSW Treasury approved the carrying forward to 2006–07 of \$1.548m for the design and implementation of a replacement Telecommunications Interception System.

The accompanying notes form part of these financial statements

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) *Reporting entity*

The Police Integrity Commission, as a reporting entity, comprises all of the entities under its control, namely: Police Integrity Commission Division and Office of the Police Integrity Commission.

In the process of preparing the consolidated financial report for the economic entity consisting of the controlling and controlled entities, all inter-entity transactions and balances have been eliminated.

The Police Integrity Commission is a NSW Government department. The Commission is a not-for-profit entity (as profit is not its principle objective) and it has no cash generating units. The reporting entity is consolidated as part of the NSW Total State Sector Accounts.

The consolidated financial report for the year ended 30 June 2006 has been authorized for issue by the Commissioner for the Police Integrity Commission on 4 October 2006.

(b) *Basis of preparation*

The Commission's financial report is a general purpose financial report which has been prepared in accordance with:

- applicable Australian Accounting Standards (that include Australian Equivalents to International Financial Reporting Standards (AEIFRS))
- the requirements of the *Public Finance and Audit Act 1983* and Regulations, and
- the Financial Reporting Directions published in the Financial Reporting Code for Budget Dependent General Government Sector Agencies or issued by the Treasurer.

Plant and equipment are measured at fair value. Other financial items are prepared in accordance with the historical cost convention.

Judgements, key assumptions and estimations management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency.

(c) *Statement of Compliance*

The consolidated and parent entity financial statements and notes comply with Australian Accounting Standards, which include AEIFRS.

This is the first financial report prepared based on AEIFRS and comparatives for the year ended 30 June 2005 have been re-stated accordingly, except as stated below:

In accordance with AASB 1 *First-time Adoption of Australian Equivalents to International Financial Reporting Standards* and Treasury mandates, the date of transition to AASB 132 *Financial Instruments: Disclosure and Presentation* and AASB139 *Financial Instruments: Recognition and Measurement*, has been deferred to 1 July 2005.

The Commission has no adjustment to report under AASB 132 and AASB 139.

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

(d) *Administered activities*

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

(e) *Income recognition*

Income is measured at the fair value of the consideration or contribution received or receivable. Additional comments regarding the accounting policies for the recognition of income are discussed below.

(i) Parliamentary Appropriations and Contributions

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

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

The liability is disclosed in Note 22 as part of 'Current Liabilities–Other'. The amount will be repaid and the liability will be extinguished next financial year.

(ii) Sale of Goods

Revenue from the sale of goods is recognised as revenue when the Commission transfers the significant risks and rewards of ownership of the assets.

(iii) Rendering of Services

Revenue is recognised when the service is provided or by reference to the stage of completion (based on labour hours incurred to date).

(iv) Investment Income

Interest revenue is recognised using the effective interest method as set out in AASB 139 *Financial Instruments: Recognition and Measurement*

(f) *Employee benefits and other provisions*

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

Liabilities for salaries and wages (including non-monetary benefits), annual leave and paid sick leave that fall due wholly within 12 months of the reporting date are recognised and measured in respect of employees' services up to the reporting date at undiscounted amounts based on the amounts expected to be paid when the liabilities are settled.

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

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

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

(ii) Long Service Leave and Superannuation

The Commission's liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. The Commission accounts for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as "Acceptance by the Crown Entity of employee benefits and other liabilities". Prior to 2005–06 the Crown Entity also assumed the defined contribution superannuation liability.

Long service leave is measured on a present value in accordance with AASB 119 *Employee Benefits*. This is based on the application of certain factors (specified in NSW TC 06/09) to employees with five or more years of service, using current rates of pay. These factors were determined based on an actuarial review to approximate present value.

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

(iii) Other Provisions

Other provisions exist when the agency has a present legal, equitable or constructive obligation as a result of a past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation.

Any provisions for restructuring are recognised only when an agency has a detailed formal plan and the agency has raised a valid expectation in those affected by the restructuring that it will carry out the restructuring by starting to implement the plan or announcing its main features to those affected.

(g) *Insurance*

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

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

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

- (i) the amount of GST incurred by the Commission as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of the cost of acquisition of an asset or as part of an item of expense.
- (ii) receivables and payables are stated with the amount of GST included.

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

(i) *Acquisition of Assets*

The cost method of accounting is used for the initial recording of all acquisition of assets controlled by the Commission. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition. Fair value is the amount for which an asset could be exchanged between knowledgeable, willing parties in an arm's length transaction.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent, ie deferred payment is effectively discounted at an asset-specific rate.

(j) *Capitalisation Thresholds*

Plant and equipment and intangible assets costing \$5,000 and above individually, or forming part of a network costing more than \$5,000, are capitalised.

(k) *Re-valuation of plant and equipment*

Physical non-current assets are valued in accordance with the *Valuation of Physical Non-Current Assets at Fair Value* Policy and Guidelines Paper TPP 05–3. This policy adopts fair value in accordance with AASB 116 *Property, Plant and Equipment*.

Plant and equipment is measured on an existing use basis, where there are no feasible alternative uses in the existing natural, legal, financial and socio-economic environment. However, in the limited circumstances where there are feasible alternative uses, assets are valued at their highest and best use.

Fair value of plant and equipment is determined based on the best available market evidence, including current market selling prices for the same or similar assets. Where there is no available market evidence, the asset's fair value is measured at its market buying price, the best indicator of which is depreciated replacement cost.

There has been no re-valuation of any of the Commission's plant and equipment as they are mainly non-specialised assets. Non-specialised assets with short useful lives are measured at depreciated historical cost, as a surrogate for fair value.

(l) *Impairment of Plant and Equipment*

As a not-for-profit entity with no cash generating units, the Commission is effectively exempted from AASB 136 *Impairment of Assets* and impairment testing. This is because AASB 136 modifies the recoverable amount test to the higher of fair value less cost to sell and depreciated replacement cost. This means that, for an asset already measured at fair value, impairment can only arise if selling costs are material. Selling costs are regarded as immaterial.

(m) *Assets Not Able to be Reliably Measured*

The Commission does not hold any assets that have not been recognised in the Balance Sheet.

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

(n) *Depreciation of Plant and Equipment*

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

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

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

(o) *Major Inspection Costs*

The Commission did not incur major inspection costs during the year.

(p) *Restoration Costs*

The Commission did not incur restoration costs during the year.

(q) *Maintenance*

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

(r) *Leased Assets*

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of the leased assets, and operating leases under which the lessor effectively retains all such risks and benefits.

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

(s) *Intangible Assets*

The Commission recognises intangible assets only if it is probable that future economic benefits will flow to the Commission and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition.

All research costs are expensed. Development costs are only capitalised when certain criteria are met.

The useful lives of intangible assets are assessed to be finite. Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the Commission's intangible assets, the assets are carried at cost less any accumulated amortisation.

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

The Commission's intangible assets are amortised using the straight-line method over a period of 4 years.

In general, intangible assets are tested for impairment where an indicator of impairment exists. However, as a not-for-profit entity with no cash generating units, the Commission is effectively exempted from impairment testing (refer paragraph (1)).

- (t) *Loans and receivables - Year ended 30 June 2006 (refer Note 1 (ad) for 2004–05 policy)*
Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. These financial assets are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method, less an allowance for any impairment of receivables. Any changes are accounted for in the Operating Statement when impaired, de-recognised or through the amortisation process.

Short-term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

- (u) *Investments*
The Commission holds no investments for 2004–05 and 2005–06.

- (v) *De-recognition of financial assets and financial liabilities - Year ended 30 June 2006*
A financial asset is de-recognised when the contractual rights to the cash flows from the financial assets expire; or if the agency transfers the financial assets:

- where substantially all the risks and rewards have been transferred;

or

- where Commission has not transferred substantially all the risks and rewards, if the entity has not retained control.

Where the Commission has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset is recognised to the extent of the Commission's continuing involvement in the asset.

A financial liability is de-recognised when the obligation specified in the contract is discharged or cancelled or expires.

- (w) *Non-current assets (or disposal groups) held for sale*
The Commission has no non-current assets (or disposal groups) held for sale.

- (x) *Trust funds*
The Commission does not hold any trust funds.

- (y) *Other Assets*
Other assets are recognised on a cost basis.

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

(z) *Equity transfers*

The transfer of net assets between agency as a result of an administrative restructure, transfers of program/functions and parts thereof between NSW public sector agencies is designated as a contribution by owners and recognised as an adjustment to "Accumulated Funds". This treatment is consistent with Urgent Issues Group Interpretation 1038 *Contributions by Owners Made to Wholly-Owned Public Sector Entities*.

Transfers arising from an administrative restructure between government departments are recognised at the amount at which the asset was recognised by the transferor government department immediately prior to the restructure. In most instances this will approximate fair value. All other equity transfers are recognised at fair value.

(aa) *Payables - Year ended 30 June 2006 (refer Note 1 (ad) for 2004–05 policy)*

These amounts represent liabilities for goods and services provided to the Commission and other amounts. Payables are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

(ab) *Budgeted Amounts*

The budgeted amounts are drawn from the budgets as formulated at the beginning of the financial year and with any adjustments for the effects of additional appropriations, s 21A, s24 and/or s 26 of the *Public Finance and Audit Act 1983*.

The budgeted amounts in the Operating Statement and Cash Flow Statement are generally based on the amounts disclosed in the NSW Budget Papers (as adjusted above). However, in the Balance Sheet, the amounts vary from the Budget Papers, as the opening balances of the budgeted amounts are based on carried forward actual amounts; ie per audited financial statements (rather than carried forward estimates).

(ac) *Comparative Information*

Comparative figures have been restated based on AEIFRS with the exception of financial instruments information, which has been prepared under the previous AGAAP Standards (AAS 33) as permitted by AASB 1.36A. The transition date to AEIFRS for financial instruments information was 1 July 2005. AASB 132 *Financial Instruments: Disclosure and Presentation* and AASB 139 *Financial Instruments: Recognition and Measurement* have no financial impact on the Commission.

(ad) *Financial instruments accounting policy for 2004–05 comparative period**Receivables*

Receivables are recognised and carried at cost, based on the original invoice amount less a provision for any uncollectable debts. An estimate for doubtful debts is made when collection of the full amount is no longer probable. Bad debts are written off as incurred.

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

Other Financial Assets

Other financial assets' are generally recognised at cost, with the exception of TCorp Hour-Glass Facilities and Managed Fund Investments, which are measured at market value.

For non-current “other financial assets”, revaluation increments and decrements are recognised in the same manner as physical non-current assets.

For current “other financial assets”, revaluation increments and decrements are recognised in the *Statement of Financial Performance*.

Payables

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

(ae) *New Australian Accounting Standards Issued but not effective*

The Commission is of the opinion that the following new Australian Accounting Standards issued but not effective would not have significant impact on its financial statements. The standards apply to annual reporting periods beginning on or after 1 January 2006 -

- AASB 7 Financial Instruments Disclosure (issued August 2005)
- AASB 2004-3 Amendments to Australian Accounting Standards (issued December 2004)
- AASB 2005-1 Amendments to Australian Accounting Standards (issued May 2005)
- AASB 2005-5 Amendments to Australian Accounting Standards (issued June 2005)
- AASB 2005-9 Amendments to Australian Accounting Standards (issued September 2005)
- AASB 2005-10 Amendments to Australian Accounting Standards (issued September 2005)
- AASB 2006-1 Amendments to Australian Accounting Standards (issued January 2006)

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

2. EXPENSES EXCLUDING LOSSES

(a) Employee related expenses	Police Integrity Commission		Consolidated
	2006 \$'000	2005 \$'000	2006 \$'000
Salaries and wages (including recreation leave)	6,322	8,535	8,961
Superannuation—defined benefit plans	67	96	95
Superannuation—defined contribution plans	495	657	708
Long Service Leave	223	418	315
Workers' compensation insurance	67	112	98
Payroll tax and fringe benefits tax	468	623	644
Other	50	82	67
	7,692	10,523	10,888
(b) Other operating expenses include the following			
Administration charges	76	914	76
Books and periodicals	49	38	49
Auditor's remuneration—audit or review of financial information	26	25	26
Consultancies	14	72	14
Contractors	214	599	214
EDP expenses (including equipment leasing charges)	625	825	625
Maintenance *	222	161	222
Insurance	36	44	36
Rent and outgoings	1,694	1,658	1,694
Minor equipment	154	244	154
Motor vehicle costs (including leasing charges)	225	211	225
Advertising	23	59	23
Printing and stationery	79	41	79
Staff development	57	27	57
Travelling expenses	235	92	235
Telephones	237	205	237
Other	315	296	315
	4,281	5,511	4,281
* Reconciliation – Total maintenance			
Maintenance expense as above	222	161	222
Maintenance related employee expenses included in Note 2 (a)	--	--	--
Total maintenance expenses included in Note 2 (a) + 2 (b)	222	161	222
(c) Depreciation and amortisation expense			
Depreciation			
Computer Equipment	208	185	208
Office Equipment	457	553	457
Office Furniture and Fitting	2	2	2
Amortisation			
Leasehold Improvements	36	72	36
Intangibles	214	1,012	214
	917	1,824	917

Computer software that is not an integral part of the related hardware were reclassified from plant and equipment to intangibles assets to conform with AASB 138 *Intangible Assets*. Related amortisation expenses were also re-stated. This reclassification has no financial impact.

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

3. REVENUE

	Police Integrity Commission		Consolidated
	2006 \$'000	2005 \$'000	2006 \$'000
(a) Investment revenue			
Interest	86	40	86
	86	40	86
(b) Other Revenue			
Commission on salary deductions, conduct fees, fines	1	--	1
	1	--	1

4. GAIN/(LOSS) ON DISPOSAL

In 2005–06 the Commission disposed personal computers, monitors and some office equipment in accordance with the NSW Government computer re-use pilot guidelines called *ReConnect.NSW Computer Program*.

Gain/(loss) on disposal of computer equipment

Written down value of assets disposed	--	--	--
Gain/(loss) on disposal	--	--	--

5. CONDITIONS ON CONTRIBUTIONS

The Commission did not receive any contributions during 2005–06.

6. APPROPRIATIONS**Recurrent appropriations**

Total recurrent draw-downs from NSW Treasury (per Summary of Compliance)	14,850	14,897	14,850
Less: Liability to Consolidated Fund (per Summary of Compliance)	--	176	--
	14,850	14,721	14,850
Comprising:			
Recurrent appropriations (per Operating Statement))	14,850	14,721	14,850
Transfer payments	--	--	--
	14,850	14,721	14,850

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

	Police Integrity Commission		Consolidated
	2006	2005	2006
	\$'000	\$'000	\$'000
Capital appropriations			
Total capital draw-downs from NSW Treasury (per Summary of Compliance)	1,833	1,147	1,833
Less: Liability to Consolidated Fund (per Summary of Compliance)	283	283	283
	1,550	864	1,550
Comprising:			
Capital appropriations (per Operating Statement))	1,550	864	1,550
Transfer payments	--	--	--
	1,550	864	1,550

7. PRIOR PERIOD ERRORS

No prior period errors have been discovered.

8. INDIVIDUALLY SIGNIFICANT ITEMS

There were no individually significant items reported during the year.

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

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

Superannuation	67	774	95
Long service leave	223	418	315
Payroll tax	5	46	6
	295	1,238	416

10. TRANSFER PAYMENTS

There were no transfer payments during the reporting period.

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

11. PROGRAMS / ACTIVITIES OF THE AGENCY

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

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

12. CURRENT ASSETS—CASH AND CASH EQUIVALENTS

	Police Integrity Commission		Consolidated
	2006 \$'000	2005 \$'000	2006 \$'000
Cash at bank	1,102	1,251	1,102
Cash on hand	12	12	12
	1,114	1,263	1,114

For the purposes of the Cash Flow Statement, cash and cash equivalents includes cash on hand and cash at bank. Cash and cash equivalent assets recognised in the Balance Sheet are reconciled at the end of the financial year to the Cash Flow Statement as follows:

Cash and cash equivalents (per Balance Sheet)	1,114	1,263	1,114
Closing Cash and Cash Equivalents (per Cash Flow Statement)	1,114	1,263	1,114

13. CURRENT ASSETS—RECEIVABLES

Prepayments	382	225	478
Other debtors	250	125	154
	632	350	632

No allowance for impairment has been raised as all amounts are considered to be collectable. Prepayments made by the Commission have been classified as receivables in compliance with AASB 101.75(b).

14. CURRENT / NON-CURRENT ASSETS—INVENTORIES

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

15. CURRENT / NON-CURRENT ASSETS—FINANCIAL ASSETS AT FAIR VALUE

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

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

16. NON-CURRENT ASSETS—PLANT AND EQUIPMENT

	Police Integrity Commission	Consolidated
	\$'000	\$'000
Plant and Equipment		
At 1 July 2005		
At Fair Value	11,972	11,972
Accumulated depreciation and impairment	(9,875)	(9,875)
Net Carrying Amount	<u>2,097</u>	<u>2,097</u>
At 30 June 2006		
At Fair Value	13,510	13,510
Accumulated depreciation and impairment	(10,578)	(10,578)
Net Carrying Amount	<u>2,932</u>	<u>2,932</u>

Reconciliation

A reconciliation of the carrying amount of each class of plant and equipment at the beginning and end of the current reporting period year are set out below.

	Police Integrity Commission	Consolidated
	\$'000	\$'000
Year ending 30 June 2006		
Net carrying amount at start of year	2,097	2,097
Additions	1,538	1,538
Disposals	(66)	(66)
Depreciation expense	(703)	(703)
Other movements – Disposals - depreciation	66	66
Net carrying amount at end of year	<u>2,932</u>	<u>2,932</u>
At 1 July 2004		
At Fair Value	11,185	--
Accumulated depreciation and impairment	(9,116)	--
Net Carrying Amount	<u>2,069</u>	<u>--</u>
At 30 June 2005		
At Fair Value	11,972	--
Accumulated depreciation and impairment	(9,875)	--
Net Carrying Amount	<u>2,097</u>	<u>--</u>

Reconciliation

A reconciliation of the carrying amount of each class of plant and equipment at the beginning and end of the previous reporting period is set out below.

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

	Police Integrity Commission	Consolidated
	\$'000	\$'000
Year ending 30 June 2005		
Net carrying amount at start of year	2,069	--
Additions	840	--
Disposals	(53)	--
Disposals – depreciation	53	--
Depreciation expense	(812)	--
Net carrying amount at end of year	2,097	--

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

17. INTANGIBLE ASSETS

At 1 July 2005		
Cost (gross carrying amount)	3,982	3,982
Accumulated amortisation and impairment	(3,569)	(3,569)
Net carrying amount	413	413

At 30 June 2006		
Cost (gross carrying amount)	3,994	3,994
Accumulated amortisation and impairment	(3,783)	(3,783)
Net carrying amount	211	211

Year ended 30 June 2006		
Net carrying amount at start of year	413	413
Additions	12	12
Amortisation (recognised in “depreciation and amortisation”)	(214)	(214)
Net carrying amount at end of year	211	211

At 1 July 2004		
Cost (gross carrying amount)	3,941	--
Accumulated amortisation and impairment	(2,557)	--
Net carrying amount	1,384	--

At 30 June 2005		
Cost (gross carrying amount)	3,982	--
Accumulated amortisation and impairment	(3,569)	--
Net carrying amount	413	--

Year ended 30 June 2005		
Net carrying amount at start of year	1,384	--
Additions	41	--
Amortisation (recognised in “depreciation and amortisation”)	(1,012)	--
Net carrying amount at end of year	413	--

Intangible assets include a gross value of \$2.8m Police Oversight Data Store (PODS) Project of the Police Complaints Case Management (PCCM) System funded by way of grant from the NSW Premier’s Department.

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

18. RESTRICTED ASSETS

The Commission has \$65,888 in its Operating Account (2004–05 \$65,888) from last financial year, being the balance of the Police Oversight Data Store (PODS) grants funding.

19. CURRENT LIABILITIES—PAYABLES

	Police Integrity Commission		Consolidated
	2006	2005	2006
	\$'000	\$'000	\$'000
Accrued salaries, wages and on-costs	--	1	39
Creditors	112	107	112
Accrued personnel services	39	--	--
	151	108	151

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

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

21. CURRENT / NON-CURRENT LIABILITIES—PROVISIONS

	Police Integrity Commission		Consolidated
	2006	2005	2006
	\$'000	\$'000	\$'000
Employee benefits and related on-costs			
Recreation leave	--	736	810
Long service leave on-costs	--	153	161
FBT provision	--	19	19
	--	908	990
Other provisions			
Provision for personnel services	990	--	--
Total Provisions	990	908	990
Aggregate employee benefits and related on-costs			
Provisions - current	--	770	990
Provision - non-current	--	138	--
Accrued salaries, wages and on-costs (Note 19)	--	1	39
	--	909	1,029

22. CURRENT LIABILITIES - OTHER

Liability to the Consolidated Fund	283	459	283
	283	459	283

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

23. CHANGES IN EQUITY

	Police Integrity Commission		Consolidated
	2006	2005	2006
	\$'000	\$'000	\$'000
Accumulated funds			
Balance at the beginning of the financial year	2,648	3,643	2,648
AASB 139 first-time adoption	--	--	--
Other changes in accounting policy	--	--	--
Correction of errors	--	--	--
Restated opening balance	<u>2,648</u>	<u>3,643</u>	<u>2,648</u>
<u>Changes in equity - transactions with owners as owners</u>			
Increase/decrease in net assets from equity transfers	--	--	--
<u>Total</u>	<u>--</u>	<u>--</u>	<u>--</u>
<u>Changes in equity - other than transactions with owners as owners</u>			
Surplus/(deficit) for the year	817	(995)	817
Increment/decrement on revaluation of plant and equipment	--	--	--
Other increases/(decreases)	--	--	--
<u>Total</u>	<u>817</u>	<u>(995)</u>	<u>817</u>
<u>Transfers within equity</u>			
Asset revaluation reserve balance transferred to accumulated funds on disposal of asset	--	--	--
<u>Total</u>	<u>--</u>	<u>--</u>	<u>--</u>
Balance at the end of the financial year	<u>3,465</u>	<u>2,648</u>	<u>3,465</u>

24. COMMITMENTS FOR EXPENDITURE

(a) Capital Commitments

Aggregate capital expenditure for the acquisition of computer software and hardware and fire protection system contracted for at balance date and not provided for:

Not later than one year	83	411	83
Total (including GST)	<u>83</u>	<u>411</u>	<u>83</u>

(b) Other Expenditure Commitments

Aggregate other expenditure for the acquisition of legal publications and minor equipment contracted for at balance date and not provided for:

Not later than one year	20	28	20
Total (including GST)	<u>20</u>	<u>28</u>	<u>20</u>

(c) Operating Lease Commitments

Future non-cancellable operating lease rentals not provided for and payable:

Not later than one year	1,950	2,074	1,950
Later than one year and not later than five years	--	2,177	--
Total (including GST)	<u>1,950</u>	<u>4,251</u>	<u>1,950</u>

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

Police Integrity Commission**Notes to and forming part of the Financial Statements for the year ended 30 June 2006****(d) Finance Lease Commitments**

The Commission has no finance lease commitments.

(e) GST on Commitments

The total commitments for 2006 include input tax credits of \$271,923 (2004–05 \$426,433) that are expected to be recoverable from the Australian Taxation office.

25. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

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

26. BUDGET REVIEW**Net cost of services**

The decrease in Net Cost of Services during the year was as a result of employee-related expenses and administration charges being underspent by \$894,000 and \$436,000 respectively. Lower capital expenditure has also resulted in lower depreciation and amortisation than expected.

Assets and liabilities

Assets were lower than budget by \$574,000 due to the prepayment of rent and insurance and lower than budgeted capital expenditure on intangibles. Liabilities were lower than budget by \$105,000 due to the repayment of liabilities to the Consolidated Fund.

Cash flows

The decrease in cash flows of \$368,000 was due to the repayment of the Consolidated Fund liabilities and prepayments. Capital purchases were less than budget by \$995,000 due to the delay in replacing the Telecommunications Interception System. Drawdown of recurrent allocation was also less than budget due to a delay in recruitment of staff during the year, mainly those associated with the proposed Telecommunications Interception System.

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

	Police Integrity Commission		Consolidated
	2006	2005	2006
	\$'000	\$'000	\$'000
Cash Flows from Government Appropriations	(16,224)	(16,044)	(16,224)
Acceptance by Crown Entity of employee benefits and other liabilities	(295)	(1,238)	(416)
Depreciation and amortisation	(917)	(1,824)	(917)
Decrease/(increase) in provisions	(82)	(48)	(82)
Increase/(decrease) in prepayments and other assets	282	(196)	282
Decrease/(increase) in creditors	(43)	149	(43)
Net gain/loss on sale of plant and equipment	--	--	--
Net cost of services	<u>(15,878)</u>	<u>(17,818)</u>	<u>(15,999)</u>

Police Integrity Commission

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

28. NON-CASH FINANCING AND INVESTING ACTIVITIES

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

29. TRUST FUNDS

The Commission does not hold any trust funds

30. ADMINISTERED ASSETS AND LIABILITIES

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

31. ADMINISTERED REVENUE - DEBTS WRITTEN OFF

The Commission does not hold any administered revenue.

32. ADMINISTERED REVENUE - SCHEDULE OF UNCOLLECTED AMOUNTS

The Commission does not administer any uncollected monies.

33. FINANCIAL INSTRUMENTS

The Commission's principal financial instruments are outlined below. These financial instruments arise directly from the Commission's operations or are required to finance the Commission's operations. The Commission does not enter into or trade financial instruments for speculative purposes. The Commission does not use financial derivatives.

(i) Cash

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

(ii) Receivables

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Debts which are known to be uncollectible are written off. An allowance for impairment is raised when there is objective evidence that the entity will not be able to collect all amounts due. The credit risk is the carrying amount (net of any allowance for impairment). No interest is earned on trade debtors. The carrying amount approximates fair value. Sales are made on a 14 day terms.

Police Integrity Commission**Notes to and forming part of the Financial Statements for the year ended 30 June 2006****(iii) Bank Overdraft**

The Commission does not have any bank overdraft facility.

(iv) Trade Creditors and Accruals

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

34. IMPACT OF ADOPTION OF AEIFRS

Reconciliation of equity under previous AGAAP to equity under AEIFRS:

	30 June 2005 \$'000	1 July 2004 \$'000
Total equity under previous AGAAP	<u>2,648</u>	<u>3,643</u>
Total equity under AEIFRS	<u>2,648</u>	<u>3,643</u>
Reconciliation of surplus/(deficit) under previous AGAAP to surplus/(deficit) under AEIFRS:		
	30 June 2005 \$'000	
Surplus/(deficit) under previous AGAAP	<u>(995)</u>	
Surplus/(deficit) under AEIFRS	<u>(995)</u>	

35. AFTER BALANCE DATE EVENTS

There are no known after balance date events.

End of audited financial statements

Police Integrity Commission Division



GPO BOX 12
Sydney NSW 2001

INDEPENDENT AUDIT REPORT POLICE INTEGRITY COMMISSION DIVISION

To Members of the New South Wales Parliament

Audit Opinion

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

- presents fairly the Police Integrity Commission Division's financial position as at 30 June 2006 and its performance for the year ended on that date, in accordance with Accounting Standards and other mandatory financial reporting requirements in Australia, and
- complies with section 45E of the *Public Finance and Audit Act 1983* (the Act) and the *Public Finance and Audit Regulation 2005*.

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

Scope

:

The Financial Report and Commissioner's Responsibility

The financial report comprises the operating statement, statement of changes in equity, balance sheet, cash flow statement and accompanying notes to the financial statements for the Police Integrity Commission Division, for the year ended 30 June 2006.

The Commissioner is responsible for the preparation and true and fair presentation of the financial report in accordance with the Act. This includes responsibility for the maintenance of adequate accounting records and internal controls that are designed to prevent and detect fraud and error, and for the accounting policies and accounting estimates inherent in the financial report.

Audit Approach

I conducted an independent audit in order to express an opinion on the financial report. My audit provides *reasonable assurance* to Members of the New South Wales Parliament that the financial report is free of *material* misstatement.

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

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

Police Integrity Commission Division

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

My opinion does *not* provide assurance:

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

Audit Independence

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

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



M P Abood, CPA
Director, Financial Audit Services

SYDNEY
5 October 2006

Police Integrity Commission Division

Police Integrity Commission Division

Statement by Department Head

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

- (a) the accompanying financial statements in respect of the year ended 30 June 2006 have been prepared in accordance with the provisions of the *Public Finance and Audit Act 1983* and Regulations, the *Financial Reporting Code for Budget Dependent General Government Sector Agencies*, and the *Treasurer's Directions*
- (b) the statements exhibit a true and fair view of the financial position and transactions of the Division, and
- (c) there are no circumstances that would render any particulars included in the consolidated financial statements to be misleading or inaccurate.


T P Griffin
Commissioner
4 October 2006



Police Integrity Commission Division

Operating Statement for the Year Ended 30 June 2006

	Notes	Actual 2006 \$'000
Expenses excluding losses		
Operating Expenses		
Employee related	2	3,196
Total expenses excluding losses		<u><u>3,196</u></u>
Revenue		
Personnel services income		3,075
Acceptance by the Crown Entity of employee benefits and other liabilities	3	121
Total Revenue		<u><u>3,196</u></u>
SURPLUS/(DEFICIT) FOR THE YEAR		<u><u>0</u></u>
The accompanying notes form part of these financial statements		

Statement of Changes in Equity for the Year Ended 30 June 2006

	Actual 2006 \$'000
Other net increases / (decreases) in equity	0
TOTAL INCOME AND EXPENSE RECOGNISED DIRECTLY IN EQUITY	0
Surplus / (deficit) for the year	0
TOTAL INCOME AND EXPENSE RECOGNISED FOR THE YEAR	0
EFFECT OF CHANGES IN ACCOUNTING POLICY AND CORRECTION OF ERRORS	0
Accumulated Funds	<u><u>0</u></u>
The accompanying notes form part of these financial statements	

Police Integrity Commission Division

Balance Sheet as at 30 June 2006

	Notes	Actual 2006 \$'000
ASSETS		
Current Assets		
Receivables	4	1,125
Total Current Assets		<u>1,125</u>
Total Assets		<u>1,125</u>
LIABILITIES		
Current Liabilities		
Payables	5	135
Provisions	6	990
Total Current Liabilities		<u>1,125</u>
Total Liabilities		<u>1,125</u>
Net Assets		<u><u>0</u></u>
EQUITY		
Accumulated funds		0
Total equity		<u><u>0</u></u>

The accompanying notes form part of these financial statements

Cash Flow Statement for the Year Ended 30 June 2006

	Notes	Actual 2006 \$'000
CASH FLOWS FROM OPERATING ACTIVITIES		
Payments		
Employee related		(2,954)
Total Payments		<u>(2,954)</u>
Receipts		
Personnel services		2,954
Total Receipts		<u>2,954</u>
NET CASH FLOWS FROM OPERATING ACTIVITIES		<u><u>0</u></u>
NET INCREASE/(DECREASE) IN CASH		<u><u>0</u></u>
Opening cash and cash equivalents		0
CLOSING CASH AND CASH EQUIVALENTS		<u><u>0</u></u>

The accompanying notes form part of these financial statements

Police Integrity Commission Division

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) *Reporting entity*

Police Integrity Commission Division is a Division of the Government Service, established pursuant to Part 3 of Schedule 1 to the *Public Sector Employment and Management Act 2002*. It is a not-for-profit entity as profit is not its principal objective. It is consolidated as part of the NSW Total Sector Accounts. It is domiciled in Australia and its principal office is at 111 Elizabeth Street Sydney NSW 2000.

Police Integrity Commission Division's objective is to provide personnel services to the Police Integrity Commission.

Police Integrity Commission Division commenced operations on 17 March 2006 when it assumed responsibility for the employees and employee-related liabilities of the Police Integrity Commission. The assumed liabilities were recognised on 17 March 2006 together with an offsetting receivable representing the related funding due from the former employer.

The financial report was authorised for issue by the Commissioner of Police Integrity Commission Division on 4 October 2006. The report will not be amended and reissued as it has been audited.

(b) *Basis of preparation*

This is a general purpose financial report prepared in accordance with the requirements of Australian Accounting Standards, the *Public Finance and Audit Act 1983*, the *Public Finance and Audit Regulation 2005*, and specific directions issued by the Treasurer.

This is the first financial report prepared on the basis of Australian equivalents to International Financial Reporting Standards.

Generally, the historical cost basis of accounting has been adopted and the financial report does not take into account changing money values or current valuations. However, certain provisions are measured at fair value.

The accrual basis of accounting has been adopted in the preparation of the financial report, except for cash flow information.

Managements' judgements, key assumptions and estimates are disclosed in the relevant notes to the financial report.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency.

(c) *Comparative information*

As this is Police Integrity Commission Division's first financial report, comparative information for the previous year is not provided.

(d) *Income*

Income is measured at the fair value of the consideration received or receivable. Revenue from the rendering of personnel services is recognised when the service is provided and only to the extent that the associated recoverable expenses are recognised.

Police Integrity Commission Division

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

(e) *Receivables*

A receivable is recognised when it is probable that the future cash inflows associated with it will be realised and it has a value that can be measured reliably. It is derecognised when the contractual or other rights to future cash flows from it expire or are transferred.

A receivable is measured initially at fair value and subsequently at amortised cost using the effective interest rate method, less any allowance for doubtful debts. A short-term receivable with no stated interest rate is measured at the original invoice amount where the effect of discounting is immaterial. An invoiced receivable is due for settlement within thirty days of invoicing.

If there is objective evidence at year end that a receivable may not be collectable, its carrying amount is reduced by means of an allowance for doubtful debts and the resulting loss is recognized in the income statement. Receivables are monitored during the year and bad debts are written off against the allowance when they are determined to be irrecoverable. Any other loss or gain arising when a receivable is derecognised is also recognised in the income statement.

(f) *Payables*

Payables include accrued wages, salaries, and related on costs (such as payroll tax, fringe benefits tax and workers' compensation insurance) where there is certainty as to the amount and timing of settlement.

A payable is recognised when a present obligation arises under a contract or otherwise. It is derecognised when the obligation expires or is discharged, cancelled or substituted.

A short-term payable with no stated interest rate is measured at historical cost if the effect of discounting is immaterial.

(g) *Employee benefit provisions and expenses*

Provisions are made for liabilities of uncertain amount or uncertain timing of settlement.

Employee benefit provisions represent expected amounts payable in the future in respect of unused entitlements accumulated as at the reporting date. Liabilities associated with, but that are not, employee benefits (such as payroll tax) are recognised separately.

Superannuation and leave liabilities are recognised as expenses and provisions when the obligations arise, which is usually through the rendering of service by employees.

Long-term annual leave (ie that is not expected to be taken within twelve months) is measured at present value using a discount rate equal to the market yield on government bonds.

Superannuation and long service leave provisions are actuarially assessed prior to each reporting date and are measured at the present value of the estimated future payments.

All other employee benefit liabilities (ie for benefits falling due wholly within twelve months after reporting date) are assessed by management and are measured at the undiscounted amount of the estimated future payments.

Police Integrity Commission Division

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

The amount recognised for superannuation and long service leave provisions is the net total of the present value of the defined benefit obligation at the reporting date, minus the fair value at that date of any plan assets out of which the obligations are to be settled directly.

The amount recognised in the income statement for superannuation and long service leave is the net total of current service cost, interest cost, the expected return on any plan assets, and actuarial gains and losses. Actuarial gains or losses are recognised as income or expense in the year they occur.

The actuarial assessment of superannuation and long service leave provisions uses the Projected Unit Credit Method and reflects estimated future salary increases and the benefits set out in the terms of the plan. The liabilities are discounted using the market yield rate on government bonds of similar maturity to those obligations. Actuarial assumptions are unbiased and mutually compatible and financial assumptions are based on market expectations for the period over which the obligations are to be settled.

(h) *Accounting standards issued but not effective*

The Division is of the opinion that the following new Australian Accounting Standards issued but not effective would not have significant impact on its financial statements. The standards apply to annual reporting periods beginning on or after 1 January 2006 -

- AASB 7 Financial Instruments Disclosure (issued August 2005)
- AASB 2004-3 Amendments to Australian Accounting Standards (issued December 2004)
- AASB 2005-1 Amendments to Australian Accounting Standards (issued May 2005)
- AASB 2005-5 Amendments to Australian Accounting Standards (issued June 2005)
- AASB 2005-9 Amendments to Australian Accounting Standards (issued September 2005)
- AASB 2005-10 Amendments to Australian Accounting Standards (issued September 2005)
- AASB 2006-1 Amendments to Australian Accounting Standards (issued January 2006)

Police Integrity Commission Division

Notes to and forming part of the Financial Statements for the year ended 30 June 2006

2. EXPENSES EXCLUDING LOSSES – EMPLOYEE RELATED EXPENSES

	2006 \$'000
Salaries and wages (including recreation leave)	2,639
Superannuation–defined benefit plans	28
Superannuation–defined contribution plans	213
Long Service Leave	92
Workers' compensation insurance	31
Payroll tax and fringe benefits tax	176
Other	17
	<u>3,196</u>

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

Superannuation–defined benefit plans	28
Long Service Leave	92
Payroll tax on superannuation	1
	<u>121</u>

4. RECEIVABLES

Prepayments	96
Personnel services	1,029
	<u>1,125</u>

5. ACCOUNTS PAYABLE

Accrued salaries and wages	39
Creditor	96
	<u>135</u>

6. PROVISIONS**Employee benefits and related on-costs**

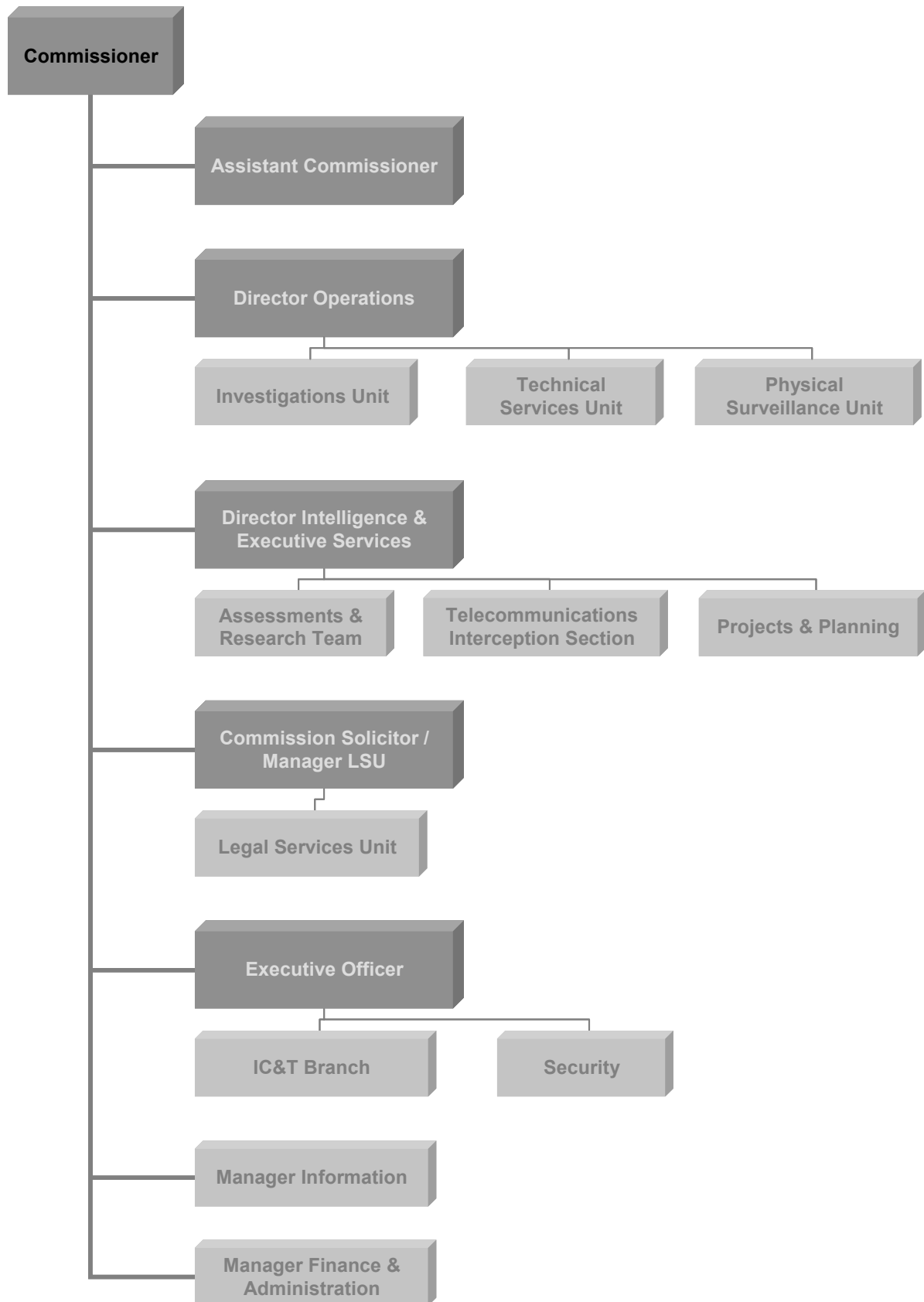
Recreation leave	764
Long service leave on-cost	161
Payroll tax and fringe benefit tax	65
	<u>990</u>

7. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

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

End of audited financial statements.

APPENDIX 8 – ORGANISATION STRUCTURE



APPENDIX 9 – DIRECTORY, PUBLICATIONS AND PRINTING REQUIREMENTS

DIRECTORY

Address:

Level 3, 111 Elizabeth Street
SYDNEY NSW 2000

Postal Address:

GPO Box 3880
SYDNEY NSW 2001

Website:

www.pic.nsw.gov.au

Telephone Enquiries:

Telephone: (61 2) 9321 6700
Freecall: 1800 657 079
Facsimile: (61 2) 9321 6799

Office Hours:

8.30am – 5.00pm

PUBLICATIONS

The Commission's publications fall into the following categories:

- reports to Parliament following an investigation which involved public hearings (subs96(2))
- special reports to Parliament on any administrative or general policy matter relating to the functions of the Commission (s98)
- annual reports
- brochures concerning the making of a complaint in regard to serious police misconduct.

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

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

Publication Name	Publication Date
Report to Parliament, Operation Abelia	September 2005
Report to Parliament, Operation Cobalt	December 2005
Report to Parliament, Operation Whistler	December 2005
Report to Parliament, Operation Sandvalley	February 2006
Annual Report 2004-2005	October 2005

ANNUAL REPORT COSTS

Total External Costs: \$6820 (including GST)

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