

PARLIAMENT OF NEW SOUTH WALES



COMMITTEE ON THE ICAC

**GENERAL MEETING
WITH THE
COMMISSIONER
OF THE ICAC**

30 NOVEMBER 2001

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Committee Membership

Legislative Council

The Hon J Hatzistergos MLC
Chairperson

The Hon D Oldfield MLC

The Hon G Pearce MLC

Legislative Assembly

Mr J Price MP
Vice-Chairperson

Mr M Brown MP

Mr A Fraser MP

Mr K Hickey MP

Dr E A Kernohan MP

Mr G Martin MP

Ms A Megarrity MP

Mr M Richardson MP

Secretariat

Ms H Minnican - Committee Manager
Ms H Parker - Committee Officer

Mr S Frappell - Project Officer
Ms N O'Connor - Assistant Committee Officer

Committee Functions

Independent Commission Against Corruption Act 1988

- “64 (1) The functions of the Joint Committee are as follows:
- (a) to monitor and to review the exercise by the Commission of its functions;
 - (b) to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission or connected with the exercise of its functions to which, in the opinion of the Joint Committee, the attention of Parliament should be directed;
 - (c) to examine each annual and other report of the Commission and report to both Houses of Parliament on any matter appearing in, or arising out of, any such report;
 - (d) to examine trends and changes in corrupt conduct, and practices and methods relating to corrupt conduct, and report to both Houses of Parliament any change which the Joint Committee thinks desirable to the functions, structures and procedures of the Commission;
 - (e) to inquire into any question in connection with its functions which is referred to it by both Houses of Parliament, and report to both Houses on that question.
- (2) Nothing in this Part authorises the Joint Committee:
- (a) to investigate a matter relating to particular conduct, or
 - (b) to reconsider a decision to investigate, not to investigate or to discontinue investigation of a particular complaint, or
 - (c) to reconsider the findings, recommendations, determinations or other decisions of the Commission in relation to a particular investigation or complaint.”

Chairman's Foreword

On 30 November 2001, the Committee held its second General Meeting with Commissioner Irene Moss and her senior officers at the Independent Commission Against Corruption (ICAC). The Committee meets regularly in public with officers of ICAC in accordance with the Committee's statutory role under section 64 of the *ICAC Act* to monitor and review the general functioning of the Commission.

At the meeting, Commissioner Moss and her staff tabled responses to Committee questions on notice provided prior to the meeting. In addition, ICAC officers responded to a number of issues at the meeting, and took several additional questions on notice. This enabled the Committee to obtain a great deal of useful information about the activities and management of the Commission, which I am pleased to place on the public record.

ICAC is currently going through a significant period of reform and consolidation, in particular as a result of the Functional and Investigative Capacity Reviews undertaken by the Commission. In addition, the Committee notes that ICAC has implemented important new initiatives in terms of recruitment and staff development, operational practices, investigations and reporting, and corruption prevention and education. The Committee is fully supportive of ICAC in these initiatives, and will continue to monitor developments with interest. Additional details are provided in the commentary section of this report.

The commentary section also includes additional material on two matters of particular concern to the Committee: the Sydney Ferries investigation and the availability of firearms to ICAC investigators.

The Sydney Ferries investigation was conducted by ICAC between 1997 and 1999. During the investigation, ICAC found clear evidence of corrupt conduct, but was unable to support a prosecution of the individuals involved, due in part to a lack of coordination between ICAC and the NSW Police in collecting admissible evidence. The Committee has received a number of undertakings from ICAC to address the Committee's concerns in this regard, and makes a further recommendation in relation to ICAC's reporting of its investigations in this report.

The availability of firearms to ICAC investigators is currently the subject of consideration by an internal working group at ICAC. The Committee is aware that ICAC investigators have expressed their preference to continue to have access to firearms. However, the Committee is of the opinion that there is no case for firearms being available to ICAC investigators, on the basis that police officers should lead the execution of any search warrant that involves potential risks. The Committee would like to see this matter resolved, pending the resolution of a successful arrangement for ICAC to make use of police officer support at the local area or specialist command level.

I would like to thank Commissioner Moss and her staff for their cooperation and assistance in providing a large amount of material to the Committee. My thanks also

to members of the Committee for their contribution, and the assistance of the Committee Secretariat.

The Hon John Hatzistergos MLC
Chairman

Commentary

The period since the previous General Meeting with the Commissioner has involved significant reform and development for ICAC. During this time, a number of external reviews were commissioned by ICAC to examine its functions, investigative capacity, management and performance. The Committee commends ICAC for opening its operations to such external scrutiny, the outcome of which is discussed below.

ICAC also made considerable progress over the past year in assessing its performance and in its corruption prevention work, for example, in relation to the Rural and Regional Outreach Strategy, local government and e-Corruption. Through these reforms and initiatives, ICAC is working towards securing a more strategic, proactive and integrated approach across the organisation to the detection, investigation and prevention of corruption in the New South Wales public sector.

Functional and Investigative Capacity Reviews

During late 2000 and early 2001, ICAC engaged external consultants to conduct a Functional Review of ICAC. ICAC also approached the NSW Police Service to undertake a complementary review of ICAC's investigative capacity (the Investigative Capacity Review - ICR).

The Commissioner provided the reports produced as a result of each review to the Committee on a confidential basis in March 2001. The Commissioner has emphasised that the ICR assessment involves a significant amount of operation detail and, therefore, should be handled with 'the utmost sensitivity and confidentiality'. Evidence on the reports was taken from the Commissioner and senior management of ICAC in camera on 30 August 2001.

The Committee notes that ICAC has responded positively to the structural changes recommended in the review reports, in order that ICAC can extend its existing capacity and become more strategic in its corruption work.

For example, the reviews highlighted the need for improved information management systems. In particular, they highlight instances where IT had restricted operations and internal performance reporting, and the inability of staff to link or integrate disparate information holdings.

Accordingly, ICAC is implementing an Information Management and Technology Strategic Plan to maximise both the Commission's investigative capacity and the efficiency of its procedures and systems. Strategies to implement the plan are currently being mapped out.¹

¹ Answers to Questions on Notice p 9

Similarly, the development of the Commission's intelligence capacity is being addressed through a new Strategic Risk Assessment Unit, which will expand ICAC's capacity to 'identify existing corruption risks and anticipate emerging ones'.² The Committee will follow the unit's progress with interest.³

Prior to the functional and investigative capacity reviews, the ICAC Committee had resolved to conduct a performance audit and management review of ICAC.⁴ However, in light of the two reviews commissioned by ICAC, and the findings arising from the reviews, the Committee considers that it would not be a worthwhile use of resources to undertake an independent review of the few issues not examined during the Functional and Investigative Capacity Reviews. In the opinion of the Committee, the two reviews are detailed and wide-ranging and the most productive course would be to monitor ICAC's response to the recommendations arising from the reviews.

Recruitment, Staff Training and Development

In order to accommodate the major changes taking place flowing from the Functional and Investigative Capacity Reviews, the Commission has begun to recruit new staff with specialist skills, and plans to enhance the skills of existing staff by implementing training and development programs. In its response to questions on notice, ICAC indicated that it has taken a number of steps to expand its skill base, including:

- 1) The recruitment of staff with specialist expertise to the investigations area, including the recruitment of three financial investigators;
- 2) The development of a new Strategic Risk Assessment Unit, to enhance focus on operational strategy and risk management;
- 3) The streamlining of the corporate services area from seven units into three; and
- 4) The implementation of an enhanced structural training and development program in the next year, aimed at improving skills in risk assessment and

² Transcript, General Meeting, 30 November 2001 p 2

³ Answers to Questions on Notice p 13

⁴ The Committee on the ICAC recommended in its report entitled, *The ICAC: Accounting for Extraordinary Powers* (May 2000), that the ICAC be the subject of an independent performance audit conducted by the Audit Office. Upon considering correspondence from the Auditor-General to the Treasurer, dated 1 August 2000, concerning the anticipated cost of a special audit, the Committee resolved on the need to tender for the performance audit and management review (Committee meeting 11/10/00). Confirmation was sought from the Treasurer that sufficient funding would be made available to engage a consultant to perform the audit. It was resolved that, subject to available funding, a Steering Committee would be formed and that a meeting of Committee representatives, the ICAC Commissioner and senior management of the ICAC, would be organised to discuss the audit specifications and the process for conducting the audit. The Treasurer advised the Committee on 1 November 2000 that supplementation would be made available by the Legislature to meet the cost of a consultant performing an audit of the ICAC. In the interim, the ICAC decided to commission an Investigative Capacity Review and a Functional Review to complement the audit and review proposed by the Committee. The Committee resolved on 27 November 2000 to defer finalisation of the draft specifications, pending further consideration of the implications of the ICAC's two reviews.

management, strategic planning, project management, financial investigations and strategic analysis.⁵

In addition, Commissioner Moss indicated in the General Meeting that as a result of the investigations into the National Parks and Wildlife Service and the University of Technology Sydney, the Commission has employed investigators with specific computer forensic skills.⁶

The Committee will follow the course of these steps with interest.

Quality Assurance

Following the reviews and audits which have been undertaken, the Committee notes that an external review has been conducted into the Commission's reporting to the Operations Review Committee. The review highlighted a number of quality control issues regarding preparation of submissions, reporting and other papers for use by members of the Operations Review Committee, particularly in relation to timeliness.

In its response to questions on notice, ICAC indicated that a number of changes have taken place in response to the review's recommendations. For example, to address the issue of timely reporting to the Operations Review Committee, staff have been reminded of the Commission's requirements regarding reporting to the committee. To ensure the quality of reports to the Operations Review Committee, the Principal Lawyer will review all papers intended for the committee.⁷

Procurement Policies and Procedures

The *2000 ICAC Annual Report* indicated that a review of procurement policies identified opportunities for improvement to the Commission's own procurement practices, and that as a result, new procurement policies and practices, and a contracts database, had been developed.

The Committee sought further information on this review, and was informed that the Executive Director Corporate Services commissioned the review following a survey of past procurement records. The review indicated deficiencies including absence of documentation to support decisions on ongoing contracts, renewal of expired contracts on a month to month basis, failure to assess the reasonableness of price increases by suppliers, and failure to properly review and document contracts, service agreements and payments.

To address these issues, ICAC has taken a number of steps. These include the development of a new set of delegations that make a clear separation between the authority to incur expenditure and to authorise payments, the creation of a corporate database to monitor all Commission contracts, and the provision of relevant training for Commission officers. The position of contract officer has now been established to support the administration of these new procurement policies and procedures.⁸

⁵ Answers to Questions on Notice p 8

⁶ Transcript, General Meeting, 30 November 2001 p 1

⁷ Answers to Questions on Notice p 13

⁸ Answers to Questions on Notice pp 20-21

Overseas Travel Acquittal Policies

During 2000-2001, the Commission's Internal Audit Bureau undertook an internal audit program which reviewed:

- travel expenditure;
- income processes;
- purchase, creditors and expenditure systems;
- tendering and contracting processes;
- search warrant policy compliance processes;
- firearm policy compliance processes;
- prohibited weapons policy compliance processes;
- motor vehicle usage;
- the Operations Review Committee; and
- leave transactions and balances.⁹

The Committee specifically raised overseas travel expenditure in its questions on notice. In particular, in the light of information supplied to the Committee concerning overseas travel undertaken by the former Commissioner, Commissioner O'Keefe, the Committee sought information whether the Commission observes official overseas travel guidelines for the public sector.

In its response, ICAC indicated that in the last year:

- Overseas travel has been by economy class, with one exception where the fare for business class travel was paid for by the host organisation (the Dutch Ministry for Justice);
- Bookings have been made through the Government's contract travel manager (ie. Qantas) unless the travel has been arranged by overseas conference organisers;
- Only the approved accommodation, meal and travel allowances have applied;
- A full submission was made to the Commissioner prior to any approval for travel or bookings being made. All proposals for overseas travel had to secure the Commissioner's approval. Such proposals had to detail the benefits to the Commission of the officer attending and the costs involved;
- Upon return, each officer has been required to present a full report to the Commission on the information and benefits gained from the trip. Usually the officer has also been asked to make a presentation to other relevant staff.

In addition, ICAC also confirmed that overseas travel undertaken by staff of the Commission is the subject of formal reporting. That includes an initial submission setting out in detail the benefits to be gained from the travel and seeking approval for the trip, a full report on return as discussed, and details of each overseas trip reported in the Commission's Annual Report each year.¹⁰

⁹ Answers to Questions on Notice p 22

¹⁰ Answers to Questions on Notice p 24

The Sydney Ferries Investigation

The Committee wishes to finalise a matter from its General Meeting of 12 November 1999. It relates to ICAC's report of 1 October 1999 entitled *Investigation into Sydney Ferries: Dishonest Creation and Use of Live Tickets by Former Staff of Sydney Ferries at Manly Wharf from 1994 to 1997*.

This report dealt with ICAC's investigation into allegations that a number of employees of Sydney Ferries manipulated the ticket selling machines at Manly Wharf to produce tickets that could be sold to the general public, but which were not recorded by the ticketing system as sold tickets.

In its report, the Commission found that five employees of Sydney Ferries had engaged in corrupt conduct within the definition of sections 8.(1) and (2) of the *ICAC Act*. This was based on incriminating evidence the five employees gave to ICAC subject to orders made pursuant to sections 37 and 38 of the *ICAC Act*.

However, ICAC recommended against criminal prosecution of the five employees involved, based on a lack of admissible evidence. Importantly, the evidence obtained subject to orders made pursuant to sections 37 and 38 of the *ICAC Act* was not admissible. Section 37(3) states that:

An answer made, or document or other thing produced, by a witness at a hearing before the Commission is not (except as otherwise provided in this section) admissible in evidence against the person in any civil or criminal proceedings or in any disciplinary proceedings.

At the same time, the Sydney Ferries schedule of reject tickets, which was admissible, did not offer any proof that the logged-on employee was the employee that in fact created, sold and claimed money for the false tickets.¹¹

Based on the lack of admissible evidence, ICAC considered that without the benefit of an admission, it would not be possible to find beyond reasonable doubt that the five employees had engaged in corrupt conduct. As stated by the former Commissioner of ICAC, Commissioner O'Keefe, at the release of the report:

If Sydney Ferries wanted to pursue this and referred it to the police to investigate and got evidence beyond our hearings, they should be prosecuted. The question is getting the evidence.¹²

At the General Meeting of 12 November 1999, the Committee raised with former ICAC Commissioner O'Keefe, the failure of ICAC's investigation to support a prosecution. In particular, the Committee suggested that it was unlikely that the police could ever obtain an admission of corrupt conduct from the five individuals involved following the publicity given to the Committee's report and Commissioner O'Keefe's press statement.

¹¹ The Committee notes that ICAC's attempt in May 1997 to obtain admissible evidence through the use of covert surveillance cameras was discovered by Sydney Ferries personnel and discontinued.

¹² AAP Tuesday, 19 October 1999

In response, Commissioner O'Keefe argued that had there been no ICAC investigation, the individuals involved would still have refused to provide the police with admissible evidence. Put simply, he argued that they were just as likely to refuse to answer police questions before the release of the Commission's report as after it.¹³

The Committee does not agree with this assessment. It is the view of the Committee that in the circumstances, ICAC's public release of the report diminished the likelihood of the police ever being able to obtain admissible evidence against the five employees. Quite simply, the premature disclosure of the evidence against the five employees prejudiced any further investigation. Indeed it is noteworthy that no action has been taken since the release of the report.

As it is, the NSW Police Service withdrew from the Sydney Ferries inquiry following the decision of ICAC to undertake the investigation in April 1997. The Committee received correspondence from the former Minister for Police, the Hon Paul Whelan, that there was no further liaison on this matter between ICAC and the NSW Police Service.

The Committee is not satisfied that in conducting this investigation, ICAC exhausted all avenues of obtaining admissible evidence. Furthermore, this problem has arisen before, a good example being the Commission's investigation leading to its report on the conduct of George Bertocello of Lane Cove Council.

In the Committee's opinion, the Sydney Ferries investigation is a clear example of an investigation warranting greater cooperation between ICAC and the NSW Police Service. The Committee notes in this regard that in its response to questions on notice, ICAC indicated that it has undertaken a number of joint investigations with the NSW Police Service in recent times.

Commissioner O'Keefe also cited in defence of the actions of ICAC the deterrence value of the investigation. He stated that as a result of ICAC's involvement, the five employees had resigned from Sydney Ferries, and others who might act in a similar manner had been warned of the possibility of investigation and exposure. At the same time, Sydney Ferries had moved to prevent further abuses through the introduction of a new ticketing system.

The Committee readily acknowledges these points, and recognises that a primary role of ICAC is the public exposure of corruption with its associated benefits. Nevertheless, this role should be balanced with ICAC's task of wherever possible assembling admissible evidence for the prosecution of individuals who have committed criminal offences.

Given these concerns, the Committee is pleased to note that at its General Meeting with ICAC on 30 November 2001, Commissioner Moss indicated that ICAC is placing increased emphasis on the compilation of admissible evidence during investigation with a view to possible prosecutions.¹⁴

¹³ Transcript, General Meeting, 12 November 1999 pp 26-28

¹⁴ Transcript, General Meeting, 30 November 2001 p 20

ICAC also made this point in its response to questions on notice, noting in particular that it is placing additional emphasis on the collection of admissible evidence prior to the conduct of public hearings.¹⁵ Furthermore, ICAC also indicated that initial impressions of its increased focus on prosecutions have been encouraging. Since the General Meeting in 2000, the Director of Public Prosecutions has approved a number of prosecutions arising from Commission investigations for the previous reporting year.¹⁶

The Committee also notes ICAC's undertaking in correspondence to the Committee, dated 4 April 2000, to include information on investigations, such as prosecutions arising from investigations, in its Annual Reports. The Committee commends ICAC for responding to the views of the Committee on this matter, but makes the following recommendation.

The Committee recommends that following investigations where ICAC obtains inadmissible evidence under compulsion in public hearings without having first obtained admissible evidence, ICAC provide an explanation in the investigation report why it was unable to obtain admissible evidence.

In questions placed on notice prior to the General Meeting of 30 November 2001, the Committee also sought advice from ICAC on the delay in the Sydney Ferries investigation between notification of a s.11 complaint on 25 February 1997 and the release of the ICAC report in October 1999.

In response, ICAC indicated that investigations are now the subject of a range of internal oversight processes, including a number of processes to ensure a timely investigation:

- Monthly reporting to the Operations Review Committee;
- Fortnightly reporting to the Operations Management Committee;
- Weekly meetings of the management team of Strategic Operations; and
- Regular quality assurance monitoring by the Operations Adviser.

In addition, ICAC indicated that the Executive Director of Strategic Operations has implemented a statistical analysis of workflow each month, which can track the progress of current formal and preliminary investigations.

Finally, the Committee acknowledges that part of the delay in the Sydney Ferries investigation was attributable to the outsourcing of analysis of data pertaining to ticket sales at Manly Wharf. As before, the Committee understands that ICAC has now acquired direct access to data analysis skills through the recruitment of three financial investigators.¹⁷

¹⁵ In public hearings, evidence is usually given under objection, rendering it inadmissible in later criminal proceedings.

¹⁶ Answers to Questions on Notice p 4

¹⁷ Answers to Questions on Notice pp 2-3

Commission Reporting and Public Hearings

During the 2000-2001 reporting period, the Commission formally investigated a number of matters that did not involve public hearings. Indeed, on three occasions, ICAC submitted reports to Parliament that were the subject of private hearings, but were not the subject of public hearings.

In its questions on notice, the Committee raised with ICAC the circumstances under which reporting to Parliament on a matter that did not involve a public hearing would be considered appropriate by ICAC.

In response, ICAC indicated to the Committee that two of the matters raised were reported in the 1999-2000 Annual Report. In the tabling letter to the 1999-2000 Annual Report, it was stated that it would be the practice of the Commission to use Annual Reports to report on those matters involving private hearings that contained issues of public interest, but did not merit a stand-alone report.

The third report was the Commission report entitled *Report on Investigation into Aspects Connected with an Alleged Indecent Assault at Parliament House on 14/15 September 2000*.

In its response to the Committee's question on notice, ICAC stated that the investigation was not the subject of public hearings because such hearings were not in the public interest. This was because of considerations relating to the integrity of the investigation, the desire to preserve the anonymity of the woman involved in the allegation of assault, and later, the paucity of support for allegations of a cover-up following the alleged assault.

At the same time however, ICAC indicated that the decision to publicly report on this matter was taken because of the publicity given to the allegation of a cover-up and the subsequent ICAC investigation. In addition, ICAC indicated its belief that it should publicly account for the conduct of investigations and the resultant findings.

ICAC further noted that in 2001-2002, another matter, the Investigation into the making of a Ministerial Statement to the Legislative Assembly on 10 April 2001, was reported publicly although it was not the subject of public (or indeed private) hearings. Again, ICAC indicated that the decision to report publicly was taken because the investigation was the subject of considerable controversy, and ICAC's involvement was widely recognised. In addition, ICAC felt that it should account for the findings made as a result of the investigation.¹⁸

The Commission's *Report on an Investigation into Matters Arising from a Ministerial Statement to the Legislative Assembly on 10 April 2001* and its *Report on Investigation into Aspects Connected with an Alleged Indecent Assault at Parliament House on 14/15 September 2000* were also raised during the General Meeting by Mr Michael Richardson MP in relation to the political affiliations of the senior ICAC

¹⁸ Answers to Questions on Notice pp 6-7

investigators on each case. Subsequently, the matter also received some coverage in the media.

In regard to this issue, the Committee notes that senior ICAC officers are required to declare any political interests that would preclude them from involvement in an investigation. At the same time, the Committee has no evidence of political bias amongst any officers of ICAC involved in the compilation of the above two reports. Furthermore, the Committee makes no allegations of any such bias.¹⁹

The Carrying of Firearms by ICAC Investigators

During the General Meeting on 30 November 2001, the Committee raised the carrying of firearms by ICAC investigative officers during the execution of search warrants. Currently, ICAC has 20 firearms, which are issued on a case by case basis according to an assessment of the possible risk.²⁰

This issue of access to firearms for ICAC investigators falls within the broader issue of the availability of police powers to ICAC investigators. In the Committee's Report No 3 of the 52nd Parliament dated 19 October 2000, the Committee recommended against the conferring of police powers on civilian investigators at ICAC. Concurrently however, the Committee recommended that:

the Commission and the Police Service attend a round table conference convened by the Committee to discuss means of minimising any problems experienced by the Commission in conducting its operations within the statutory framework currently imposed on its use of police powers under the *ICAC Act 1988*.

This round table conference was conducted on 31 January 2001. At the conference, two options were discussed to allow for the involvement of police officers in the execution of ICAC search warrants. The first was the continued secondment of NSW police officers to ICAC under section 101B of the *ICAC Act*. The second was the establishing of a pool of 10-20 pre-vetted senior police officers "on call" for assisting in the execution of search warrants. This second option would negate entirely the need for firearms to be kept on ICAC premises.

The Committee wrote to Commissioner Moss on 17 January 2002 seeking an update on the negotiations arising from the round table discussion. Commissioner Moss replied on 29 January 2002.

In her correspondence, Commissioner Moss informed the Committee that ICAC currently has three officers on secondment from the NSW Police Service. However, the Commissioner argued that it is unreasonable and unduly risky to expect those seconded officers alone to provide the equivalence of police support during high risk operations. The Committee agrees with this position.

¹⁹ Transcript, General Meeting, 30 November 2001 p 5, 10

²⁰ Transcript, General Meeting, 30 November 2001 p 14

At the same time, the Committee was informed that following the round table conference, formal negotiations between ICAC and the NSW Police Service broke down in relation to the development of a pool of 10-20 pre-vetted senior police officer who would be “on call” to ICAC. This was because of differences relating to the cost of meeting the stand-by allowances of the officers, together with the rigidity of the proposed arrangements, including the availability of officers for execution of warrants outside Sydney.

However, with the secondment of Mal Brammer to ICAC as Executive Director, Strategic Operations, ICAC has now begun to approach appropriate local area or specialist command police services to provide operational support for Commission investigative officers as required. Initial discussions to formalise this arrangement with NSW Police have been undertaken with the Senior Deputy Commissioner, and will continue in February 2002.

Pending the successful formalisation of an arrangement for ICAC to make use of police support at the local area or specialist command levels, the Committee believes that there is no case for firearms being available to ICAC investigators. Fundamentally, as indicated by Commissioner Moss during hearings, the strong preference of the Commission is that police officers should lead the execution of any search warrant that involves potential risks. The Committee supports the Commissioner in this position.

The Committee is aware that investigative officers of ICAC have expressed concern that they are no longer allocated firearms on the execution of every search warrant, and that furthermore, this matter is currently the subject of consideration by an internal working group, with input and advice from WorkCover officers. However, in support of its opposition to the issuing of firearms to ICAC investigators, the Committee notes the operation of other commissions of inquiry in Australia.

The Queensland CMC does not issue firearms to its investigative officers. During the execution of search warrants that pose a potential risk, CMC investigators are accompanied by armed officers of the Queensland Police, on secondment to the CMC. These officers use their own firearms, which are licensed and maintained by the police service.

Similarly, the Committee notes that the NCA in NSW currently has approximately 50 investigative officers on secondment from the NSW, Tasmanian or Federal Police, who have access to their firearms from their respective services. The NCA in NSW has only two contract investigative officers, who are not entitled to carry firearms.

By contrast, the NSWCC does issue firearms to five of its investigators for the execution of potentially risky search warrants. Again however, the preference of the NSWCC is for the police to execute any dangerous search warrants, and for NSWCC investigators only to enter a premises once it has been secured by the police.

Corruption Prevention and Education

Procurement and disposal continues to be the single largest area of corruption and prevention advice work for the Commission. Two trends have become evident in recent times. The first is the increased effort being expended by public authorities on the tendering and selection process, including consideration of conflicts of interest and secondary employment.

The second is an apparent displacement of the corruption risk from the selection stage to the administration stage. A good example is the contract administration issues that arose during the investigation into Liverpool Council as reported by the Commission in *Creating Corruption Resistant Contracts: Key Issues from the ICAC's Examination of the Conduct of Two Liverpool City Council Contractors*.²¹

The Committee is pleased to note that given the trend towards increased risk of corruption at the administration stage, the Commission is taking active steps to raise awareness of this issue. In particular, the Committee notes the Commission's publication in September 2001 of *Taking the Con out of Contracting: Guidelines for Managing Corruption Risks in Local Government Procurement and Contract Administration*. Various sections of ICAC such as investigations, research, corruption prevention and education all had input into this publication. Externally, ICAC consulted key stakeholders, including the Ombudsman, Department of Local Government and municipal councils. ICAC reports that the reaction to the document has been positive, with municipal councils requesting assistance with training.

Other recent ICAC initiatives in relation to corruption prevention include a Symposium on eCorruption in May 2001 which ICAC Committee members attended and found informative, timely and relevant. Four workshops will be held to focus on the particular risks which eCorruption poses. ICAC also launched its Rural and Regional Outback Strategy (RAROS) in 2001, visiting Broken Hill in June and Lismore in November. ICAC advises that the links with communities formed during these visits engender a positive identity for ICAC, educating both the general public and government agency and council employees in the work ICAC does and in strategies and statutory requirements for fighting corruption. In addition, such initiatives create useful avenues for feedback to ICAC on its work as well as possible corruption risks.

The Commission has also been refining its corruption resistance review (CRR) process. The CRR is a tool which assists agencies to pinpoint areas where they can improve their corruption resistance strategies. CRRs are a component of the RAROS program and reviews have been conducted at universities and councils. As well as assisting the agencies under review, the CRRs are a valuable source of information for ICAC in the development of corruption prevention strategies.

²¹ Answers to Questions on Notice p 13

The Relocation of the Commission

The Committee sought advice from the Commission in its questions on notice on the relocation of the Commission to Castlereagh Street. In particular, the Committee sought information on the likely benefits of the move to the Commission.

In response, ICAC indicated that it conducted an internal review of the long-term accommodation needs of the Commission in 2000, which identified the need for improved functionality in the Commission's physical environment, greater space efficiency and increased staff safety. For example, the bulk of the Commission's investigators are currently crowded into a single floor, while the ground floor contains a number of hearings and interview rooms which are only occupied on occasions.

ICAC further noted that the cost of refurbishing the Commission's current premises to achieve the necessary improvements in functionality would be at least \$1.8 million, with associated disruption and inconvenience during the work.

By contrast, ICAC indicated that the cost of relocating the Commission to Castlereagh Street is in the order of \$1.4 million, including the purchase of the existing fit-out for \$720 000 (it cost \$4 million several years ago). The current fit-out, including communications and security, is of such a high standard that minimum changes are required by the Commission.

ICAC further argued that the central location of the new premises will enable far easier access for both staff and visitors, particularly for the disabled and those relying on public transport. In addition, it suggested that physical proximity will improve relationship with other peer agencies such as the Police Integrity Commission, the NSW Police Service, the Crime Commission, the NSW Ombudsman, the Audit Office and the National Crime Authority.²²

Conclusion

The Committee considers that ICAC is currently undergoing a significant period of reform and consolidation in terms of how it gives effect to its legislative mandate. The Committee is fully supportive of the directions being taken by ICAC in this process and will continue to monitor developments in all areas of ICAC's operations.

Given the scope of the Functional and Investigative Capacity Reviews undertaken by ICAC, the Committee does not propose to conduct its previously planned performance audit and management review. Nor does the Committee intend to conduct a review encompassing the outstanding issues not dealt with in the Functional and Investigative Capacity Reviews. Such issues include risk assessment and management, performance reporting, the Operations Review Committee and complaint resolution.

With regard to performance reporting, representatives of the Committee participated in a steering committee which reviewed ICAC's performance indicators. ICAC subsequently formulated new key performance indicators and will report against

²² Answers to Questions on Notice pp 26-27

these in future annual reports. The other remaining issues are being addressed by ICAC as part of its agenda for change and the Committee considers there to be sufficient scope for reviewing these aspects of ICAC's work through the Committee's regular activities, in particular, General Meetings. The latter will form the key vehicle through which the Committee will examine and monitor ICAC's implementation of the changes recommended in the review reports, and evaluate their impact.

Questions on Notice

1 Investigations

1.1 Manly Ferry Wharf investigation – In February, the Committee sought advice from the Minister for Police on a number of matters relating to liaison between the NSW Police Service and the ICAC generally and, specifically, in relation to the Manly Ferry Wharf ticket fraud investigation. The Minister advised that there is extensive contact and cooperation between the Police Service and the ICAC although no formal protocol exists. Liaison occurs on a case by case basis.

i Does the Commissioner consider these arrangements to be satisfactory?

These arrangements afford the ICAC and the NSW Police Service the flexibility to respond to given situations on a case by case basis. It has been the Commission's recent experience that joint investigations will at times involve specialist units and/or Local Area Commands. In these situations, it is important to establish formal operational agreements between the Commission and the particular unit or command to deal with the circumstances of the particular situation.

The ICAC will also adopt a similar approach with other law enforcement agencies when conducting joint investigations or drawing upon specialist resources to assist in Commission investigations. The value of formal agreements is that they clearly identify the roles and responsibilities of each agency and the manner in which services will be provided in the particular situation.

More generally, the secondment of Commander Mal Brammer from the Police Service as the Executive Director, Strategic Operations has provided the Commission with the opportunity to further establish closer operational relationships with the Service. In addition, there have been a number of matters in recent months where there has been healthy cooperation between the Service and the Commission in respect to the exchange of valuable information and the successful conduct of joint inquiries.

Until there is an identified need to develop a formal high level protocol, the Commission will continue to build upon and further the co-operational relationship it enjoys with the Service and other agencies.

ii In what circumstances would the Commission consider conducting joint investigations or task forces with the NSW Police Service?

The Commission would consider conducting joint investigations and/or strike forces with the Police Service where an investigation into possible corrupt conduct indicates or identifies criminal behaviour not limited to issues associated with public sector

corruption and/or where there are concerns in regards to the safety of individuals or the community generally. These are the circumstances in which the Commission has worked with the Police Service in recent times, where the Commission and the Police Service have worked co-operatively, using their respective powers to maximum effect.

These situations have pointed to the potential benefits for both the Commission and the Police Service from adopting a co-operative approach in operational matters. In one instance, which is now being actively pursued by police, the Commission was able to use its powers to obtain a statement from a public official regarding possible corrupt conduct. The statement indicated criminal conduct by a range of persons, and was given to the Police Service to pursue. It is unlikely that the criminal allegations would have surfaced without the Commission using its powers in this situation. Should the timing of any conclusion to this matter permit, it will be reported more fully in the Annual Report for 2001-2002.

The Commission has also worked closely with a number of Local Area Commands, on operational matters, where there was possible criminality associated with or tangential to the corrupt conduct under investigation. In each case formal investigative agreements were developed where the Commission took the lead role initially. As these matters progressed, and more serious criminal conduct was established, the Commission relinquished the lead role. However, this has not affected the ability of the Commission to successfully progress its investigations in regards to these targets of mutual interest, and for the Service to investigate and prosecute offenders. No doubt in the future, there will be occasions where the Service will need to take the lead role until it cedes ground either fully or partially to ICAC.

1.2 Advice also was sought from the Commissioner of the ICAC, who provided a timeline for the investigation. This shows that the s.11 complaint was received from the STA on 25 February 1997 and that the STA conducted an internal investigation. The Commission's report on its subsequent investigation was issued in October 1999.

i What measures does the Commission take to prevent excessive delays in investigations and is the Commission able to track the lapsed turnaround times for different stages of an investigation?

Investigations conducted by ICAC are now subject to a range of internal oversight processes, with timeliness of progress tracked through:

- Monthly reporting to the Operations Review Committee;
- Fortnightly reporting to the Operations Management Committee;
- Weekly meetings of the management team of Strategic Operations; and
- Regular quality assurance monitoring by the Operations Advisor.

The Executive Director, Strategic Operations has also implemented a statistical monthly workflow analysis for each of the Units. In particular, this analysis tracks the timeframes for current formal and preliminary investigations. As an example of the

tracking of timeframes, the analysis for October 2001 indicates that only two current formal investigations have been underway for more than nine months. To give an idea of the complexity of the matters under investigation that necessitates this length of time, one of these matters is the investigation into the conduct of officers of the NSW Grains Board, which has been the subject of public hearings.

It should also be noted that the delay in the investigation of the Sydney Ferries matter arose, in part, from an extensive external analysis of part of the documentation. The financial investigation and analysis skills required for this sort of exercise had to be outsourced at the time. The Commission has now acquired these skills through the recruitment of three financial investigators. Having access to these sorts of technical skills internally will enable the Commission to have greater control over the timeframes of an investigation.

Timeframes for the reporting of investigations involving public hearings have also been established, with an expectation that matters will be reported to Parliament within three months of closing submissions to the hearing Commissioner.

ii Is this an area to be monitored by the Operations Advisors (ie ICAC Chief investigators) proposed by the Commission to provide a focus on strategic planning and quality assurance throughout the course of an investigation?

The Operations Advisor position has been established to provide a quality assurance function for the Commission's investigations. The Operations Advisor facilitates the initial strategic planning process for formal investigations, involving key areas of the organisation (investigators, analysts, financial investigators, legal officers and corruption prevention officers). The purpose of the planning process is to develop the objective and scope of the investigation, establish a workplan, undertake risk assessment and planning, and allocate resources.

The Operations Advisor and the Operations Management Committee have oversight of investigations from commencement to completion, and a particular focus on ensuring that the investigation is appropriately focussed, adequately resourced and meeting timelines. The timeframe for any investigation must be sufficiently flexible to allow for the possibility that there may be new matters or competing investigations requiring urgent attention.

1.3 During the last General Meeting the Commissioner noted that changes had been undertaken to ensure a greater focus by the Commission on gathering admissible evidence. Is the Commissioner satisfied that this change of approach has been successful?

In recent times, greater emphasis has been placed on the management of investigations to provide opportunities for gathering evidence to enable other agencies to mount prosecutions and other proceedings, such as disciplinary hearings, as a way of supporting and reinforcing the Commission's primary role of investigating and exposing corrupt conduct.

Many of the investigative tools available to the Commission allow for the collection of evidence and other information, which can be used as part of the ICAC investigation process in a way that meets the evidentiary standards for prosecutions. These tools, which may be used individually or in concert with one another, include:

- telephone interceptions,
- listening devices,
- search warrants,
- financial investigators,
- analysts,
- controlled operations,
- surveillance, and
- forensic software for investigating computers

Many of the investigatory powers available to the Commission such as telephone intercepts, listening devices and search warrants allow for the collection of evidence and other information that can be used as part of an investigation as well as being gathered in such a fashion that permits its use as evidence in any later prosecution proceedings.

It is acknowledged that a significant number of recommendations for consideration of prosecution put to the DPP have involved the offence of false statements given in the course of the Commission's hearings. While these will continue to be the subject of recommendations as appropriate, there is a new emphasis on establishing any criminal offences related to the conduct under investigation.

The Commission recognises that it is at the hearing stage of an investigation that the collection of admissible evidence is least likely. Much of the information collected from witnesses during the hearing process will be given under objection, and accordingly it is not admissible in any later criminal proceedings against the person concerned, save for false swearing before the Commission.

The emphasis on collecting admissible evidence has meant that greater consideration has been given to alternatives to hearings as a way of gathering evidence. This has resulted in an emphasis on the importance of collecting material and other evidence before an investigation moves to the public hearing stage rather than using that tool as the means by which to collect such material.

The initial impressions of the value of the Commission's new approach are encouraging. Commission lawyers are playing an increasingly important part in the investigation process, and this will only increase, as implementation of the approach and direction set out in the investigative capacity review continues. This will be most noticeable in a clear role for the lawyers to provide advice on what evidence will be needed to establish possible offences that may be identified for the consideration of the Director of Public Prosecutions. Commission investigators are also acutely made aware of the need at all stages of an investigation to ensure that material is collected bearing in mind admissibility issues and lawyers attached to an investigation assist in this regard.

The timely preparation of briefs and final reports has also been highlighted as a priority for investigators. In the past, investigators often prepared briefs at the

conclusion of an investigation, resulting in delays in preparation, particularly as new investigations were taken on. In a number of recent investigations, investigators have been collating evidence throughout the course of the investigation so that the brief is substantially completed by the conclusion of the investigation.

This approach is now being adopted in all investigations and will be monitored by the Operations Advisor function, supported by a brief handling quality assurance officer. However, Commission procedures will make it clear that primary responsibility for progressing the brief of evidence (for DPP consideration or disciplinary action) concurrently with developments in the investigation rests on the individual case officer/s and the investigation team leader. This will ensure that referral to the DPP and/or organisation will be timely and action taken as an outcome of an investigation will not be unnecessarily delayed owing to the preparation of documentation.

Ongoing skills development in this regard will be the responsibility of a new position of Education, Training and Project officer. Recruitment for this position is currently underway.

As the Commission does not have a brief to prosecute, it makes recommendations to the Director of Public Prosecutions office that consideration be given to prosecution, and conducts any proceedings accordingly. Since the last General Meeting, the DPP has approved a number of prosecutions arising from Commission investigations for the previous reporting year.

There does remain however a time lag between referral of matters by the Commission to the DPP and advice from the DPP on those matters which prevents at this stage any reliable or definitive conclusions that the Commission's changed focus at least is translated into more successful prosecutions.

1.4 Kite Investigation – What is the status of this investigation and when is the Commission likely to report on the outcomes?

The investigation into the termination of Mr John Kite's employment with the National Parks and Wildlife Service has been substantially completed, with finalisation of the report underway. It is hoped to report this matter to the Parliament shortly.

1.5 During the 2000-1 reporting period the Commission formally investigated a number of matters that did not involve public hearings. On one of these matters the Commission chose to make a report to Parliament. Would reporting to Parliament on an investigation which did not involve public hearings be considered by the Commission to be an exceptional practice and when would it be regarded as appropriate?

The ICAC Act requires matters involving public hearings to be reported to Parliament, but imposes no obligation regarding matters that do not proceed to public hearings. The Commissioner is advised that prior to her appointment, only one matter had ever proceeded to a public report where there were no public hearings.

During the 2000-2001 reporting period, three reports were made to the Parliament involving matters that were the subject of private hearings but were not the subject of public hearings.

Two of these matters were reported in the 1999-2000 Annual Report, tabled in November 2000. In the tabling letter to the 1999-2000 Annual Report, it was stated that it would be the practice of the Commission to use the Annual Report to report those matters involving private hearings that contained issues of public interest, but did not merit a stand alone report. No matters meeting those criteria were identified during 2000-2001, and accordingly, no such matters were reported in this year's Annual Report.

In relation to the third matter, the investigation into the matters arising from an alleged assault at Parliament House on September 14-15, 2000, it was explained in the report and in statements to the media at the time that the investigation was not the subject of public hearings because it was not in the public interest to do so given considerations arising from the integrity of the investigation, the desire to preserve the anonymity of the woman involved in the alleged indecent assault, and, later, the paucity of support for the allegations that there was a cover up following the alleged assault (being the issue within the jurisdiction of the ICAC).

The decision to publicly report this matter was based on the publicity given to the allegations of a cover up and to the investigation by the ICAC, as well as the consideration that the ICAC should publicly account for the conduct of the investigation and the reasoning for the findings made at the conclusion of that investigation.

There may be other situations in which the ICAC publicly reports matters that were not the subject of public hearings. It is noted that in the 2001-2002 reporting year, one matter (being the investigation into matters arising from the making of Ministerial Statement to the Legislative Assembly on 10 April 2001) has been publicly reported although it was not the subject of public or private hearings.

Again, this decision was made on the basis that the matter under investigation was the subject of considerable controversy, and the fact of the Commission's investigation was known. As the decision was made not to conduct private or public hearings into the matter, it was thought appropriate to account for the findings made as a result of the investigation.

Some matters involving private hearings or preliminary inquiries are also reported in the Annual Report as case studies. The purpose of this is to depict the range of activities undertaken by the Commission that do not become the subject of stand alone reports to the Parliament.

Decisions on the reporting of matters not involving public hearings to the Parliament, and to the public, will continue to be made on a case by case basis. Such decisions will take into account the public interest, including the desirability of the ICAC publicly reporting, and accounting for, decisions made in relation to sensitive or controversial matters that may not warrant public hearings.

2 Functional and Investigative Capacity Reviews

2.1 *The Functional Review undertaken in November 2000 recommended that the ICAC should be more selective and strategic in its choice of work and that this approach would be assisted by the acquisition of new investigative techniques and skills, more flexible structures, resourcing, staffing and technology systems.*

i What would be involved in the staffing and structural changes?

The major structural changes carried out in response to the Functional and Investigative Capacity Reviews to date have involved assessments, investigations and corporate services. For example, positions in the intake and assessments area have been redesigned to take into account some of the customer service, liaison and quality assurance initiatives developed to give the assessments area a much more strategic role in the Commission. The investigations area has seen the recruitment of specialist expertise in designated positions, including the recruitment of three financial investigators. The existing analytical capacity is being revamped into a Strategic Risk Assessment Unit, to provide an enhanced focus on operational strategy and risk management. A manager for this unit is currently being recruited. The corporate services area has been restructured so as to streamline seven units into three, providing a much more coordinated and integrated level of service provision to the rest of the organisation.

In view of the need to enhance skills and career development opportunities, a one off skills audit has been undertaken within the organisation. This has highlighted the need for improved skills in such areas as risk management, and project planning. These skills will be the focus of a significantly enhanced structured training and development program to be implemented over the next year.

Like most, if not all, of its peer agencies, the Commission has identified the need for a capacity to engage specialist expertise on contract or secondment to provide particular skills or expertise for a defined period. The purpose of these engagements is to provide a specialist skills base to address a particular focus, or to provide education and development for existing staff.

There will be ongoing assessment and evaluation of the staffing and skills mix in the organisation to ensure that the Commission continues to be in a position to adequately anticipate and address corruption risks in the NSW public sector.

ii What investigative techniques and skills were recommended to the Commission?

The purpose of the Functional and Investigative Capacity Reviews were not to provide recommendations regarding preferred techniques and skills for the investigation of corrupt conduct. Rather, they were engaged to identify potential obstacles to the Commission's ongoing anti-corruption role. Between them, the reviews identified the need for a more strategic focus in the selection of investigations, based on an assessment of corruption risks. They also identified the

need for enhanced skills in risk assessment and management, strategic planning, project management, and specialist skills in such areas as financial investigations and strategic analysis.

The reviews also identified the need for improvements to information management systems, and other internal support systems for the management and conduct of investigations. They also suggested that there be greater integration of the Commission's investigative, legal, specialist support, and corruption prevention capacities.

These recommendations have driven the Commission's efforts in the past year to bring about an improved skills mix for the organisation, better coordination and performance of the Commission's key functions, enhanced technical and corporate support for these functions, and acquisition of specialist skills in financial investigations, computer forensics, project and risk management, and strategic assessment.

iii What progress has the Commission made in improving its information management systems and intelligence capacity?

Improvements to the Commission's information management systems are being implemented in line with the direction and framework established in the Information Management and Technology (IM&T) Strategic Plan developed earlier this year.

The IM&T Strategic Plan is focussed upon harnessing and exploiting the Commission's information holdings and skills to ensure maximum value is obtained.

Development of the IM&T Strategy identified a number of issues including:

- In the past, limitations with our information technology has restricted our operations, rather than assisting to deliver required outcomes;
- A wide range of disparate information holdings were not integrated or linked;
- The corporate information system had not kept pace with the needs of the organisation;
- Insufficient IT systems capacity for internal performance reporting;
- Insufficient training of all staff on the corporate information system;
- Despite strong performance from existing IT staff, concerns that IT resources are not keeping pace with operational requirements.

The Strategic Plan reinforces the need for far more sophisticated and strategic information management principles, systems and business rules to underpin the Commission's investigative capacity.

The Commission's IM&T Strategic Plan is built around a series of projects to reengineer key business processes that underpin the effectiveness and efficiency of the Commission's day-to-day activities. Strategies for mapping these business processes are being developed, and are expected to be implemented over the next year.

Enhancement of the Commission's corporate information system (ICS) is a core project of the IM&T Strategy so that it provides effective case management, the addition of capabilities to handle information from various media, e.g. audio and video, the removal of current impediments to easy updating of files and performance reporting, and data cleansing. The Commission is currently engaged in formally establishing its needs in these respects, and they will be the subject of further development of the information management systems.

The development of the Commission's intelligence capacity is being addressed through changes to the intake and assessments area, and the analytical capacity. The changes to the intake and assessments area will result in a more strategic approach to the receipt and initial evaluation of information, while the analytical capacity is being redesigned into providing a strategic risk focussed capacity, in the form of the Strategic Risk Assessment Unit.

2.2 *The Annual Report refers to the establishment of a Strategic Risk Assessment Unit. What progress has been made in forming this unit?*

Recruitment action is currently taking place for the Manager of the Strategic Risk Assessment Unit. Further progress on the creation of the unit, and changes to processes and systems associated with the implementation of the unit will await the appointment of the Manager. It is envisaged that the Manager of the unit will be appointed by early 2002.

3 Use of Powers

3.1 *Appendix 4 shows a significant increase in the exercise of the Commission's powers under s.22 of the ICAC Act (ie notice requiring the production of documents) – from 92 notices for 1999-2000 to 193 notices for 2000-2001. What is the reason for the increased exercise of this particular power?*

The number of instances where the Commission exercises a particular power will depend on the nature of the conduct under investigation. In relation to the use of this power, it is the Commission's experience that investigations into conduct associated with normal business transactions undertaken by a public sector agency will require extensive access to documents related to those transactions.

It is also apparent that a small number of investigations may account for a significant proportion of the instances in which a particular power is used. For example, two preliminary investigations accounted for 47 of the instances when the power to compel the production of documents was used.

The rise in the number of notices in the past year can also be attributed to an increase in the number of investigations formalised as preliminary investigations (in accordance with s.20A of the ICAC Act). Previously, such investigations would not be formalised, with investigators relying on informal inquiries to determine the prospects for further action. The policy decision to formalise these sorts of inquiries

as preliminary investigations allows investigators to make use of the formal powers established in the Act, including the powers to require statements and production of documents.

The Commission proposes to continue to use section 20A to conduct preliminary inquiries before determining whether a matter requires greater attention as formal or more complete investigation.

3.2 *The number of telephone interception warrants obtained by the Commission has doubled during the same period (from 7 to 14). Is this statistic significant and why has there been an increase in the number of warrants sought and obtained by the Commission?*

Two of the fourteen warrants in question were renewals of existing warrants. However, the overall increase in the number of warrants is reflective in part of the Commission's increased focus on gathering admissible evidence as part of its investigation focus, and to make strategic use of the full range of powers available to the Commission.

It is already evident from the early part of the 2001-2002 reporting year that these powers continue to be of strategic and operational value to the conduct of the Commission's investigations. While use of the powers must be justified by way of application to the appropriate authorities, increased use of these powers will be facilitated by co-operative arrangements with peer agencies to gain access to greater capability in this regard.

3.3 *The number of assumed identities acquired and used by the Commission has risen from 1 in 1999-2000 to 6 in 2000-2001. Does this statistic have any significance in terms of the Commission's conduct of covert operations? Is it expected that the use of assumed identities will increase still further given the Commission's new investigative focus arising from the Functional and Investigative Capacity Reviews?*

The Commission maintains a standing number of assumed identities for operational reasons. An assumed identity is more likely to withstand scrutiny if it, and the associated legend, have been established for some time prior to its use in a particular operation. The increase in the number of assumed identities created during the past year has resulted from turnover in staff using the identities, and the necessity to create identities for those new Commission officers likely to use an assumed identity. The identities will be used as appropriate in the course of an investigation. The necessity for the use of an assumed identity will be dictated by the particular requirements of the investigation, so it is not possible to assume any increase in the use of assumed identities in future years.

3.4 What value has the exercise of powers referred to in questions 8, 9 and 10 been to the Commission's investigations?

The exercise of the powers referred to in the previous question assists the Commission in the obtaining evidence to expose corrupt conduct. As discussed in previous answers, the use of these powers to collect evidence in advance of hearings will enable the Commission greater flexibility in the use of hearings, and provide greater opportunity for the presentation of admissible evidence in the brief given to the Director of Public Prosecutions.

4 Complaints Profile

4.1 Misuse of public resources forms the greatest percentage of allegations contained in complaints and notifications to the Commission during the 2000-2001 reporting period. Does the allocation of Commission resources reflect this emphasis in complaints and notifications?

As the Committee noted, the misuse and theft of public resources formed the greatest percentage of allegations to the ICAC during 2000-2001. In view of the information management issues previously raised with the Committee, it is difficult to provide comprehensive reports on the allocation of resources to particular allegations of corrupt conduct.

However, a special report prepared to answer this question indicates that while the allegations involving misuse of public resources constitute 17.5% of the total allegations received by the Commission, such allegations are involved in approximately 25% of the matters that proceed to preliminary inquiries and formal investigations.

It should be noted that, in many instances, the value of the resources that are the subject of individual allegations of misuse is relatively low. However, it is the view of the ICAC, and its peer agencies, such as the Queensland Criminal Justice Commission, that the cumulative value of the resources that are the subject of such allegations represents a significant amount.

In light of this consideration, as well as the findings from research conducted into corruption risks in local government, the ICAC's Corruption Prevention area will be undertaking work during 2001-2002 into the misuse of council resources. It is envisaged that this work will result in the production of resources to assist councils to minimise the potential losses associated with the misuse of plant, equipment and resources.

5 Operations Review Committee

5.1 *An external audit was conducted into the Commission's reporting to the Operations Review Committee. Have the recommendations made by the auditors for improvements, especially in relation to timely reporting, been implemented?*

The external audit review conducted into the Operations Review Committee made a number of recommendations to further enhance its activities and promote more effective arrangements between it and the Commission. The external audit highlighted a number of quality control issues regarding preparation of submissions, reporting and other papers for use by members of the ORC, particularly in relation to timeliness.

The Commission has responded to each of the reports' recommendations and is currently implementing changes arising from the recommendations. A number of changes have already taken place, particularly in relation to measures to address issues of timely reporting to the ORC, such as reminding staff of the Commission's requirements regarding reporting to the ORC. The restructure of the Commission's Assessment section, and changes in procedures, should also result in more timely reporting.

To ensure ongoing quality control for the preparation and submission of reports, a Principal lawyer will review all papers intended for the ORC prior to submission.

The Solicitor to the Commission has been asked to develop an ongoing internal audit and evaluation program for ORC papers, with a view to proposing a new program for Executive management by 31 December 2001. The Commission's formal procedures for reporting to the ORC are currently being reviewed, and will also be updated by 31 December 2001. Other issues raised by the external audit are being addressed in conjunction with other changes in the Commission, particularly in relation to enhancements to the Commission's information management systems.

6 Corruption Prevention and Education

6.1 *The biggest percentage of matters over which advice was sought from the Commission in 2000-1 relates to procurement and disposal (26%).*

i Has the Commission noticed any changes in the practices of public sector agencies in dealing with procurement and disposal issues?

Procurement and disposal continues to be the single largest area of corruption prevention advice work for the Commission. Two trends have become evident in recent times. First, there is considerable effort expended by public authorities on getting the tendering phase right. Thus, a lot of our advice work is directed towards examining the corruption resistance of expressions of interest, tendering and selection processes, including consideration of conflicts of interest and secondary employment.

The second trend is that it appears that there has been a displacement of the corruption risks from the selection stage to the administration stage. There are fewer requests for advice in relation to contract administration and management. Given the contract administration issues that have arisen in such matters as the investigation into Liverpool Council, reported earlier this year. Acting on the fact that there are fewer request for advice in relation to contract administration, the Commission is taking active steps to raise awareness of these issues. For example, *Taking the Con out of Contracting: Guidelines for Managing Corruption Risks in Local Government Procurement and Contract Administration* (September 2001), is evidence of the Commission's efforts to raise and broaden awareness of these issues.

ii What was the impact of the Commission's report on its investigation into local government procurement and contracting (Garbage, Drains and Other Things, July 2001)? What has been the initial response to the recently released guidelines for procurement and contract administration in local government?

The Commission addressed local government contracting and contract administration in three stages:

- May 2001, publication of discussion paper;
- July 2001, the Commission made public its Liverpool Council investigation report *Garbage, Drains and other things*;
- September 2001, the launch in Tamworth of *Taking the Con out of Contracting: Guidelines for Managing Corruption Risks in Local Government Procurement and Contract Administration*.

While the Commission has not yet undertaken a formal evaluation of the impact of these initiatives, some initial feedback has been received. A number of useful submissions were made on the discussion paper and informed the published guidelines. Following the release of the discussion paper, investigation report and guidelines, there has been considerable media coverage of contract administration issues in metropolitan, suburban and regional media.

The feedback on the guidelines from Councillors in attendance at the launch of the guidelines in Tamworth was very positive. Positive feedback was also received from participants in the Commission's eCorruption workshop held in late September. Significantly, the Hunter Regional Organisation of Councils ('HROC') has requested the Commission's assistance in providing training based on the contract administration guidelines to staff of the 12 HROC councils. A formal evaluation of the impact of the guidelines will be undertaken this financial year.

Generally, the Commission has adopted two evaluative techniques as standard practice in relation to its corruption prevention reports. First, all publications now contain a statement seeking comments and feedback, with a fax back sheet provided to facilitate this. (While the information received from this channel will need to be assessed against more formal evaluations, the Commission believes that inviting and facilitating such feedback sends an important signal to recipients of its reports.)

Second, formal evaluations conducted by the Commission's Research Section are scheduled to follow the publication of corruption prevention reports to measure the effectiveness of the reports against their stated objectives. The fax back feedback sheets are collated on a quarterly basis and presented to Executive Management. All quarterly fax back reports and the formal evaluations will inform an evaluation report to be produced at the end of the financial year.

Evaluation of the impact of investigations and corruption prevention activities on complaint trends will also be conducted as part of the Commission's move towards improved performance reporting.

iii Is this coordinated, strategic approach to corruption investigation and education to be a regular feature of the Commission's operations?

The approach taken with the Commission's local government contracting and contract administration initiative demonstrates the value of a coordinated, strategic approach to the Commission's work in exposing corruption and enhancing corruption resistance. The work on local government contracting brought together the work of investigations, research, corruption prevention and education in one co-ordinated strategy.

A key feature of the development of this initiative was the involvement of, and significant consultation with, key stakeholders including the Ombudsman, Department of Local Government and councils. As part of the consultation process, a local government stakeholders forum was convened in late August and included representatives from all of those just mentioned as well as the Department of Urban Affairs and Planning, the Department of Land and Water Conservation, representatives of the Minister of Local Government, professional associations of general managers, planners, engineers, building inspectors, the Local Government and Shires Association and unions.

Further application of the same process (research, discussion paper, investigation report, consultations and guidelines) in other areas will depend to a large degree on the nature and timing of investigation outcomes and to what extent serious matters come to our attention. However, early indications are that this strategy will be appropriate for our continuing work in local government.

The next two priorities in local government are development applications (with a discussion paper due at the end of November, a stakeholder forum in December and guidelines in February/March) followed by misuse of council resources (with a discussion paper in March/April, forum in May and guidelines in June.) Both of these issues are regularly the subject of complaint to the ICAC and were identified as key risks in the local government research.

Additionally, the public hearings currently underway with respect to the University of Technology, Sydney matter will provide a useful platform for further corruption prevention work directed to the university sector in the first half of next year. Work on the particular systems issues identified in the course of this investigation will be progressed over the next few months, and will be reported in the investigation report.

The investigation outcomes will be supplemented by two corruption resistance reviews undertaken of Universities in the last six months as well as data about all NSW Universities generated from the public sector corruption risk profile research project. The results of this risk profile will become available in February/March next year.

The public sector corruption risk profile will provide a wealth of useful information about the corruption risks faced by the whole of the public sector. To our knowledge, this is the first time in any jurisdiction that such a profiling exercise has been undertaken. The survey of over 400 NSW public authorities and 600 staff will be used to build up a comprehensive picture of the corruption risks faced by public authorities, their current state of preparedness to manage these risks and how those risks relate to the functions of groups of like agencies. This will allow better tailoring of corruption prevention assistance to say, for example, agencies within the human services sector or agencies whose primary functions are licensing and regulation. However, most importantly, the survey information can be used to inform the Commission's investigative work.

The strategic intent in our pro-active corruption prevention work is to ensure, as far as is possible, co-ordination and integration of our research and investigative outcomes to maximize the lessons derived from the investigations and to supplement those lessons with targeted research or other sources of information such as our corruption resistance reviews. The other important component is to supplement the information available to the Commission by obtaining information and feedback from key stakeholders in the areas under examination, and obtain an early buy-in into the strategies under consideration. This approach seeks to maximise opportunities for promotion of, participation in, and commitment to our corruption prevention strategies.

6.2 *What level of resources will the Commission need to commit to the Rural and Regional Outreach Strategy to make it effective?*

In June 2001, the Commission launched its Rural and Regional Outreach Strategy (RAROS) program. It is subsequently planned to hold two visits each financial year until all the regional centres of the State have been visited. During 2001-2002, RAROS visits will be held at Lismore (Northern Rivers in November) and Maitland (Hunter Region in June).

The delivery of the program will remain broadly consistent for each region, with each visit occurring within a week and including:

- Delivery of established training programs for public officials;
- The launch of a Local Government Strategy product;
- Meetings and discussions with council General Managers;
- The conduct of Corruption Resistance Reviews; and
- A community forum.

The program's effectiveness is, and will continue to be, assessed by post visit evaluation. The evaluation for Broken Hill was generally positive, with 80 percent of public officials aware of the visit, and 60 percent saying they had a better

understanding of corruption as a result. However, there was significantly less awareness of the program in the general community awareness. To address this, adjustments have been made to the planned Lismore program to include more community activities in addition to the community forum.

Broken Hill

The Broken Hill program included:

- Training for employees of state agencies and councils, and their managers (including sessions on “The role of the ICAC”, Reducing corruption risk, Managing internal reporting systems and reporting corrupt conduct, Aboriginal Land Council training and Managing internal investigations);
- Launch of the Local Government Strategy;
- A community forum;
- The opportunity to provide complaints to Commission officers;
- Visits to Wentworth and Balranald Councils to provide advice on corruption-related issues; and
- A Corruption Resistance Review of Broken Hill Council

The visit was covered on radio, TV and print media.

The budget expended for the Broken Hill program was as follows:

Fees for service (courier, venue hire, catering)	\$1118
Advertising	\$4627
Travelling	\$7370
Total	\$13,115

Lismore

The Lismore program includes the same elements as that delivered in Broken Hill with some refinement and additions:

- Training for employees of state agencies and councils, and their managers (including the sessions provided at Broken Hill, as well as a session on Induction training for new public sector employees);
- Launch of *Taking the Devil out of Development*, a discussion paper on managing corruption risks associated with development applications (as part of the Local Government Strategy);
- Community activities (community forum, providing resources to community advisors, and meeting local business leaders);
- Visits will be made to Kyogle, Richmond Valley and Maclean councils;
- Two Corruption Resistance Reviews will be conducted with Southern Cross University and Ballina Council;
- Undertaking a tour of the Lismore waste services facilities (information gathering in association with the Commission’s Waste strategy).

The indicative budget for the Lismore program is as follows:

Fees for service (Room hire, catering, courier)	\$3,000
Advertising	\$4,000
Travelling	\$8,000
Total	\$15,000

As can be seen from the above information, the RAROS initiatives involve a significant level of Commission resources. However, they represent a significant investment by the Commission in enhancing corruption resistance in rural and regional areas. The Commission is committed to obtaining feedback from participants in RAROS activities and initiatives to ensure that we are meeting the needs of non-metropolitan communities in the delivery of this strategy.

The RAROS initiatives are also designed to align with and further other Commission priorities. For example, in anticipation of our universities project, the Northern Rivers was chosen as a site for RAROS because Lismore is home to the Southern Cross University and a corruption resistance review of the university could be undertaken to supplement the CRR undertaken at the University of Wollongong.

Each RAROS is also aligned with the local government strategy and involves a corruption resistance review of a local council and the launch of either a discussion paper or guidelines developed as part of the Commission's local government strategy. For example, at Broken Hill, the local government research publication was launched. During the Northern Rivers RAROS the discussion paper on development applications will be launched and during the Maitland/Hunter RAROS (June 2002) the guidelines on misuse of council resources will be launched. Maitland Council will also be the subject of a CRR which will allow some assessment to be made of the changes and improvements made at that Council following the sacking of the Council several years ago. Thus, it is anticipated that the Department of Local Government will be a key partner in the Maitland/Hunter RAROS.

The program for 2002-2003 will be developed during the remainder of the current financial year, with the starting budget for each visit set at around \$15,000.

6.3 The 1999 Unravelling Corruption survey indicated that approximately 69% of public sector employees still agreed with the statement "People who report corruption are likely to suffer for it" (p.13) Is the Commission taking vigorous action to overcome this perception?

Tackling the perception that people who report corruption are likely to suffer for it is a key issue informing most aspects of the Commission's operations. It has an impact on how we conduct the assessment of complaints, the conduct of investigations and is one of the key messages in our corruption prevention and education work. There are a range of initiatives that are aimed at addressing this perception.

Good quality internal reporting systems that staff understand, trust and use is an important tool in addressing the perception. Equally, effective internal management

of protected disclosures by agencies is vital in addressing the perception. Nevertheless, the task of confronting and challenging an ingrained culture that sees internal complaints as “dobbing” should not be underestimated.

To this end, the Commission continues to contribute to and participate in the work of the Protected Disclosures Implementation Steering Committee. In the new calendar year the Committee will produce two new educational brochures, one for local government and one for NSW government, on how to make a protected disclosure. These brochures will replace existing material produced by each agency and be widely distributed throughout the public sector in a new promotional campaign. Initial responses from a number of public authorities indicate that some authorities intend to provide every staff member with a copy of the brochure.

The auditing of internal reporting systems is a prominent feature of the Commission’s corruption resistance reviews. The production and distribution of the do-it-yourself corruption resistance review kit (DIY CRR) in partnership with the Premier’s Department next January/February will widen the availability of the CRR methodology and allow agencies to assess the nature and quality of their internal reporting systems. One other measure linked to the DIY CRR kit is the availability of the *Ethical Culture Survey Kit* which will allow agencies to further explore the perception staff may have about the reasons why they believe that people who report corruption are likely to suffer for it.

Other Commission initiatives directed towards improving the nature and quality of reliable internal reporting mechanisms include advice in the following publications: *The First Four Steps: Building organisational integrity* (April 2001); *Corruption Trouble Shooting* (June 2001); and *Corruption...Who wants to know* (April 2001). The on-going promotion of all three publications will remain an important focus for attention with *Corruption Trouble Shooting* about to be produced in a second edition extending the resource lists from ICAC and Ombudsman to also include the Auditor-General.

The Commission also recognises that internal complainants need reassurance that their complaints are regarded seriously, and are treated appropriately by oversight agencies, including the Commission. Furthermore, the Commission is cognisant of the need, where possible, to systemically identify and promote the value of internal complaints in identifying corruption risk issues within agencies. In the past two Annual Reports, the Commission has noted the importance and value of internal complaints as a source of information about agencies.

The changes to the intake and assessments area, and the establishment of the Strategic Risk Assessment Unit, will afford further opportunities to use internal complaints as a particular, specialised source of information. Where possible, outcomes from the use of this information will be identified and described in future public affairs material issued by the Commission, including Annual Reports and the Commission’s newspaper, *Corruption Matters*.

Another initiative directed towards addressing perceptions about internal complaints follows on from the Commission’s research into the impact of ICAC investigations. Where it is appropriate to do so, a better liaison relationship will be developed with agencies the subject of a particular investigation. This will afford the opportunity to

work with them to manage staff concerns and questions, as well as any other issues that might arise during and after a major investigation. The development of this liaison service will be conducted in conjunction with a review of *How to Handle the effects of an ICAC Investigation* (June 1999). It is the Commission's intention to re-publish this document in 2002 in a substantially revised form that includes more information about the new liaison service.

7 Procurement Policies and Procedures

7.1 The Annual Report indicates that a review of procurement policies identified opportunities for improvements to the Commission's own procurement practices and that, subsequently, new procurement policies and procedures, and a contracts database were developed.

i What led to the review and is the Commissioner satisfied that current policies and procedures are satisfactory?

The Review was commissioned by the Executive Director Corporate Services following a random survey of past procurement records indicating that there were deficiencies in procurement procedures and practice.

These deficiencies included absence of documentation to support decisions made on ongoing contracts, renewal of expired contracts on a month by month basis, failure to assess the reasonableness of price increases requested by suppliers, and associated failure to record the price increases paid, and failure to properly review and document contracts, service agreements, and payments.

The Review confirmed these deficiencies, and identified that many of the Commission's officers lacked adequate basic training in either the Commission's or public sector procurement functions, including the objective evaluation of tenders or quotations.

The current policies and procedures address all these shortcomings, are consistent with best practice and are centralised to ensure:

- certification as to whether goods and services are available from State Government Contracts; and
- the issue of a Purchase Order Number for each procurement after the satisfactory completion of all processes required by the Commission's policy.

These steps are supported by a revised set of delegations, the clear separation between the authorities to incur expenditure and authorise payments, the creation of a corporate database for monitoring all Commission contracts and relevant training for Commission officers. A position of contracts officer has now been established to support the administration of these new procurement policies and procedures.

ii Will the centralised controls reported as being now in place ensure compliance with the newly established policy, procedures and delegations?

The centralised controls act as a set of checks and balances to support the Commission's new procurement policy and ensure far greater transparency and accountability for each procurement undertaken by the Commission.

7.2 *Should the Commission be subject to the Public Sector Management Act?*

There are three options for the Commission to consider in respect of its procurement arrangements. The Commission could:

1. Seek to come within the jurisdiction of the *Public Sector Management Act*, and in particular, become subject to the requirements of the Public Sector Management (Goods and Services) Regulation 2000;
2. avail itself of the relevant State Government contracts and pre-qualified panels to the extent that these meet the Commission's requirements, including security and confidentiality, while managing its own procurement and contractual arrangements; or
3. act independently of State Government Contracts and the State Contracts Control Board, maintain its own procurement policies and procedures as it is empowered to do by ICAC Act.

The effect of coverage by the Public Sector Management (Goods and Services) Regulation would be to have the Commission's procurement undertaken by public sector agencies, such as the Department of Public Works and Services or the State Contracts Control Board. The Commission has taken the view that it is appropriate to maintain itself at 'arms length' from these processes in the event of a complaint against the agencies responsible for public sector procurement.

The second option, and the one presently preferred by the Commission, has the advantage of allowing the Commission to obtain value for money while maintaining some distance between itself and the public sector procurement agencies. It enables the Commission to take advantage of the economies of scale available through the 'in-contract' supplies of the State Contracts Control Board and the associated, established 'pre-qualified' panels.

The exercise of this option does not involve public sector agencies directly and specifically in the Commission's procurement operations.

The third option provides little or no advantage to the Commission over the second option, and the Commission would be disadvantaged by the loss of the benefits of available economies of scale.

The ICAC has the same policy obligations as any Government funded entity to ensure that public monies are expended in a manner which results in the Commission receiving value for money and that all procurement activities are based on fair and open competition, transparency of process and a high level of probity.

Similarly, NSW Government Policy gives the Commission an obligation to purchase and use “energy efficient” equipment, products containing recycled materials and “environmentally friendly” products wherever reasonably possible.

All procurement processes should be fully and clearly documented to provide an effective audit trail and allow for effective contract performance review.

All these obligations form the basis of the Commissions Procurement Policy and Practices.

The Commission’s concern is to maintain a balance between obtaining value for money in procurement, and the desirability of maintaining an arms length relationship with agencies it oversees. This balance is reflected in the current arrangements, and would need to be taken into account in considering any changes to those arrangements.

8 Internal Audit

8.1 Reference is made in the Annual Report to the Commission’s 2000-1 internal audit program undertaken by the Internal Audit Bureau. What areas for improvement were identified as a result of the audit and how will these changes be implemented?

The Commission’s internal audit program for 2000-01 reviewed:

- Travel expenditure
- Income processes
- Purchase, creditors and expenditure systems
- Tendering and contracting processes
- Search warrants policy compliance process
- Firearms policy compliance process
- Prohibited weapons policy compliance process
- Motor vehicles usage
- Operations Review Committee
- Leave transactions and balances

No major shortcomings or weaknesses were identified although the Commission did seek recommendations for improvements to business processes and procedures to provide for greater transparency and accountability in all activities.

Improvements were recommended, for example, to the format of travel acquittal forms, cabcharge voucher procedures, the processing of debtors, the electronic lodgement of BAS returns, and the updating of policies to include the processes for the disposal of firearms and use of handcuffs.

At each Executive performance reporting meeting, each Executive Director provides a progress report on actions taken to implement the recommendations of the reports.

9 Key Performance Indicators

9.1 *The Committee notes that the Commission was not able to report against the new KPIs in its Annual Report for 2000-1 but that it intends to do so in the Annual report for 2001-2. Has the ICAC further refined the agreed KPIs and made any major changes to them?*

While no further adjustments have been made to the most recent draft of Key Performance Indicators submitted to the Parliamentary Joint Committee, a number of performance measures and indicators have been developed as part of the Commission's overall corporate planning and performance management systems. To ensure that the Commission's performance reporting operates as efficiently as possible, a further assessment and refinement of the key performance indicators will be made following the implementation of the staff performance management system.

As advised in correspondence to the Committee prior to the release of the Annual Report, further enhancements will need to be made to the Commission's information management systems to ensure appropriate recording and performance reporting.

10 Official Overseas Travel

10.1 *In response to questions taken on notice during the last General Meeting the Commissioner supplied information to the Committee concerning overseas travel undertaken by the former Commissioner of the ICAC. Is the Commissioner in a position to reassure the Committee that:*

- ◆ ***the Commission observes official overseas travel guidelines for the public sector;***

All travel, domestic and overseas, undertaken by Commission officers is in accordance with public sector travel guidelines. For example, for all officers who have travelled overseas during the current Commissioner's term, the following has applied:

- Travel has been by economy class, with one exception where the fare for business class travel was paid for by the host organisation (the Dutch Ministry for Justice);
- Bookings have been made through the Government's contract travel manager (i.e. Qantas) unless the travel has been arranged by overseas conference organisers;
- Only the approved accommodation, meal and travel allowances have applied;
- A full submission was made to the Commissioner prior to any approval for travel or bookings made. All overseas travel is required to have a submission

to the Commissioner seeking approval. The submission details the benefits to the Commission of the officer attending and the costs involved;

- Upon return, each officer has been required to present a full report to the Commission on the information and benefits gained from the trip. Usually the officer is also asked to make a presentation to other relevant staff.

◆ **that any official overseas travel undertaken by staff of the Commission is the subject of formal reporting;**

There are three reporting stages:

1. an initial submission setting out in detail the benefits to be gained from the travel and seeking approval for the trip;
2. a full report on return, including a presentation to relevant Commission staff; and
3. details of each overseas trip reported in the Commission's Annual Report each year.

For example, in the 2000-2001 Annual Report, travel undertaken during the year was reported as follows:

Traveller	When	Countries Visited	Purpose	Cost
Stephen Shneider Linda Pettersson	12_19 November 2000	Hong Kong	Attend the first Hong Kong ICAC Symposium and hold discussions with Hong Kong ICAC	\$8842
Stephen Murray	7_9 December 2000	Hungary	Attend and present paper to Constitutional and Legal Policy Institute Conference on Government Anti-Corruption Agencies	All costs met by Constitutional and Legal Policy Institute, Hungary
Grant Poulton	27_31 May 2001	Netherlands	Attend and present paper to Global Forum on Fighting Corruption and Safeguarding Integrity.	\$107 (Travel and accommodation expenses met by the Dutch Ministry for Justice)

◆ **that the ICAC observes the "strictest economy" in relation to official overseas travel, as recommended in the guidelines?**

Since the Commissioner's appointment in November 1999, all officers who have travelled overseas have travelled economy class fare, with one exception, where the

Dutch Ministry for Justice paid for business class travel by Mr Poulton. Only the approved allowance rates have been paid. These rates are the same as those for the NSW public sector and advised by the Premier's Department.

10.2 *What processes for approval of expenditure, particularly miscellaneous expenditure, involve independent exercise of discretion?*

There is no independent exercise of discretion in relation to the approval of travel expenditure. The supervisor or manager of the officer undertaking the overseas travel must approve any Commission expenditure relating to the travel.

Accommodation and meal allowances are in accordance with those that apply across the NSW public sector. Daily travel allowances are also in accordance with NSW public sector practice and are based on the Australian Taxation Office's 'reasonable limits' payable for travel.

11 Funding and Resources

11.1 *The Commission's Annual Report for 2000-2001 outlines plans for wide-ranging managerial and operational initiatives arising from the Functional and Investigative Capacity Reviews, and external and internal audits. Will the Commission be able to undertake these initiatives based on its existing budget allocation? If not, what level of additional funds and resources would be necessary to complete these initiatives?*

The Commission will be able to undertake the initiatives outlined in its 2000-01 Annual Report within its existing budget allocation. A number of savings have been identified and implemented (e.g. lower IT equipment lease payments) which have provided sufficient funds for these initiatives. Many of the initiatives outlined involve changes to operating procedures and practices, and accordingly, should not involve an appreciable increase in costs to the Commission.

11.2 *The Commission has advised that it will be relocating to premises in Castlereagh Street.*

i What prompted this move and what benefits will the move have for the Commission?

Shortcomings in the Commission's current accommodation were in evidence upon the arrival of the current Commissioner. An internal review of the long term accommodation needs of the organisation was conducted in 2000, and options for refurbishment and relocation were considered. The review identified the need for improvements to its accommodation arrangements, in terms of improved functionality, space efficiency and staff safety. The Commission's current location gives rise to a number of issues in these respects, as well as its capacity to work effectively with peer agencies.

For instance, the bulk of the Commission's investigators are crowded into a single floor, while the ground floor contains a number of hearing rooms and interview rooms that are occupied only as necessary during hearings and interviews. This is typical of the reduced functionality and spatial inefficiencies in the current premises.

Decisions regarding the Commission's long term accommodation arrangements needed to be made. The cost of refurbishing the Commission's current premises to bring about the necessary improvements to functionality would be at least \$1.8 million, and would cause considerable disruption and inconvenience during the necessary works. The total cost of the relocation of the Commission is in the order of \$1.4 million, including the purchase of the existing fitout for \$720 000 (for a fitout costing \$4 million several years ago). The current fitout of the new premises, including communications and security, is of such a high standard that minimal changes will be required for an effective relocation. The new premises are of such a standard, and afford sufficient flexibility, to provide the Commission with suitable accommodation for the medium to long term.

The central location of the new premises will enable far easier access for both staff and visitors to the Commission, particularly for those relying on public transport. While the ICAC has improved disability access to the ground floor of the Commission, access to other floors is still less than optimal, and the third floor is virtually inaccessible for people with physical disabilities. In contrast, there will be disability access to all areas in the new premises.

Relocation will assist the ICAC to further the process of change management for the organisation. The current location fosters a sense of isolation and distance, and does not encourage – and in fact inhibits – a climate in which staff are able to develop relationships with suitable peer agencies to facilitate the transfer and exchange of skills, knowledge and information. Relocation to the CBD will enable far better relationships with these peer agencies, including the Police Integrity Commission, the Police Service, the Crime Commission, the NSW Ombudsman, the Audit Office and the National Crime Authority.

Physical proximity to these peer agencies will also greatly enhance access to those technical assets which we are now using, following the development of co-operative arrangements between ourselves and these agencies. This will greatly assist the Commission in extending its investigative capacity.

ii Is there any potential for savings and efficiencies associated with this move?

The Commission currently has 3300 square metres of office space and will move to a new space of 2400 square metres. The current NSW public sector benchmark for space utilisation is 15-18 m² per staff member. Because of the single purpose functionality of such spaces as the hearing rooms, the Commission's current space utilisation rate is 25.8 m², while the move will achieve a spatial efficiency of 19m².

The relocation will also achieve a number of long-term savings for the ICAC. For example, building and lift maintenance services currently procured by ICAC will be included as part of the new lease arrangements. Consequently, separate provision

for these items will not be necessary in future, and savings will be achieved in this respect.

12 Annual Report

12.1 How many hours of labour did it take to produce the ICAC 2000-01 Annual Report? What did it cost to produce? How many copies were made and how much is charged per copy?

The development of the Commission's Annual Report commenced in April with discussion and agreements as to the approach and structure. Up to its tabling on 29 October it involved the intensive involvement of two key officers (including weekends) and the contributions of many others from across the Commission including those at Executive level. As such it is not possible to account for the hours of labour invested across the Commission during that period. The effort was considerable given the Commissioner and Executive's interest in ensuring that the Annual Report was an authoritative accountability mechanism of the Commission.

As reported in the Annual Report (being a requirement of the annual reporting legislation), 1000 copies of the report were printed at a cost of \$12.68 a copy, resulting in total production expenditure of \$12 680.

A further 2500 summaries were prepared at a cost of 60 cents per copy (a total cost of \$1500). Previously the print run ran to 3,000. The summary has extensive use as an information sheet and is used in information and recruitment packages.

This compares to 1500 copies of the 1999-2000 Annual Report being produced at \$12.06 a copy (a total cost of \$18090), and 3000 summaries of that report being produced at 52 cents a copy (a total cost of \$1560).

By way of further comparison, the cost of the Police Integrity Commission's Annual Report for 2000-2001 was reported as \$13.90 a copy, the NSW Ombudsman's Annual Report for 2000-2001 was reported as costing approximately \$18.00 a copy, and the Audit Office's Annual Report for 2000-2001 was reported as costing \$27.50 a copy (including staff costs).

Consistent with the ICAC's current pricing policy, no charge is made for the Annual Report. Unless specifically requesting a full copy of the Annual Report, persons requesting the Report are provided with a summary in the first instance. A copy of the summary and the full Annual Report are provided in both HTML and PDF formats on the ICAC's website.

REPORT OF PROCEEDINGS BEFORE

**COMMITTEE ON THE INDEPENDENT COMMISSION
AGAINST CORRUPTION**

At Sydney on Friday, 30 November 2001

The Committee met at 11 a.m.

PRESENT

The Hon. J. Hatzistergos (Chair)

Legislative Council

The Hon. D. E. Oldfield

The Hon. G. S. Pearce

Legislative Assembly

Mr M. J. Brown

Mr A. R. G. Fraser

Mr K. A. Hickey

Dr Elizabeth Kernohan

Mr G. F. Martin

Ms Alison Megarrity

Mr J. C. Price

Mr M. J. Richardson

Transcript provided by CAT Reporting Services Pty Ltd

IRENE MOSS, Commissioner, Independent Commission Against Corruption;

KEIRAN PEHM, Deputy Commissioner, Independent Commission Against Corruption;

MAL BRAMMER, Executive Director, Investigations, Independent Commission Against Corruption;

GRANT POULTON, Executive Director, Corruption Prevention, Education and Research, Independent Commission Against Corruption, and

LYNNE CHESTER, Executive Director, Corporate Services, Independent Commission Against Corruption, on former oath, and

JOHN WILLIAM PRITCHARD, Executive Director, Legal, and Solicitor to the Commission, Independent Commission Against Corruption, 191 Cleveland Street, Redfern, affirmed and examined:

CHAIR: Commissioner, would you like to make an opening statement?

Ms MOSS: Thank you, I would. On the previous occasions I have appeared before this Committee I have addressed the program of change management undertaken by the ICAC. Today I would like to take this opportunity to look forward. In this year's annual report I stated that its three themes were performance, risk management and accountability. I have established these as the focus for the Commission's work for the remainder of my term.

As you will have seen from the annual report, the past year was about taking stock of our capacity: identifying the structures, skills and people we need in the years ahead to take on more sophisticated forms of corruption and concealment. I know that we are not alone in this effort. Peer agencies across the country and around the world are squarely facing the challenges thrown up by an ever-changing operating environment. Our challenge is to build on the successes of the past while realising that our success has meant that the corrupt work harder at hiding and concealing their activities. In response, we need to work harder, smarter, more effectively and more strategically.

Our program of change management is not yet complete. There is a lot to do, particularly in relation to recruitment of specialist skills, training and development, information management, process mapping, risk and project management and performance reporting, but I believe that we are getting the elements in place to deliver these priorities in future years.

The investigations we have undertaken this year have shown the need for new skills and new approaches. For instance, our investigations into the National Parks and Wildlife Service and the University of Technology, Sydney, required computer forensic skills. We have boosted our capacity in this regard. In fact just this week we are hosting a national training course in this area with five of our staff getting high level training in these skills.

Another case requiring specialist skills was our investigation into the New South Wales Grains Board which involved examination of complex financial transactions. This was very much new ground for us, but this is where we figure much work will come from in the future years - caught up in the day to day business of public sector agencies. That is why the recruitment of three financial investigators this year was so important.

In fact anticipating corruption risks, in part so that we can identify and acquire the necessary skills, will be a function of our strategic risk assessment unit. This unit will build on our existing analytical capacity to extend its information gathering and organisational role into identifying existing corruption risks and anticipating emerging ones.

In recent months we have been building much closer relationships with some of our peer agencies. This has been invaluable in extending our investigative capacity and in particular our access to technical assets and support. I am excited about the opportunities offered by these closer strategic relationships. These relationships can only be enhanced by our move to the CBD. Our new premises have the benefits of greater functionality, increased spatial efficiencies, better access for staff and visitors and, as I have said, the opportunity for much better strategic relationships with our peer agencies. I am looking forward to the ongoing and long-term benefits which our relocation will bring to the Commission.

Becoming more strategic is not about buzzwords and jargon. It is about recognising that we cannot be everywhere and do everything. It is about justifying what we select to do against targeted corruption risks in the public sector. When it comes to deciding where we allocate our investigative resources, we must be aware of the issues and risks that will affect our ability to successfully target significant and substantial corruption.

We recognise that we have to strike a balance between being more strategic and still responding appropriately to complaints that come from members of the community. For instance, members of this Committee have made it clear that they do not want us to lose sight of the complaints that come in day to day, and we won't.

We are revamping our intake and assessments area to ensure that we are in an even better position to respond to complaints brought to us by the public, public officials and agency CEOs. We will be building better liaison links with public sector agencies to enhance our capacity to identify problems and to get a quicker response on those matters that may not involve significant or substantial corruption. Where we can we will try to give complainants more information about the progress and outcome of their matter.

Our corruption prevention area will continue to deliver some exciting projects next year. Our Rural and Regional Outreach Strategy program of visits to non-metropolitan areas will continue. In fact Mr Poulton has just arrived this morning from Lismore where we held the latest of our RAROS visits, with another scheduled for the Hunter next June.

Corruption prevention also launched a series of local government products as part of an overall strategy this year. "Taking the Con out of Contracting" was first issued as a discussion paper to get feedback on local government contract administration. This built on our research of corruption risks in local government and the investigation at Liverpool Council. Following feedback from local government stakeholders we issued guidelines on contract administration in October. Now we have undertaken a similar process with corruption risks in development applications and have just launched another paper called "Taking the Devil out of Development" and then we will look at misuse of council resources and continue our scoping exercise to identify corruption risks in waste management.

We will be building on our work in addressing corruption risks in the public sector use of new and emerging technologies. As you will recall, we have previously issued a strategic assessment and research paper, and hosted a Symposium in May, to help agencies identify and deal with eCorruption risks. We are backing these resources up by a series of four workshops to focus on particular risks.

Those of you who have seen our local government research report, released in June this year, will realise the extent to which it informs our local government work. The research report was based on extensive surveys and interview groups with local government officials across New South Wales. It focussed on the corruption risks for local government and what they have got in place to deal with them.

During the forthcoming year, we will be conducting a research profile of the entire New South Wales public sector. We understand that nothing like this has been attempted in any other jurisdiction, and we believe it will be critical in identifying existing and emerging corruption risks across the sector. It will be a valuable asset in our work in our investigations, strategic risk assessment and corruption prevention areas.

We will continue our corruption resistance reviews, which are the checks we undertake of agencies to see what they have in place to identify and address corruption risks. Six more of these are planned for 2001-2002, and with the assistance of the Premier's Department, we will be making a do-it-yourself corruption resistance review kit available to the public sector. Corruption resistance reviews have been conducted on a number of universities and these, in conjunction with our investigation into UTS, will be used to inform a university specific project next year.

All of our activities will be subject to greater quality assurance and performance monitoring. We will have rolled out our individual performance management system, which will mean that all staff are held to account against Commission-wide objectives and divisional plans. An integral part of performance management will be the delivery of targeted training and development for our staff, building on the training needs identified in our skills audit conducted earlier this year. Performance monitoring will also assist in enabling improved performance reporting over the next year, as will improvements in our information management.

Mr Chairman, Committee members, as I enter my third year as Commissioner, I want to formally and publicly acknowledge the contribution of my Executive Management team. All the members of the executive management – Deputy Commissioner Pehm, Mr Brammer, Mr Poulton, Ms Chester and Mr Pritchard – have

worked tirelessly since they joined me at the Commission in an extensive program of renewal and reform.

Our challenge – and the challenge for the Commission – is to now use these changes as a platform to take the ICAC into a new era of improved performance in all areas, an enhanced strategic and risk assessment capacity, and continued accountability. Thank you very much.

CHAIR: Thank you very much. I omitted earlier to ask you whether the written answers that you have supplied to questions put on notice to the Commission you want incorporated as part of your evidence.

Ms MOSS: I would be happy for that.

CHAIR: There is no objection to any of that being published?

Ms MOSS: No.

CHAIR: I will formally note that.

I might ask you the first question, if I can. You stated in the annual report this year that you did a survey of attitudes to corruption where you compared trends from 1993 to 1999 and you stated on page 13 of the report that the changes in attitude revealed significant changes as well as important similarities and you made this comment:

All the changes are indicative of the New South Wales public sector becoming more corruption-resistant than it was six years ago. It was found that employees in 1999 compared to those in 1993 were more likely to believe it was worth reporting corruption because something can and will be done about it and are more likely to believe that they knew where to report corruption.

That is the view that you expressed, but you have taken a number of initiatives notwithstanding that to draw people's attention to corruption issues and in particular reporting through the various programs which you have opened.

Do I take it that you are not satisfied with the situation as it currently exists?

Ms MOSS: I do not think you can ever be complacent with the situation as it exists and I always believe that there is room for improvement. I think those surveys have been heartening in that it does actually show a shift of culture, if you will, about corruption issues, a greater awareness, a greater feeling that, yes, when we put certain situations to the people being interviewed, that they were able to recognise that those particular things were either corrupt or unethical, so certainly a greater awareness of sensitive situations which we would regard to be wrong, something which many years ago probably was not appreciated to the same extent; but having said that, I do not think one could ever feel comfortable that the situation is right. I mean, corruption is something which can crop up any time, it is something that probably will always exist.

What I think is going to be so interesting is this project that we are planning to do which will look at more or less the state of affairs for the whole of the public sector and we will have a better gauge on how much we, hopefully, have improved over the years.

CHAIR: One further question. Your statement reported that you did a survey and some research into the impact of investigations. Was that in-house?

Ms MOSS: Yes, it was and Mr Poulton will be able to outline some details, if you wish.

CHAIR: In one section of the annual report you make two comments, I do not know that they quite stand together. One is that you found that the publicity surrounding the exposure of corruption is of itself a deterrent. I do not know exactly who it is a deterrent to, when you state in another paragraph a substantial number of related and industry organisations do not seem to take the time to read your reports, unless their business is exactly the same as that being investigated and they do not see the reports as particularly relevant. If that is the attitude of like organisations, how do the investigations then become a deterrent?

Mr POULTON: The deterrent aspect is at a general level, but if there is an awareness of a hearing and finding from the Commission being made against individuals, that tends to have a concentrating effect on a general body, but when it came down to the particular details of the couple of investigation reports that we were assessing as to their impact, the drilling down to the specifics and the great level of detail of those investigation reports was not widely known, so you have this sort of conundrum for us that on the one hand there is corruption in a broad sense and hearings that bring that to the fore raise awareness, but at the very specific level in relation to the particular industry with, say perhaps, a number of recommendations made for change relating to that specific industry, that is not widely permeated and the issue for the Commission is how to take up corruption prevention systemic issues and make sure that everybody relevant in the industry or the sector becomes aware of that level of detail. So on the one hand corruption itself becomes widely known, but the really sort of detailed information about the systemic failure or the solution to that systemic failure, the message from our internal research was that needs to be better marketed and targeted and we need to take greater steps to ensure that we look for the linkages between the various bodies in the industry or the sector.

CHAIR: You have just done two reports from local government corruption prevention combined with a number of other investigations. What are you going to do to see that those permeate throughout the sector this year?

Ms MOSS: We have got a series of education programs. There is the RAROS program, where we will be going out to country areas and holding sessions about corruption issues.

CHAIR: Are we going to find out about the councils? Are you going to do anything?

Mr POULTON: This is precisely what we need to measure. We are undertaking these activities and we need to return after a period of time to councils and

ascertain whether any of this activity has actually led to a change in knowledge, awareness is higher and consequently policy and procedure has been changed. Every initiative, contracting being one, the first one, development applications being the second one, will be evaluated formally for its impact, and that will involve going to other key stakeholders who have an interest in the area, such as the Ombudsman, the Department of Local Government, the Local Government Shires Association, the peak body for general managers, to ascertain what level of awareness has been capitalised as a result of these activities.

Ms MOSS: Since we have chosen local government as a key area to focus strategically on, our work in that area has actually been quite intensive. There have actually been quite a number of consultative meetings with key stakeholders in that area and, as you can see, the programs that we are rolling out, they are quite specifically planned – contracting, contract administration, now moving into the area of development, development applications. We will then be moving into misuse of council resources, that will be our next area of focus, and then the next area of focus, which will be a big one, will be waste management; we believe that there have been sufficient number of investigations and complaints which have shown that whole area of waste management to be a difficult area and ripe for investigation, so we have planned it that way, we have planned the linkage. We have a close working relationship between the investigative branch and corruption prevention and, so, within our resources we have actually been working quite intensively in that local government area.

Mr RICHARDSON: Are there any restrictions in ICAC officers being members of political parties?

Ms MOSS: If you could excuse me, I just want to double-check with respect to our code of conduct, whether that is covered by our code of conduct.

There is no specific prohibition in our code of conduct on it. I myself have asked that if anybody joins the Executive team, that if they are a member of a political party that they resign from that political party.

Mr RICHARDSON: That is what you have required members of your Executive team to do?

Ms MOSS: That is of my team, but there is actually no prohibition in the code of conduct.

Mr RICHARDSON: What sort of safeguards would you have in place to ensure that the political views of officers by membership of their political party would not influence their work?

Ms MOSS: That would be indeed a key issue that anybody who has a conflict of interest, be it political or anything else that would affect impartial judgment and what they bring to a matter, would have to disclose and, depending upon how important that is or how significant, they would not be involved in that particular matter.

Mr RICHARDSON: So you can guarantee that no ICAC officer who was involved in investigations into the alleged Cecil Hills massacre letter or the Tripodi affair

was a member of a political party or had been a member of a political party in the last two years?

Ms MOSS: Well, quite certainly if I am involved in any investigation I would expect that whatever officers were involved in that investigation would declare his or her interest and if it were an interest that would affect the bringing of an impartial view to that matter I would want to know and most likely that person would not be involved in that particular matter.

CHAIR: Is that a policy that you have instituted or was it in existence before you came along, because we have had political inquiries before your time.

Ms MOSS: It is certainly a policy which I would expect to be carried out under myself. I cannot speak for my predecessor. We have just developed a new code of conduct and matters political would be dealt with under conflicts of interest, as I would expect it to be dealt with as a conflict of interest if a person were, say, a member of a political party and he or she felt that that membership would affect whatever they bring to bear in terms of their judgment on a matter.

Mr PEHM: The former code of conduct also dealt with a situation of a conflict between private and personal interests and official duties, so to that extent it was covered, but nothing explicit, as far as we are aware, in policies forbidding--

CHAIR: Previously.

Mr FRASER: So political affiliation would be noted on the personnel files of all employees, or not?

Ms CHESTER: No.

Mr PEHM: No, they would have to be declared in response to a specific involvement in an investigation.

Mr FRASER: But would it not be safer, I suppose, to have it on the personnel file?

Mr PEHM: No, there is a declaration of conflicts of interest file which is kept with the Solicitor to the Commission confidentially.

Mr RICHARDSON: Can you tell me who wrote the report into the Cecil Hills affair?

Mr PEHM: Sorry, on the former question, our security vetting process also covers that - people there make a declaration of membership of a party - so it is covered generally.

Ms MOSS: And, as you know from international conventions and anti-discrimination law in terms of hiring, you would not be able to discriminate on the basis of political affiliation.

Mr RICHARDSON: No, I do not think anybody suggested that you would.

Ms MOSS: Thank you, but what I am saying is that it certainly would be considered a possible conflict of interest if, say, you were looking into a matter which was highly party political and a person did have a strong observable party affiliation. I would expect that person to declare it and I would make a decision not to involve that person.

Mr FRASER: What would you regard as a strong affiliation?

Ms MOSS: Well, say you were looking at a highly political matter involving MPs and the person was a member of the party, I would say no.

Mr RICHARDSON: So who did write the report into the Cecil Hills affair?

Ms MOSS: It was a number of people from my recollection and the investigative work quite clearly was done by the investigators.

Mr PEHM: The acting solicitor to the Commission at the time wrote a draft report and that was reviewed by a number of senior officers.

Mr RICHARDSON: Which senior officers?

Mr PEHM: Well, I reviewed it.

Ms MOSS: And I reviewed it, of course, as one would expect.

Mr RICHARDSON: Did anyone else here review it?

Mr POULTON: Yes, I--

Ms MOSS: Corruption prevention would review it purely on the basis that all the major divisional inputs have to be there. I mean we actually see each report as maybe having a corruption prevention aspect and so the past practice has been the investigative branch reviews it and the CP branch reviews it.

Mr RICHARDSON: I guess there were a number of officers also who wrote the report into the Tripodi affair. Is that right?

Ms MOSS: We took in quite a few submissions, the main submissions being done by the QC involved in the matter, and then that provided a basis for work.

CHAIR: Whose were the opinions? They were yours, were they not?

Ms MOSS: Obviously final judgment that is brought to bear has to be whoever is the hearing commissioner.

CHAIR: Which is you.

Ms MOSS: Which is me or whoever is taken on board as the hearing commissioner of the matter, but highly influential in influencing the hearing commissioner's views would be counsel assisting, the submissions that we get on the evidence, and in that particular matter, from my recollection, the counsel assisting, Ruth McColl, had a huge input.

Mr RICHARDSON: Was any of that evidence taken under oath?

Ms MOSS: Yes.

Mr RICHARDSON: I was just wondering whether Ms Chester and Mr Poulton could tell me whether they have ever been members of a political party or are currently members of a political party, and you have said that members of the executive team would no longer be members of a political party.

Ms CHESTER: I think it is common knowledge that I was a longstanding member of the Australian Labor Party given my previous employment for the Federal Government for many years for Federal Government ministers and a State Premier.

Mr POULTON: I was a member of the ALP.

Mr RICHARDSON: And you were involved with the Cecil Hills inquiry, is that right?

Mr POULTON: Yes, I reviewed a late draft.

CHAIR: Where is this leading to?

Mr RICHARDSON: Chairman, I think this is a matter of public importance really.

CHAIR: Just come out with the allegation, whatever it is.

Ms MOSS: Might I say I also have people on staff who have worked for members of the Liberal Party.

CHAIR: I do not know where all of this is going and I want to get to the point.

Mr RICHARDSON: I would like to ask Irene Moss, if I could please, Chairman, why the focus of your report into the Aquilina affair was squarely on Patrick Low and not on Minister Aquilina or on the director of communications from the Premier's Office, Walt Secord.

Ms MOSS: This is clearly an operational question and I do not believe it is appropriate that the reasons be canvassed in detail at this hearing. All I can say is that it certainly was not affected by any partiality on a political basis and it was decided totally on the facts my investigators had uncovered.

Mr RICHARDSON: Well, Patrick Low said that he had qualms about making the alleged Cecil Hills massacre letter public, but when faced with Walt Secord - this is

in your report - "I did not have the courage to speak of it". Now Walt Secord, you would be aware, is a large and potentially intimidating individual. Do you think it is possible that he stood over Patrick Low and that is why he did not have the courage to speak--

Ms MOSS: I think this is inappropriate.

CHAIR: I am going to rule that question as an out of order question on the grounds that it conflicts with section 64(2)(c) of the ICAC Act.

Mr RICHARDSON: Could I ask whether the Commissioner is satisfied that the investigation into the Cecil Hills matter was complete and that the report concluded rightly?

CHAIR: That question also conflicts with the section. The section does not allow us to review any of the findings, determinations or other decisions of the Commission in relation to investigation and that is legislation your party enacted when it was in government.

The Hon. DAVID OLDFIELD: But just a moment, he is not reviewing anything, he is simply asking--

CHAIR: It does not allow us to reconsider--

The Hon. DAVID OLDFIELD: We are not reconsidering, he is asking a question.

Ms MOSS: For the sake of not spending ages arguing about it, all I can say is I would not have released that report if I were not satisfied with the complete investigation that was done by the investigators in that particular matter.

CHAIR: The problem here arises because you actually released the report. You didn't have to.

Ms MOSS: Absolutely. In fact the practice of the past is that, unless there has been a public hearing, reports have not been handed down. In fact prior to my coming on board I am given to understand that only one matter, one matter where there was not a public hearing, was reported to Parliament. Now since I have come on board I have made a decision that, should it be in the public interest that a matter be reported to Parliament, despite the fact that I have not held public hearings into it, I would report on it and that is exactly what I have done.

Mr RICHARDSON: Yes, I read about that in the material you provided to the Committee in advance of today's hearing. Could I move on to your impending move.

Mr FRASER: Before you do, just one question, I suppose, in relation to political affiliation: You stated earlier that if someone had a direct affiliation or direct conflict of interest you would remove them. It would appear that Mr Poulton has reviewed a file having had past affiliation. Would you regard that as a direct affiliation or not?

Ms MOSS: No, in the sense that he did not do the investigation. In fact he did not do the report. Other people had by that time completed the report. He was asked to review it, totally from the perspective of corruption prevention, as previous directors of corruption prevention have been asked to review reports, so that indeed was the practice. The practice was that when reports were completed it would then be looked at by the heads of the appropriate branches, one being corruption prevention. I mean obviously investigations look at it because they have been involved in the investigation all the way through, but in that particular matter, if he were directly involved, no, he would not be allowed to look at it.

Mr RICHARDSON: What about Mr Stephen Murray? How much involvement did he have with those two reports?

Ms MOSS: From my recollection, Tripodi was a matter which Mr Murray was not involved in. Mr Murray reviewed Cecil Hills.

Mr RICHARDSON: Can you tell the Committee whether he has previously been a member of a political party?

CHAIR: Are we suggesting here that there has been some political contamination of these reports?

Mr MARTIN: He is just looking for a headline.

CHAIR: Is that what we are suggesting, that there is some political contamination of these reports? I think it is important.

Mr RICHARDSON: I am just asking questions; I have not made an allegation.

Ms MOSS: The implication--

Mr FRASER: My interest is purely the fact that I think, as the ICAC tends to be used as a political tool and has done from its inception, we must take the utmost care to ensure that political issues are sterilised from political interference on any level.

CHAIR: I just want to be clear as to where this is going in terms of our jurisdiction. Are we suggesting that there is political contamination of the reports?

The Hon. DAVID OLDFIELD: I would have thought it was information gathering before one suggests that.

Mr RICHARDSON: I have not made any allegation.

CHAIR: Well, is that the issue? Where does it fall within our function? How does it fall within our function?

Mr RICHARDSON: Well, I would have thought that the objectivity of the ICAC reports fell well and truly within--

CHAIR: Well, that is what the question is going to. Are you suggesting that there has been political contamination? Is that the issue? If it is, that is fine, if that is what you want to explore. I just want to know.

Mr RICHARDSON: I have not made that allegation.

The Hon. GREGORY PEARCE: Mr Chairman, isn't it appropriate for him to ask his questions? I do not think you are entitled to ask him to explain to you why he wants to ask the questions. I think he is entitled to ask his questions.

CHAIR: I will allow it to go on, but only for a short moment.

Ms MOSS: If I can just say that from my knowledge of all the matters which have been handled within the Commission, they have been handled to my knowledge totally impartially and that goes for all parties. We have had matters before us concerning members of Parliament of all shades and they have been dealt with impartially.

The Hon. DAVID OLDFIELD: I am sorry, I did not hear the answer to the question Mr Richardson asked of Mr Murray.

Ms MOSS: Mr Murray does not want to disclose it.

The Hon. DAVID OLDFIELD: That means yes.

Mr PRICE: This is nothing more than an attack on the integrity of the witnesses appearing before this Committee.

Ms MEGARRITY: It means Mr Murray does not want to disclose it.

Ms MOSS: Mr Murray is presently not a member of any--

The Hon. DAVID OLDFIELD: No comment means yes.

Ms MOSS: Mr Murray would like to be sworn in to give evidence.

CHAIR: No, I am not going to ask questions of people's personal things.

Mr HICKEY: I agree with the Member for Maitland.

Mr PRICE: We are not here to discuss individuals.

Ms MOSS: I am quite disturbed that there are implications being made on the professionalism of individual members of my staff.

CHAIR: I am going to close the meeting down to go into private session and just resolve this issue and then after we have determined how it is going to resolve then we might determine how it gets back in.

(Evidence continued in camera)

(Conclusion of evidence in camera)

(Public hearing resumed)

CHAIR: Before we move on on this issue I want a clear answer: Is there any allegation being made against any of the ICAC staff in relation to the Cecil Hills matter or the Tripodi investigation that any of those reports were politically contaminated by staff members who might have had an interest in that sort of outcome? It is yes or no.

Mr RICHARDSON: In that context, could I ask Mr Poulton - and this is being very fair--

CHAIR: No, answer the question first. Are you suggesting that or not?

Mr RICHARDSON: I am not suggesting that.

CHAIR: You are not suggesting that. I just wanted to be clear on that. You are not suggesting that, okay, so there is no suggestion from anyone on this Committee that there has been political contamination in the outcome of those reports. Does any other person have questions that they want to ask?

Mr MARTIN: In terms of the type of investigation report - some would have a political nature to them because of the personalities involved - are the procedures, the methodology, exactly the same if it was a public corruption matter?

Ms MOSS: Yes. You might like to outline the process of how a matter is dealt with when it comes in, be it corruption against a public official or if it involves an MP.

Mr MARTIN: It is exactly the same investigative procedure and--

Ms MOSS: Yes, we have an assessments branch and it basically is dealt with by the assessments branch. It then goes to what is called an assessment panel consisting of a group of senior ICAC officials. I do not normally go to those.

Mr PEHM: There are members from each division - legal, investigations, corruption prevention - on that assessment panel who make a decision as to whether it should go to investigation. Once it goes to investigation it is handled by investigators until the stage of hearing, then legal takes over, but the process is exactly the same.

Mr MARTIN: Exactly the same irrespective of the nature of the investigation.

Mr PEHM: Yes.

Ms MOSS: Yes. The other thing I might add also is that matters that we do not want to take further have to go through the ORC, operations review committee.

CHAIR: Did both the Cecil Hills matter and the Tripodi matter go to the ORC?

Ms MOSS: Yes.

CHAIR: You have increased the numbers substantially this year of investigations which you have undertaken on your own initiative. In previous years they have tended to be one or two or three and I think there are about eleven that you have taken on this year. Is that some strategic decision that you have taken or is it just what you have found to be of interest? Why are you increasing them and what is the nature of the matters that you are taking on on your own initiative?

Ms MOSS: I must admit I might have to take that on notice. All I do recall is that if I feel that there is a matter where there is not a specific complaint and I feel that it is in the public interest for us to pursue it, we do, and that might be the reason for it to have gone up from one to eleven. I must admit I have not consciously wanted to take the approach: Well, I must increase self-initiations. I take the matters on a case by case basis and, if I feel that it should be taken up, it is taken up, albeit there may not be a complaint.

CHAIR: What was the cost of the Cecil Hills investigation?

Ms MOSS: Again I probably would have to take that on notice. It did involve, of course, fairly intensive investigators' work time, but I would need to--

Mr PEHM: We could probably provide an estimate if we take it on notice.

CHAIR: We get all these reports of investigations; it would be interesting to know what they cost, if possible, so that people have some idea of the cost benefit value of them.

Ms MOSS: Yes, I am happy to look further into that.

CHAIR: Do you quantify your costs?

Mr PEHM: Not on the basis of each investigation. We have not done that in the past, but we are looking to begin that. There are a number of sensitivities about how you do that in terms of time costing and the efficiencies of having staff when they are working on a number of matters recording time for particular issues - it is not a private legal practice - but we have to work through those sorts of issues with staff as well.

The Hon. GREGORY PEARCE: In relation to your written responses to questions, number 10, the number of assumed identities the Commission has in place which increased from one in 1999-2000 to six 2000-2001 - I just find it difficult to understand why the Commission would have such an investment in people with assumed identities and I just would like a bit of a feel for how much they have been used in the past and why you see that as necessary and also some sort of idea of the cost of maintaining that sort of--

Mr BRAMMER: I cannot tell you exactly why it occurred in the past but, coming from my background particularly in special crime and internal affairs, there is always a need to keep changing the identities for a variety of reasons, in particular registration of vehicles for surveillance officers and so forth, and a lot of that is to do with that, so it will rise and fall according to operational circumstances as well, but I cannot really explain

why that happened, I have not looked at the reasons why, but the assumed identity is there to provide a sanctuary for our operatives when they operate in circumstances where they need - the covert nature of investigations.

Ms MOSS: There have been recently quite a few operations where we have actually attempted some sting operations by way of offering money or that sort of thing and quite obviously we need an assumed identity to participate in those sorts of operations and, as we have said in the answer, the longer the person has that assumed identity in operation the better it is later on when you do actually want to carry out that operation, that person has had that assumed identity for a while and we're not just sort of all of a sudden creating that person and the background, because in doing so there's, in the business, they also try to do things like establish bank accounts and various things like that and quite obviously the longer that person appears to have lived that life, the better it is for the operation and we have actually of late tried a few stings.

The Hon. GREGORY PEARCE: Based on some sort of reasonable suspicion of existing corruption?

Ms MOSS: Yes.

The Hon. GREGORY PEARCE: You would not be involved in any entrapment sort of thing?

Ms MOSS: No. No, and quite obviously to do that you would not want the person doing it to be registered under the real ICAC official's name.

The Hon. GREGORY PEARCE: So just in a general sense your opinion based on the use of these sorts of people in the past is that you have had enough use of them in the past to have this sort of investment?

Mr BRAMMER: I mean, what we are looking at is not just merely minor issues. We are looking at very serious issues of corruption. A lot of it is tied in with known criminals and so forth and there is a need for those sorts of operations, so an investment into securing every aspect of investigation in every way we can is absolutely critical. I mean, it's an important facet of police operations. I mean, we will be entering into operations where we may well use under-cover operatives as well as a need to secure those people. Also if they go to country towns, there's a need to secure the identity of our people, so they are not clearly and quickly identified as ICAC investigators.

CHAIR: Do you do investigation plans?

Ms MOSS: We do now, yes, and they are quite extensively done.

CHAIR: What is involved?

Mr BRAMMER: Investigation plans, we use two formats. One is for the preliminary inquiries, which is a fairly basic format, which identifies the situation, identifies and clarifies what the issue is, then looks at the scope of our investigation, what we intend to do and what we won't be doing, so therefore we make sure we can

find it and make sure it does not run off track. We then have some objectives and there will be other things in the activity plan which identifies the lines of inquiries that are going to be undertaken.

The more formal investigation, there is a lot more rigorous planning process which we put in place which involves a lot of the constituent areas within ICAC, including legal, corruption prevention, investigators, and our special projects people whose main area is technology, they are involved right from the very start to develop the plan which is based on the principles of project management, which looks at a lot broader issues of what the constraints are, what we can assume, how many resources we are going to put into it, again the scope, the objectives, and also identify very clearly what the strategies are going to be in dealing with that.

We are now starting to develop a process to introduce the principles of project management in the actual vet net, so we can actually manage the investigation right through as well; and then there is the regular reporting where they report regularly to a criteria each fortnight on the progress of the investigation, which is oversighted by the operations management review committee and also the operational review committee as well. So it is still in its infancy stage, we need to evaluate how it works, because there is a change of culture. It is not something that even in my previous life people were extremely comfortable with in the first place, but there is a lot of vet nets right through to make sure that we deal with the investigation in the most cost effective way and get the best results rather than just going endlessly on at the whims of the investigator who might have certain views which may not necessarily be objective. So I think it is in its trial stage at this stage.

CHAIR: Who ultimately signs off on the investigation stage?

Mr BRAMMER: With the formal, it goes to the operation management committee who sign off on that. The other ones, the preliminary ones are signed off by the chief investigator but they're vetted by the operational adviser and if there's any need for any mediation or whatever I become involved in that.

CHAIR: Is there a risk assessment done as part of the investigation plan?

Mr BRAMMER: We build them in. Yes. The risk assessment is - basically project management and risk management run hand in hand, and certainly in the philosophy risk management is now being put in place for a whole range of activities that we're involved in, whether we are going to use under-cover operatives, we are going to use informant, we are developing processes to provide a structure so that every time these issues are raised we have got a sort of a framework to go to immediately to identify the dangers, the benefits and so forth. Continually in our talking with the people in their discussions it is about considering the consequences of what they are doing, the benefits of what they are doing and also to make sure that we are not wasting time in dealing with the bottomless pit, if you want to put it that way, involved in an investigation. So certainly risk management is being developed into the ethos of investigation, but as I said this is a developing process, so certainly once we get our education training officer on some time in the near future once the recruitment is finished that will be one of the main processes of implementing risk management and building and educating people as to those principles and how they can apply.

Ms MEGARRITY: On the strategic risk assessment unit, you answered to question number seven about the risk assessment unit that further progress on the creation of the unit and changes to processes and systems associated with the implementation of the unit will await the appointment of the manager, and it is thought that the manager might be appointed by early 2002. I just wondered if I could ask at what stage is that recruitment up to and by what stage or when do you think that unit will become operational?

Ms MOSS: Hopefully very soon. My understanding is that Mr Brammer and Mr Pehm have completed interviews on that position and they are in the process of choosing someone.

Mr BRAMMER: It is still part of that process of references and so forth and also security checks.

Ms MEGARRITY: So does that person when appointed have to set up their own unit or do they gather people around them?

Mr BRAMMER: Setting out the errand list – we have the people, it will be about calling those people together and then embarking on the process of developing new ways of dealing with data information and so forth and building in the risk assessment process. Certainly it will be a very challenging process for the people because we have also got to identify whether we have got people who have got the ability to think at a high level strategically and if we have people with potential how we are going to educate them and instil that in them.

Ms MOSS: In the past it would seem that with people who work in the area of intelligence analysis it is more along the lines of collation rather than analysis, so we are going to have to try and make people who work in that area think quite differently to how they have been doing work in the past. They are going to be looking at strategic analysis, not just collation of material and the odd tactical work.

CHAIR: I just raise the issue again. If you did have a high-risk situation, would you look after the security yourselves or would you involve the police in it?

Mr BRAMMER: My absolute preference would be to involve the police in it in certain situations, using the same protocols as we do with the police service and the same with we are using undercover operatives, whatever, is to adopt the principles that they work with all the time. I believe the danger of putting our people into any sort of situation where there is a possible risk is that they are not continually dealing with that sort of situation and so objectivity, experience and all those sorts of things do not go out the door, so certainly if there is going to be execution of a search warrant there is a risk assessment in saying what are the potential risks, if there are risks to the police or, sorry, to the investigators, to members of the community. If a suggestion of firearms being present, whatever it may be, or there is a history of them having firearms, we will certainly be going straight to the police service to provide and lead the execution of a search warrant.

CHAIR: Have there been many instances or circumstances where you have been involved in that sort of risk that you have needed to involve the police?

Ms MOSS: I cannot recall that we have had the need to draw a gun whilst I have been at the Commission.

Mr BRAMMER: We have issued some warrants recently. We have actually used the police in facilitating that. Fortunately there was no sort of issue identified in that process. We took the step to make sure there was no potential for it. That will be my policy as far as that is concerned in every case, that wherever possible try and use the police for that support.

CHAIR: Do investigators really need guns?

Ms MOSS: My personal view is no.

CHAIR: What does it cost?

Ms CHESTER: They are required to have regular training and the training that is available is usually at a weekend, so the cost is usually in the order of \$40,000.

CHAIR: Just for training. What is the cost per year to have the equipment?

Ms CHESTER: There is ongoing maintenance and servicing of the guns.

Ms MOSS: I understand you have to be relicensed every year, so that is actually an ongoing cost.

Mr BRAMMER: There are also issues about mandatory training. If you are going to have enforcement you need to meet requirements as set out by the Police Service where there is regular training and so forth. Currently there has been a submission made which has just been received in relation to some considerations. We will shortly be considering that, as to the best approach to take in the future.

The Hon. DAVID OLDFIELD: How many guns do you have?

Ms CHESTER: I might have to check the number, but I believe there are 20.

CHAIR: Every investigator?

Ms CHESTER: No, it is not every investigator.

The Hon. DAVID OLDFIELD: Are they just the same as the police service Glocks?

Ms CHESTER: Yes, I believe so.

Mr BRAMMER: They are not personal issue, they are only issued in certain circumstances with authority.

CHAIR: Are they taken out on a case by case basis?

Ms CHESTER: Yes.

CHAIR: Is that depending upon risk assessment?

Ms CHESTER: Yes.

CHAIR: How many investigators do you have?

Mr BRAMMER: We have about 21, plus we have six surveillance people, but the likelihood of 20 guns being out at one time is very remote, I would say.

CHAIR: Has there ever been an occasion where one of these guns or a gun that is with ICAC had to be exhibited or discharged?

Ms MOSS: Not as far as I know.

CHAIR: You would get the police out in those sorts of circumstances, would you not?

Mr BRAMMER: Well, as I said, under our policy, wherever possible, we do that and I think that is the best way of doing it.

Mr PEHM: It is a very sensitive issue with investigators. They have had them for a long time and they are very concerned about their security in executing warrants. We recently introduced risk assessment for each situation. It was previous practice to take them out on the execution of every warrant. After that there was significant staff concern. We have had WorkCover involved now to work through a process with the investigators and just in the last week or so that process has been finalised and a report has been put to management for consideration, so a decision will be made soon.

CHAIR: So there are circumstances now where you are executing warrants without guns?

Mr PEHM: Yes.

Mr BRAMMER: It is not dissimilar, I think the sheriff's department does the same thing, when they are going in to execute whatever they execute and they have some concerns about security, concerns about their safety, whatever it may be, they use the Police Service as well, but I think what we have to be mindful of is that, whilst they go in and do search warrants, sometimes there are issues that arise and sometimes they might need protection and we need to consider that, how we best protect them in those circumstances. I mean we might go in there and say there is no risk and all the best assessments are done but, at the end of the day, sometimes things go wrong and our people need some protection, so we need to make sure that that is considered. Also WorkCover has been involved in the review as well, so we are consulting with them as well.

Mr PRICE: Commissioner, I would like to ask something about a more mundane matter, something you replied to actually, question 15, the regional outreach strategy. I noticed one of your topics is corruption resistance review. Talking specifically about my electorate in Maitland, which is to be the scene of your visit next year, you make the statement: Maitland Council will also be the subject of a CRR which will allow some assessment to be made of the changes and improvements made at the council following the sacking of the council several years ago. Can I ask what format that would take or what involvement ICAC may have had at the time given that it was an inquiry into the elected members and that the council was finally dismissed by the Government after a commission of inquiry? Was ICAC involved in that inquiry and what would you expect to gain from such an inquiry or re-inquiry given that the council is theoretically a newly elected council but the officers remain largely the same as they were forever, except for the appointment of the general manager who was appointed by the administrator?

Ms MOSS: If I can answer the last question first, it will not be an inquiry, as such, as we understand, say, an inquiry by investigators, it would be a corruption resistance review and Grant will give the details of how that is done exactly. With respect to ICAC's involvement at the time, I would have to take that on notice because I actually do not know.

Mr POULTON: I do not believe we were, but we will check.

Ms MOSS: Perhaps if you could outline what is exactly done when a CRR is instituted?

Mr POULTON: Yes. We advised the general manager of the council. I attended the Hunter ROC, regional organisational council, monthly meeting last month and talked about how we were going to be coming in June as part of the starting-off of the process of talking and working in partnership with the ROC. The CRR is a questionnaire based survey, a mini-survey if you like, which we send to an agency and it allows them to, you know, where are we up to? They provide a whole range of answers to specific questions and then we give an assessment and then we provide a draft report and recommendations to the council and then they discuss with us bits they like in the report, bits they think are wrong, we negotiate about that, and then we release a final report to the council which the council is then able to use as a catalyst for change, an opportunity for outsiders to come in and run the ruler over their corruption resistance systems. There is significant advantage, we think, with the corruption resistance review and I am happy to provide you with a copy of a questionnaire. It is a lengthy thing in a folder but--

Mr PRICE: I do not want a copy, I just wondered what the format would be and also whether you would involve other councils within the ROC. I think there are 13.

Mr POULTON: Yes, I think the other general managers are rather pleased that it is their colleague that has the honour of undertaking a corruption resistance review, but Hunter ROC has actually come to us and wants us to take "Taking the Con out of Contracting", our guidelines on contract procurement and administration, and run training through the ROC for all of the councils in the Hunter, so I think working with the ROC on contracting and then doing the RAROS next June the opportunities for us to

work with all councils in the ROC are really quite significant, a range of training activities and those sorts of things.

Mr PRICE: The reason for my question was that I have a constituent who complains regularly about the conduct of council and has in fact written to the Commissioner alleging corruption and I just wondered whether Maitland had been selected as part of or as a result of that complaint process because I would not like to see the council singled out unnecessarily without some other form of inquiry first, given that they have been through a pretty rugged time with the public inquiry.

Mr POULTON: Can I explain: I have been talking to the general manager. The reason why we selected Maitland was because of the difficulties several years ago and this is supposed to be a positive opportunity for agencies to work with us collaboratively to improve their systems. We see it as an opportunity to go to them, you know, much like business improvement consultants several years after some very difficult activities and see how are you going along; how can we offer further advice, training and other opportunities to assist in the process of rebuilding some years on, as they are now in the process of rebuilding, and I think I would be fairly safe in suggesting that the councils themselves see it positively. They are aware of the perception in the media that ICAC is here, there must be something wrong, but I think they see it positively in the sense of it being a business improvement opportunity and good ultimately for the organisation and for the ratepayers. There is clearly a communication issue on which we will work with the councils on communicating in the local government area. This is not because your council is bad, this is because your council actively wants to improve and make sure that it is a corruption resistance council. It is something that the residents can have confidence in.

Mr PRICE: Well, may I request that your preliminary publication makes that very clear, that you are not responding to local complaints, otherwise you will create a problem that will cause me to leave town momentarily.

Mr POULTON: Taken on board, absolutely. We want these things to be positive for the agencies.

Mr PRICE: Yes, I think it is a great idea, but how individuals interpret these things - I mean in the past the comment about ICAC coming to town was, well, they do it quietly, but they have a little brass band in front of them, I think those days have passed, but nevertheless some of our media colleagues do want to take that view.

CHAIR: I know you have this ethical culture kit that is distributed around the place for organisations to sort of self-assess themselves, but have you thought about perhaps being a bit more proactive and, on a random basis, doing some auditing of organisations to see the level of corruption resistance?

Ms MOSS: We are.

Mr POULTON: That is exactly what the corruption resistance review program is about. We did a corruption resistance review at Wollongong University earlier in the calendar year, the first six months of the calendar year, and we have just completed - and that is why we have had RAROS up in Lismore - a corruption resistance review of

Southern Cross University, so those two corruption resistance reviews were strategically set up towards addressing the concern that we have about universities governance generally.

CHAIR: What were the outcomes? I have not seen any reports.

Mr POULTON: No, the report that was provided to the first university, Wollongong, contained roughly 30 recommendations for improvement. We have just had contact resumed with the University of Wollongong, how are you going six months later, and we are in a position I think to finalise, if you like, an outcome from that in the next two or three months. We understand from contact with the Pro-Vice Chancellor of Southern Cross University that they are using it as a catalyst for change, so they will take about six months to take the report and recommendations and develop a framework and implementation program, but both universities have taken them as opportunities, catalysts for change, and in terms of how the public then becomes aware of those matters, depending on the outcome that we achieve with Wollongong, we would like to pour that into our universities project which will be working towards an event in April so that we can then take both the CRRs from the universities and say, look, here are two of your eleven colleagues, this is what we have found, and hopefully generalise it across the sector to the other nine universities in the State.

CHAIR: How did you choose those universities?

Mr POULTON: We chose Wollongong for the reason that we did not want to choose a Sydney metro, we wanted to choose a regional university, and Wollongong was the cheapest to get to and from. You can go to Wollongong on a visit, there and back in a day.

CHAIR: It is hardly regional.

Mr POULTON: We chose the Southern Cross University so as to align - we chose Lismore to go to as our northern rivers RAROS and we chose Lismore because Southern Cross University is headquartered there.

CHAIR: Are you going to follow this up with the others? Are you going to publish the results?

Mr POULTON: Well, as I say, we are hoping to take the results from the two corruption resistance reviews and use them. We have a universities project and we are leading towards a universities forum in the first half of next year - and I am sorry to be doubtful about the date but I do not want to be committed because it is not settled yet - roughly April. We will be having a universities forum and we would hope then that the Pro-Vice Chancellors of both these universities will attend the forum and explain the benefits to their colleagues of having a corruption resistance review and what they are doing, so it becomes an opportunity for the universities to say: These are steps we have taken with help and assistance, we think it is a good thing and we suggest you do it yourselves. At the same time as having the ethical culture survey kit we will have a do-it-yourself corruption resistance review kit ready and available so that we are able to send that to all agencies to allow them to apply the methodology themselves.

CHAIR: What sort of resources does this consume?

Mr POULTON: Which aspect?

CHAIR: These two surveys that you have done.

Mr POULTON: The corruption resistance review we have narrowed down, so it takes six weeks from dispatch of questionnaire to dispatch of final report, and one or two officers will work for a couple of days a week during the course of that six weeks.

CHAIR: I thought there was a lot more involved.

Mr POULTON: No, I think we started off, we piloted it and it took us a long time and we have slowly refined our methodology, so now it is just a quick in and out, if you like, and I do not mean to say that that means we don't assess them properly, but we want to turn them around in six weeks because they are supposed to be snapshots for universities or other agencies.

CHAIR: I just want to ask you one more thing before I move on. I am still not quite clear from reading your annual report as to how you make strategic choices. You have identified two areas, eCorruption and local government. I know you have had a large number of complaints. eCorruption seems to be something that you have taken on your own initiative because you felt it was important. I do not know whether it necessarily reflected the complaints that you received, but perhaps you could just explain to us how you actually go about making the choices that this is where you want to devote your resources. Is it intuition or is it complaints or--

Ms MOSS: Well, we want to move away from intuition and base it more on what we have in terms of information before us from allegations, complaints and investigations. So what we are trying to do is look at the profile of the investigation matters and the allegations that come out of it, the areas of misconduct, and if, quite obviously, we work out that one area is more pronounced than another we would want to then focus on it. Having looked at the profile we would say - and this would occur, say, at an operations management committee meeting - well, this looks like obviously an area of concern, let's now focus on this area, and we did that with local government and, quite obviously, when you look at the figures, local government figures quite prominently so it really has to be an area of focus. If you look at our complaint allegations, if you look at the investigations of the past, local government continues to be an area of focus and has to be. Having done that we would say, right, what we now want to do is to make sure that our investigations are strategic in that area, that our information collection focuses on what we want to collect in that area, and that is something that is new for us too because our information gathering system in the past has not been good. We have developed a new strategic plan for that and we hope that for the future it will be better. We then align the work of corruption prevention with that so that whatever we do during the year we have specific tailored projects in those big areas. Local government I have already mentioned.

In relation to eCorruption, we looked at our complaint profile and we did see that there were matters of that highly technological nature that were arising that were causing corruption problems, computer forensics, as you can see even from these last

couple of years, many issues have arisen from the problem of high technology and what that can bring about.

CHAIR: You have only done two investigations. One is the one you are doing at the moment at the University of Technology.

Ms MOSS: We have done the State Rail one.

CHAIR: That was a pretty small one.

Ms MOSS: It was a small one, but we thought that it illustrated a point. We thought that the National Parks case was also a matter which illustrated the interesting use of technology and indeed highly sophisticated skills were actually required in that particular matter, quite sophisticated, so we thought, okay, here is another area and so we aligned our corruption prevention to look at that, so we are now trying to be a bit more strategic about it than we were before and trying to say, all right, if we think we have a problem in an area, let's pour a little bit of resources into it and try and focus on it in a big way and have an impact rather than have your resources kind of dispersed in a variety of things.

The Hon. GREGORY PEARCE: If I could just go back to the question I asked you earlier about the assumed identities - I do not think you fully answered the question at the time - I want to know what it costs, and it may be that you will want to take this on notice and perhaps it needs to be confidential. My concern, I guess, is that for a body which investigates ticket rorts at the Manly ferry wharf and a few other similar sorts of things, the issue of proportionality. You are not the Crime Commission, you are not the CIA, so I would like to see the costs and a bit of an explanation with some actual concrete examples of how this has helped in the past, just to get a feel for the comfort level that this is appropriate.

Ms MOSS: Yes, could I take that on notice?

The Hon. GREGORY PEARCE: Yes, of course.

Ms MOSS: Could I take it on notice and then give you perhaps a more meaningful response.

The Hon. GREGORY PEARCE: Have you used any assumed identities in current investigations?

Ms MOSS: I am not 100 percent sure, but I think there are.

The Hon. GREGORY PEARCE: Perhaps you could also explain what utility they have.

Ms MOSS: Yes.

Mr BRAMMER: Well, for instance, part of it is about surveillance people because they need to have those to get the vehicles registered and so forth.

CHAIR: Sorry, could you repeat that?

Mr BRAMMER: Surveillance. So far as our covert operations, we need to use false identities. We cannot run around with cars registered to ICAC, put it that way, and so therefore there is that utility which is a consistency that we have to have, but certainly, irrespective that there might be views about the type of work we are doing, I would argue that that is not necessarily so because some of the corruption that we might be looking at now might be of a serious nature which involves criminals and so forth. I mean--

CHAIR: In rebirthing, could you use--

Mr BRAMMER: Pardon?

Ms MOSS: Rebirthing. In the Jomelli one, I do not know if we did on that.

CHAIR: Well, perhaps you could look into that and give us some examples. I take it, in any event, when you do your investigation plans now you make an assessment as to what you use. Your complaints are going down a fraction, but the use of listening devices, assumed identities and all these other methods is greater than before.

Mr BRAMMER: Again, having come from where I did, special crime and internal affairs, the Florida issue is an extreme example of how valuable technology can be and what will come to be shown some time in the future, no doubt, is that we need to look at better ways of capturing evidence, better ways of prosecuting people and so forth, and we need to apply the same tools that you do in criminal investigation. I had the same argument when I went to internal affairs in 1997, and there are a lot of police in the police service who still object to us using technology on our own people, but it is the best way at times to identify corruption and deal with it and so therefore I would imagine we will be using those tools a lot more efficiently.

Ms MOSS: And I am conscious of the fact that when you hold hearings most of the evidence is given under objection and so your evidence gathered there cannot be used for prosecution. So I think taking the views actually of the Committee on board that we should work hard at trying to get admissible evidence, we actually have been trying to do most of that work prior to the hearing in how we gather the evidence at that investigative stage and so there actually has been a message, you might say, sent through the organisation that it is more important, if you can, to get that evidence prior to hearing and not use the hearing process, that that is going to be more valuable, in a sense, to us in trying to get that admissible evidence, so I guess there has been a greater focus.

CHAIR: I commend you on that because that is an important factor that you have taken up.

Mr PRICE: Arising out of issues concerning the travel problem associated with Justice O'Keefe I would just like to ask you a few questions in relation to how the Commission now evaluates proposals for official overseas visits; what do you require from those who wish to make the visits within your staff; what sort of guidelines do you

have to evaluate one request from another and how do you assess the benefit from an overseas trip and apply that to, say, future involvement in travel to similar conferences or whatever?

Ms MOSS: Of late we do not get a lot of information about various conferences overseas, et cetera, but the thing is that when they do come in and if they come to the attention of staff who want to take advantage of them they would have to make a case to their supervisors that it is in the interest of the Commission that we participate in that, so a case would be put up and it would be considered. It would go up the line. If it involves overseas travel I would look at it and say yes or no. Not that there have been that many - very little in fact - and it would be made on a case by case basis and we would then take it from there.

Mr PRICE: Given the vagueness of past records, have you developed a recording system in terms of costs, value to the organisation, and a reporting system, and how would that reporting system be used to benefit the Commission?

Ms CHESTER: There are a number of reporting mechanisms for all travel, including overseas travel.

CHAIR: Perhaps you could also answer that question in terms of identifying any changes?

Ms CHESTER: Well, I cannot answer on what the practices were prior to the Commissioner's appointment or my appointment.

CHAIR: Why not? Is that because you do not know them or they did not exist?

Ms CHESTER: Well, as part of my responsibilities, as mundane as they might seem on finance and those sorts of matters, you actually step through what are the procedures in place and I asked for a number of things to be put in place that I felt were necessary.

CHAIR: What were they?

Ms CHESTER: Well, if I could perhaps step through the order - and it is quite a tedious sort of little list - the first step was obviously the submission to the Commissioner and at the same time - and I am talking in respect of overseas travel - an authority to travel form has to be completed. Now I do not know what occurred in the past, whether they were done simultaneously and submitted at the same time, but it is far more appropriate for record keeping that those two things travel simultaneously through the system. I have also requested that no travel bookings be made until there is a formal approval received back from the Commissioner. Again I do not know what the previous practice was, whether the travel bookings were made prior to the approval being received.

Then there are a number of steps that officers who do get approval have to go through in terms of advance payments of travelling allowances. As I said, travel is booked through the Government contract, through the Qantas contract, and accommodation is totally booked and officers can request an advance payment of the

travel allowance. If that is the case they then fill in another form, but that is only paid up to 80 percent of the Australian Taxation Office allowable amounts and it is only paid the day prior to travel, and again I requested that that occur because I had no evidence of what had been occurring in the past. When those advances are paid in cash the day before travel there are various notations made in journals to that effect and officers sign off on that because when they return, within seven days of returning, they must prepare a settlement claim and acquit it against the advance and again various notations are made in various journals. I have also instituted spot-checks of the travel advance moneys so that there can be a reconciliation at any point in time of where that money from the travel advance float has been allocated and what has been acquitted and I am not aware of any of those procedures being in place previously.

They are, in essence, the processes and procedures that we go through and, as I said, I cannot really comment because I do not have any evidence of some of those things that may or may not have been done in the past.

Mr PRICE: I would like to ask just one specific question in relation to the process while someone is actually away. If an itinerary change is required, whether it involves an additional cost or not, would that be left to the officer concerned, and I appreciate on some occasions there would be no choice but, as a general rule, would there need to be a reference back to yourself or to the head office or would you expect that it would just be mentioned in the subsequent report and any additional expense be justified as a result of that variation?

Ms CHESTER: It would depend on what caused the change in the itinerary. If it was because travel bookings had been changed and due to circumstances out of their control they had to make different bookings, you would expect the officer concerned to proceed to return to work as close as possible to the day that they did intend and you would not require them to seek approval to do that before returning. Any other requests to change an itinerary, we would expect them to come back to communicate with the office, the manager and the Commissioner as to the need to change the itinerary before they changed it.

CHAIR: In terms of the trip that Justice O'Keefe undertook in the final year of his term, there was an itinerary change I think for one day. He was to return on a Saturday instead of a Sunday and he changed it, according to the documents supplied. That incurred expenditure of over \$1,000 to the Commission. Is there any explanation or reason given for why a change in itinerary took place?

Ms MOSS: No, I am not aware of any.

CHAIR: I think he came back a day early. I am sorry, I said it the other way around. Was there any explanation given for that?

Ms CHESTER: I am not aware.

Ms MOSS: I am not aware of anything else either.

CHAIR: I am sorry to ask that question, I just wanted to know. The other thing I did want to ask arising from that series of questions that Mr Price asked is to what

extent are Commission staff allowed to incur expenditure on private credit cards and then seek reimbursement from the Commission, particularly for substantial sums of money? Is there a policy about that?

Ms CHESTER: This is in relation to overseas travel?

CHAIR: Yes, I think most or some of the expenditure that was undertaken by Mr O'Keefe appears to have been on private personal credit cards, and there may be reasons for that, I do not know. I just want to know how you handle those situations. I mean it was a substantial sum of money. Presumably a cheque could have been drawn by the Commission unless there was some problem.

Ms CHESTER: Well, as I said in relation to Mr Price's question, there are various steps that you go through and a travel advance up to 80 percent of the Australian Taxation Office allowable amounts can be advanced to an officer to travel. When they return they do a full acquittal of their expenditure against that advance and, as in accordance with the overseas travel guidelines issued by the Public Sector Management Office, for anything under that daily travel allowance you do not have to have a full substantiated record. It is for expenditure beyond that daily allowance that you have to have a full written explanation. We do not have corporate credit cards. We do not encourage our officers to use their private credit cards in the course of any travel, but it can occur and we would expect a full substantiated account as to why it occurred, but because we have got the ability to pay that cash advance of the travel allowance, the need for credit card payments for meals and incidentals should not really arise, because travel, et cetera, is booked through the Government contract with Qantas and accommodation is pre-booked.

CHAIR: I appreciate what you are saying. The only thing that I am concerned about is that the Commission did publish a report some time ago on the issue of parliamentary travel and in the course of that report commented that there was a mixed question as to whether money could be incurred on private credit cards because it might provide a benefit to an organisation, as there would be a time period during which an expense would not have to be incurred by that organisation, and therefore no final view was to be expressed by the Commission as to the appropriateness or otherwise of the use of private credit cards. I take it you have got a different view about that now to that which you expressed in that report. Is that correct or not?

Ms CHESTER: As I said, we do not encourage officers to use private credit cards for any expense, but in the event that it did occur, it would be for meals and incidentals for which they would put the cost. We would expect full substantiation of why these expenses occurred.

CHAIR: Could I just take this opportunity to table two letters from Justice O'Keefe that we have received. If anyone wants a copy of them, they are available.

Mr RICHARDSON: Chairman, I would like to pursue the matter of the move.

CHAIR: Yes, any other further questions from any other members at this point? I will go back to Mr Richardson.

Mr RICHARDSON: Commissioner, when are you moving to the Piccadilly Centre?

Ms MOSS: Could we deal with this in camera? We do not wish to nominate the date.

Mr RICHARDSON: All right, can I ask you some other questions that do not include security considerations and we can come back to that. Is that all right?

Ms MOSS: Yes.

Mr RICHARDSON: How much are you going to be paying in rent for your new accommodation and how long will the lease be for?

Ms CHESTER: Can I go through the details of those new arrangements? There are actually two lease arrangements, one for the actual office accommodation and one relates to the car park space in the basement of the building. There are two separate lease arrangements. As you are probably aware, our current rental arrangements are not structured this way - there is a rent component plus there is a number of outgoings, and what is usual is you call it a gross rental amount and you put both of those together, and that is the basis on which our new lease for 133 Castlereagh Street has been negotiated, so we pool all those outgoings. The comparable figure for the Redfern premises for a 12 month period is \$937,000 and the comparable figure for 133 Castlereagh Street is \$958,000, a difference of \$21,000, and I stress that is the office accommodation without the car parking. The main difference will be the rental for the car parking area and our basement space: our current rental for that is \$46,000 a year and the new amount will be \$173,000 a year, primarily due to the escalation of car park costs and fees in the CBD.

Mr RICHARDSON: You say in your answer to questions on notice that the current premises were fitted out at a cost of \$4 million, is that right, several years ago?

Ms CHESTER: No. The premises at 133 Castlereagh Street to which we are shifting, the cost to Lucent Technology for previous occupants, they advised us it was \$4 million. It has a current book value of \$1.8 million.

Mr RICHARDSON: So that includes your computers and so on, because what it says here is, "Including the purchase of the existing fit-out for \$720,000 for a fit-out cost and \$4 million several years ago".

Ms CHESTER: No, it was not several years ago. It was about 18 months to two years ago Lucent Technology fitted out 133 Castlereagh Street, levels 20 and 21, at an estimated cost of \$4 million. That does not include computers. That includes things like all the workstations, all the IT cabling, but not computers.

Mr RICHARDSON: And you were buying that for \$720,000?

Ms CHESTER: That was one of the arrangements with Lucent Technology to assign the lease, that we purchased their fit-out at a cost of \$720,000 and in addition we received a rent free holiday of nine months and three weeks, which takes us

through to until 30 June 2002, and the new lease, with the assignment from Lucent Technology to us, we then renegotiated it with Stockland, the building owner, so that it is an eight year lease and we negotiated an additional two week rent free period with Stockland that applies from 1 July 2002 for two weeks. So in total there is a rent free period of ten months and one week.

Mr RICHARDSON: You estimate a cost to move of \$1.4 million?

Ms CHESTER: Yes.

Mr RICHARDSON: And you claim that to have stayed at Redfern would have cost you \$1.8 million. Why is that? What needed to be done at Redfern?

Ms CHESTER: The Department of Public Works and Services, which we engaged in October last year, set forth a number of options for our accommodation, our long-term accommodation, and one was remaining in the Redfern premises, and given the issues that they identified as needing some correction, their minimum estimate was \$1.8 million.

Mr RICHARDSON: What sort of issues were they?

Ms CHESTER: Well, some of the - it is very hard to divorce some of the -

CHAIR: That goes really to security issues.

Ms MOSS: I would actually now like to go in camera because to give meaningful answers comprehensively we will necessarily cross security issues, because they were issues which were looked at, and also commercial in confidence issues, and for that reason I would like the details of that to be done in camera.

Mr RICHARDSON: Commercial in confidence issues?

Ms MOSS: Yes.

Mr RICHARDSON: For example, if I were to ask questions about arrangements you would be making for conducting hearings in the future, would you regard that as being something that would have to be heard in camera?

Ms MOSS: We are happy to answer that particular question in the public hearing.

CHAIR: Do you want to go in camera?

Mr RICHARDSON: I will ask some questions, but not in camera.

What arrangements are you going to make for your hearings?

Ms CHESTER: There is sufficient space in the new premises to hold both a public hearing and/or a private hearing. There are two very large conference rooms that can actually be made into one large room. There is a dividing wall down the

middle that can be pushed back to make it into a very large room, and that is sufficient space for a public hearing. Should we ever determine that a public hearing would warrant a larger space we would access external premises, probably in the adjoining building in the Wesley Centre, but I would stress that the space in the new premises is sufficient to hold both a public hearing and a private hearing.

Mr RICHARDSON: The Wesley Centre, what is the room there that you have got?

Ms CHESTER: The Wesley Centre is an adjoining building to the Piccadilly Centre and they have a number of spaces, quite large, quite small, depending on what your needs are.

Mr RICHARDSON: Have you calculated the cost?

Ms CHESTER: We have not done a full analysis of external spaces, because the space available at 133 Castlereagh Street we believe will meet our needs on most occasions.

CHAIR: If there is anything that can be taken on notice.

Mr RICHARDSON: Can I just ask Mr Brammer – I am conscious of the need to make sure that this does not traverse any areas that might be sensitive, but are you happy with the security arrangements in the new building?

Mr BRAMMER: Yes.

Mr RICHARDSON: You have obviously had discussions with the other tenants in the new building and they do not have any problems with ICAC moving in there? Don't forget, since ICAC's inception you have been stand-alone.

Ms CHESTER: Can I mention for the benefit of everyone who some of the other tenants are. The Human Rights and Equal Opportunity Commission, the Australian Government Solicitor, ATSIC, Office of the Public Guardian, Office of the Protective Commissioner and various units of the State Rail Authority. In fact, the Office of the Protective Commissioner wrote to the Commissioner of ICAC welcoming us as a tenant into the building and also offered us the use of their hearing room facilities should we need them.

CHAIR: Unless there is some other vital issue, I think questions on notice, if we can have an agreement that any further questions on notice be lodged by Monday 3 December 2001 and the Commission, depending on the length, will answer them.

Before we retire, I want to read on to the record that a question was put to Mr Murray regarding his membership of a political party. Mr Murray was sworn in in camera and made a statement at that time to be made public and read into the public record. Mr Murray said this:

In response to your questions, I have been at various times a member of the Liberal Party, the National Party and the Australian Labor Party. I have worked

for Alan Corbett, in the Upper House. I worked for him between 1996 and 1998. I take the oversight role of the Ombudsman and the ICAC so seriously that when I joined the Ombudsman's Office in 1998 I gave up my substantive position with the legislature in order that the appearance of independence and the substance of independence could be maintained. I forfeited all my employment rights at that time in order to take the role and responsibilities of the oversight agencies very seriously.

I resent any implication that my professionalism has been compromised by what I have done in the past.

During the term with the Ombudsman and the Commission I have declared my affiliation as part of the security vetting process. If I felt that it was in any way compromising the matters that I worked on or provided advice to the Commissioner on, I would withdraw myself from that and I have done that in the past.

As I said, I resent any insinuation or implication that I have done otherwise.

I also want to make a statement in relation to the Stage II of the Review of the ICAC. The Committee has received correspondence from the Ombudsman expressing concern that the proposed definition of "corrupt conduct" in recommendation 1, if implemented, would have the unintended effect of extending corrupt conduct to include maladministration currently investigated by the Ombudsman. It is clear from the body of the report on stage II of the review that the Committee concluded there should be "no major changes made to the ICAC's jurisdiction, powers and functions" but that "greater clarification and explanation" was needed. The body of the report clearly states that the Committee did not recommend major changes to the ICAC's jurisdiction. The Committee feels that the proposed single section definition of corrupt conduct placed the correct emphasis on section 9 as the most significant threshold in the current two-part test to establish conduct as corrupt (stated in the stage II report) and the Committee did not intend the proposed definition of corrupt conduct to result in any extension of the ICAC's jurisdiction to cover matters currently dealt with by the Ombudsman.

(The witnesses withdrew)

(The Committee adjourned at 1.10 p.m.)

**QUESTIONS TAKEN ON NOTICE
AT AND FOLLOWING THE GENERAL MEETING OF THE
PARLIAMENTARY JOINT COMMITTEE ON THE ICAC
30 NOVEMBER 2001**

1. At page 11 of the transcript of the General Meeting of 30 November 2001, The Hon. J Hatzistergos MLC asked:

“You have increased the numbers substantially this year of investigations which you have undertaken on your own initiative. In previous years they have tended to be one or two or three and I think there are about eleven that you have taken on this year. Is that some strategic decision that you have taken or is it just what you have found to be of interest? Why are you increasing them and what is the nature of the matters that you are taking on on your own initiative?” (p. 11)

There has been no policy or strategic decision to increase the number of “own initiative” matters. As an indication of this, from 1 July 2001 to date (January 2002), there has been only one “own initiative” matter.

Of the eleven matters in 2000-2001, four of these were new issues arising from enquiries made into s.10 complaints or s.11 referrals. Another two matters followed a strategic assessment on an individual. Another matter arose from the ORC identifying a new issue from a report presented to it, and asking that inquiries be made into that new matter. Another matter was initiated following the Commission being made directly aware of certain conduct of a private sector entity in relation to public officials. The remaining matters arose from public domain material, including media reports, which were considered in conjunction with existing Commission holdings.

It is anticipated that, with the establishment of the Strategic Risk Assessment Unit, greater emphasis will be placed on the proactive identification of corruption risks, meaning that there may be an increased number of self initiated matters in future years.

2. At page 11 of the transcript, The Hon. J Hatzistergos MLC asked:

“What was the cost of the Cecil Hills investigation?”

As advised in the answer to the question on notice concerning the costing of staff involvement on the Annual Report, and at the meeting in response to this question, the ICAC does not undertake activity based costing.

In terms of the resources committed to these inquiries, the investigation was led, and primarily conducted, by the Acting Director of Investigations at the time, with substantial assistance from the Acting Solicitor to the Commission. Two investigators and a principal lawyer provided additional assistance. The draft of the report was written by the Acting Solicitor to the Commission, and was reviewed by the

Commissioner with assistance from the Deputy Commissioner, the Acting Director of Investigations, the Acting Solicitor to the Commission, the Executive Director, Corruption Prevention, Education and Research, and the Executive Officer to the Commissioner.

The total cost of printing 600 copies of the report, "Report on an investigation into Matters Arising from a Ministerial Statement to the Legislative Assembly on 10 April 2000", and 3000 copies of the associated "Investigation Issues" summary, was \$1578.00.

3. In response to questions asked by The Hon. D Oldfield MLC at pages 14-15, an undertaking was given to confirm an answer given on the number of guns held by the ICAC.

As advised at the hearing, the ICAC has 20 firearms. Thirteen ICAC officers are presently licensed to use these firearms.

4. At page 16 of the transcript, Mr J Price MP asked whether the ICAC was involved in the Department of Local Government's 1997 inquiry into Maitland Council?

Other than referring a number of complaints concerning Maitland Council to the Department of Local Government at the time of the inquiry, the ICAC was not involved in this inquiry.

Subsequent to the meeting, a number of Questions on Notice were received from Mr M. Richardson MP.

5. Why did you say at last Friday's meeting that you could not reveal when ICAC would be moving offices "for security reasons" when the previous day (Thursday November 29) every MP received a change of address notice from your office?

As the question notes, advice had been provided to Members of Parliament regarding the first day of business in the new premises, and it was also featured on the ICAC's website. It was assumed that the question asked at the hearing related to the timing and details of the actual physical shift from the Redfern premises to the new premises. Given the sensitivity involved in moving the Commission's records and property, involving a move over a number of days and nights, and the non-advisability of publicly announcing the particular arrangements, the request was made to deal with these aspects in camera.

6. You estimate the cost of ICAC's move at \$1.4 million. Do you still hold to the view that the move will save taxpayers money?

The Commission has not previously indicated a view that the purpose of the relocation was to achieve substantial savings - indeed the Commission has been

careful, in answering questions regarding the relocation, not to raise expectations that it will result in significant savings to the Commission, and consequently to taxpayers. The primary objective of the relocation was to secure premises that would meet the needs of the Commission for the medium to long term, enhance operational effectiveness, and address the shortcomings of the Redfern location.

The relocation will, however, achieve a number of long-term savings for the ICAC. For example, cleaning, waste management and lift maintenance services formerly procured by ICAC will be included as part of the new lease arrangements. Consequently, separate provision for these items will not be necessary in future, and savings will be achieved in this respect.

The Commission's relocation also offers better prospects for examining opportunities to realise future savings from shared service arrangements with appropriate agencies.

Ultimately, the consideration for the Commission was securing premises that would meet the Commission's ongoing needs, provide for enhanced operational effectiveness, and minimise the cost to the taxpayer. The relocation only took place after a year of internal planning, including the preparation of a comprehensive Facility Plan for approval by Treasury and DPWS. All requirements of applicable public sector accommodation policies were met. The Commission is of the view that the enhancements to its operational effectiveness secured by the relocation represent value for money.

7. What was involved in the \$1.8 million you needed to spend at Redfern to "bring about the necessary improvements to functionality"?

The \$1.8 million estimate was provided to the Commission by the Department of Public Works and Services after an assessment of the Commission's ongoing needs. In addition to undertaking significant repairs and other remedial activities, refurbishment of the Commission's Redfern premises would have involved creating additional space for operational planning and management, multi-purpose facilities to make better use of the space, providing access to natural light for a significant number of staff, and an extensive refurbishment of work spaces to accommodate the changing operational needs of the various units.

8. Did you consider converting any of the hearing and interview rooms at Redfern to office space to reduce crowding on the investigator's floor? If so, why was this plan rejected?

No consideration was given to converting the hearing and interview rooms into office space. It would be totally impractical to convert the hearing and interview rooms into work stations and office accommodation for investigators, and then have these work spaces vacated and dismantled for hearings and interviews. Aside from the considerations arising from the loss of the hearing and interview facilities, there would be no value, and in fact significant disadvantage, in relocating a small number of investigators away from their colleagues and support facilities.

9. In the answers you have already given the Committee to Questions on Notice you mentioned that the new premises will have improved disabled access. How important a criterion was this for you in making your decision to move?

Improved disability access was simply one of many factors in making the decision to move from the Redfern premises. Appropriate regard was had to this consideration. Certainly it was not the only or primary consideration in relocating the ICAC, but the improvements to access in the new premises, not only for people with disabilities, but visitors generally, given our central location, is just one of the many benefits obtained from the move.

10. Does this move, together with the reduced emphasis on public hearings, presage a change in emphasis for ICAC, away from corruption busting towards corruption education?

The Commission has gone to considerable effort to brief the Committee on its efforts to enhance the Commission's investigative capacity and operational effectiveness. It is disappointing, therefore, to hear of suggestions that the Commission is downgrading or devaluing corruption investigations.

In fact, the suggestion that ICAC's relocation to the CBD will mean a downgrading of our investigative capacity and our focus on exposing corruption, is ludicrous. As previous briefings to the Committee should have made clear, far from downgrading ICAC's investigative capacity, extensive efforts have been undertaken to enhance that capacity. Considerable effort has been made in ensuring ICAC is capable of responding to new challenges in fighting corruption.

For example, in the past year, the Commission has seconded Mal Brammer to lead a revamped Strategic Operations unit. The Commission has also recruited financial and fraud investigators; invested in computer forensic skills; and created a Strategic Risk Assessment Unit to anticipate emerging corruption risks.

The relocation has resulted in better integration of the Commission's Strategic Operations and Corruption Prevention units, which will bring about more co-ordinated and strategic focus to these aspects of the Commission's work.

In response to previous questions, the Commission foreshadowed potential benefits arising from improved access to such agencies as the courts and peer agencies. In the short time the Commission has been relocated, these benefits have already been realised and have greatly assisted the Commission in carrying out its investigative work.

The question also states that there has been a reduced emphasis on public hearings. This is not the case – rather there has been greater emphasis on the public interest considerations in the use of hearings, whether they be in public or private. This is an issue that will be more fully – and more appropriately – canvassed during the third stage of the Committee's review of the Commission's jurisdiction.

11. On page 8 of your answers to Questions on Notice you note that 'The Commission has identified the need to engage specialist expertise on contract or secondment to provide particular skills or expertise for a defined period.' How much money are you spending on consultants in the current financial year? How much money do you expect to budget for consultants in the new financial year?

The reference to secondments and contracted employees in the answer referred to is not a reference to consultants. The need to engage specialist expertise on contract or secondment reflects the need to bring in particular skills into the core divisions either for defined projects, or to assist existing staff with the opportunity to develop their own skills by way of best practice example and training.

The Commission recognised this need at its inception, but over time the Commission's employment arrangements have become much less flexible, and accordingly, there were fewer opportunities to supplement and develop the existing skill set within the organisation. This is being addressed by both the acquisition of specialist skills in such areas as financial investigations, computer forensics and strategic assessment, as well as a much more targeted and significantly resourced training and development program within the Commission.

On the basis of previous expenditure on consultants, and with consultancies in the corporate services area, relating to procurement and the preparation of a facility plan, completed or near completion, the Commission anticipates that the cost of consultancies for 2001-2002 will be in the region of \$75 000. It is anticipated that consultant costs in the following and subsequent years will be reduced.

12. Why was the Commission unable to report against the new Key Performance Indicators in its Annual Report?

As the Committee was advised by way of correspondence dated 23 October 2001, it was hoped to use the 2000-2001 Annual Report for the Commission to report against the indicators for the first time. However, the information management systems were not yet fully capable of providing material for 2000-2001 and earlier years to report against the indicators developed in consultation with members of the Committee. Therefore, the indicators were not used to report performance in this year's Annual Report. There was, however, greater focus on the impact of the Commission's work in the performance reporting section of the Annual Report.

The priority in the next few months will be to refine the performance indicators in line with other planning and reporting initiatives within the Commission, to enhance the systems for capturing and reporting performance information, and to improve recording practices in the Commission to enable reliable performance reporting for future years.

13. What is your reaction to Mr John Menadue's comments about the ICAC in his book, "Things You Learn Along the Way"?

Mr Menadue relates his own personal experience of a matter that was the subject of a complaint to the ICAC. He points out that a report was made to the ICAC, and that a preliminary investigation was conducted, resulting in no further action. Without direct knowledge of the circumstances of this matter, it would appear that even from Mr Menadue's recounting of the matter, there is no suggestion that it was handled inappropriately. Mr Menadue says that he wondered about the purpose of the ICAC, but in the absence of anything more compelling or significant by way of critical comment or observation from Mr Menadue, it is difficult to offer any further comment.



PARLIAMENT OF NEW SOUTH WALES

MINUTES OF PROCEEDINGS
OF THE COMMITTEE ON THE

INDEPENDENT COMMISSION AGAINST CORRUPTION

FRIDAY 30 NOVEMBER 2001
PARKES ROOM, 10:45AM
PARLIAMENT HOUSE, SYDNEY

MEMBERS PRESENT

Legislative Council

The Hon J Hatzistergos (Chairman)
The Hon D Oldfield
The Hon G Pearce

Legislative Assembly

Mr Brown
Mr Fraser
Mr Hickey
Dr Kernohan
Mr Martin
Ms Megarrity
Mr Price
Mr Richardson

Also in attendance: Ms Helen Minnican, Ms Pru Sheaves, Mr Stephen Frappell, Ms Hilary Parker

PUBLIC HEARING

Ms Irene Moss, Commissioner; Mr Keiran Pehm, Deputy Commissioner; Mr Mal Brammer, Executive Director, Investigations; Mr Grant Poulton, Executive Director, Corruption Prevention, Education and Research; and Ms Lynne Chester, Executive Director, Corporate Services, on former oath and affirmation, and Mr John William Pritchard, Executive Director, Legal, and Solicitor to the Commission, Independent Commission Against Corruption, 191 Cleveland Street, Redfern, affirmed and examined.

The Commissioner tabled the answers to the Questions on Notice and made an opening statement. The Chairman questioned the witnesses followed by other members.

The Committee went in camera 11.50am – 12.00pm. Mr Stephen Patrick Murray, Executive Officer to the Commissioner, affirmed and examined. Mr Murray made a statement in

response to questions put by Mr Richardson. The Committee agreed that Mr Murray's statement would be incorporated into the public record.

The public hearing resumed. The Chairman thanked the witnesses and the witnesses withdrew.

The public hearing concluded at 1.10pm.