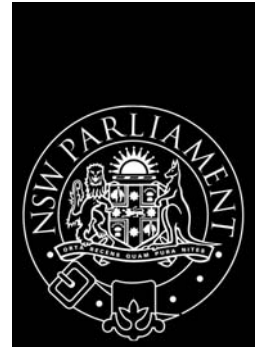


PARLIAMENT OF NEW SOUTH WALES



# Committee on the Office of the Ombudsman and the Police Integrity Commission

## PHASE TWO OF AN INQUIRY INTO SECTION 10(5) OF THE POLICE INTEGRITY COMMISSION ACT 1996

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## Terms of Reference

That, in accordance with its statutory functions under s.95 of the *Police Integrity Commission Act 1996*, the Committee on the Office of the Ombudsman and the Police Integrity Commission has resolved:

- (a) to conduct an inquiry into s.10(5) of the *Police Integrity Commission Act 1996*; and
- (b) to examine the Police Integrity Commission's independence from the NSW Police, with respect to its role as an investigative commission focussed on the detection, investigation and prevention of police corruption and serious misconduct; and
- (c) to inquire into any other matter that the Committee considers relevant to the inquiry; and
- (d) to report to both Houses of Parliament on the inquiry.





## Chairman's Foreword

As the number of joint operations between the Police Integrity Commission and other law enforcement bodies increases, the stringency of the accountability systems in place to examine issues about the conduct of such operations assumes greater significance.

Joint efforts between the PIC and other agencies are not necessarily conducted as joint taskforces but may arise from arrangements struck by way of memoranda. The Committee considers that it would be appropriate for the Inspector to monitor the operation of any memorandum of understanding made between the PIC and another agency, with particular reference to the protocols and principles relating to the sharing and management of information.

Once again the Committee has reiterated its call for an extension to the jurisdiction of the PIC Inspector with respect to the conduct of non-PIC officers in circumstance where the conduct in question is connected with the PIC's investigations and activities.

Also, the Committee has outlined a number of subjects for future inquiries. The Committee has not been in a position to commence examining any of these subjects because of legal proceedings that have only recently concluded. The subject areas identified for the Committee include:

- processes relating to briefs of evidence provided by the Police Integrity Commission to the Director of Public Prosecutions for consideration;
- the relationship between the Commissioner of the PIC and Counsel Assisting the PIC, and the impact of this relationship on the conduct of PIC proceedings and operations;
- arrangements between the PIC and the ICAC under s.131 of the PIC Act, regarding notification of matters between these bodies and the investigation of allegations about the conduct of both police and public officials.

I would like to extend the Committee's appreciation to the individuals and organisations that contributed to the inquiry. In addition, I would like to thank the Members of the Committee for their participation in the public hearings and deliberations on the inquiry. The Committee received support in its endeavours from the staff of the Secretariat.

Paul Lynch MP  
Chairman



## List of Recommendations

**RECOMMENDATION 1:** The Committee recommends that the PIC Inspector examine any Memorandum of Understanding between the PIC and their investigative partners and their operation including the protocols and principles for information management and sharing as part of his regular monitoring duties. (page 24)

**RECOMMENDATION 2:** It is recommended that the *Police Integrity Commission Act 1996* be amended to provide the PIC Inspector with jurisdiction to investigate alleged improprieties and misconduct by non-PIC officers, in circumstances where:

- the conduct of a PIC officer also is involved; or
- there is a connection between the alleged misconduct and the activities of the PIC; or
- the legality of propriety of the PIC's activities is called into question;

and, the conduct is conduct of a type that would normally fall within the Inspector's jurisdiction. (page 24)



## Chapter One - Commentary

- 1.1 This report forms the Committee's final report of its inquiry into section 10(5) of the *Police Integrity Commission Act 1996*. The Interim Report of this inquiry was tabled in Parliament in March 2005. It examined the statutory provision contained in the Police Integrity Commission Act (PIC Act) that prevents the Police Integrity Commission (PIC) from employing former or serving NSW Police officers. The present construction of the PIC Act does not prevent the PIC from accessing the assistance of NSW Police investigators where appropriate; rather, it operates to prevent former and serving police officers from being located within the PIC itself. The Committee concluded that on the basis of the evidence put before it, the employment prohibition should be retained.
- 1.2 Phase 1 of the inquiry concluded that there is no apparent conflict between the PIC's capacity to engage in joint operations and the preclusion from recruiting current or former NSW Police. The Committee has reported to Parliament that it is supportive of arrangements where police officers work in joint operations with, or provide assistance to the PIC, while remaining external to it.
- 1.3 In the Interim Report, the Committee foreshadowed that the second phase of the inquiry would attempt to systematically evaluate the effectiveness of the joint task force approach and the specific contribution made by serving NSW Police to such operations. This report stems from the second of the terms of reference concerning the PIC's independence from NSW Police in the performance of its functions.
- 1.4 **BACKGROUND TO PHASE TWO OF THE INQUIRY**
- 1.4.1 A number of events shaped Phase Two of the inquiry. These included views put forward by NSW Police and the Independent Commission Against Corruption (ICAC) during the Police Ministry's review of the PIC Act, as well as evidence taken by the Committee regarding the types of joint operations conducted by the PIC. The PIC's Operation Florida was used by both NSW Police and the ICAC as an illustration of why the employment prohibition should be lifted, and has been examined in relation to this claim.
- 1.4.2 Review of the PIC Act
- 1.4.2.1 NSW Police argued during the review of the PIC Act that the changes that have occurred since the Wood Royal Commission have been sufficient to justify reconsideration of the employment prohibition in s.10(5) of the PIC Act. The ICAC submitted that the Operation Florida hearings demonstrate that the basis for the original concerns about employment of NSW Police officers by the PIC may apply to a lesser extent "given the change in climate and culture that has taken place since [the Wood Royal Commission]".<sup>1</sup> This begs the question as to how the Operation Florida hearings have demonstrated this conclusion.

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<sup>1</sup> Ministry for Police, *Report on the Review of the Police Integrity Commission Act 1996*, Discussion Paper 2002, pp.49-50.

Commentary

1.4.2.2 In part, such argument seems to suggest that the success of joint operations involving NSW Police and the PIC justifies the removal of the employment prohibition. The Committee concluded in its interim report on the s.10(5) inquiry that this premise is flawed as it equates the performance of police officers working in joint operations, but still external to the PIC, with that of seconded police recruited by and located within the PIC.

1.4.3 Types of operations

1.4.3.1 The PIC normally uses its own officers to conduct investigations and occasionally establishes small task forces. On 27 May 2004, the PIC gave evidence that it had only established nine task forces since early 1997, five of which were initiated following approaches by NSW Police and four of which were established on the PIC's request. Mr Nattress, the Director of Operations at the PIC, advised that NSW Police requests for the establishment of a task force typically arose after the police had conducted an investigation into a particular matter and had reached a point where they were either frustrated with the avenues left available to them to pursue their investigation or they needed to access to PIC resources, eg technical resources that could be utilised quickly for the investigation (rather than seeking the same resources internally). The PIC usually sought to establish a task force for the purpose of furthering its investigations in circumstances where it wants NSW Police to conduct a particular strategy or phase of the investigation on PIC's behalf, e.g. executing a search warrant.

1.4.3.2 A *taskforce* was defined within the context of the Police Integrity Commission Act as an operational arrangement involving a joint command between at least two agencies, one of which was the PIC. A taskforce was distinguished from information and intelligence sharing, as it would involve officers of both agencies working in the field together on an investigation, whereby officers of one or the other agency may be directly involved in an investigation that touches upon the jurisdiction of the other.<sup>2</sup> The Commissioner gave further evidence that when the PIC becomes involved in a task force arising from a police investigation, and the PIC has been the instigator of the taskforce, it usually takes over the investigation under the PIC Act, so that there is a formal transfer of power.

1.4.3.3 A *memorandum of understanding (MoU)* involves co-operative arrangements with other agencies eg for the sharing of information. Mr Nattress has given evidence that the PIC has ten memorandums of understanding with other agencies for obtaining services. Operation Florida flowed from a MoU between the PIC, Commissioner of Police and Commissioner of the NSW Crime Commission.

1.4.3.4 In determining whether or not to conduct a joint operation, the PIC places particular importance on its ability to operate and be perceived as an independent body:

. . . The Commission remains open to the possibility of conducting joint investigations in the future, providing its independence is not compromised . . . Decisions as to whether or not to engage in a joint operation will depend upon the merits of each and

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<sup>2</sup> Evidence from S. Robson during a hearing on 27 May 2004 for the Committee's s.10(5) Inquiry Phase 1 (p.18 of transcript of evidence)

every matter and whether or not the Commission is satisfied that its independence, or the perception of its independence, would not be compromised.<sup>3</sup>

## 1.5 PIC TASKFORCES

1.5.1 Operation Jade, Operation Florida, Operation Pelican and Operation Jetz are the only four taskforce operations on which the PIC has publicly reported, out of a total of seventeen<sup>4</sup> public reports. It therefore seems reasonably clear that taskforce arrangements for PIC operations are not a standard practice. Closer examination of the taskforce arrangements for the four operations reveals a number of key differences.

### 1.5.2 Operation Jade

1.5.2.1 In the wake of revelation of corruption in Kings Cross during Royal Commission hearings in 1995, NSW Police set up a special unit called Task Force Bax in 1996 to investigate crime in Kings Cross. In March 1997, the NSW Crime Commission (NSWCC) informed the PIC that it suspected a member of Task Force Bax, Sergeant Robert James Irwin, had provided confidential police information to a convicted heroin dealer codenamed J2. NSWCC had commenced investigating this in Operation Gymea.

1.5.2.2 In May 1997, the PIC began investigating the police corruption that had come to light in Operation Gymea. The PIC codenamed this investigation Operation Jade. To facilitate the investigation, a joint task force was established between the PIC and NSWCC pursuant to s17 of the PIC Act.

1.5.2.3 Operation Jade concluded that Irwin had leaked sensitive information to J2, including the identity of people under investigation by Task Force Bax and the existence of a covert informant. Irwin and J2 shared a close personal association and J2 had agreed to pay Irwin a sum of money – ostensibly council rates. The PIC and the Commander of Task Force Bax concluded that Irwin had jeopardised and compromised a large number of Bax investigations.

1.5.2.4 Jade also uncovered misconduct at Maroubra, by Detective Sergeant Craig Lee McDonald, a close associate of Irwin. Following a raid on premises being used by J2, which netted a large amount of drugs amongst other items, McDonald approached an internal police witness codenamed J1 to destroy fingerprint evidence incriminating J2 in supplying drugs. He also paid J1 a sum of money, and promised \$3500 in total for destroying the fingerprint evidence.

1.5.2.5 Operation Jade resulted in Irwin, McDonald and J2 being charged with conspiring to pervert the course of justice. Irwin, McDonald and Superintendent Geoffrey Herbert Wegg, Commander of Task Force Bax, were all charged with giving false evidence to the PIC. Irwin and McDonald were removed from NSW Police through the Commissioner's Confidence provisions and Wegg resigned.

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<sup>3</sup> Committee on the Office of the Ombudsman and Police Integrity Commission, *Report on the Seventh General Meeting with the Police Integrity Commission*, Report No.3, December 2003, pp.25-26.

<sup>4</sup> As at 30 October 2006

Commentary

1.5.2.6 The PIC reported Operation Jade to Parliament in October 1998. In August 1999, the PIC issued the *Supplementary Report to Parliament on Operation Jade*. This report dealt with evidence heard at the Commission about Constable Murray Bartlett. In particular the Supplementary Report retracted paragraphs 3.49, 3.50 and 9.1, all of which related to evidence regarding a person called “Murray”, but who was not necessarily Constable Bartlett. The PIC apologised to Mr Bartlett for the inclusion of those matters in the Report of Operation Jade.

1.5.3 Operation Jetz

1.5.3.1 In January 2001, an investigation by NSW Police Special Crime and Internal Affairs (SCIA), codenamed Operation Orwell, was established to investigate suspicions that a number of serving officers were involved in corruptly manipulating the NSW Police Service promotion system. These suspicions arose during investigations under Operation Mascot, an investigation led by the NSW Crime Commission, which eventually resulted in PIC’s Operation Florida.<sup>5</sup> Police sought PIC assistance to pursue the investigation using the Commission’s special powers.

1.5.3.2 On 26 June 2001, the PIC began an investigation, codenamed Operation Jetz. A joint taskforce of PIC officers and SCIA officers was established.

1.5.3.3 Operation Jetz discovered that 12 police officers had been involved in gaining unfair advantage for themselves and their colleagues by circulating questions from interviews for promotions, despite having signed confidentiality agreements on receiving the interview questions. All these officers were associated in some way with Inspector Robert Gordon Menzies, who was Vice President of the Police Association when Jetz hearings began. Menzies said that circulating the interview questions could have been of political benefit to him within the Police Association, but it had not been of consideration to him at the time.

1.5.3.4 Operation Jetz resulted in a Ministerial review of the police promotions system<sup>6</sup>. The PIC recommended that consideration be given to reviewable management action (eg demotion to a lower rank, reduction of pay) to nine officers. Inspector Robert Gordon Menzies and Detective Sergeant Mark William Messenger were served with Commissioner’s Confidence notices and resigned from NSW Police. Senior Constable Paul Francis Museth was dismissed under the Commissioner’s Confidence provisions.

1.5.4 Operation Pelican

1.5.4.1 Like Operation Jetz, the police misconduct that led to the PIC’s Operation Pelican was uncovered during the Mascot investigation. Pelican examined the events following the death of Phillip George Dilworth after he had been drinking at the Oxford Tavern in Petersham on 15 December 1986. His death was investigated by Petersham police. The Coroner recorded an open finding following an inquest in 1987. The PIC reported that the close relationship between police from Petersham

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<sup>5</sup> *Operation Florida*, June 2004, Volume 1, para 1.8, p.3.

<sup>6</sup> Scully C., ‘New police promotions system for discussion’. Press Release 18 August 2005.



- Station and Malcolm Tanswell, the licensee of the Oxford Tavern, was a matter for concern.
- 1.5.4.2 Garry Mitchell was the bar manager at the time of Dilworth's death and gave evidence at the inquest. In August 1988 Mitchell was returning home from work at the Oxford Tavern, when he was shot and wounded in the groin. He initially told police he did not know who shot him, but in November 1989 he went to Burwood Police Station and said that Tanswell was responsible for Dilworth's death and for the shooting. He also said that his evidence at the inquest was false. No action was taken by Burwood police in this matter for nearly two years. In the course of their inquiries, investigating police twice lunched with Tanswell and provided him with Mitchell's address in Armidale.
- 1.5.4.3 In March 1996, Mitchell was found dead on his front lawn in Armidale. He died as a result of a head trauma caused by a blunt instrument. Mitchell had lodged a worker's compensation claim regarding his shooting in 1988, and two weeks prior to his murder a subpoena had been served against Tanswell requiring the production of documents related to the shooting.
- 1.5.4.4 During the police investigation of Mitchell's death, two further witnesses admitted they had given false evidence at Dilworth's inquest. Tanswell and Joseph Semenak, a doorman at the Oxford Tavern, were charged in September 1997 with the murder of Dilworth. Tanswell was charged in May 1999 of soliciting to murder Mitchell. In January 2000 the Magistrate dismissed the charges against Tanswell and Semenak. In June 2000 Semenak died. Tanswell's charge of soliciting the murder of Mitchell was withdrawn.
- 1.5.4.5 A large number of police who had been involved in matters examined during Operation Pelican had retired or left NSW Police. The PIC recommended NSW Police consider taking reviewable management action against three officers, Detective Constable Garry John James, Detective Sergeant Michael Robert Lenon and Detective Sergeant Stephen Francis McLennan.
- 1.5.5 Operation Florida
- 1.5.5.1 Operation Florida was of such magnitude that it required the joint efforts and resources of three agencies.<sup>7</sup> Jointly conducted by the PIC, NSW Police and NSW Crime Commission, Operation Florida followed on from the joint NSW Police/Crime Commission investigation named Operation Mascot, which uncovered serious and entrenched corruption in the northern beaches area of Sydney in the 1990s.<sup>8</sup> It comprised 418 separate investigations and eight segments.<sup>9</sup> The Commissioner described Operation Florida as a "landmark" investigation involving long-term covert operations to investigate serious forms of police corruption.<sup>10</sup>

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<sup>7</sup> Committee on the Office of the Ombudsman and the Police Integrity Commission, op.cit., Answer to Question on Notice No.18, p.26.

<sup>8</sup> ibid, p.47.

<sup>9</sup> ibid, p.52.

<sup>10</sup> ibid, p.47.

Commentary

- 1.5.5.2 While the Discussion Paper on the review of the PIC Act suggests that Operation Florida serves as a benchmark operation on which to assess the need for retaining s.10(5) of the Act,<sup>11</sup> the Commissioner has given evidence previously that Operation Florida is atypical of PIC operations and “is so extraordinary that it is not a very good paradigm for how we do our work”<sup>12</sup>.
- 1.5.5.3 Controversies associated with Operation Florida highlight the potential for problems to arise during such joint investigations.<sup>13</sup> The PIC’s Operation Florida also arose out of Mascot. In late 1998, a serving NSW Police officer volunteered information to the NSWCC about police corruption and criminal activity involving himself and a number of former and serving NSW Police officers. This corruption dated back to the late 1980s. The informant was debriefed by the NSWCC and covert inquiries were initiated. In February 1999 a reference was granted to the NSWCC by their Management Committee<sup>14</sup> to conduct a full investigation into the allegations of corruption.
- 1.5.5.4 The informant provided assistance to the investigation by covertly gathering electronic intelligence until mid 2001 – and from 1999 onwards the informant continued working as a detective and reporting to the NSWCC. These recorded conversations were supplemented by telephone intercepts, video surveillance and integrity tests.
- 1.5.5.5 In July 2000 the PIC joined the investigation as part of a joint taskforce arrangement. Public hearings into Operation Florida commenced in October 2001. Additionally, two public hearings were held before October 2001, called Operation Pelican and Operation Jetz. These operations examined discrete areas of police corruption that came to light during the Mascot investigation.
- 1.5.5.6 In addition to Pelican and Jetz, 418 incidents of suspected corruption spanning some twenty years arose from the joint Mascot/Florida investigations. Not all were examined in the public hearings, and those that were not investigated by the joint task force were investigated by NSW Police with PIC oversight.

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<sup>11</sup> Ministry for Police, op.cit, p.54.

<sup>12</sup> Committee on the Office of the Ombudsman and Police Integrity Commission, op.cit., p.51.

<sup>13</sup> Criticism arose in the case of Operation Florida in relation to two matters of significance:

- the publication by *Four Corners* of information obtained by TI and listening device before it had been previously introduced in evidence to the PIC at a hearing; and
- a listening device warrant obtained for Operation Mascot (not a PIC operation) in which a large number of police officers were named.

<sup>14</sup> The NSWCC Management Committee consists of four members (Police Commissioner, Police Minister, Chair the Australian Crime Commission and the Commissioner of the NSW Crime Commission). Its functions are:

1. to refer matters to the NSWCC for investigation
2. to refer NSW Police enquiries into matters relating to any criminal activity to the NSWCC for review
3. to arrange for task forces to assist the NSWCC to carry out investigations
4. to review and generally monitor the work of the NSWCC
5. to give approvals to the NSWCC to disseminate intelligence and information to such persons and bodies as appropriate, and to cooperate and consult with such persons and bodies as the Management Committee thinks appropriate.

- 1.5.5.7 Twenty-nine incidents of corruption were examined in the PIC hearings. These were presented in seven segments over 78 days of public hearings. Some of the acts of corruption occurred prior to the Royal Commission, others during the Royal Commission, while others were much more recent. Amongst the more recent corruption exposed was the relationship between detectives and drug dealers on the northern beaches of Sydney.
- 1.5.5.8 Operation Florida was greeted by many police and anti-corruption agencies as a landmark investigation. As an inquiry into acts of police corruption that spanned a twenty year period, it became for some a symbol that police were ready to investigate their own again. The Independent Commission Against Corruption noted in their submission to the Review of the *Police Integrity Commission Act 1996* that “the recent Florida hearings have also demonstrated that the concerns expressed by the Royal Commissioner, regarding the PIC employing former or serving NSW Police officers, may now apply with less force given the change in climate and culture that has taken place..”.<sup>15</sup> The *Report of the Review of the Police Integrity Commission Act 1996 – Discussion Paper* recommended that the PIC employment bar be reconsidered by the Committee after the Operation Florida investigation had been “fully assessed”.<sup>16</sup> It is not at all clear what is meant by this.
- 1.5.5.9 Florida is an anomaly in PIC investigations, even in terms of the other task force operations. The genesis of this investigation lay with a police officer whistleblowing to the NSW Crime Commission. While the Crime Commission’s jurisdiction is organised crime, it set up a joint operation with NSW Police to investigate matters that fell squarely within the PIC’s jurisdiction. The PIC Commissioner gave evidence that the then PIC Commissioner was notified of “broad aspects”<sup>17</sup> of Operation Mascot in February 1999. The then Commissioner continued to be briefed “in broad terms”<sup>18</sup> under a Memorandum of Understanding that operated from August 1999. A further MoU was signed in July 2000, and a “detailed briefing”<sup>19</sup> was then provided. The Commissioner of the PIC gave evidence that “it was agreed, for operational reasons, that the Commission would not actively participate until the hearings planning stage [of the investigation]”<sup>20</sup>.
- 1.5.5.10 Despite this progression of MoUs and broad-brush briefings, as well as the PIC Commissioner declaring Operation Florida to be the PIC’s “most significant investigation to date”<sup>21</sup>, the issue of the PIC’s jurisdiction and its interaction with other investigative agencies in the case of Florida has not been publicly addressed. No explanation has been given as to the reason why the Crime Commission did not hand over carriage of the investigation to the PIC, as it had in other instances such as Task Force Bax.

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<sup>15</sup> Ministry for Police, op.cit., p.49.

<sup>16</sup> *ibid*, p.51.

<sup>17</sup> Committee on the Office of the Ombudsman and the Police Integrity Commission, *Report on the Eighth General Meeting with the Police Integrity Commission*, March 2005, Answers to Questions on Notice, p.14.

<sup>18</sup> *ibid*.

<sup>19</sup> *ibid*.

<sup>20</sup> *ibid*.

<sup>21</sup> *PIC Annual Report 2003-2004*, p.1.

- 1.5.5.11 An MoU between the NSWCC and the PIC regarding referral of information and/or allegations concerning past and serving NSW Police officers has been in place since 1 June 2004. The MoU provides for relevant information, ie information or allegations about past or serving NSW police, to be reported to the PIC by the NSWCC. The Committee first learned of the MoU during its Eighth General Meeting with the Police Integrity Commission in November 2004.<sup>22</sup>
- 1.5.5.12 While the Committee was reassured that the MoU would affirm the legislative principle that the PIC is the sole agency that investigates police corruption, it effectively makes the PIC a junior partner to the Crime Commission. For instance, the MoU specifies that the Commissioner of the NSWCC may place a caveat on the use of the relevant information for “operational purposes”<sup>23</sup>. Further, the MoU provides that “where such a caveat places serious operational restrictions on the PIC, the question of the use of the relevant information is to be settled between the Commissioners based on considerations of the public interest. In the event that agreement cannot be reached, *the issue is to be determined by the Commissioner of the NSWCC* [emphasis added].”<sup>24</sup>
- 1.5.5.13 The apparently inequitable relationship between the PIC and the NSWCC has a number of implications, particularly in relation to the effective oversight of the PIC. If, as implied by the MoU, the PIC could be forced into more Florida-style investigative partnerships, it will mean that task force partners will not be subject to the same rigorous oversight and accountability as PIC officers. In the worst case this could mean that serious abuses take place that cannot be investigated and for which there is no redress.

## 1.6 PROBLEMS ARISING FROM OPERATION FLORIDA

- 1.6.1 Two of the most serious complaints regarding the conduct of Operation Florida, occurred as a result of the actions of the PIC’s task force partner, the NSW Crime Commission. Both complaints received extensive media coverage, and responsibility for them was placed with the PIC. The complaints were investigated by the Inspector of the PIC, in one case at the direction of the Minister for Police.
- 1.6.2 The *Four Corners* complaint
- 1.6.2.1 Operation Florida began public hearings on Monday 8 October 2001. A number of pieces of evidence gained from telecommunications intercepts (TI) and listening devices were introduced as evidence during the opening statements at the hearing. That night, *Four Corners* screened a program about police corruption that used some of the material gained during Operation Florida that had not been introduced into evidence during hearings that day.

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<sup>22</sup> Committee on the Office the Ombudsman and the Police Integrity Commission, *Report of the Eighth General Meeting with the Police Integrity Commission*, 2005, p. 14.

<sup>23</sup> Memorandum of Understanding between the NSW Crime Commission and the Police Integrity Commission, 1 June 2004.

<sup>24</sup> Ibid.

- 1.6.2.2 The airing of this footage formed the basis for the Inspector of the PIC to commence an own-motion investigation. In correspondence dated 17 October 2001 to the PIC Commissioner about this matter, the Inspector stated:

What troubles me in particular is the circumstance of the *Four Corners* program being provided with material, including secretly taped evidence, which had not at the time it was provided and then broadcast on 8 October 2001 been presented as evidence in the hearing. Was such material divulged in accordance with a direction following certification under Section 56(4)(c) of the Police Integrity Commission Act that it was in the public interest to do so?<sup>25</sup>

- 1.6.2.3 In further correspondence to the PIC, the Inspector wrote again on 23 October 2001:

The question remains, what went wrong? If the Commission had effectively made arrangements so that they would know what material supplied by them was to be broadcast on the night of 8 October 2001, why could it not have ensured that such material was tendered in evidence during that day in the course of the opening? That, as I see it, remains a major issue.<sup>26</sup>

- 1.6.2.4 The Inspector's report notes that the evidence given to *Four Corners* was divulged in accordance with a direction following certification under s56(4)(c) of the PIC Act.<sup>27</sup>

- 1.6.2.5 In relation to the arrangements to broadcast material tendered in evidence on 8 October 2001, the PIC's submission to the Inspector noted that it was always the Commission's intention that TI product provided to the ABC should not be broadcast unless and until it had been adduced into evidence before a hearing of the Commission. Mr Masters, of *Four Corners*, was informed that he would only be permitted to make use of information that had first been exhibited in hearings. Crime Commission and PIC officers were given a preview of the *Four Corners* program on Friday 5 October 2001. During this screening a PIC officer made notes of any material which to his knowledge was not be aired during the opening of hearings.<sup>28</sup>

- 1.6.2.6 However, part of a conversation was broadcast that had not been adduced into evidence on the opening day of hearings. A PIC internal inquiry found that the tape of the TI product in question came from the NSWCC to the PIC with a letter dated 9 October 2001. PIC records show that this tape was not actually delivered to it until 15 October 2001, one week after the commencement of the Florida hearings. The Commission received one copy of this tape, and another copy was retained by NSWCC officers who had access to an operations room on level 6 of the PIC's Elizabeth Street premises. Mr Masters also had access to this room. The tape was not bar coded, as is PIC's practice for all documents, and it was not specified in

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<sup>25</sup> Committee on the Office of the Ombudsman and the Police Integrity Commission, *Report of the Sixth General Meeting with the Commissioner for the Police Integrity Commission*, June 2002, Appendix 3: *Report by the Inspector of the Police Integrity Commission of Preliminary Investigation dated 8<sup>th</sup> November 2001 re: "Four Corners" program: 8<sup>th</sup> October 2001*, p 1 of Appendix 3

<sup>26</sup> *ibid*, p 2 of Appendix 3.

<sup>27</sup> *ibid*, pp 5-19 of Appendix 3.

<sup>28</sup> *ibid*, p14.

the receipts attached to the letters from the PIC to Mr Masters by which the TI product was communicated under s67 of the TI Act.<sup>29</sup>

- 1.6.2.7 The PIC submission to the Inspector's inquiry concluded that it seemed likely Mr Masters had obtained access to the tape from the NSW Crime Commission, and that the then Acting Commissioner, Mr Tim Sage, was thinking of making further inquiries about the tape with Mr Masters and the Crime Commission. The PIC's submission concluded, however, that these further inquiries were ones that the then Inspector may have wished to make for himself.
- 1.6.2.8 In stating his conclusions about his preliminary investigation, the then PIC Inspector, Mr Mervyn Finlay, noted that amongst other things, "I do not consider the functions which I have the legislative authority to fulfil require that I pursue any enquiries with Mr Masters or the Crime Commission in this regard. It will be a matter for the Commission itself, should it see fit, to make such enquiries."<sup>30</sup>
- 1.6.2.9 The Ombudsman also investigated the release of TI product by the PIC to *Four Corners* in September 2002<sup>31</sup>. In preparation for the twelfth General Meeting with the Ombudsman in November 2004, the Committee provided questions on notice for the purpose of exercising its functions under the *Police Integrity Commission Act 1996*. The questions concerned a report prepared by the Ombudsman for the Attorney General on the dissemination of TI and other surveillance material during Operation Florida, which was conducted by the Police Integrity Commission. The Committee took evidence in camera from the Ombudsman on aspects of this issue and the Ombudsman publicly confirmed that he had provided a report for the Attorney General on 27 September 2002 entitled, "Release of lawfully obtained information by the NSW Crime Commission relating to Operation 'Mascot' and by the Police Integrity Commission relating to Operation 'Florida'". The report arose from a statutory inspection under the Telecommunications (Interception) (New South Wales) Act, and was provided to the Attorney General and the heads of the agencies concerned in accordance with s.11 of that Act. However, the Ombudsman had no authority to provide a copy of the report to the PIC Inspector.<sup>32</sup> The Committee considered that, in view of the Inspector's functions and jurisdiction, and in light of the report by the previous Inspector on this particular matter, the Police Integrity Commission should ensure that a copy of the Ombudsman's report was forwarded to the PIC Inspector. The Committee's Sixth General Meeting Report notes that the PIC provided a copy of the report to the Inspector on 11 January 2005.<sup>33</sup>
- 1.6.2.10 While the mechanism of the Ombudsman's statutory inspection role may cast significant light on record keeping practices regarding TI dissemination between the PIC and the Crime Commission, there was, and is, no independent body with

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<sup>29</sup> *ibid*

<sup>30</sup> *ibid*, pp.17-18.

<sup>31</sup> Information contained in this section comes from an *in camera* answer to a Question on Notice from the Twelfth General Meeting with the Office of the Ombudsman, 30 November 2004.

<sup>32</sup> Committee on the Office of the Ombudsman and the Police Integrity Committee, *Twelfth General Meeting with the Ombudsman*, p.41.

<sup>33</sup> *ibid*, p.5.

the ability to enquire as to the precise circumstances in situations such as that by which Mr Masters gained a copy of a NSW Crime Commission tape. This would seem to be exactly the type of matter the PIC Inspector should have the capacity and powers to examine, however, it appears that a copy of the Ombudsman's report was only given to the Inspector on 11 January 2005, after the Commissioner of the PIC was asked if the Inspector had received a copy of this report during the Eighth General Meeting with the Police Integrity Commission on 30 November 2004.

### 1.6.3 The 116 name warrant complaint

1.6.3.1 On 14 September 2000, Justice Virginia Bell of the Supreme Court issued a warrant for a listening device to be used by M5, the police officer the NSW Crime Commission was using as an informer for Operation Mascot, the investigation that preceded Operation Florida. Justice Bell granted the warrant after she heard evidence of possible offences including money laundering, corruption, conspiracy to pervert the course of justice and tampering with evidence.<sup>34</sup> The warrant was sought by a detective from Special Crime and Internal Affairs working within the NSW Crime Commission.<sup>35</sup>

1.6.3.2 The warrant named 14 detectives who had already been incriminated by M5, including three who were later charged with taking bribes. The warrant listed 116 names including senior detectives, the then heads of three Crime Agency squads, two retired senior police and a journalist.<sup>36</sup> Former Police Commissioner Peter Ryan said that the warrant named so many people because it was to be used at a social function where all the people named would be present.<sup>37</sup>

1.6.3.3 The then Minister for Police, Michael Costa, met with the former Police Commissioner Peter Ryan and the head of the NSW Crime Commission, Phillip Bradley<sup>38</sup> to discuss this matter. On 15 April 2002, the Minister wrote to the then Inspector of the PIC, Mr Mervyn Finlay, requesting confirmation that:

- the warrant was justifiably sought;
- the seeking of the warrant complied with the relevant legislation; and
- the material obtained by the warrant was used appropriately.<sup>39</sup>

1.6.3.4 After a preliminary investigation, the Inspector completed his report on 29 April 2002 and advised the Minister that he did not consider the time and expense of any further investigation to be warranted. In response to the three issues posed by the Minister, the Inspector found that the warrant was justifiably sought. Given that Florida was an exceptional investigation that encompassed a wide range of serious misconduct and corruption by serving and former police, the Inspector noted that it was completely appropriate that a warrant, and subsequent renewals, were sought.<sup>40</sup>

<sup>34</sup> Cornford, P. 13 April 2002. 'Police phone taps furore'. *Sydney Morning Herald*, p.1.

<sup>35</sup> Murphy, D. 15 April 2002. 'Costa calls for answers on secret police tapes.' *Sydney Morning Herald*, p.6.

<sup>36</sup> Cornford, op cit.

<sup>37</sup> Cornford, P. 16 April 2002. 'Watchdog aims to see secret warrant hit-list'. *Sydney Morning Herald*, p.7.

<sup>38</sup> *ibid.*

<sup>39</sup> Inspector of the Police Integrity Commission, 2002, *Annual Report for the Year Ended 30 June 2002*, p. 18.

<sup>40</sup> *ibid.*, p. 19.

- 1.6.3.5 The Inspector found that the warrant complied with the relevant legislation and that the huge number of people on it could be explained by the magnitude of the investigation. The Inspector further clarified that in his opinion, and that of the Crown Solicitor, what is relevant to whether a name is specified on a warrant is not whether that person is suspected of having committed an offence, but rather whether that person's private conversation may be recorded or listened to by the use of a listening device pursuant to the warrant.<sup>41</sup>
- 1.6.3.6 A minor irregularity was noted by the Inspector, in that the affidavit in support of the application omitted the names of two of the 116 people whose names were specified in the warrant. Neither of those people was the subject of criminal or disciplinary proceedings.<sup>42</sup>
- 1.6.3.7 As to whether the material obtained by the warrant was properly used, the Inspector stated that he had no reason not to accept the advice of the Crime Commission that the material gathered from M5 was securely held, and used only for the purpose of preparing for PIC hearings, criminal prosecution briefs, and furthering the investigation. The Inspector saw the documents recording the instances of dissemination to the PIC, and to defendants in criminal prosecution and to the Director of Public Prosecutions.<sup>43</sup>
- 1.6.3.8 The Inspector found that for the purpose of the PIC hearings, the material from the warrant had been obtained in the appropriate manner and that he was satisfied that neither had the material been used for any other purpose, nor had the PIC disseminated the material to any other agency.<sup>44</sup>
- 1.6.3.9 In contrast to the Inspector's investigation of the *Four Corners* matter, it appears that in investigating the 116 name warrant, he had the access he needed to Crime Commission material to conduct the investigation. The Minister thought this an appropriate solution to an issue generated by a PIC task force partner, and accordingly authorised the Inspector's inquiry. This was despite the PIC having nothing to do with the affidavits supporting the issue of the warrant, or having anything to do with the warrant.<sup>45</sup>
- 1.6.3.10 Despite this timely resolution of the question of the legal validity of the warrant by the Inspector, as well as public acknowledgement that the 116 name warrant was not in any way associated with the PIC, the matter continued to cause difficulties. In March 2003 it was reported that the commissioned police officers named on the warrant would pursue legal action, and a unanimous motion at the Police Association conference directed the executive of the Police Association to pursue

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<sup>41</sup> Ibid., p. 20.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid., p. 21.

<sup>44</sup> Ibid.

<sup>45</sup> Evidence from the Commissioner of the PIC, June 2002, *Report of the Sixth General Meeting with the Commissioner for the Police Integrity Commission*, p. 59.



the matter. Senior police were described as saying they were sick of the approach taken by some PIC investigators and that PIC investigators must follow the rules.<sup>46</sup>

- 1.6.3.11 In July 2003 a high-level police task force was set up to investigate why 116 people, including current and former NSW Police officers, a journalist and a lawyer were included on the warrant used in Operation Florida. The investigation was headed by Commander Garry Dobson, and was the result of the Police Association pushing for an inquiry.<sup>47</sup> By January 2004 it was reported in the media that more than 70 police officers whose names appeared on the warrant had been exonerated by the NSW Police Professional Standards Command.<sup>48</sup>
- 1.6.3.12 Media reports in June 2004 claimed that the NSW Police task force, Strike Force Emblem, had been shut down by the NSW Crime Commission. Emblem recommended a review of the relationship between NSW Police and the Crime Commission, as well as legislative amendments to ensure that officers investigating complaints against police under the Crime Commission's terms of reference are no longer bound by its secrecy provisions.<sup>49</sup>
- 1.6.3.13 The expenditure of time and effort in investigating a warrant that had already been investigated by the Inspector of the PIC seems a questionable use of resources. One of the more concerning aspects of this investigation is the way in which the PIC became identified with and, particularly by the NSW Police Association, responsible for the 116 name warrant. As the Inspector of the PIC stated in his response to Questions on Notice at the Fifth General Meeting with the Committee:

Where an allegation is made which essentially involves conduct by NSWCC officers, but which touches in some way upon the activities of the Police Integrity Commission, there is potential for a diminution of public confidence in the Police Integrity Commission...<sup>50</sup>

- 1.6.3.14 Operation Florida also raises several issues about the nature of NSW Police participation in joint operations and the extent of shared decision-making by the PIC and its investigative partners, for instance, the extent of interaction between the PIC, Police Service and Crime Commission with regard to the conduct and planning of investigations, and the setting of investigative priorities. Significantly, the PIC's contribution to Operation Florida primarily involved conducting public hearings to build upon the evidence uncovered by NSW Police and the Crime Commission investigations in Operation Mascot.<sup>51</sup> The subsequent PIC operation, the northern beaches segment of Florida, does not appear to have overlapped with

<sup>46</sup> Sutton, C. 2 March 2003. 'Why cops took their eye off the streets.' *The Sun Herald*, p.21.

<sup>47</sup> O'Brien, N. 9 July 2003. 'Inquiry into 100-name warrant'. *The Australian*, p.2.

<sup>48</sup> 'Police officers cleared' 18 January 2004, *The Sun Herald*, p. 25.

<sup>49</sup> Lawrence, K. 9 June 2004. 'Rift erupts over bugging inquiry'. *The Daily Telegraph*, p.28.

<sup>50</sup> Committee on the Office of the Ombudsman and the Police Integrity Commission, *Report of the Fifth General Meeting with the Inspector of the Police Integrity Commission*, September 2003, Questions on Notice, p. 14.

<sup>51</sup> Police Integrity Commission, *Annual Report 2002-2003*, p.21; Public hearings commenced on 8 October 2001 and continued until 29 November 2002. For the 2002-2003 reporting period 28 public hearing days were held, during which 37 witnesses gave evidence, and 15 private hearings were held, in which 11 witnesses gave evidence. The PIC also reported that it made extensive use of its covert and overt investigative resources. The Operation benefited from "roll-overs" and information volunteered following media coverage for the public hearings.

the investigations previously concluded by the NSW Crime Commission and NSW Police.

1.6.3.15 The Commissioner of the PIC has given evidence that Operation Florida underscored the value of partnerships between the PIC and other law enforcement agencies, and achieved more through the joint effort than would have been possible by any one of the three partner agencies acting alone.<sup>52</sup>

## 1.7 PIC-ICAC OPERATIONS – RECENT JUDGMENTS

### 1.7.1 Future Committee Inquiries

1.7.1.1 Having considered the matters raised in the *Police Integrity Commission & Anor v Shaw* [2006] NSWCA 165 and the *Shaw v Police Integrity Commission* [2005] NSWSC 782 judgments and the evidence taken during the second phase of the Committee's inquiry, the Committee foreshadows a number of specific inquiries for 2007. These include:

- the processes involved in the preparation and consideration of briefs of evidence provided by the PIC to the DPP for consideration;
- the roles of Counsel Assisting and the Commissioner of the PIC and the impact of the relationship between these positions on the conduct of proceedings at the Commission and its operations;
- extending the Inspector's jurisdiction to the PIC's investigative partners; and
- arrangements between the PIC and the ICAC under section 131 of the PIC Act.

1.7.1.2 The Committee also recommends the following two measures, the second of which involves an extension to the jurisdiction of the Inspector. The Committee, in a number of reports, has made this recommendation previously to Parliament and the Committee urges the Minister for Police to consider bringing legislation forward to give effect to the recommendation as a matter of priority.

**RECOMMENDATION 1:** The Committee recommends that the PIC Inspector examine any Memorandum of Understanding between the PIC and their investigative partners and their operation including the protocols and principles for information management and sharing as part of his regular monitoring duties.

**RECOMMENDATION 2:** It is recommended that the *Police Integrity Commission Act 1996* be amended to provide the PIC Inspector with jurisdiction to investigate alleged improprieties and misconduct by non-PIC officers, in circumstances where:

- the conduct of a PIC officer also is involved; or
- there is a connection between the alleged misconduct and the activities of the PIC; or
- the legality of propriety of the PIC's activities is called into question;

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<sup>52</sup> Committee on the Office of the Ombudsman and Police Integrity Commission, *Report on the Seventh General Meeting with the Police Integrity Commission*, p.47. In June 2000, the Commissioners of the NSW Police, the PIC and the Crime Commission signed a memorandum of understanding to work in a close cooperative arrangement to jointly pursue serious police misconduct. Ministry for Police, *Report on the Review of the Police Integrity Commission Act 1996, Discussion Paper*, 2002, p.55.

and, the conduct is conduct of a type that would normally fall within the Inspector's jurisdiction.<sup>53</sup>

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<sup>53</sup> Committee on the Ombudsman and the Police Integrity Commission, *Report on the Seventh General Meeting with the Inspector of the Police Integrity Commission*, October 2005, pp 1-8; Committee on the Ombudsman and the Police Integrity Commission, *Report on the Inquiry into Scrutiny of NSW Police Counter Terrorism and Other Powers*, November 2005, p 71.



## Chapter Two - Transcript of Proceedings

### REPORT OF PROCEEDINGS BEFORE

### COMMITTEE ON THE OFFICE OF THE OMBUDSMAN AND THE POLICE INTEGRITY COMMISSION

### PHASE TWO OF THE INQUIRY INTO SECTION 10(5) OF THE POLICE INTEGRITY COMMISSION ACT 1996

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**At Sydney on Wednesday, 2 November 2005**

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**The Committee met at 10.05 a.m.**

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#### **PRESENT**

Mr P. G. Lynch (Chair)

#### **Legislative Council**

The Hon. P. J. Breen  
Ms J. C. Burnswoods  
The Hon. D. Clarke

#### **Legislative Assembly**

Mr G. Corrigan  
Mr M. J. Kerr

**CHAIR:** The first witness is Mr Bradley. There has been an exchange of correspondence between the Committee and Mr Bradley in relation to the basis upon which he is appearing and the issue of photographs. As a result of that, after two meetings, last Thursday the Committee resolved as follows:

Having carefully considered the matter Mr Bradley raised, the Committee resolved that on the balance of the public interest in the hearing and his own interests, on this occasion the Committee will restrict photography during the course of Mr Bradley's evidence.

I should also note for the record that I have received a letter from the President of the New South Wales Parliamentary Press Gallery, Alex Mitchell, which I will read on to the record. It says:

“Dear Mr Lynch,

“The NSW Parliamentary Press Gallery wishes to lodge an objection to your Committee’s decision to allow the NSW State Crime Commissioner Phillip Bradley to give his evidence under conditions of a media photo/TV film black-out when he appears tomorrow, November 2, at 10am.

“He is a public servant, attending a public hearing, of a Parliamentary Committee. In these circumstances he should be publicly identified. Because the heads of Australian intelligence agencies, and worldwide heads of secret services, counter-terrorism organizations and anti-organised crime bodies are publicly known figures, we see no reason why Mr Bradley seeks, and is granted, this kind of ludicrous cloak of secrecy in NSW.

“While we respect the Committee's ruling on this occasion, we respectfully request that Mr Bradley be treated in the same way as any other public servant when he appears before your Committee, or any other Parliamentary Committee, in the future.

“Yours faithfully

“Alex Mitchell  
“President”

**MR PHILLIP ALEXANDER BRADLEY:** 453 Kent Street, Sydney, affirmed and examined:

**CHAIR:** Could you please state your occupation and the capacity in which you are appearing before the Committee?

**Mr BRADLEY:** I am the Commissioner of the New South Wales Crime Commission and I appear in that capacity.

**CHAIR:** Thank you, Mr Bradley. The people that work for the Crime Commission, are they employed technically by the Crime Commission or by another agency?

**Mr BRADLEY:** They are employed by the New South Wales Crime Commission. I probably should elaborate on that a bit. Most public servants in New South Wales are employed under the Public Sector Management Act. It is open for the Crime Commission, to employ people under that Act. However, all appointments since I have been there have been persons employed by the Commission, and there remains about half a dozen people who are employed under the Public Sector Management Act. They are employed pursuant to a contract signed by me and them—individual contracts. There are also a number of other people who work in the premises but they do not work for me, strictly speaking.

**CHAIR:** The people employed by the Commission include ex-police officers?

**Mr BRADLEY:** Yes. There is a very small number of those.

**CHAIR:** In addition to that, there would be members of the New South Wales Police who are seconded to work at the Crime Commission?

**Mr BRADLEY:** No. There is one possible exception to that. The security officer who has been with the Commission for, I think, about 20 years may have a continuing employment relationship with the police, because I know that he got a long service award from them recently. But he does not do investigative work, he is on the front door virtually.

**CHAIR:** What suitability checks are there on ex-police that come to work for the Crime Commission?

**Mr BRADLEY:** Currently we have two former New South Wales police officers and two former Federal police officers working with us. Each of those was well known to me before they joined the Commission, and in the case of all of them, were well known to other senior people within the organisation. I know it does not sound a particularly rigorous method of checking on suitability but I find it to be the most reliable.

There are also checks made in the usual way before people are employed, such as checks with their existing or past agency. In the case of the New South Wales Police it would be to check with the Professional Responsibility Command, and in the case of the AFP there would be correspondence about that person's career and record of misconduct. That is about the extent of it.

**CHAIR:** What, in your view, are the main benefits of the joint task force approach?

**Mr BRADLEY:** We would probably need to spend a little bit of time defining what we mean by that. The joint task force approach, to me, can take many forms, the best of which is an arrangement established as a partnership where no agency takes a lead role and no member agency exercises control over the staff of another, and that supervision and disciplinary matters are dealt with by the parent agency of each of the members of the task force. That formula exists and there are some good examples of that working quite well.

There are also arrangements whereby people are employed and one agency takes a lead role or one member of one agency becomes the supervisor, coordinator, leader or something, and there are some arrangements where that is more formal.

Under the New South Wales Crime Commission Act there is specific provision in section 27(a) as to the retention of command and control by the Commissioner of Police in relation to persons who work on task forces pursuant to a Management Committee arrangement with the Crime Commission. That makes it very clear that those people are working there for the Police Commissioner. There is a provision for us to second police to the Commission. We do not do that.

Typically, in the case of *References*, of which there are many under which we work, we formally sign people up as nominal members of staff who have been provided under a Management Committee arrangement with the Police Commissioner, but they remain under the command and control of the Police Commissioner.

The main reason we go through that formal process is so that those members of the task force can have access to the information generated by the investigation. There are statutory controls over that, including Commonwealth statutes, for example, in the case of the Telecommunications (Interception) Act. So we put that in place to facilitate access to information generated under the investigation, so there is no formal process of dissemination each time an officer in a task force has to know something that another person within the task force has.

**CHAIR:** What, in your view, are the major difficulties with these sorts of arrangements?

**Mr BRADLEY:** I probably have not answered your first question yet, which was about advantages. There are a lot of obvious advantages. If each agency goes into it on the basis that they bring to it what they do best and do not try to exceed that or hopefully do not overlap the processes which have been provided by other agencies, there is obviously an advantage of that sort of combination of resources and skills. That is the biggest advantage.

From each individual agency's point of view, a matter which is part of their responsibility can be dealt with for a relatively small commitment of resources. From the overall community's point of view that is an efficient deployment of resources because there is no overlap with another agency trying to do the same thing on its own. If you took, for example, something fairly obvious like cocaine trafficking, we have an obligation to look at that, so does the New South Wales Police and the Federal Police and the Australian Crime Commission in this state. If we all went about doing that independently of each other, there would be a terrible waste of resources through overlap, it seems to me. There are still overlaps and there are still people working in collateral arrangements but the level of communication is such that we reduce the incidence of that.

They are the main two advantages -- a combination of skills and resources and the avoidance of duplication of effort by publicly funded organisations.

Disadvantages: there are a number. I think, going way back to the Royal Commissions in the 1970s and 1980s, there are well documented instances of turfdom, and joint task forces can overcome that to some extent. There is also some residue of that in joint task force arrangements where you might find people saying, "That is our responsibility" or "That is your responsibility" and things like that.

From a police point of view, they are accustomed to disciplined arrangement under a single head and various layers of supervision and clear lines of authority, yet they may work in an arrangement whereby they may be in one piece of accommodation, one floor of a building, one room, people answerable to others, applying different rules; different rules about overtime, for example. There has always been a little bit of friction between police agencies, in particular, about disparate levels of remuneration for the same work. One officer might get



double time on Sunday and one might only get time and a half or time in lieu or something. That is one simple example.

More complicated examples would include things like different rules for informer management. If an informer comes in, the officer from agency A is the handler of that informer, the officer of agency B is assisting or in some way working with that informer, and there are two different sets of rules; that can create problems -- not irreconcilable, not insurmountable, but there can be problems about things like that.

**CHAIR:** One thing that is regarded by some people as a problem which has achieved some notoriety was the publication by *Four Corners* in relation to Florida material that had not been tendered to the PIC. One of the views put to us was that that happened because of the things the Crime Commission did, that they gave material to *Four Corners* when they should not have. I am wondering whether that is your view of what happened; secondly, whether that suggests a deeper problem with joint task forces; and, thirdly, whether anything has been done to try to correct that in the future?

**Mr BRADLEY:** Just say the last bit again?

**CHAIR:** Whether anything has been done to try to prevent that sort of thing happening in the future. Has any sort of structure or system been changed?

**Mr BRADLEY:** To answer your first question, that did not happen, that is the Crime Commission did not provide information to *Four Corners*. The Crime Commission provided information to the Police Integrity Commission. It was known by both agencies -- and legal advice was obtained about this -- that once the information was disclosed in the course of the hearing there would be publication of that material to meet part of the obligations of the PIC, not the obligations of the Crime Commission.

There was a suggestion from within the PIC that material was accidentally given to Masters on the basis that it could be published after it was the subject of a hearing -- whereas in fact it was not part of the hearing or not proposed to be part of the hearing; I do not know which -- and therefore, when Masters published it, it did not qualify as something that had been published in an exempt proceeding and therefore could not have been published by Masters.

The Crime Commission did not do that. My belief is that there was an oversight within the PIC. I do not think the officers within the PIC accepted that, but it remains unresolved, I think it would be the best way to classify it.

I do not think it has got much to do with joint task forcing at all, I think between agencies there will be slip-ups from time to time. If you intend to focus on the difference of opinion about that, then there will be differences of opinion about lots of things. That is a more significant one because it involved a technically illegal act. But I personally do not think it should be used as an example of task forces not functioning.

All of the evidence that I have seen is that task forcing is the most efficient way to approach specific topics, not every aspect of policing, obviously, but specific topics, for the reasons I have mentioned, the two main reasons, and there are a number of others.

**CHAIR:** As you say, there is a significant difference of opinion over what actually happened. One of the ways that difference of opinion might have been resolved to some finality might have been if a PIC inspector had been able to carry out a complete investigation of the circumstances. He was not able to because his jurisdiction did not extend to Crime Commission officers. Do you have a view as to whether it is a desirable thing for the PIC's inspector's jurisdiction to extend to Crime Commission officers when they are involved in joint task forces with the PIC?

**Mr BRADLEY:** I would be surprised if the PIC inspector took the view that his examination of the circumstances of that matter was in any way hindered by a lack of forthrightness on the part of the Crime Commission.

As to your second point, I know there have been a number of discussions about whether the PIC inspector should be able to extend his inspectorial role to agencies with which the PIC works. I think there are respectable arguments on both sides, I do not know which side I fall down on. It is really a matter for Parliament, I suppose.

**Mr KERR:** Mr Bradley, I do not want to verbal the Chairman, but I think he gave a version of events that your Commission handed over this material to *Four Corners* which would have been an illegal act. Was that the first time you had heard of that version of events today?

**Mr BRADLEY:** I am not aware that the Inspector took that view.

**Mr KERR:** I think you took that view. You said it was technically an illegal act, when you gave evidence just a moment ago.

**Mr BRADLEY:** It was a technically illegal act for telecommunications interception material to be published to the public at large before it had been the subject of an exempt proceeding.

**Mr KERR:** Handing it over would have resulted in an illegal act; perhaps I can phrase it that way.

**Mr BRADLEY:** Only if there was not an exempt proceeding between the handing over to the person who properly received it -- as I understand it, consistent with the legal advice of the PIC -- only if there had not been an exempt proceeding between the time of handing over and the time of publication.

**Mr KERR:** To return to the issue, had you heard any suggestion that your Commission was responsible for handing over that material?

**Mr BRADLEY:** Yes.

**Mr KERR:** Before today?

**Mr BRADLEY:** Yes.

**Mr KERR:** Where did that come from?

**Mr BRADLEY:** Within the PIC, after the publication of the *Four Corners* article on television, it was realised that one snippet -- I do not know which it was now, I cannot remember -- had not been published in the course of the preceding PIC hearing. When people inquired as to how that could have happened, I think there was a bit of finger pointing, I think on both sides. It is just a question of whose finger was pointing in the right direction, I suppose.

**Mr KERR:** I suppose it would depend on what digital evidence there was for the finger pointing.

**Mr BRADLEY:** Digital in the sense of finger or digital in the sense of --

**Mr KERR:** Exactly. Excuse the pun.

**CHAIR:** Perhaps we could get to the core of the inquiry rather than the puns.

**Mr KERR:** You will probably have a good laugh at lunchtime when you work it out, Mr Chairman. There should be a basis for finger pointing; before they point the finger, they should have reasons for pointing the finger.

**Mr BRADLEY:** I think that is a fair comment. It remains unresolved. The fact is that there was material published which had not been the subject of an exempt proceeding. I think that the basis upon which a finger was pointed at officers within the PIC, to the extent to which that happened -- I mean, it is a figurative assertion, at best -- I think it was justified. I could be wrong about that, but it is extremely unlikely. And there will probably be a view coming out of the PIC which is identical to mine or the mirror image of mine.

**Mr KERR:** I do not want to ask anything arising from that.

**CHAIR:** How many joint task force arrangements has the Crime Commission initiated with PIC?

**Mr BRADLEY:** I cannot answer that off the top of my head. I do not think there are any joint task force arrangements as understood by section 10. The Florida one, which is the one we have been talking about, was described in an agreement between my Commission and the PIC as "a joint pursuit of allegations" and therefore did not fall within section 10 in our view. There have been other arrangements where we have done things together, but I do not know that there has ever been a formal joint task force under section 10. There have certainly been joint efforts.

**CHAIR:** Do you have a sense of how many PIC operations arise from Crime Commission referrals?

**Mr BRADLEY:** I have a sense, it is not terribly accurate.

**CHAIR:** The PIC Commissioner can definitively answer that question, which is why I phrased it in those terms. How many PIC operations are you aware of that have arisen from Crime Commission referrals?

**Mr BRADLEY:** I could give you a solid number by this afternoon. There are a handful, in the order of 10, I would say, perhaps two handfuls. Some of them have been public and some of them have been initial investigations by the PIC, and in some cases I would not know the extent to which the PIC pursued them. There are things which turn up from time to time which are communicated by the Crime Commission to the PIC which we have no further interest in. There are some in which we have a lot of interest because it might impact upon a current investigation, but there are others which we do not.

**CHAIR:** Operations like Mascot and Florida seem to have the Crime Commission doing a lot of investigation of police corruption. Can you see that some people might be a bit curious about that, although the PIC is a stand-alone body established just for the investigation of police corruption, the Crime Commission spends a lot of time doing what the PIC might be doing?

**Mr BRADLEY:** Organised crime investigations often, not always, involve elements of police misconduct. The Crime Commission recognises that and takes a strong view about what happens when instances of misconduct arise.

There was a specific *Reference* within the Crime Commission called *Gymea* which was established in the late 1990s, in recognition of that fact and with a predetermination to deal with instances of police misconduct in whichever was the most appropriate way. Now, some police misconduct is just straight out organised crime -- drug trafficking, for example -- and some is police turning a blind eye.

In *Gymea* we took the view that there were a number of high profile -- high profile to us, at least -- criminals in Sydney who were not getting adequate attention and there were a number of possible reasons for that. One was that they were being "green-lighted". The first round of investigations which were done demonstrated that green-lighting was a factor, and we reported those matters accordingly.

I should also say that the decision to initiate *Gymea* was done with police agencies, including New South Wales Police, in particular, and elements of the Federal Police, and I think there might have been an ex-federal police officer there, whereby we tried to determine the most appropriate targets. The police internal affairs, as I think it then was, provided the police resources, and later that group was joined by the Australian Federal Police.

The instances of police misconduct which were inevitably discovered during that work were largely dealt with by the New South Wales Police and the Federal Police -- there were instances of Federal Police misconduct as well -- in the usual way. In the case of New South Wales Police, some of those matters were referred to the Police Integrity Commission.

There have been some very substantial instances of police misconduct, Florida being one, but there are others which have been picked up by the PIC as a consequence of those sorts of operations.

**CHAIR:** There is a view that is sometimes expressed -- it may have substance, it may not -- that the Crime Commission sees an advantage in referring matters to the PIC because of the PIC's public hearing process. Is that a view you think has substance? Is that one of the ways in which the Crime Commission sees an effective relationship with the PIC, because the PIC can hold public hearings that the Crime Commission could not?

**Mr BRADLEY:** I think there is an advantage in public hearings which has been well recognised. It is a very difficult area and there is probably not enough time to discuss the advantages and disadvantages of the public hearing process. I know in the context of ICAC and others that has been well and truly examined. Just where the line should be drawn, I am not so sure.

In terms of advantages to the New South Wales Crime Commission, I do not think there is a organisational advantage to us by referring to the PIC for public hearings. There is an organisational advantage to us in referring to the PIC because it separates our function of organised crime investigations from investigation of police. I think there are advantages in that.

We work with very large numbers of New South Wales Police on a daily basis, and I think I have expressed in the past the view that it is difficult working with them and working on them at the same time. That is something that we have done from time to time. I was talking to Mr Breen earlier about a paper that I presented in Perth at a conference that he attended, where I made that point very strongly; in fact it has been quoted back to me several times by the New South Wales Police as to whether or not we should be involved in working on them and working with them.

I think that the best way to resolve that is, firstly, to recognise that it is not a good idea to have dual roles; and, secondly, to recognise that there are cases where the working on them is an unavoidable consequence of working on others with whom they are closely associated. Then there is a decision that has to be made about who else gets involved in that process, and in New South Wales obviously it is the Professional Responsibility Command in the PIC and that happens invariably in our case.

**CHAIR:** I take it from what you have said that there have been a number of referrals from the Crime Commission to PIC that have not resulted in public hearings in the PIC?

**Mr BRADLEY:** Referrals gives it a level of formality that it probably does not deserve. There is an arrangement we have with the PIC whereby the Police local commander who is in charge of -- what was called the Special Crime Unit -- is informed of instances of police misconduct which then he passes up through his command, and if it falls within a particular category, it is dealt with in particular ways, and the Ombudsman may become involved or not and the PIC might become involved or not.

There is also a collateral chain of communication between the Commission and the PIC whereby I inform the Commissioner of the PIC that we have an instance of police misconduct, he notes it, he might ask me some questions about it in terms of should we act on it now or is there any reason why we should not, or whatever. That is the reporting arrangement which we have established internally, and there is a document signed by all three parties to that effect.

**CHAIR:** I am wondering whether you think there might be any benefit in the PIC Commissioner being a member of the Crime Commission management Committee? Other task force partners, such as the Commissioner of Police and so forth, are members of the Committee; I am wondering whether you think the PIC Commissioner ought to be a member as well?

**Mr BRADLEY:** I have not thought about it. It is attractive at first glance, but I have not thought about it and I would like to have an opportunity to consider it before I express a considered view.

**CHAIR:** That is something we may turn to in our final report, so if you would like to think about it and perhaps let us know, that would be helpful.

**Mr BRADLEY:** I would be happy to do that.

**CHAIR:** Are there any questions arising out of anything so far that other members want to pursue?

Talking about task forces, witness M5 in Florida was a fairly important figure. I am wondering whether legal action has been taken against the task force by M5 for removing him from a psychiatric facility where he was being treated for depression and for threatening to remove his indemnity? That is contained in a book recently published by Sean Padriac called *Sympathy for the Devil*, as told by Trevor Haken.

**Mr BRADLEY:** I have heard something about that, but probably no more than a fourth-hand report of something that was in Haken's book. I do not have sufficient information about it to know whether the allegation has any basis in fact and therefore I would not want to comment. I do not know much about it at all.

**The Hon. PETER BREEN:** Can I ask you about a recent task force on the north coast involving drug trafficking. The offender was convicted for trafficking illegal drugs to the value of \$5 million. The Crime Commission made certain submissions to the prosecution on the basis that the offender handed over assets worth several million dollars of comparable value to the drugs. As a result of this arrangement, the offender received a custodial sentence of just 10 months. Can you explain how this arrangement is to be distinguished from a drug offender in a third world country paying police to avoid serious prosecution?

**Mr BRADLEY:** I suppose the standard answer to that is that the decision as to sentence is a matter for the judge and I would not comment on it for that reason. I am not aware of the particular case; there are many such cases.

I can tell you in general, without reference to specific cases, that the Crime Commission will report what it has done or what defendants or accused persons have done in relation to it, accurately when requested to do so, subject to a few rules about public interest immunity and the public interest generally. If a person has disgorged assets in favour of the revenue of this state then we will make a report about that. If that is a matter that is relevant to sentence -- the DPP says it is not, I note -- then the accused person can tender it on that basis.

**The Hon. PETER BREEN:** It is a matter that is relevant, though, is it not, and it is taken into account?

**Mr BRADLEY:** The DPP says not, and no.

**The Hon. PETER BREEN:** What if the judge gets to read the report and uses that as a basis for giving a person a sentence which in other circumstances, in the case of a custodial sentence, might be several years?

**Mr BRADLEY:** As I said, judicial officers have to act within the law. It may be the case that a judicial officer could and would take into account the fact that a person has disgorged the proceeds of crime voluntarily and it may be a matter that is relevant to sentence. But I understand that it is the DPP's position that it is not, and I would assume therefore that the DPP would say to the judge that it is not, and that if the judge agrees with that proposition then the judge would not take it into account.

**The Hon. PETER BREEN:** If a person is going to disgorge assets knowing that it will be taken into account, he is going to do it voluntarily -- if he has a lot of assets it is not a problem -- in order to avoid a custodial sentence.

**Mr BRADLEY:** I do not think I can add to what I have already said about that.

**The Hon. PETER BREEN:** On the issue of secrecy of the activities of the Crime Commission, it seems to me that the Commission is much more secretive than other agencies. For example, the Federal Police Commissioner, Mick Keelty, gave evidence before a Senate inquiry earlier this week. Mr Keelty said that an AFP officer had been cleared of tipping off the leaders of an alleged drug ring. The suggestion was that the drug ring may have been tipped off by an officer of the Crime Commission. Is that a matter that is currently under investigation in the Crime Commission?

**Mr BRADLEY:** I am not aware of the suggestion. Is that a suggestion made by Mr Keelty, do you say?

**The Hon. PETER BREEN:** It is a suggestion that is about. I am not sourcing it; it is a suggestion that is about.

**Mr BRADLEY:** Perhaps in another forum the intelligence that you have could be conveyed to us and it could be made the subject of an investigation. It is not presently.

**The Hon. PETER BREEN:** It is not something that you are currently investigating or that you are even aware of as an allegation?

**Mr BRADLEY:** There is a body of material which would indicate that in the course of an investigation, which we call *Mocha*, there were instances of the persons of interest, to use a neutral term, being aware of investigations. The possible sources of that awareness include the New South Wales Crime Commission, because it had knowledge of the investigation, being involved in it. It also included a number of other agencies. Therefore, until there is a

definitive answer to how those tip-offs occurred, the New South Wales Crime Commission and its personnel could not be excluded.

**CHAIR:** Just on the general point, what happens when allegations are made against employees of the Crime Commission? Is there an investigative body that looks into those allegations?

**Mr BRADLEY:** There have been instances of allegations which have been looked at by other agencies. I think in one case -- I am trying to remember which case it was -- the professional responsibility command of the New South Wales Police looked at an issue. In fact there is one quite recent one where there was an allegation that a non-investigative person within the Crime Commission had disclosed something to a criminal and as I understand it that allegation has been completely blown out because it does not accord with any of the known facts.

If I become aware of a sustainable allegation -- in my case even a suspicion -- that an officer of the New South Wales Crime Commission has disclosed information inappropriately then I have an obligation under section 11, I think it is, of the ICAC Act to refer it to the ICAC and I would promptly do so.

There have been allegations, even allegations against myself, of corruption, and as a first step those matters are reported and documented before the Management Committee. If they are worthy of investigation -- and they are often not because they are ludicrous -- they can be referred to a number of different agencies. A breach of the New South Wales Crime Commission secrecy provisions could be investigated by police or by the ICAC.

**CHAIR:** While we are talking about oversight and the like, one of the proposals that is made from time to time is that there be a parliamentary oversight Committee for the Crime Commission. Do you have a view about that?

**Mr BRADLEY:** Without any disrespect to oversight Committees, you understand, I think we do pretty well without one. But I am very aware of the importance of perceptions in these areas and I think that respectable arguments could be made for both positions. I only wish that respectable arguments would be made, rather than some of the hysteria that I have been obliged to read.

**CHAIR:** You would not regard it as being the end of the world if a parliamentary oversight Committee came into effect in relation to the Crime Commission?

**Mr BRADLEY:** Not at all.

**The Hon. PETER BREEN:** You would not resign?

**Mr BRADLEY:** Not for that reason, no.

**The Hon. PETER BREEN:** I had to ask the question.

**Mr BRADLEY:** Thank you. Would it make a difference?



**The Hon. PETER BREEN:** Yes, I think they should keep you.

In relation to this business of joint task forces, you mentioned section 10 of the Act and you said that there were no instances currently that you are aware of where there are joint task forces, strictly speaking.

During the third trial of Phuong Ngo there was a question put to Detective Ian McNab by Judge Dunford as to whether he, McNab, was seconded to the New South Wales Crime Commission in his investigation of the Newman murder. McNab's response was:

“We work under the guise of the New South Wales Crime Commission with their powers.”

The suggestion from that, and my understanding of the arrangement, is that in a joint task force inquiry such as the murder of John Newman there are powers which slip across, if you like, from the Crime Commission to the New South Wales Police. There is a question in my mind about whether or not that creates a disadvantage to witnesses, because witnesses clearly are in a different position when dealing with the New South Wales Police as opposed to the Crime Commission. What safeguards are in place to prevent a general flow-on of Crime Commission powers in those circumstances, that is a flow-on to the New South Wales Police?

**Mr BRADLEY:** Firstly, when I said that there have been no joint task forces formally, I was referring to relationships with the PIC.

**The Hon. PETER BREEN:** Sorry. My mistake.

**Mr BRADLEY:** There have been lots of task forces with the New South Wales Police. In fact, the Crime Commission does very little on its own. It is a very small organisation, it has a very limited number of people, and it exploits, if I could use that word, relationships which it seeks to forge with big organisations with lots of resources, and some small ones like the ICAC and the PIC.

The New South Wales Police are the most exploited of any by the New South Wales Crime Commission because they have vast numbers of detectives and they have vast numbers of resources deployed around the state which can add to the investigation. But it does not mean that they work for us. That perception is available, I agree, and it is available, as that piece of transcript would indicate, to police themselves. But we go to a great deal of trouble to try to get police to understand that they do not work for me.

In the case of task forces in the building, that is very important because they come into the building with a card issued by the Crime Commission and they do things in accordance with the building arrangements, the parking and various other things, which are essentially laid down by the Crime Commission. I say to these people, “You do not work for me. You work ultimately for the Commissioner of Police, and you have to keep that in mind.” I get them to sign a document to that effect when they turn up to work in task force arrangements, because it is very important.

The *Coogee* people did not work in the building, although they were frequent visitors. And I would have thought they were very aware of the fact that they worked within their police hierarchical arrangements.

That does not rule out the possibility, I would agree, that a police officer aware of the arrangement or suffering under a misapprehension or seeking to give a false impression in the mind of someone else, might assert that he is an officer of the New South Wales Crime Commission with certain powers. I think that could happen; I could not say that it has not happened. In cases where witnesses before the Crime Commission have had any misapprehension about that, I have gone to great lengths personally to disabuse them of that.

The relationship between us and witnesses is a thing that arises commonly, especially when witnesses are seeking to give evidence which can be contrary to their personal security, for example. I say to them, "Nobody is entitled to make a promise on behalf of the Crime Commission other than me." I say that in the hearing and that is recorded on audio/visual equipment. Then I go through a range of things to reinforce that proposition.

**The Hon. PETER BREEN:** Does that mean you personally gave all the indemnities in the John Newman murder trial, for example?

**Mr BRADLEY:** No. The Crime Commission is not authorised to give indemnities; only the Attorney-General can do that. There are two ways in which we progress indemnities. Under the Criminal Procedure Act we can make an application directly to the Attorney-General. We tend not to do that, we tend to go to the DPP and say, "Here is our view as to whether this person should be indemnified, can you make a recommendation to the Attorney-General?" That is mainly done to keep the DPP in the loop, as it were, and also because if we make a recommendation to the Attorney-General directly, the DPP would be usually charged with a related prosecution and they would be consulted by the Attorney as to it, and it is better to get them in earlier rather than later.

**The Hon. PETER BREEN:** In a joint task force, you would do it rather than the New South Wales Police?

**Mr BRADLEY:** Make the recommendation?

**The Hon. PETER BREEN:** Yes.

**Mr BRADLEY:** I cannot remember the precise details of what was done in the Phuong Ngo matter. We were certainly more involved in that recommendation process than we had been in a lot of other matters. One of the reasons for that was that one of the witnesses changed his mind a few times about the facts and had to be resubmitted. So we were fairly deeply involved in that.

As I said earlier, the people that do most of the work are New South Wales Police, so that if an indemnity application is to be put forward, there is usually a swathe of paper which includes things like the person's statement and anything that might relate to that, and things which meet the rules set out in the Prosecution Policy of the New South Wales DPP or, in the case of the Commonwealth, the Commonwealth Prosecution Policy, and we have done some of those. The police do most of that work. Often there will be a statement, usually taken by a police officer. We normally put a covering letter on it. If it is an application under the Criminal Procedure Act directly to the Attorney-General, we have to do that anyway because it is our application.

**Mr KERR:** Could I ask a question arising from the question about the oversight of the parliamentary Committees.

Commissioner, I do not want to verbal you, and I think you said while you did not personally favour being subject to a parliamentary Committee because the Commission was doing all right at the moment --

**CHAIR:** To be fair, I do not think he quite said that.

**Mr BRADLEY:** I think the first bit constitutes the verbal.

**CHAIR:** Sorry. Could you correct it?

**Mr BRADLEY:** But the second bit is accurate, yes.

**Mr KERR:** You said words to the effect -- these are not your actual words -- that you would prefer the question to be addressed with reasonable arguments rather than the hysterical views you sometimes read.

**Mr BRADLEY:** Yes.

**Mr CORRIGAN:** Wild allegations, he said.

**Mr BRADLEY:** I have seen material --

**CHAIR:** I think the Commissioner was about to give an answer.

**Mr BRADLEY:** I have read in the newspaper inaccurate reports about what the Commission has or has not done in a particular matter, and then a few paragraphs towards the end saying, "And this is the agency which does not have any oversight Committee, unlike ..." and then other examples follow.

I do not mind having the debate about whether or not it is appropriate to have an oversight Committee. What I do not like is assertions based on fallacious material to support arguments which really deserve more considered examination of facts.

**Mr KERR:** What was the fallacious material or fallacious assertions?

**Mr BRADLEY:** There have been a number of matters which particular journalists have picked up. There was a matter I remember involving a man named Preston, who was involved, we said, in frauds on the revenue. This is one of the earlier ones. That person was given a great deal of prominence in newspapers and his version of events was, it seemed to me, accepted without question, against a background of the particular journalist having been given background information which included advice to treat with caution what he was being told by the particular defendant.

Ultimately the main prosecution was thrown out because the Tobacco Franchise legislation was ruled to impose a duty of excise by the High Court. The person concerned was arrested, I

think as he was leaving the country, and prosecuted for perjury before the Supreme Court. Notwithstanding that, there was never any retraction, any attempt to correct assertions made about the New South Wales Crime Commission unfairly persecuting the individual, and it was those assertions which grounded throw-away remarks about the need for closer supervision of the Crime Commission.

It will not surprise you to learn that I have a high degree of confidence in the integrity of the workings, and whether that is well founded or not is a matter for others. But it is offensive to have misrepresentations made about factual matters and then those misrepresentations used to support the quite respectable argument that the Crime Commission should have an oversight Committee.

**Mr CORRIGAN:** Taking that on board, Mr Bradley, do you not think it would be an opportunity in a public hearing to be able to address these articles if there was an oversight Committee and, as you said, report accurately to the oversight Committee on what actually happened, as opposed to just reporting to a board of management? Mr Mercer, who wrote the article, is sitting down the back.

**Mr BRADLEY:** My view about that is a bit like defamation cases: you get a retraction published, it just highlights the original allegation. It probably helps to sell more newspapers, but it does not really assist the organisation concerned.

We have a very deliberate policy of keeping our head down in terms of media, for a number of reasons, which I can go to if you think they are relevant to the issue which we are here to discuss, which is task forcing under the PIC Act. Essentially we are a covert investigation agency and we do that in secret, for obvious reasons. I am not aware of any precedent where journalists are perched on the shoulders of investigators whilst they carry out covert investigations. I think the reasons for that do not need to be stated.

What we do ultimately, in most cases, ends up in court, either in the Supreme Court under the Criminal Assets Recovery Act or in the prosecution process in the District or Supreme Court and sometimes the lower courts. There are available, as you know, a wide range of opportunities for people to challenge what we have done on the basis of its legality and appropriateness, and there are a lot of other measures in place which govern our conduct.

**Mr CORRIGAN:** On that point, it has been put to me -- I am not putting words in anyone's mouth -- that it is fine for someone who is a criminal and who may have vast amounts of money, but for an ordinary person falsely accused, to go to the courts costs you a lot of money which you do not have, so the legal remedies available before the Commission might not be acceptable to Joe Public.

**Mr BRADLEY:** There are specific provisions in our Act for a person to go to the Supreme Court and challenge a decision, and that is funded by the Attorney General.

**CHAIR:** If we can turn back to the real purpose of today's meeting, does the Crime Commission use the same procedure as the PIC with witnesses, where witnesses are advised of their rights before they give evidence and their rights to give evidence under objection and not to have the evidence used against them? That is a procedure that the ICAC uses; is that what the Crime Commission does as well?

**Mr BRADLEY:** Yes. I recite a page of information to the witness. I can repeat it here if you want me to -- it will take a little while -- but I have recited it so many times that I can --

**CHAIR:** I do not need to hear it.

**Mr BRADLEY:** All those things are covered, yes.

**Mr CORRIGAN:** Can it be tabled?

**Mr BRADLEY:** Yes, I can give you a piece of transcript.

**CHAIR:** The final thing I have in open session is in relation to what seems to have been the task force between the Crime Commission and the police. There was an allegation in the media that the Crime Commission closed down Operation Emblem, which was the one that had the 100 names on the warrant. I am wondering whether you are aware of that allegation and whether you have a comment you would like to make on it.

**Mr BRADLEY:** I am aware of the allegation; it is untrue. The Crime Commission did not close down anything. Just to get the record roughly corrected, if I could, the Listening Devices Act requires that persons whose conversations are likely to be overheard or recorded through the use of a listening device are to be nominated, and in the course of the *Mascot* investigations that was done. What was done has been the subject of a number of legal opinions and also an examination by the inspector of the PIC with which we cooperated. The legal opinions agree that that was the proper course and that it was not illegal. The inspector of the PIC, as I understand it, also agrees with that proposition.

A better understanding of Operation Emblem would be gained by looking at the real mischief in that matter. The real mischief was that a warrant was tendered in court for the purposes of prosecutions of individuals which contained a very large number of names. Many of those names were of officers who were likely to be overheard at the time the warrant was issued, but they were not suspected of any misconduct. An inference was drawn, incorrectly, that the inclusion of those names on the face of the warrant led to the suspicion that those people were suspected of corruption -- not a justifiable inference, not available on the law.

The conduct of those who drafted the warrant was found to be correct by a number of legal examinations of it.

It is very unfortunate that it has gone that way and that people have sought to propagate rumours and advance the particular inference. If there were a way in which that could be reversed, it would be a good thing because there are some very honourable and respectable people whose names appeared on the face of that warrant and who were very upset, and told me so.

**CHAIR:** Any other questions from Committee members?

**Mr KERR:** Commissioner, on the allocation of budgets, have you heard a criticism that there is a proliferation of oversight bodies in New South Wales, coming from, say, the police?

**Mr BRADLEY:** Yes, you do hear things like that from time to time.

**Mr KERR:** The PIC, the ICAC and your Commission have to compete for budgets, I take it?

**Mr BRADLEY:** Not in the oversight business, because I am not in the oversight business, you understand.

**Mr KERR:** Sorry, in terms of budgets for Commissions and bodies?

**Mr BRADLEY:** I compete with the RTA as well.

**Mr KERR:** That is right, it is a pretty big competition, I appreciate that. The PIC, the ICAC and your Commission all have independent technological resources relating to telephone interceptions, listening devices; is that correct?

**Mr BRADLEY:** Yes.

**Mr KERR:** The PIC and your Commission have considerable particular resources for the purposes of monitoring those telephone intercepts and so forth?

**Mr BRADLEY:** Yes.

**Mr KERR:** I think the PIC and the ICAC have independent surveillance capacity and your Commission relies on the New South Wales Police force; would that be an accurate statement?

**Mr BRADLEY:** Yes, by and large. You are talking about using physical optical surveillance in that sense?

**Mr KERR:** Yes. I am wondering about the benefits of the three agencies combining and refining their resources and their costs, would there be any benefits to that?

**Mr BRADLEY:** Yes.

**Mr KERR:** What would they be?

**Mr BRADLEY:** Well, it has happened to a large extent, in the case of the ICAC -- I do not know whether this is public or whether it should be --

**Mr KERR:** Perhaps I will just ask for the benefit in general terms.

**Mr BRADLEY:** It has happened with the ICAC. There have been instances of it with the PIC, the NCA, the AFP, ICAC, the New South Wales Police. Now the Act has specific provision for agencies such as mine to perform telephone intercepts, for example, on an agency basis. That is happening and it is within the legislation. There is scope for more of that, particularly in areas of internet interception. We are looking for ways that we can

achieve a consolidated technical response outside the audio side (which is not particularly technical).

In terms of physical visual surveillance, or whatever you would like to call it, people in vans and things, it does present difficulties. Because of competing priorities, the police surveillance have particular capacities, and one of the agencies you mentioned does not have full capacity in that particular sense, in terms of enforcement protection and things like that.

**Mr KERR:** Could you say what agency that is?

**Mr BRADLEY:** I prefer not to. I am happy to tell you in a confidential session the differences between the agencies in that respect.

If one was to choose a viable business to commence in New South Wales it would be surveillance because there is an enormous demand for it. Just today there is a very large number of people committed to surveillance. Particular matters of particular interest get a lot of emphasis. A lot of surveillance capacity which might be used on corrupt aldermen, in the case of the ICAC, gets drawn off on to other things because of the competing priorities.

If there is a plot to murder somebody then surveillance resources will be directed towards that and if you are part of a pool in that environment you will never get resources for low grade corruption, if I could put it that way -- important though that is. I think in that area there needs to be a capacity to have some true independence in allocation of your resources, whereas in the technical area it is just really a matter of dollars and cents and how you allocate your resources on a year by year basis.

I think there are very strong arguments for consolidating effort in the electronics area. That already happens within the New South Wales Police Service and we interrelate to that quite closely, and we also have relationships with federal agencies over that sort of thing.

In physical surveillance there are a lot of other factors to be taken into account. If you were to have the head of the state surveillance here today he would be telling you how many balls he has got in the air and what a difficult thing it is to manage, given the competing priorities with police.

**Mr KERR:** Has there been any study done into the sharing of resources generally, having regard to the benefits and the barriers that exist there?

**Mr BRADLEY:** In the technical area, yes, there has. It was a few years ago. I think my position then was that in terms of telephone interception, the interception of different types of traffic, what we were then getting was a thing that did not really represent a problem in terms of replication of effort. But the R&D side and the high level technical areas should be addressed in a unified or consolidated way, so that there would not be a number of technical people trying to address the same problem. It still goes on. In my office there will be someone looking at some particular aspect of data communication, and there is probably someone in Perth trying to solve the same problem.

However, we are working towards having a better standard of communication over those sorts of issues. But that is where the work is and the most difficult challenges are and there is a strong argument for consolidating resources in that area.

**Mr KERR:** It has been some years now since that study was done. Is there an argument for revisiting the study in the light of developments?

**Mr BRADLEY:** Yes, I think so.

**Mr KERR:** Do you think that will be done?

**Mr BRADLEY:** It is not a matter for me. I would not resist it if someone asked me.

**Mr KERR:** Who is it a matter for?

**Mr BRADLEY:** In the current environment there are several agencies in New South Wales who, just taking telephone tapping as an example, tap telephones currently. Some of those are federal agencies and all of them are bigger than my agency. If there was to be a review of how the state agencies could get together, I suppose the three New South Wales agencies could, via the Ministry, make some representations which might get that done. Logically it should include Commonwealth agencies as well because we essentially do the same things and it is Commonwealth legislation that we work under.

**Mr KERR:** You mentioned the warrant which named over 100 people, some of whom were people of undoubted integrity who were quite upset by it. Given that the PIC has jurisdiction over police corruption, what were the reasons that the Crime Commission decided to run operations Mascot and Florida?

**Mr BRADLEY:** That is a matter we probably should not deal with in public. There are bits of it that I could probably answer, but to give you the proper context I think it is better to deal with that confidentially.

**Mr KERR:** I am happy to that have answer in respect of any questions.

The then PIC inspector's investigation into how *Four Corners* acquired a copy of the surveillance tape which had not been adduced in the evidence. I think you may have been asked this question by the chairman in terms of changes, and I withdraw the question.

**CHAIR:** I have done the entire list.

**The Hon. PETER BREEN:** The list is done.

**Mr KERR:** You never know.

**The Hon. PETER BREEN:** I was listening. He went down the list.

**Mr KERR:** Can I ask you what role -- you may wish to answer this in camera -- your Commission played in the New South Wales Operation Emblem?



**Mr BRADLEY:** What role?

**Mr KERR:** Did you have a role in that?

**CHAIR:** That was asked a couple of minutes ago.

**Mr KERR:** Did you have a role?

**Mr BRADLEY:** Not really.

**Mr KERR:** Can you tell me what joint task force arrangements the Commission has initiated with the PIC?

**Mr BRADLEY:** I think the answer to that is none. I am pretty sure that is the case.

**Mr KERR:** Do you want to take that on notice, just to check?

**Mr BRADLEY:** No, I am certain that is the case.

**Mr KERR:** What is the relationship between the Professional Standards Command and your Commission?

**Mr BRADLEY:** The relationship? Well, there is a unit -- in fact, it has recently changed its name, I cannot remember the name of it -- which was formerly known as the Special Crime Unit, which consists of professional responsibility command officers who report to Assistant Commissioner Carroll, who is here today. They provide the police-type resources in the context of a *Gymea* reference and they work on the premises, they have access to all the usual facilities. That is one part of the relationship.

There are matters which come to our notice from time to time which we report in the way that I have earlier mentioned, that is another part of the relationship. We provide some technical assistance to the professional responsibility command in matters that we are not involved in sometimes. I meet with Mr Carroll and some of his senior officers on a fortnightly basis and on an ad hoc basis in between. There are probably other aspects to the relationship which I cannot remember at the moment, but I think they are the main components of it.

**Mr KERR:** How many PIC operations arise from your Commission's referrals?

**CHAIR:** I will rule that out of order. That is a direct quote of what I have already asked.

**Mr KERR:** How many joint operations managed between the PIC and your Commission have the full investigative task force arrangements in force as opposed to more general information sharing and how are the competing interests and functions of the two different bodies balanced while making decisions about the investigations?

**Mr BRADLEY:** Under section 10, none. There have been matters in which we have had a common interest. They have ranged from matters which may be reported to the PIC and we hear nothing more of them, through to matters of the prominence of Florida. I do not

think that there are competing interests when mature minds are brought to the process and the public interest is put first. I am not aware of any particular issues between us at the moment.

**Mr KERR:** Sometimes there can be competing public interests, though.

**Mr BRADLEY:** If you could give me an example, I might be able to deal with it.

**Mr KERR:** I will think about it.

**Mr BRADLEY:** I will take it on notice.

**CHAIR:** Could you perhaps finish your questions, Mr Kerr? We are running short of time.

**Mr KERR:** What accountability measures are placed on New South Wales Police seconded to your Commission?

**Mr BRADLEY:** There are none seconded to the Commission. I went through earlier the arrangements whereby they were informed of their continuing obligations to the Commissioner as their ultimate commander.

**Mr KERR:** You said they were working for the Commissioner, not you?

**Mr BRADLEY:** Yes.

**CHAIR:** If that concludes the questions that Committee members have, it is now appropriate that we go into confidential session. Can I ask non-Committee members to leave the room. We will then resume with Mr Griffin immediately we reconvene.

**(Evidence continued in camera at 11.20am.)**

**(The public hearing resumed at 11.38am.)**

Evidence by **TERENCE PETER GRIFFIN**, Police Integrity Commission, 111 Elizabeth Street, Sydney, sworn and examined:

Evidence by **MICHELLE MARGARET O'BRIEN**, Police Integrity Commission, 111 Elizabeth Street, Sydney, sworn and examined:

Evidence by **ALLAN GEOFFREY KEARNEY**, Police Integrity Commission, 111 Elizabeth Street, Sydney, affirmed and examined:

**CHAIR:** For the purposes of the record could you please state your occupation and the capacity in which you appear before the Committee?

**Mr GRIFFIN:** I appear as the Commissioner of the Police Integrity Commission.

**Ms O'BRIEN:** I am a solicitor and I am appearing as the Commission Solicitor for the Police Integrity Commission.

**Mr KEARNEY:** I am the Director of Intelligence and Executive Service of Police Integrity Commission and I appear in that capacity.

**CHAIR:** Thank you.

Mr Commissioner, we received a letter from you dated 22 October. I take it you wish that document to be tabled and to be included as part of your evidence?

**Mr GRIFFIN:** If the Committee pleases.

**CHAIR:** And made public?

**Mr GRIFFIN:** I see no reason why the letter and the attachment should not be public.

**CHAIR:** What, in your view, are the main benefits of joint task force arrangements?

**Mr GRIFFIN:** I think perhaps it works dually for the agencies involved. In the case of the PIC, for example, we are able to offer the benefits of some of our powers to an investigation that are not available to other agencies, for example the capacity to run hearings. I think probably the principal benefit for the PIC in a task force arrangement would be the use of resources that we would not otherwise have. That probably mostly is driven by just the size of the resources.

**CHAIR:** What, in your view, would be the main disadvantages or the main problems with these sorts of arrangements?

**Mr GRIFFIN:** I think the main disadvantage of any interoperation, any agency cooperation, is the management of that cooperation, whether it is investigative or any other sort of cooperation.

The essence of it really is goodwill. If that is not there then they are very difficult things to deal with. The principal disadvantage that really arises is one of communication.

**CHAIR:** What are the circumstances in which the PIC enters into task force arrangements that involve full investigative partnerships?

**Mr GRIFFIN:** The circumstances where we would consider ourselves in some sort of formal task force arrangement are usually where there is a common purpose, where both agencies aim to do something that is proximate. The benefits are those that I spoke about principally, and others flow from the arrangement.

If, by contradistinction, we have an investigation by our agency that can be managed comfortably with our resources, there would be no purpose in having a joint task force and it would not happen. Alternatively, if the police or any other agency were able to deal with it they would not be interested either.

Powers that we have under our Act to do things such as investigate police corruption, that are also extant in other agencies, means there needs to be a degree of communication, discussion and agreement about how they are dealt with. I think it really is a matter of resourcing and convenience as much as anything.

**CHAIR:** How many joint task force arrangements have the PIC initiated with the New South Wales Police and the Crime Commission?

**Mr GRIFFIN:** The detail would need to be dealt with on notice. With the Crime Commission, very few. In fact, it would depend on your view of a task force. If we define it to be something where there is a written agreement to do work which consists of investigatory work, I would say there are probably two; Florida, and Pelican, which arose out of Florida. One of those names would be known to you, the other one would not.

I think the Crime Commission would take the view that Florida was not a joint task force agreement in the formal sense, it was a written agreement to conduct some joint enterprise, and perhaps that is true. If we take the more relaxed view, there were those two.

With the police there have been more. Once again, the difficulty is the definition of what a joint task force is. We have under our Act a formal arrangement for a joint task force and we follow that in circumstances -- I think the schedule has identified those. The distinction between those and things that are very close to that, where there is no agreement formally drawn and a certificate issued and the minister giving us authority, as the Act then was, and those where we are going close to that but not doing the same thing, is fine. If it became a real issue for the Committee, a lot of work would need to be done by us to determine the niceties of those things in a way that would be meaningful. We can deal with them in broad pigeonholes, and that is what the schedule that you have attempts to do. But there are shades of grey through that process.

One of the things that we do that is perhaps captured by what might be described as a joint task force in this Committee is provide information to other agencies, and likewise we receive information. It is joint work to the extent that we are cooperating towards an end but it is not a joint task force in the sense that we are driving towards a common goal.

**CHAIR:** Is it your perception or opinion that the PIC's ability to hold public hearings is one of the reasons that the Crime Commission is interested in having joint arrangements with you?

**Mr GRIFFIN:** I would think it would be strange if that was not one of the reasons, although it is obviously a question that Mr Bradley would answer better. If I were in that position I would have thought that capacity is something that in the right circumstances would be useful.

**CHAIR:** Have there been joint task forces with the Crime Commission that have not resulted in public hearings?

**Mr GRIFFIN:** The answer is no. Florida and Pelican, the two that I have nominated, both had public hearings. As we sit here, we are not aware of any others that we would put into that joint task force box. Perhaps Mr Kearney can deal with one aspect of this.

**Mr KEARNEY:** The Commissioner refers to two investigations in which there has been a common purpose with the Crime Commission and in which there was a joint task force. Those two are on the table that has been provided, so that is two within the 37 or so that appear there.

What we have not done is gone further and looked at all investigations that we have undertaken over the years and looked into the nature of the relationships there. The work involved in that is extensive.

**CHAIR:** I take it that, apart from joint task forces with a common purpose, there are a plethora of other referrals you have received from the Crime Commission which have not resulted in public hearings?

**Mr GRIFFIN:** That is true. Plethora is perhaps putting it a bit high. There are a number of other referrals where there have been no hearings, no investigation and no public hearings as well.

**Mr KEARNEY:** It will not be apparent from our annual report the extent of those referrals, because they come in different forms and are treated in different ways. Some come across as formal complaints and are handled as part of our complaint process, and therefore they are identified in the table of complaints that we have in the annual report. Other pieces of information may be incorporated directly into investigations. If there is a public reporting of that investigation later on, there will be some reference to that information and its source. Other information is retained for intelligence purposes and may not see the light of day.

**CHAIR:** How many PIC operations have actually resulted from referrals from the Crime Commission?

**Mr GRIFFIN:** I would have to refer to the schedule, unless Allan has the number from the schedule.

**CHAIR:** I should add that it might be more sensible to ask not for a precise figure but for a broad indication.

**Mr GRIFFIN:** A sense of?

**CHAIR:** Yes.

**Mr GRIFFIN:** I really find it difficult dealing in this shades of grey stuff. I am going to have to deal with it again. The arrangements with the Crime Commission are such that we get to hear about matters that might interest us at a fairly early stage. They are invariably -- that is a big word -- they are most frequently connected to operations that are serious, current and involving a lot of things other than the police misconduct.

When we find out about them, they are often embryonic, but not things that we can act on. By the time the operational exigencies are such that they are things that we could act on if we chose to, they are often within the complaints system, so that the notification may come at an early stage of something amiss; the operational pivot, if you like, might be formal notification of a complaint through a different source. Those things apply varyingly throughout all the matters that we get. There is no clear line through this that can assist you.

My broad feeling is that whenever a body like the New South Wales Crime Commission is doing what it should be doing, which is looking at organised crime and matters like that, there will always be issues of police corruption arising for comment by them. Generally those matters will need to be carefully managed because they will be in the middle of operations looking at the organised criminals.

**CHAIR:** On a slightly different tack but certainly related to task forces, I am wondering whether you are aware of legal actions being taken against a joint task force by witness M5 for removing him from a psychiatric facility where he was being treated for depression and for threatening to remove his indemnity. That comes from Haken's book, which you have probably seen.

**Mr GRIFFIN:** I am not aware of that. I am even surprised by it.

**Mr CORRIGAN:** Mr Commissioner, you said that in any investigation there may invariably -- there may be allegations of police misconduct. Would a lot of those allegations be mischievous and self-serving?

**Mr GRIFFIN:** Certainly. I am not doubting you. If I said that, it is certainly putting it more highly. It is a bit like saying "invariably" and coming back.

What I mean to say is that in the work the Crime Commission does, not invariably in every case, but it is invariable that the nature of their work is going to expose, on occasion, police misconduct. It is not something that crops up out of every investigation they have; that is the first part.

The second part is, yes, of course, there are frequent avenues adopted by people who think they might be under investigation, criminals and other people, to try to defuse the issue. Making complaints is one of them. It is a very common ploy, as you would all know, for criminals to complain about police because it may give them a lever later on.

**Mr KERR:** In relation to the chairman's question about the suggestion of legal action being taken against the joint task force by M5, if in fact he had initiated legal action, would you expect to be advised of it?

**Mr GRIFFIN:** Not necessarily. I am surprised to the extent that -- depending on when it was -- I would have thought I would have heard about it. But I would not expect any formal notification about it.

**Mr KERR:** Have you looked at Trevor Haken's book?

**Mr GRIFFIN:** No. I know that it exists.

**Mr KERR:** There was an *Australian Story* on television as well.

**Mr GRIFFIN:** I missed that, sadly. I am sorry, I do not watch television. It makes it a bit hard to take in even something as interesting as that.

**Mr KERR:** I am sure it would have been a matter of interest.

**Mr GRIFFIN:** I am told that it was very interesting.

**CHAIR:** Further questions, Mr Kerr?

**Mr KERR:** Not arising from your questions, no.

**CHAIR:** Any other questions?

**Mr KERR:** I am wondering how many PIC investigations have resulted from investigations undertaken by the New South Wales Police and how did the PIC develop these investigations further?

**Mr GRIFFIN:** Again, dealing with the ones that we have dealt with in the schedule, I think that information is available to the Committee. But I need to go back to the earlier answer. There is never a clear bright line between matters that are dealt with, initiated, come to notice of any of the agencies.

We are notified as a matter of course about all the complaints by police. Sometimes those complaints have been initiated to the extent that the police realise they have something to do and they might appoint an investigator. We would normally speak with the police about a matter of such moment and conclusions would be drawn about how they would be best dealt with, from the police dealing with it through the joint task force gamut to us dealing with it on our own. They vary from time to time.

The stats in our annual report indicate that about two-thirds of the complaints we look at are referred complaints, which means that they come from either complaints of the police or the Ombudsman. So that is a starting point for you. But that does not mean that they are the complaints we look at. We perhaps have an interest in complaints that come directly to us because on occasion they have the capacity to be more useful for investigative purposes and so on. It is an answer that, again, there is no line through it, I do not think.

**Mr KERR:** Having regard to the number of joint task forces, have these investigations thrown up any problems that need to be looked at on a legislative basis or need to be resolved?

**Mr GRIFFIN:** You mean as to the management of the task forces?

**Mr KERR:** Yes, as to the management of the task forces and the effectiveness of the investigations?

**Mr GRIFFIN:** No, I do not think so. I think an important thing to remember about all this is that this depends not on MOUs or legislation but on the capacity of the agencies to work together, more than anything else. There is no legislation that will force people who do not want to work together to do it well and there is no MOU that will bind people if they are not inclined to be bound. Whilst there are working relationships that are professional and sound, the things will work well; when they fall down, they will not be saved by words written on paper, I do not think.

**Mr CORRIGAN:** Mr Commissioner, you might want to take this on notice: the prosecutions in the table in the annual report, I wondered whether any of those prosecutions arose out of joint activities with you and the Crime Commission?

**Mr GRIFFIN:** You are right, I do not know off the top of my head. In relation to the Crime Commission, it seems to me that we can say fairly clearly that Florida and Pelican, using the extended definition of joint task forces, are the matters that we would be looking at. There were prosecutions that came out of Florida. I do not know about Pelican. I am happy to take it on notice.

**Mr CORRIGAN:** All right.

**The Hon. PETER BREEN:** Commissioner, there is no current joint task force between the Crime Commission and the Police Integrity Commission?

**Mr GRIFFIN:** No, there is not, that I am aware of. I thought I had dealt with that. I was looking for the surprise.

**CHAIR:** We are not that uncharitable, Mr Commissioner.

**Mr GRIFFIN:** I am happy to wait and see.

**The Hon. PETER BREEN:** The reason I asked the question is that you said that Florida and Pelican were joint task forces. They are clearly task forces that are completed, and I just wondered if there were any others currently?

**Mr GRIFFIN:** No. I am reassured by my friend that there are not, and it is my view that there is nothing.

**The Hon. PETER BREEN:** In the schedule that was attached to your letter, the letter suggests that there was a request from the Committee for all PIC operations, the origins and



the way in which they were conducted, and then subsequently there were discussions between Mr Kearney and the Committee about reducing or narrowing that breadth of inquiry.

Are you able to say in ballpark figures what percentage of the number of investigations the Commission has compared with the number in the schedule? Is this a small percentage or a large percentage?

**Mr GRIFFIN:** I am not able to. I am happy to take that on notice if you want particular figures. But it is a job to deal with all of them. These are things that were not captured for the purposes of the annual report. Regardless of the numbers, it is a much greater job because the information has not been captured in a form that has been reported on. Allan might have a sense of the figures.

**Mr KEARNEY:** No.

**Mr GRIFFIN:** If we can take that number on notice, we can provide you with an estimate, not an exact figure, but we will get you very close to it.

**Mr KEARNEY:** Can I just clarify the question? Are you interested in all investigations that the PIC has conducted over the years or are you talking about the current investigations?

**The Hon. PETER BREEN:** The letter from the Committee said all PIC operations. I would assume that means current operations.

**Mr GRIFFIN:** I think we assumed it meant from year dot and it was a massive job to go back to the beginning of the Commission.

**Mr KEARNEY:** Many investigations are also preliminary in nature, so you get them to a point where they are unlikely to yield fruit and they go no further.

**The Hon. PETER BREEN:** Whatever the question was and however it was interpreted, the letter from the Commissioner says that the inquiry was answered on the basis of those inquiries which had been reported publicly. Does that mean that they happened to appear in a newspaper or that were officially reported publicly?

**Mr KEARNEY:** Officially reported, publicly.

**Mr GRIFFIN:** Reported publicly in our annual reports from the time they commenced to be published. That is represented in the chart, thankfully, because there was a lot of work in getting to that.

The questions from the Committee, I am sure the Committee understand, generate considerable work. That is why sometimes we come back and say, "Would you mind if we clarify?" Our current investigations number something in the early 20s. I could be more precise but I would rather not.

**The Hon. PETER BREEN:** On the question of joint task forces and the different powers of the PIC and the Crime Commission, it seems to me that the witnesses called to give evidence to joint task forces are in a position where, depending upon who is interviewing

them, they might have different powers. For example, there is a provision in the Crime Commission legislation which says that witnesses should be accorded the rights of witnesses in Supreme Court proceedings. There is no comparable provision, I do not think, in the PIC legislation.

**Mr GRIFFIN:** No, although our provisions and practices would be consistent with that. But I agree that there is a capacity for differences in the way people are approached, depending on the agency. They could be cultural as well as legal. There has to be that possibility.

You would like to think that goes back, in my view, to how well these things are managed, which is the point I was trying to make earlier. The key to any joint successful task force, football team, anything probably, is the management of things like that. But I accept that that as a bald proposition must be true.

**CHAIR:** Can I intervene? I do not want the Commissioner to be misled. I think the PIC does provide that witnesses do get the same protection as Supreme Court witnesses, section 137(3).

**Mr GRIFFIN:** I am not sure whether it is in the same terms as the Crime Commission Act. I have not read the Crime Commission Act at all. It seems to me the issue is covered by the practice in any event and certainly it is what we do. Thank you for that.

**The Hon. PETER BREEN:** I think in the case of the Crime Commission there is a rider which says it is subject to the Act and subject to the Crime Commission's need for investigation and to abrogate of the rights of witnesses.

**Mr GRIFFIN:** There might be some other differences too. Again, this is really a matter for Mr Bradley or more research. But I suspect that the Crime Commission does not have any constraints on the timing of when witnesses might be called, and I am not sure of the terms of the section. We accept, at least practically, that we need to afford reasonable opportunity for legal advice. That might be a difference. There will be differences that could be drawn, but I do not think that they are relevant, except to the point where miscommunication or bad management allowed them to drive a wedge between the way people were handed. That should not happen.

**The Hon. PETER BREEN:** But if there are different powers -- just taking that legal advice question, for example -- as a matter of course you would give people the opportunity for legal advice. I do not think the Crime Commission necessarily would follow that course.

**Mr GRIFFIN:** I think it would if the circumstances were the same. Again, I would really like to go back and look at the sections and compare them. But, if pressed, we would probably adopt the same position as the Crime Commission: if it were a matter of necessity that we went in a different direction, we would do it.

**CHAIR:** Would you defer to the Crime Commission? Would you regard them as the senior investigator?

**Mr GRIFFIN:** No.

**CHAIR:** If there was a turf war, you would stick to your turf?

**Mr GRIFFIN:** The PIC is really restricted by its Act, and I would not defer in any event. But there is not a problem with that.

There is room for some misunderstanding of the MOU that we have with the Crime Commission because it deals with the provision of information. When we receive information from the Crime Commission there is in our very brief MOU a way of dealing with disagreement, which leaves the final decision to advise of the information held by the Crime Commissioner or not, to the New South Wales Crime Commission. That is only a reflection of common sense, though, because he or she at the time will be the recipient of information. If they do not want to give it to us, there is nothing we could do about it. That just reflects the common sense of the view. Once again, it gets back to management and communication. There has not been a problem yet.

**Mr KERR:** In view of the potential ironically for the MOU to give rise to some misunderstanding, is there an argument for revisiting the MOU?

**Mr GRIFFIN:** I do not accept that there is room for giving rise to a misunderstanding.

**Mr KERR:** I am sorry, I have misunderstood your evidence then, I am sorry.

**Mr GRIFFIN:** That is probably easy enough to do. My evidence is that the MOU sets out the circumstances where information will be changed. The final determination of the circumstances, if there is a dispute about how that should happen, is left, in the circumstance where the Crime Commissioner is providing the information, with him to decide.

There is no room for any confusion. There may be room for some robust discussion between the beginning and that point, but in the end the point is that no power is around for the Crime Commissioner to provide information to us if he chooses not to for operational reasons. That is the way it should be, I think.

**Mr KERR:** That is the way it should be, so that is acceptable to you?

**Mr GRIFFIN:** It is.

**Mr KERR:** On another matter, I think the PIC, the ICAC and the New South Wales Crime Commission have independent technological resources relating to telephone interceptions and listening devices and monitoring?

**Mr GRIFFIN:** Yes.

**Mr KERR:** And also the PIC and the ICAC have independent surveillance capacity?

**Mr GRIFFIN:** Yes, as I understand it.

**Mr KERR:** Are you aware of any studies relating to the benefits and detriments of sharing technological resources and the cost cutting that could be effected?

**Mr GRIFFIN:** My understanding is that there has been some cost to Government type of work done more than five years ago, and the results were, I think, that the separate agencies were able to manage themselves. The actual amount of equipment you need to listen to X number of people, I assume, is vaguely the same. I have answered the question, I think. There have been some studies.

I understand also, if it is any use, that the Australian Federal Police at some stage had made efforts to bring about some shared facilities. There may be some studies there that would be useful to the Committee, but I do not know the detail, and it was some time ago.

**Mr KERR:** Do you think there is potential for refining and combining the resources between the three agencies?

**Mr GRIFFIN:** I do. It seems to me that there is room, if it could be set up, for an independent agency to provide services to law enforcement in a way that would be effective and probably more efficient. The difficulty will always be the turf.

I am sure you understand the problems with providing any one agency as they exist with the power to hand out, if you like, the capacity to have telephone intercepts or other work done. It would be very difficult to manage. If it were possible to have a separate agency that had, on a properly set out basis, the power to deal with all those things, I would think there would be savings. There would also be considerable rejection, probably, of the idea by law enforcement generally.

**Ms BURNSWOODS:** Linked to that, are there any problems arising from incompatibilities of equipment at the moment in relation to the agencies sharing or using one another's equipment?

**Mr GRIFFIN:** The practical answer is I think not, because there are some very clever people that get around difficulties. The whole of the electronic eavesdropping area is changing dramatically, with internet and various other things. There are protocols, there are rogue players. I think that is the sort of thing that one agency could deal with better.

The other way to deal with it would be for the agencies that have the capacity to talk to each other and try to cover the field, with each agency taking on some part of the whole and delivering that part that it is across to the other agencies on a needs basis. Some of that is happening because of the agencies talking to each other, but it again depends on goodwill and communication. It could fail easily if there was a falling out. It is going to be a single enormous problem for law enforcement, I think, in the next five years.

**CHAIR:** One last question from me: in relation to referrals and information sharing and so forth, is there ever a delay in information being given to the PIC from the Crime Commission, and does that then pose difficulties for the PIC investigations?

**Mr GRIFFIN:** There is always going to be a difficulty assessing whether you are getting timely information or all the information. We are able from time to time, not from the Crime

Commission but from other places, to see information that has not come in a timely way and may have been dealt with differently if it had. But that is a minority of cases.

Generally, the information is dealt with, I think, to be fair to the police, more of recent times than in the past, in a timely way. The Crime Commission information at the moment, and since Mr Bradley signed the fairly short MOU, has been more than adequate. There has not been a problem.

There is always room for a problem, though. It would be an area where, if the Committee were inclined to look, you might have other ways of dealing with the provision of information from the agencies.

I think, in my parting time -- I do not have very long to go and you will not have to put up with me for much longer -- the PIC, if it stays existing in its current form, ought to be the recipient by law, or at least some authority, of all the information about police misconduct that is available from any agency in the state. That is a view that I hold. I think that, despite what I said earlier about not being able to force a lot of cooperation, you can force information to be forwarded; the capacity to do that is around. I do not see any reason why it should not be there.

**CHAIR:** Do you have a sense that there is a significant amount of material relating to police misconduct or corrupt behaviour that is not finding its way to the PIC?

**Mr GRIFFIN:** No, I do not. I have the contrary view, which is why this is quite bizarre. I think we are getting good information. Our relationships with bodies which have no obligation to tell us information are excellent, and we therefore get the information we need. It depends to some extent on the standing of the relevant individual and how they are getting on and what the current view is in the community. I think that is an unfortunate way to leave it because if the personalities change the information flow might change.

**CHAIR:** That is perhaps not strictly relevant to our inquiries today, but it is something that I think we will be interested in pursuing further down the track.

**Mr GRIFFIN:** They are very undeveloped views, but it seems to me that it is something that is open.

**The Hon. PETER BREEN:** In relation to that, is there a good relationship with professional standards or internal security, as I think it used to be known?

**Mr GRIFFIN:** By all its names, yes, the relationship is good. For what it is worth, the Professional Standards Command -- I note Mr Carroll is here; he can deal with this himself -- could do with some resources, but that is not something I would have any inclination to deal with. The relationship is excellent and has been for some time.

**CHAIR:** Is there a process for information to come through or is there a filter process?

**Mr GRIFFIN:** There is. In addition to that, we have regular meetings with the Professional Standards Command which covers information about their operations. There is a very close and full flow of information between the agencies.

**CHAIR:** There is no filtering of information?

**Mr GRIFFIN:** That gets a bit back to my earlier answer. It would be difficult to tell whether or not they were telling us something, but I have no sense of that. Mr Carroll could probably answer that for you in a little while.

**Mr KERR:** In relation to your view about holding all the information, has anybody put to you any arguments against your view or contrary to that view?

**Mr GRIFFIN:** No, they have not. I think it is so obvious that it has just not been done, because you assume that everybody will be --

**Mr KERR:** In favour of it?

**Mr GRIFFIN:** I think so.

**The Hon. PETER BREEN:** What legislative powers or law enforcement powers did you envisage a moment ago when you said that there ought to be some additional powers?

**Mr GRIFFIN:** In relation to what?

**The Hon. PETER BREEN:** When you were speaking earlier about the relationship with other agencies.

**Mr GRIFFIN:** Sorry, about getting the information?

**The Hon. PETER BREEN:** Yes.

**Mr GRIFFIN:** I think it would be sensible to say to the DPP and prisons, "You have an obligation in your Act to provide all information you have about police misconduct to the Police Integrity Commission," perhaps something more refined than that.

**CHAIR:** Perhaps something similar to the ICAC provision about corrupt behaviour?

**Mr GRIFFIN:** Yes. It seems to me a sensible and simple thing to do, but I am sure there would be some reluctance.

**CHAIR:** It is too good an idea not to have some opposition to it.

If there are no further questions, I thank Commissioner Griffin and his staff for being in attendance. Thank you for your assistance.

**(The witnesses withdrew at 12.18pm.)**

**(The public hearing resumed at 12.20pm.)**

**THE HON. JERROLD CRIPPS QC**, Commissioner, Independent Commission Against Corruption, 133 Castlereagh Street, Sydney, sworn and examined:

**MR JOHN PRITCHARD**, Deputy Commissioner, Independent Commission Against Corruption, 133 Castlereagh Street, Sydney, sworn and examined:

**CHAIR:** Could you please state your occupation and the capacity in which you are appearing before the Committee?

**Mr CRIPPS:** I am the Commissioner for the Independent Commission Against Corruption. I am appearing here in that capacity.

**Mr PRITCHARD:** I am the Deputy Commissioner for the Independent Commission Against Corruption and I appear here in that capacity.

**CHAIR:** Mr Commissioner, under what circumstances has the Independent Commission Against Corruption sought joint task force arrangements with the Police Integrity Commission?

**Mr CRIPPS:** In my period, none. But I suppose that may depend upon the definition of what a task force is. There has been one occasion, so far as I am aware, where we received information from the Police Integrity Commission as a result of which we investigated. There was another occasion when we were investigating an allegation against a public servant and in the course of that, somewhat tangentially, it became apparent that a police officer in another aspect of the investigation could have been involved, and we just passed that over to the Police Integrity Commission. They are about the only two. That is in the last year. Mr Pritchard may have known of some before that, in the last three or four years.

**Mr PRITCHARD:** No, not since my time, August 2001.

**CHAIR:** What, in your view, are the main benefits of joint task forces and joint arrangements?

**Mr CRIPPS:** I suppose from ICAC's point of view, as you know, hived off from ICAC's function was investigation of police. But everybody knows, who understands, when you split jurisdictions and say one group can do something and the other group cannot, you are always going to have trouble at the boundaries. The Police Integrity Commission legislation makes provision for this, saying that we can investigate police if it is in the context of investigating a public official and vice versa. Is that an answer to your question, Mr Lynch?

**CHAIR:** Unlike other people, I do not try to put words into people's mouths.

**Mr CRIPPS:** I am not suggesting you do, I just do not know whether I answered the question.

**CHAIR:** The next question might elaborate a little on that one. What do you think are the main disadvantages of joint task force arrangements?

**Mr CRIPPS:** I am hesitating to answer that because, as I said, I have had very limited experience with the task forces. All I can say is obviously they will not work unless there is a spirit of cooperation and probably a determination on each agency to put to one side the temptation to rely on turf wars. But that has not happened so far as I am concerned with PIC, that has not happened, nobody seems to be withholding information or not doing anything.

The disadvantages are, of course, if two people go off in different directions or withhold information. One example, utterly removed from this situation, was a recent inquiry into the American system which showed that in their enforcement agencies no-one knew what anyone else was doing, so far as I read. That is the potential disadvantage but it is not a disadvantage that I have encountered in my short period.

**CHAIR:** Does ICAC involve itself in any task forces or bodies other than the PIC?

**Mr CRIPPS:** Not since I have been there. I suppose it is conceivable. John, you could answer that.

**Mr PRITCHARD:** We often work closely with corrective services, probably not to the point of having any formal joint task force protocols or documents or so on, but given the nature of the custodial environment that a lot of the investigation is carried out in, it is unavoidable that we do work closely with corrective services. Because we tend to look at public agencies and public bodies, there is a certain amount of cooperation that takes place with the body that is under investigation, but we do not normally formalise anything in the way of any sort of document. Generally the agency does not do much in the way of active investigation but is just helpful in providing us with information and assistance as we request it. Corrective services is probably the only one that stands out.

**CHAIR:** The Independent Commission Against Corruption has working for it seconded police, and indeed has working for it people who used to be members of the New South Wales Police. Are there any accountability measures in place in relation to those individuals if they were to be involved in a joint task force with the PIC?

**Mr CRIPPS:** No, in this sense: there is the same accountability and security vetting that goes on for everybody. The figures are approximately 21 or 22 investigators, of which more than half, as I understand it, have had no connection with police. We have about three seconded policemen, one of whom is seconded from Queensland. We have about four or five people who are formerly members of the New South Wales Police force.

We do not have, that I am aware of, in any event, any formal protocol, but of course it would come to me, I imagine, if there were a joint task force proposed to be set up between, say, PIC and ICAC which would have consequences, and investigations for public officials and policemen, I would probably ensure that no former or current policemen would be part of that investigation. Our structure is such that that could be done without any trouble at all, but it has not happened yet.

**CHAIR:** Any other questions arising out of any of that?

**Mr KERR:** I might ask whether the ICAC has sought cooperative arrangements with the New South Wales Crime Commission and on how many occasions?



**Mr CRIPPS:** Perhaps Mr Pritchard could answer this better than I. We certainly get assistance from them in the surveillance aspects of our work, and I think they have made available to us one of their hearing rooms once.

**Mr PRITCHARD:** We do not have any dedicated or separate arrangements. A large part of our telephone intercept capacity is provided by the Crime Commission, we share a large part of that with the Crime Commission, because we are a smaller agency, that sort of technology is prohibitively expensive, not only to purchase but also to maintain, so we have a cooperative arrangement with the Crime Commission in relation to telephone intercept capacity generally across the board, but in relation to specific matters I cannot think of any specific individual investigations where there has been a task force operation as it were with the Crime Commission, it is just a matter of general assistance from one agency to another.

**CHAIR:** Returning to the issue about the seconded police officers, has anything changed in the way that ICAC operates since PIC's Operation Oslo, which is the one that looked at Williams, who was seconded to ICAC and passed some information to a former police officer, who passed it to Roger Rogerson about the Liverpool Council? Has anything changed since that incident?

**Mr CRIPPS:** Not that I am aware of. I can say, so far as my inquiries reveal, I think ICAC was investigating Liverpool Council and I think PIC was investigating Roger Rogerson, and it came to the attention publicly, I think, of ICAC and others that perhaps information had been leaked to Rogerson by a person who was seconded to ICAC from the police force.

I can tell you, there was an internal inquiry into that, as a result of which that policeman seconded was then withdrawn and he was returned to the police force. I do not know that anything has changed since then.

I am also reluctant to go further and speak about the details of that because under the ICAC Act, as you know, the parliamentary committee cannot ask questions of the detail. True, this is not the ICAC Committee, I appreciate that, but nonetheless in the spirit of what the parliament wanted, what I would do, if you did want more details about that, is to perhaps get a bit more advice and let you know.

**CHAIR:** The interest that we have in that is whether procedures for vetting effectively have changed, rather than --

**Mr CRIPPS:** I think I can answer that. Perhaps Mr Pritchard can enlarge on it if I am wrong.

My inquiries into that revealed that the inquiry was very short, that ICAC had; that it was very difficult to know how you could have guarded against what happened; and it was just solved by getting rid of that seconded person. But I do not think anything specifically changed as a result of it, because I do not think you could have avoided it really.

**Mr PRITCHARD:** I think the short answer is no. Vetting procedures have been reviewed since that time; that was a matter some time ago -- but not directly in response. It has probably, if anything, been a bit more streamlined. But even having a look at that matter, the

particular association which was the conduit between Mr Williams and Mr Rogerson was not one that had been declared other than prior former police associates of Mr Williams. As the Commissioner said, to some extent it is unlikely that there was anything in the possession of the Commission at the time that would have suggested that was likely to happen.

The vetting procedures are reviewed generally, but New South Wales police officers or former New South Wales police officers are treated the same as any other officer in regard to associations that they have to declare, and in relation to our code of conduct regarding conflict of interests which they are obliged to declare. We have not had any issues with those matters where we have sought the PIC's assistance in relation to concerns about former police officers. Those occasions there have been where former police officers or serving police officers have declared conflicts of interest in relation to matter, we have taken safeguards and action to ensure that they are quarantined or firewalled from any involvement in any particular matters. But vetting is just a matter that is generally reviewed.

From looking at the matter, given that we were told it was a matter that could be raised, there was nothing to suggest that any specific concern was raised about a defect in the vetting procedures that resulted in that incident happening.

**The Hon. PETER BREEN:** You indicated that there is no formal protocol in place between the ICAC and the Crime Commission and you mentioned the corrective services department. Is there a protocol in relation to the Police Integrity Commission, a written protocol?

**Mr CRIPPS:** Before I answer that, could I say, I am not quite sure what people mean by protocol, but there's a very detailed memorandum of understanding with the Police Integrity Commission which I am told you people have had a copy of.

**CHAIR:** We have got that in camera.

**Mr CRIPPS:** There is one and it is quite detailed.

**The Hon. PETER BREEN:** Yes.

**Mr CRIPPS:** There is no protocol or memorandum of understanding with the other two agencies you have spoken about.

**The Hon. PETER BREEN:** When you investigate a police officer, for example, as a result of your legislative powers, is there any obligation to report back to the Police Integrity Commission?

**Mr CRIPPS:** We would, I think, just in the ordinary course. Whatever information we got concerning a police officer involving serious -- or the misconduct that is referred to, would go to them. Is there a written -- I think it is in the memorandum of understanding.

**The Hon. PETER BREEN:** Would you investigate it yourself or would you refer it back to PIC? I am thinking on a practical basis of the difficulty of investigating police officers.

**Mr CRIPPS:** You mean, if we were faced with an investigation that involved a public official, it has to do with that, and always a police officer?

**The Hon. PETER BREEN:** Yes, that is right, or a referral from the Crime Commission, for example.

**Mr CRIPPS:** In any event, involving a police officer?

**The Hon. PETER BREEN:** Yes.

**Mr CRIPPS:** We would discuss the matter formally, under our memorandum of understanding, with PIC and we would decide who was the better agency to go on with it. The public one, without going into the details, that people are aware of was that a sort of joint allegation was made in the Shaw matter, and that was discussed with PIC and it was decided at that stage PIC should investigate.

**CHAIR:** Would that normally be the rule, that PIC would do the investigation?

**Mr CRIPPS:** No. I mean, I cannot talk of occasions when it would not happen, but I would imagine if someone came to us and said that the real focus of this investigation is on a public official and the conduct of a police officer is relevant to that but sort of tangential to it, I would expect PIC to say to ICAC, you had better do it.

**CHAIR:** Has that happened since you have been there?

**Mr CRIPPS:** No, it has not. But I have to say I do not know of any occasions where I thought it should have happened but has not either.

**CHAIR:** Does it formally document the transfer of jurisdiction?

**The Hon. PETER BREEN:** Only that it is in the memorandum.

**Mr PRITCHARD:** There is usually an exchange of letters, if that is what you mean. Picking up Mr Breen's matter, as soon as there is any suggestion that a police officer may be involved in any matter we are doing, then we make immediate contact with the PIC to allow them to, one, know of it, and then, two, as the Commissioner said, we meet to discuss what we know about the matter at that stage and generally it is monitored.

**Mr CRIPPS:** There is a record of it.

**Mr PRITCHARD:** The matter the Commissioner referred to of the public hearings, we had fortnightly meetings to ensure there was no stepping on each other's toes as it were.

**The Hon. PETER BREEN:** Can I just raise one other matter? You say there is no protocol with the Crime Commission or the corrective services. There is a perception -- I do not know about the Crime Commission -- that the corrective services run their own show and that ICAC is really only the recipient of information that has been through various filters in corrective services, and you are getting what I might call the leftovers to investigate.

Is there any concern at ICAC that you are being excluded from the prisons and there are matters that need to be investigated regarding corrupt conduct, for example, and for some reason you do not get access because of this lack of a protocol or formal arrangement?

**Mr CRIPPS:** I am not aware of it.

**CHAIR:** That is well outside the scope of our inquiry, but it is a really interesting question.

**The Hon. PETER BREEN:** I accept it is well outside the scope of this inquiry.

**Mr CRIPPS:** We get our information from clients under section 10 and from obligations of CEOs under section 11, that is where we get them from. You may have more information about this than I have, but I have had no occasion to be critical of the Department of Corrective Services on the information I have received. I think, if I might, with respect, adopt the observation of the chairman, that we may be straying a little from –

**The Hon. PETER BREEN:** We do it all the time, Commissioner.

**Mr CRIPPS:** I am sure you do.

**Ms BURNSWOODS:** No, you do it.

**CHAIR:** Usually with my connivance, but not this time.

**The Hon. PETER BREEN:** Sometimes we get a result and sometimes we do not.

**Mr CLARKE:** Just a general question: are the activities of ICAC being hampered by lack of funding?

**Mr CRIPPS:** All I will say about that is you have obviously read the paper. Secondly, subject to the ruling of the chairman, I have to say that I think that is a bit outside the scope of this inquiry. Maybe the parliamentary Committee who oversees ICAC might be able to ask.

**CHAIR:** They would no doubt ask the question and will no doubt get a very fulsome response. I think it is getting bit outside the jurisdiction of this Committee.

**Mr KERR:** The budget constraints that have been mentioned here publicly, do they have the capacity to affect the ICAC's ability to fully participate in a joint task force?

**Mr CRIPPS:** That seems to me to be another way of asking the same question.

**Mr KERR:** It is only a way of making it relevant, Mr Commissioner.

**Mr CRIPPS:** I would rather not answer that. If I am directed to answer it -- I would rather not answer that question.

**CHAIR:** I do not think that assists the work of this Committee at all.

**The Hon. PETER BREEN:** You will not lose your privilege against self-incrimination.

**CHAIR:** I congratulate Mr Kerr and Mr Clarke on a good try.

**Ms BURNSWOODS:** To say nothing of Mr Breen.

**CHAIR:** Can I touch on something raised by the PIC Commissioner. He talked about some legislative mechanism that would compel agencies to report evidence of police corruption to him, I think broadly modelled on section 11 of your Act. Do you think section 11 is an effective mechanism to get people to report things to ICAC?

**Mr CRIPPS:** I think so. I do not know of any occasions when we have thought that section 11 ought to be amended. Certainly we are very much in favour of having section 11, therefore if PIC has a function that is analogous to ours, I can see that they probably would like it to. I will perhaps ask Mr Pritchard whether there have been occasions in the past where that has not worked or ought to be improved.

**Mr PRITCHARD:** No, we are big fans of section 11. If you went through our public reports, the major investigations resulting in exposure of corrupt conduct, they are as a result of section 11 references, they are rarely as a result of a public complaint or disclosures, they are mainly section 11s.

The effectiveness of it depends on us because there is an obligation on the Commission to chase departments and agencies and remind them of their obligations and the requirement under section 11. Some departments are better than others and some departments will report everything from a pen being stolen to major corruption. We encourage that because, of the 100 per cent, the 90 per cent cross that we may get, in there is something of significance. But its effectiveness depends on us. We are very keen to educate agencies in assisting them on what to report; if they are in any doubt, they only have to call. A lot of them report on the basis, "We have discovered this and we have done this." It is always a tricky area as to how far, once they have discovered something, they should let someone know they have discovered it before they let us know, but we try to encourage them to let us know first. A lot of the time it is not something we would take on. But, as the Commissioner said, section 11 is a very helpful tool from our point of view.

**Mr KERR:** Commissioner, I think you were here when I asked the PIC Commissioner questions in relation to the share of resources. Did you hear his answers to those questions?

**Mr CRIPPS:** No, I did not hear them. Either my hearing was deficient or his pronunciations were inaudible, but I do not know what he said.

**Mr KERR:** The situation is in terms of the PIC and the ICAC and the New South Wales Crime Commission have independent technological resources relating to telephone interceptions and listening devices and I think the PIC and the ICAC have an independent surveillance capacity. Would there be benefits in the three agencies refining and combining their resources and sharing the costs?

**Mr CRIPPS:** Mr Pritchard may answer this better than I. If it involves us having to shell out more money, the answer is I do not see a great benefit.

**Mr KERR:** Perhaps I could qualify the question by saying that the idea would be to share costs and to rationalise.

**Mr CRIPPS:** I think we do get cooperation from the other agencies with the equipment they have got. As I think Mr Pritchard has explained, it is often expensive equipment not only to buy but also to maintain. Whether it would be improved if there were another arrangement, I just do not know.

**Mr PRITCHARD:** As I said, we do not really have our own independent TI capacity, in the sense that the system that the Crime Commission has is a much more advanced one. Without getting into the technological aspects of it, we effectively share their TI capacity, they're our warrants, and the data is collected at the Crime Commission point, but it is actually encrypted, I suppose is the word, on our premises.

We have a very close relationship with the Crime Commission in relation to the telephone intercepts. As the Commissioner said, the technology is ever changing and it is expensive enough that buying it is one thing, and maintaining it is a different matter.

Even amongst physical surveillance, we have very good relations; teams are often handed around from one agency to another when demand requires it. We draw on the PIC quite a bit in regards to their technical capabilities. Sharing of resources, from our point of view, we would say that is probably happening already to a large extent.

**CHAIR:** If there are no further questions, I have one in camera.

**(Evidence continued in camera at 12.45pm.)**

**(The Committee adjourned for lunch at 12.52pm.  
The public hearing resumed at 2.07pm.)**

Evidence by **JOHN THOMAS CARROLL**, Level 3, 45 Clarence Street, Sydney, New South Wales Police Assistant Commissioner for the Professional Standards Command, sworn and examined:

**CHAIR:** Could you please state the capacity in which you appear?

**Mr CARROLL:** I am the New South Wales Police Assistant Commissioner for the Professional Standards Command and I am attending in that capacity.

**CHAIR:** Do you want to make an opening statement?

**Mr CARROLL:** Thank you very much, Mr Chair.

I note from the chairman's letter to Commissioner Moroney of 12 October 2005, in which the Commander of the Professional Standards Command was invited to take part in these public proceedings, that the Committee is interested in the joint task force arrangements in place between the Police Integrity Commission and its task force partners.

The Committee has nominated the arrangements that were in place for Operation Florida and Operation Jetz as being of particular interest.

While we are here to fully assist the Committee today, I have to inform the Committee that I have no first-hand knowledge of these operations and I may have to take your questions on notice if the answers require substantial details.

Both Operation Florida and Operation Jetz were conducted by the Police Integrity Commission in 2001-2002. Operation Florida arose from a joint New South Wales Crime Commission and New South Wales Police investigation known as Operation Mascot which commenced in 1999. The PIC joined that investigation in 2000 after much police work had been done and conducted hearings that lasted 14 months. The hearings involved the presentation of seven separate evidence segments that found that police were involved in corrupt activities ranging from soliciting and receiving bribes from drug dealers to organising breaking and entering offences that occurred over a very significant period of time.

Operation Jetz commenced in early 2001 as a then Special Crime and Internal Affairs Command operation, known as Operation Orwell. Its purpose was to investigate suspicions that a number of serving police were seeking to corruptly manipulate the police promotions system by the improper pursuit, collation and exchange of confidential information concerning police promotional interviews.

I first took over responsibility for the then Special Crime and Internal Affairs Command on an acting basis in January 2003, vice the substantive commander, Assistant Commissioner Brian Reith, who was appointed temporarily to replace Senior Assistant Commissioner Peter Walsh, who was on long-term sick leave.

The Operation Jetz report was made public in July 2004, although I was not the acting commander of SCIA at that time as I had briefly reverted to my substantive position as Local Area Commander Parramatta. The Operation Florida report to Parliament was made public in June 2004.

For the Committee's information, the Special Crime and Internal Affairs Command under which the above two references were conducted was abolished in an internal realignment by Commissioner Moroney in September 2003 and replaced by the Professional Standards Command with a new charter of corporate objectives. I was appointed as the substantive Commander at the rank of Assistant Commissioner in September 2004. Of course, the functions formerly provided by the former SCIA command's investigative arms are continuing under my command.

I need also inform the Committee that joint New South Wales Police Crime Commission references are conducted subject to the secrecy provisions of the New South Wales Crime Commission Act 1985, with information exchange being restricted to those officers sworn into the specific references being jointly worked on. These secrecy obligations survive these references by operation of law.

With these possible limitations in mind I now invite the Committee's questions.

**CHAIR:** Thank you, Assistant Commissioner. What, in your view, are the main benefits of joint task force arrangements?

**Mr CARROLL:** The main benefits that I see are the coercive powers that those agencies have to offer for New South Wales Police, particularly for professional standards, and the resources, and it provides a platform for a higher level of efficiency across the board.

**CHAIR:** What would your view be of the main problems with such arrangements?

**Mr CARROLL:** I think some of the problems that I have seen myself are that unless the terms of reference set out for the task force are clearly articulated, that can give rise to issues of concern, particularly in relation to police officers as to what is their chain of command. We also have occupational health and safety issues for police officers, we have welfare issues to deal with, plus we have legislative requirements to deal with in relation to the gathering of evidence and the presentation of evidence.

In my view, the task force arrangements are positive, with our external agencies, very positive, and they have a lot to offer. I would like to see some form of refinement in relation to how the task forces are structured, for what period of time they are there, because sometimes police officers are left on location for too long. This in itself can create issues for those very good police officers who are there, in relation to reducing their chances in the promotional opportunities because those opportunities are not available. And of course they are limited in relation to what functions they are actually performing there, as opposed to what is happening in New South Wales Police as an organisation.

The reintegration of our specialist police back into frontline policing is a very key issue for me, being in charge of a specialist professional standards command. We have worked very hard as a management team to put some good strategies in place to enable us to assist our police officers to go back into mainstream policing from a specialist command. Perhaps with clearly defined terms of reference, with a sunset clause on the operation that will be worked on, and obviously subject to flexibility and review -- these operations can expand -- I think



that we would be looking after our people in a better way than just having people on task forces for very lengthy periods of time.

I think that would also have benefits for any of the other agencies in relation to turnover all the time. We might get a team in there for six months on a terms of reference to do a particular operation; perhaps we could have a liaison officer appointed to spend a period of up to two to three years at the agency on the basis of stability and consistency for the new teams coming in every six months on the terms of reference.

That is my view in relation to it, Mr Chair.

**CHAIR:** Under what circumstances has New South Wales Police sought joint task force arrangements with the PIC?

**Mr CARROLL:** We have sought two, to my knowledge. From my opening statement, I am limited with this. The PIC Commissioner produced a schedule, and I have looked at that schedule and am quite comfortable with what I have seen in the schedule. The two main ones that come to my mind are Mascot/Florida, PIC's Operation Florida and our Operation Mascot, and Jetz/Orwell. They are the two that we had an agreement between the New South Wales Crime Commission and PIC with New South Wales Police.

**CHAIR:** How are those sorts of joint operations managed? How are the different interests of the different agencies balanced when the decisions are being made?

**Mr CARROLL:** There are terms of reference drawn up for the investigations, which do set out what the arrangements are in relation to it. After Mascot/Florida there were some significant reviews done in relation to that operation by New South Wales Police, particularly in relation to articulating to our police officers about the fact that you are police officers and you need to comply with all of the rules and regulations governing a New South Wales police officer. Sometimes it can just get a little bit unclear. That is why I am linking that to my previous answer about leaving police officers too long in the one location; it can get a little bit unclear, and you can move away from those very important issues that I alluded to, such as the welfare issues of our investigators, the police officers involved.

Some of the police officers involved in these investigations are under enormous pressure to do their duties, which are difficult at any time. But when you are doing a higher level of investigating corrupt activities of other police, that just heightens the level for our police officers. Welfare issues are very important for those investigators, so is occupational health and safety and so is our New South Wales Police Command Management Framework, which is implemented across every New South Wales Police command in this state. That Command Management Framework is about your checks and balances and your audits and ensuring that you have proper records management in relation to these things.

In the MOUs or terms of reference that are set out, we need to be clear as to who has responsibility say for argument sake, for the management of the Source during the inquiry, because that dictates very important policy requirements for New South Wales Police, if we are in charge of that Source, that is required. Many safeguards are built into that Source Management, to ensure that we are all the time reducing the risk of allegations being made against our police officers. So it is about ensuring that Command Management Framework is

also working for our police officers who are on task forces or who may be on loan to other agencies.

**CHAIR:** I think in what you said then, you mentioned police forgetting they are police and thinking they are something else and thus not abiding with the rules and regulations that they ought. Can you give us an example of the sort of thing that you mean by that?

**Mr CARROLL:** I suppose an example that I could give would be that if you are working at some other location all the time and you are not linked into what is going on within the organisation that you are employed by, you are operating under different systems, even different technology; I just feel that sometimes the lines can get a little bit blurred in relation to who do you work for. Commissioner Bradley alluded to this earlier. I think he indicated to the Committee that he made it quite clear to all police coming to the Crime Commission that they do not work for him. I just feel -- just to take an example with or without police -- if someone is working at a location, it is irresistible that as the time goes on you start to adopt the principles and the relationships that are in that environment.

**CHAIR:** You also mentioned that there were reviews carried out after Florida/Mascot. Were they formal reviews or just people sitting down and thinking about things that might be done differently?

**Mr CARROLL:** My understanding is it was a combination. There were reviews formally conducted, which is not unusual, that is about continual improvement and how we can improve and what could have been done better, what are some of the lessons that we have learnt out of that, to avoid or reduce the risk of those type of issues recurring in other operations.

**Mr KERR:** You were asked by the chairman about benefits for the joint task force. Would you see the availability of public hearings as a benefit?

**Mr CARROLL:** I think public hearings are of a benefit. I would not say for all matters, but public hearings are of a benefit because we are accountable, or New South Wales Police are certainly accountable, to the community, and it is important that the community sees that we are being held to account. So I think public hearings are very useful for that purpose.

**Mr KERR:** In relation to a review of procedures after Florida was finished, were any of those reviews that were as a result of problems that occurred or things that went wrong in that operation?

**Mr CARROLL:** I have not actually drilled down into all the reviews, because as I said in my opening statement that was before my time. But there were, from recollection, lessons for improvement in relation to how these operations can be managed better. I think I have alluded to some of those in relation to clearly defined terms of reference, occupational health and safety issues for the officers, welfare issues for the officers, about ensuring that New South Wales Police rules and regulations are adhered to, and policy requirements are adhered to.

**Mr KERR:** Did you see the Chris Masters *Four Corners* program on Operation Florida?

**Mr CARROLL:** Yes.

**Mr KERR:** Were there any aspects of that program that caused you surprise?

**Mr CARROLL:** I suppose I am in a business in professional standards that I should not get too many surprises. But I think that that would be an understatement. I am always surprised that unfortunately a minority of police tend to engage in serious corruption and misconduct; but I again emphasise, a very small minority.

**Mr KERR:** Apart from the misconduct that was portrayed there, were there any aspects of the operation as portrayed on that program that caused you any surprise in terms of methodology?

**Mr CARROLL:** From memory -- this is a few years ago when I saw this -- no, I do not think I would be able to comment in relation to that.

**Mr KERR:** Are there any processes involved in police using the powers or having access to the technological aspects of the New South Wales Crime Commission?

**Mr CARROLL:** There are the agreements that are in place as to how that gets to be a term of reference operation that New South Wales Police get involved in. As far as coercive powers, they belong to the New South Wales Crime Commissioner.

**Mr KERR:** They would not be exercised by police in any joint task force?

**Mr CARROLL:** I do not know. I would not think so, but I do not know, and on that basis I am quite happy to take it on notice and let you know.

**Mr KERR:** Thank you.

**The Hon. PETER BREEN:** Assistant Commissioner, the question is important because you opened your remarks at the beginning of this hearing when you were asked about the main benefits of the joint task force, you said:

"The main benefits are coercive powers."

That implies that New South Wales Police do get coercive powers when they are engaged in a task force with either the Crime Commission or the PIC?

**CHAIR:** I am not sure that --

**Mr CARROLL:** I did not mean that. If you interpreted it that way, that is not what I meant.

**The Hon. PETER BREEN:** Okay.

**Mr CARROLL:** The benefits were that those agencies have the coercive powers.

**The Hon. PETER BREEN:** Not that you require them?

**Mr CARROLL:** No, that the agencies have those coercive powers, where perhaps a witness can be called in, including any police witness could be called in, and those agencies could use those powers.

**The Hon. DAVID CLARKE:** Assistant Commissioner, one of the refinements to the operation of task forces that you suggest is the use of a sunset clause in regard, I think your words were, to operations being carried out. Seeing that very often one would not know how long an investigation is going to be carried out for, why should a sunset clause be imposed? It could be a short investigation, but it may be an investigation that goes on for an indefinite period. How would you get around that problem?

**Mr CARROLL:** I am sure I added the word "flexible" into that. My suggestion was that sometimes terms of reference are limited to investigating a particular thing. What happens during those terms of reference are other things happen, that then can find their way into the original terms of reference, which can escalate the time for the investigation. I am suggesting a sunset clause, for review, which is flexible. I am not suggesting that we should close or consider closing an operation at six months because we have a six months review sunset clause in there. That would depend on justifying whether or not that operation requires another extension of three months. But I just see it useful as having something there to focus the operation into what the original terms of reference were.

**The Hon. DAVID CLARKE:** Also, is there a fear that it could create more problems than it solves, the introduction of sunset clauses? Would you agree with that or you do not think that would happen?

**Mr CARROLL:** I am only suggesting it as a review period, not as a "close this operation" sunset clause. I have noticed in my own command, when you commence an investigation -- when I said "in my command," we set terms of reference for each investigation that we do -- when those terms of reference are being investigated, in the majority -- not majority, I have to be careful of the word I use here -- on many occasions when you are investigating those terms of reference you will turn up other matters in that investigation.

**CHAIR:** It sounds like a parliamentary inquiry.

**Mr CARROLL:** If all of those matters come into your terms of reference, all it will do is to keep that going and going; instead of taking stock, doing a review and saying, is that a matter that should be conducted by this task force or-- is this going to compromise these terms of reference if we refer it out, or is it something that we could refer out, or is it something that we should not concern ourselves with further, until this investigation is finalised? I have seen that happen quite a few times, where the original investigation that you may be investigating -- talking from my own command -- there are now 15 to 20 additional issues that have been identified during the course of it.

**The Hon. DAVID CLARKE:** Then the task force will make up its mind as to which of those 15 or 20 avenues it will go down. It will go down those avenues that it considers relevant and it will probably come to the decision that it will not go down other avenues that are not associated with it. Why would we not leave the system as it is for the task force to

make up its own mind which avenues it goes down, depending on what information it digs up in its principal investigation?

**Mr CARROLL:** I think that would be quite appropriate for the management Committee into that task force to do that. But I am saying it is also a suggestion, a reasonable suggestion, that these matters just cannot keep on keeping on. At some stage we need to take stock and review where we are up to, to determine whether or not these matters do require to come into the task force, because resources are limited. More matters that may come in -- I am not saying they should not come in -- if they are relevant and they are absolutely linked to the terms of reference, that is what should occur.

**CHAIR:** Can you think of any task force that has kept on going, or kept on keeping on, as you have described it?

**Mr CARROLL:** I could not name you any offhand. I can tell you from my experience that I have seen that occur with a lot -- not a lot, I have seen that occur in some investigations that have been conducted at my command.

**The Hon. DAVID CLARKE:** Task forces were set up?

**Mr CARROLL:** Not as we would be talking about task forces here. But the way that my investigative capability is set up is that there is a team and the team is headed by a senior officer with a number of operatives in the team, and they are allocated a job. In that respect, it is very similar to a task force arrangement. I have seen the matters keep going, keep going, keep going. For us that is an issue that we have now addressed.

**The Hon. DAVID CLARKE:** Has that been negative? You say that no task force situations come to mind where they have just kept on going on, as it were, so it more or less does not appear to be a problem at all that task forces are taking on these investigations and then just rambling on down various cul-de-sacs and other avenues?

**Mr CARROLL:** I could not say that. I only raised it as a suggestion, to have some sort of indicator there that rings the awareness bells for the operations Committee, to say, we need to take stock of this and where we are at.

**CHAIR:** In relation to the task forces we have been talking about, if information or evidence is collected, who makes the decision about whether that evidence or information is disseminated to other agencies?

**Mr CARROLL:** We have in place with the Police Integrity Commission an arrangement by way of an agreement that we will notify the Police Integrity Commission of a particular class and kind of matter. Basically, it is the higher level range of serious matters and it is listed on a schedule as to what matters that we would notify. That is notified by way of our customer assistance tracking system, known as c@tsi, those matters are recorded on c@tsi. PIC, from my experience, have a very positive way of detecting those matters on c@tsi. I do not know what their process is, but when I have my regular weekly meeting with the PIC Commissioner, they are aware of any matter that is put on there.

**CHAIR:** How efficient is c@tsi?

**Mr CARROLL:** c@tsi is quite a good system that has had a very big background in relation to what it is delivering and what stakeholders want out of it.

I have just chaired a remediation Committee on c@tsi, which has streamlined it from where it was to where it is now, but it is very difficult all the time to meet c@tsi. As you would be aware, Mr Chair, it is a tripartite arrangement and it is very difficult to meet the needs of each agency in relation to it. It has had its technical issues, but in real terms I think it has the potential to be a very good system, because it is in real time. The product is put on in real time. Once we get to that level where that is happening, the notifications now for New South Wales Police is that they have 72 hours to put a matter on the system where it has been reported. They have started to do some work on that, and they have up to 14 days for other matters, because that is very important for other agencies who may be conducting other operations which are unknown to us, that could assist them and reduce the risk of duplication and other issues arising.

Is it the Rolls Royce at the moment? No, I would not say it is the Rolls Royce. But I would say that it is a lot better than it was 12 months ago. Hopefully, when it is finally bedded down, it will be a very good system.

**The Hon. PETER BREEN:** You are in charge of police ethics?

**Mr CARROLL:** Yes.

**The Hon. PETER BREEN:** Can you tell the Committee what your qualifications and experience are in relation to police ethics?

**Mr CARROLL:** Yes. I have had a demonstrated background in internal affairs. I think, with ethics, you can go and learn them -- I have no formal qualifications in relation to ethics -- but I think ethics, the same as integrity, is built into a person's make-up and I think it start very young in life. I have lectured in relation to ethics and professional standards and I also have experience with internal affairs. As I said, I went to internal affairs in 1990, and spent quite a few years there before I went back out into the field, for my own development and experience.

**The Hon. PETER BREEN:** What is the core ethic of the New South Wales Police?

**Mr CARROLL:** The core ethic?

**The Hon. PETER BREEN:** Yes.

**Mr CARROLL:** Integrity above all.

**The Hon. PETER BREEN:** Is that listed anywhere, on a website?

**Mr CARROLL:** Yes, it is listed in the statement of values for our police officers. We are also working in the professional standards. As I spoke about before, we have realigned that command into a Professional Standards Command from the previous Special Crime and

Internal Affairs Command, and we have put in all of the education in relation to ethics at the front end for our police officers.

**Mr BREEN:** Is its operation different from the old internal security days?

**Mr CARROLL:** Yes, it is different, because we are putting accountability into our police at the front end, instead of all the time reacting and dealing with the catastrophic effects of corruption that we have seen exposed to in the public arena by other agencies, so it is a very significant difference. The Professional Standards Command now, under its realignment, you could put down one part of the command as the warehouses that develop -- all the tools, frameworks and products to send out to the field to enable the field to be able to do their investigations into misconduct by police officers in a much better fashion.

That is starting to get some pretty good momentum and recognition by the field. The field do the majority of investigations. The Professional Standards Command do the more serious high-level investigations into corruption.

**The Hon. PETER BREEN:** I think Commissioner Bradley said that your offices are located in either the same premises or the same building as his offices?

**Mr CARROLL:** Yes.

**The Hon. PETER BREEN:** Commissioner Bradley said he could not remember the new name of it, I think were his words.

**Mr CARROLL:** It was named, under the old command, the Special Crime Unit. It is now named the Investigations Unit Criminal.

**The Hon. PETER BREEN:** That is in Clarence Street, is it?

**Mr CARROLL:** No, that is in the Crime Commission's premises. That is in Kent Street, where we have our police on location there.

**The Hon. PETER BREEN:** Is that where you work from?

**Mr CARROLL:** No, I work from Clarence Street.

**The Hon. PETER BREEN:** The suggestion by Commissioner Bradley that you were working in offices next to each other, that is not quite accurate?

**Mr CARROLL:** It is for my police that are down there. I have a number of police officers working on location at Commissioner Bradley's premises.

**The Hon. PETER BREEN:** But you are not there, you are in Clarence Street?

**Mr CARROLL:** I am in Clarence Street.

**The Hon. PETER BREEN:** How often do you meet with Commissioner Bradley?

**Mr CARROLL:** We meet on an ad hoc basis in relation to matters that require some discussion. But the normal meeting arrangements are once a fortnight, where we go down to discuss the operations that are being conducted under the reference.

**The Hon. PETER BREEN:** Would most references be from you to the Crime Commission or from the Crime Commission back to you?

**Mr CARROLL:** From the Crime Commission to us.

**The Hon. PETER BREEN:** If there is a police officer under suspicion or under investigation, the reference comes back and you deal with it?

**Mr CARROLL:** Yes. I have an agreement in place with Commissioner Bradley that he will notify my investigations manager on site at his Commission of any misconduct of a New South Wales police officer. That is the agreement that he will notify. My understanding is that he has a similar arrangement in place with PIC.

Would we commence an investigation on that information? No, not necessarily. If that had the potential to compromise the investigation that is under the terms of reference, we might put that on to the system, what we call register, we would register that on to c@tsi. We would caveat the registration so that the agencies can still see what it is under their audit function, and PIC would still see what it is, and on our Complaints Management Team at the Professional Standards Command, that matter would go on to the agenda as a covert matter. Then, to keep it alive, around about every month or six weeks we would liaise formally with the Crime Commission to see whether or not we are now in a position to do that investigation.

**The Hon. PETER BREEN:** Do you have a protocol in place about referring matters to PIC?

**Mr CARROLL:** Yes. That is under the agreement I spoke about before. All the serious matters listed under that schedule, I am required to notify the PIC Commissioner. I have a legislative requirement to notify the PIC Commissioner.

**The Hon. PETER BREEN:** But you have a discretion about whether it is a serious matter, do you not?

**Mr CARROLL:** It is laid out in the schedule as to what the matters are that you need to notify on. With PIC, I have a weekly meeting with my Director of Operations, the PIC Commissioner and their Director of Operations, and we discuss all the matters that we are doing. We notify them of them, and any other matter that may be of some interest.

Just because it is not a requirement under the agreement to report it to them, if it was a matter that may have significant implications -- maybe a high-ranking officer may be involved in a minor matter, but it may have some implications -- we would also discuss and talk about that.

**The Hon. PETER BREEN:** If you have a discussion with PIC about the matters you are handling, would the Crime Commission be involved in that discussion as well?



**Mr CARROLL:** No.

**The Hon. PETER BREEN:** So if the Crime Commission referred a matter to PIC, you might not know about that?

**Mr CARROLL:** That is right, I might not know about it.

**The Hon. PETER BREEN:** Does it happen every often?

**CHAIR:** He does not know about it.

**Mr CARROLL:** I cannot say that, because I do not know. But if you ask me what I think, I will let you know. I think it does.

**The Hon. PETER BREEN:** Do you think it happens very often? I would like to think that you know what is going on, and presumably you do know what is going on in some way.

**Mr CARROLL:** I do, but I would not say with any degree of confidence to this Committee that I would know everything that is going on that has been dealt with by PIC. As a matter of fact, I would say the opposite, I do not. There is good reason for that.

**The Hon. PETER BREEN:** So you would not be surprised to learn that they are doing an investigation that you know nothing about?

**Mr CARROLL:** Yes. Sometimes the only way I would know that they are doing something about it is if something has happened whereby we have instigated an investigation on c@tsi. At my regular meeting with the PIC Commissioner, the PIC Commissioner may say to me, "We will take that one over."

**CHAIR:** PIC can look at c@tsi at any time they like, without you knowing that they are looking at it; is that the case?

**Mr CARROLL:** That is exactly the case, Mr Chair, and I am pretty comfortable that they would be doing it 24 by 7.

**CHAIR:** As they should. And if they were not, we might ask why they are not.

**Mr KERR:** How are joint operations managed between PIC and the New South Wales Police when a full investigative task force arrangement is in force, as opposed to the more general information sharing, and how are the functions of the two different bodies balanced while making decisions about investigations?

**Mr CARROLL:** Mr Kerr --

**CHAIR:** I think he has answered that.

**Mr KERR:** I was going to say, apart from what you have told the chairman, is there anything else you want to add?

**Mr CARROLL:** There is nothing I want to add. I have not been involved in one of those, Mr Kerr, since I have been at the command.

**Mr KERR:** You have mentioned that you meet with the PIC Commissioner weekly. I was wondering what are the reporting arrangements in place between the Professional Standards Command and the PIC for category 1 complaints?

**Mr CARROLL:** We meet regularly on a weekly basis. At that meeting, my Director of Operations has a complete list of every operation that the Professional Standards Command is conducting. We notify the Police Integrity Commission during that meeting of those matters and we provide regular updates in relation to how they are progressing.

**CHAIR:** What accountability measures or vetting procedures are in place for New South Wales Police who are involved in joint task force arrangements?

**Mr CARROLL:** Could I have that again, Mr Chair?

**CHAIR:** The police who are involved in joint task force arrangements, are they subject to any particular accountability measures or vetting measures over and above what might be applied to other police officers?

**Mr CARROLL:** They are accountable. These are police officers who are on task forces?

**CHAIR:** Yes.

**Mr CARROLL:** Are we talking police officers on task forces or are we talking about police officers who have been seconded to other areas? There is a distinction, Mr Chair.

**CHAIR:** Probably both. If we could deal with them separately.

**Mr CARROLL:** Okay. Police officers that are on task forces are accountable to the same rules and regulations as any other police officer, with additional requirements, such as the secrecy provision, locked into the legislative provision in relation to the secrecy provision. I spoke earlier about the requirement of these terms of reference to clearly articulate responsibilities, particularly in relation to Source Management. If the source is going to be managed by New South Wales Police, the requirement is that the source will be registered on the home state Source Management. I am just giving that as an example.

They are required to perform their duties in a professional ethical manner and in accordance with their oath of office, and so is every other police officer. In addition to that they have the higher requirement of whatever legislation is binding in relation to the agency they are working with.

**CHAIR:** One of our areas of interest is that this arises out of section 10(5) of the PIC Act which prohibits PIC from employing police or ex-police. If there is a joint task force between PIC and the police, we are interested in whether there is some extra check in relation to those police involved in that joint task force, to avoid the problems that can potentially arise that 10(5) was designed to stop, so that there is no corrupt behaviour going on in there.

**Mr CARROLL:** I think, so far as the organisation goes, since the Royal Commission, we have come a very long way forward in relation to integrity and cultural change. I think it has been absolutely enormous. That could be the subject of a nice day's conversation some time, I am sure, as to how I could support that.

From what I have seen in my position as the owner of professional standards, integrity, we have come a long way. Am I saying that we have no issues? No, I am not saying that at all. We must always be vigilant, we are always on the look-out for those minor number of police who are going to engage in corruption, who will not or cannot take on board and comply with their oath of office.

We will always have a job, is my view, because we are dealing with people, so we will always have a job. But I feel that we have come a very long way since the Royal Commission. Integrity checks are like doing criminal records checks and antecedents checks. You can do a criminal records check and you might find out what is recorded on a system about someone. This was spoken about earlier by Commissioner Bradley, or it may have been both Commissioner Bradley and Commissioner Griffin. It is about doing those probity checks for these officers, but in addition to probity checks it is about looking at the antecedents of the officer and the knowledge of what other officers that you perhaps hold in high regard have said about this officer as well.

**CHAIR:** I tend to agree with the proposition that the New South Wales Police now are a very different organisation to what they were prior to the Royal Commission. Notwithstanding that, since the Royal Commission we have still had Florida, we have still had a police officer seconded to ICAC who leaked information that got to Roger Rogerson. It is in that context that we are concerned about what checks there are on police seconded to work with the PIC.

Assuming that the police will still be under your command, to get into your command do they have to go through a higher level of vetting or investigation than would normally be the case with other police officers?

**Mr CARROLL:** They have to withstand the probity checks. The probity checks are with the Police Integrity Commission, who may have holdings that may prevent the officer from going there, so it is a police integrity check. I am staying away from the word "clearance" here, because they are not clearances. You cannot say that someone is cleared because they have been checked. It is about probity advice. We do the same with all of our holdings and everything that we have access to within our own command.

It would not be unusual to contact the Crime Commission and see whether Commissioner Bradley had any holdings in relation to the particular officer, and it would not be unusual to contact ICAC as well. So there is in place quite a stringent process.

Is it a process that we can say 100 per cent, you know I would not do that and I would not do that. But what I can say, with the other additives I have given about speaking with people that you know are people of high integrity yourself, speaking with those people, together with all the probity checks, we are significantly reducing the risk of having officers getting into the command that should not be in a command such as the Professional Standards Command or

such as a task force with the Police Integrity Commission or with the New South Wales Crime Commission.

**CHAIR:** Can I turn to something I have asked a number of witnesses today: are you aware if legal action has been taken against the joint task force by witness M5 for allegedly removing him from a psychiatric facility where he was being treated for depression and for threatening to removing his indemnity? That is the allegation made in Trevor Haken's book *Sympathy for the Devil*.

**Mr CARROLL:** I am not aware of it.

**CHAIR:** Operation Jetz arose from an SCIA investigation codenamed Operation Orwell. Why did SCIA decide to establish a joint task force with the PIC in relation to that?

**Mr CARROLL:** Could I ask that I take that on advice?

**CHAIR:** Yes.

**Mr CARROLL:** It was before my time. I have a very slight bit of knowledge on it, if that is agreeable to the Committee.

**CHAIR:** That is fine. The last question I have is simply whether arrangements for establishing and managing task forces have changed since Florida and Jetz?

**Mr CARROLL:** Awareness is a lot higher since that. I am talking now from my position as AC Professional Standards, in relation to ensuring that task force agreements clearly articulate who was responsible for what and how the logistics, the location, the finances, the rules governing the police being involved -- the other matters that I have spoken to you about here today -- we are a lot more aware. I feel that is really an important thing that we are talking about here today because it is about what agency has the responsibility for the preparation of the evidence and progressing these matters, again, in a timely fashion, so that if we are engaging as a task force in a joint enterprise, everybody knows precisely going into the joint enterprise what are the expectations of each particular partner in the joint enterprise as to what the requirements are when we are finishing.

**The Hon. PETER BREEN:** How are you going with the investigation of the alleged leaking of the John Brogden suicide note?

**Mr CORRIGAN:** Mr Chair, that is outside this Committee's scope.

**CHAIR:** What was the question?

**The Hon. PETER BREEN:** The question was: how is the Assistant Commissioner going with the investigation of the alleged leaking by a police officer of the John Brogden suicide note?

**CHAIR:** Good try.

**The Hon. PETER BREEN:** It is a question. The privilege against self-incrimination still applies.

**CHAIR:** The tradition I have adopted today is that if a witness is prepared to answer a question, even if it is well outside the terms of reference, I am happy for the witness to answer. In a case like that, if the witness thinks it is inappropriate for him to answer that question today, I would be perfectly content with that.

**Mr CARROLL:** I would say just that, that it is inappropriate to answer it here.

**The Hon. PETER BREEN:** Will the report be made public?

**Mr CARROLL:** Again, it would be inappropriate for me. That would not be my decision in relation to that, Mr Breen.

**The Hon. PETER BREEN:** You are the senior officer in charge of the investigation, though.

**CHAIR:** I think you have done quite well, Mr Breen. Any further questions?

**Mr KERR:** Probably one you will have to take on notice: how many joint task forces has the New South Wales Police participated in with the PIC?

**Mr CARROLL:** I would ask to take it on notice. I am happy to answer it. I would be surprised if it is different to the schedule provided by the Police Integrity Commission.

**Mr KERR:** That is what I was really asking. I just wanted to know how many involved public hearings and how many involved private hearings and how many were referred back to the police to further investigate?

The other matter: I do not know if you have seen an article by John Kidman in relation to police promotions in the Sunday paper?

**Mr CARROLL:** Yes, I did.

**Mr KERR:** Is there any comment you would like to make on that? It did suggest a joint task force was under way.

**Mr CARROLL:** No, I am not in a position to make any comment on that, Mr Kerr.

**Mr KERR:** Okay.

**CHAIR:** When evidence is assembled from the joint task forces, what consultation is there between agencies as to what happens with that evidence and how it is proceeded with?

**Mr CARROLL:** That is a very good question, because that is what I alluded to in my last answer, Mr Chair, about the joint venture, about getting these issues absolutely articulated so that each partner in the joint venture knows what their requirements are, as to

who is going to prepare the evidence, who is going to prosecute it, where it is going to be prosecuted, is it a Commonwealth issue, is it a state issue?

My view is that this needs to be clearly set out. May I say, there are significant financial savings of having a lot of these matters dealt with under the terms of reference by the agencies that have the coercive powers. I would like to see those arrangements sorted appropriately in the terms of reference, so that at the end of an investigation perhaps 40 or 50 matters of misconduct are not coming back to another agency, such as the Professional Standards Command or New South Wales Police in general, which would then have to start again and look at those areas; instead, perhaps a few questions under the coercive powers during an inquiry may have been able to sort those issues and they could have been dealt with appropriately. That would avoid resources having to be put back in, in some cases a very lengthy time after, to start back at the beginning to put people back through the process.

**CHAIR:** The answer is it depends how it is set out originally, and that that ought to be made very clear?

**Mr CARROLL:** Yes. In my view that is very important, Mr Chairman.

**Ms BURNSWOODS:** The issues you have just mentioned sometimes emerge later. Are they predictable far enough in advance for them to be sorted out before the investigation starts?

**Mr CARROLL:** I think we would have to deal with that on a case-by-case basis. From what I have seen, from my experience, a lot of the cases become quite evident. Your point is quite valid, that you may not know all of them at the beginning. But if we have the agreement in place, from what we do know and what we do find out during the investigation, that would be of great assistance.

**Ms BURNSWOODS:** Presumably an agreement could be revisited during the process to make account of the issues that you are talking about?

**Mr CARROLL:** Yes, I think any agreement needs to have that degree of flexibility put into it, so that we can go back into it. That was the point I made -- I may not have made it very well -- with Mr Clarke in relation to the sunset clause.

**Mr CORRIGAN:** I think the rest of us understood it.

**The Hon. PETER BREEN:** If there is a joint task force and the matter goes to trial -- for example, in the John Newman murder inquiry, which was a joint task force -- and concludes with the alleged perpetrators being acquitted, the question arises in my mind as to whether or not one partner in the joint task force or the other could decide to continue the investigation and find out who actually killed John Newman. Who would make that decision?

**Ms BURNSWOODS:** Another very good try.

**The Hon. PETER BREEN:** It is a fair question.

**CHAIR:** If the Assistant Commissioner feels it is inappropriate for him to respond to that, the chair will certainly be happy with that response.

**Mr CARROLL:** I prefer not to respond to it.

**CHAIR:** You have had a pretty good go, Mr Breen.

**The Hon. PETER BREEN:** Not much success in this session; more success in the earlier sessions.

**CHAIR:** If there are no further questions, I thank Assistant Commissioner Carroll for his attendance and his assistance.

I declare the meeting closed.

**(Evidence concluded. The witness withdrew. )**

**The Committee adjourned at 3.05 p.m.**





## Appendix One - Committee Minutes

### **Minutes of Proceedings of the Committee on the Office of the Ombudsman and the Police Integrity Commission**

Wednesday 25 May 2005, 6:35pm  
Room 1043, Parliament House

#### **Members Present**

Mr Lynch (Chair), Ms Burnswoods (Vice-Chair), Mr Clarke and Mr Corrigan

Apologies: Ms Hay and Mr Kerr

In attendance: Helen Minnican, Hilary Parker, Pru Sheaves

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#### **6. Inquiry program**

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##### **(b) *Phase 2 of the inquiry into s.10(5) of the PIC Act***

Resolved on the motion of Mr Corrigan, seconded Mr Clarke:

- i. That arrangements be made to take evidence at public hearings for Phase 2 of the s.10(5) inquiry, commencing with evidence from the PIC.
- ii. That any requests for confidentiality made by the PIC or other witnesses be confirmed formally, indicating the basis for the request, so that the Committee can balance the confidentiality provisions of the PIC Act governing its operations, with the requirement under s.31(G)(2) of the Act that the Committee take all evidence in public subject to s.31(H) (being the confidentiality provisions).
- iii. That the PIC be requested to confirm the nature of the operations (ie whether they are MoUs or taskforces) in the attached list<sup>54</sup>, and update the list, as part of its submission to the inquiry.
- iv. That the Secretariat draft proposed questions on notice for witnesses to be approved by the Committee (if necessary, by way of distribution to Committee Members rather than formal resolution at a Committee meeting).

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<sup>54</sup> Distributed with meeting papers

**Minutes of Proceedings of the Committee on the Office of the Ombudsman and the Police Integrity Commission**

Wednesday 12 October 2005, 6:30pm  
Room 1043, Parliament House

**Members Present**

Mr Lynch (Chair), Mr Breen, Mr Clarke, Mr Corrigan, Mr Kerr

**Apologies:** Ms Burnswoods

In attendance: Helen Minnican, Hilary Parker, Pru Sheaves

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**4. Inquiry Program**

The Chairman discussed the inquiry program for the remainder of 2005, including:

- the stakeholder review of the Ombudsman's Community Services jurisdiction
- Phase Two of the Inquiry into s.10(5) of the PIC Act
- matters raised with the Ministry for Police

**Resolved** on the motion of Mr Clarke, seconded by Mr Kerr:

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(c) that the 2 November 2005 hearing day be used for the joint taskforce phase of the inquiry into s10(5) of the PIC Act.

The Committee noted the briefing paper on the s10 (5) inquiry: *A case study in taskforces: Operation Jade, Operation Florida, Operation Jetz and Operation Pelican.*

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**Minutes of Proceedings of the Committee on the Office of the Ombudsman and the Police Integrity Commission**

Wednesday, 2 November 2005 at 10.05am  
Waratah Room, Parliament House

**Members Present**

Mr Lynch (Chair), Mr Breen, Ms Burnswoods (Vice-Chair), Mr Clarke, Mr Corrigan and Mr Kerr

**Apologies**

Mr Chaytor

In attendance: Helen Minnican, Hilary Parker.

## **INQUIRY INTO S.10(5) OF THE POLICE INTEGRITY COMMISSION ACT (Phase 2)**

The Chair opened the public hearing at 10.05am and announced that there had been an exchange of correspondence between the Committee and the first witness, Mr Bradley, Commissioner of the NSW Crime Commission, concerning arrangements for Mr Bradley's appearance, in particular, his request for a restriction on photography.

The Chair advised of the Committee's previous resolution in response to Mr Bradley's request, in which the Committee resolved that on the balance of the public interest in the hearing and his own interests, on this occasion it would restrict photography of Mr Bradley during his evidence.

The Chairman then acknowledged receipt of a letter from the President of the NSW Parliamentary Press Gallery, Mr Alex Mitchell, dated 1 November 2005, objecting to the Committee's resolution and requesting no such restriction for future appearances by Mr Bradley when giving evidence before parliamentary committees. The Chairman read Mr Mitchell's letter onto the public record.

Mr Phillip Alexander Bradley, Commissioner of the New South Wales Crime Commission, affirmed.

The Chairman commenced questioning of Mr Bradley, followed by other Members of the Committee.

The hearing went in camera at 11.20am. Questioning concluded, the Chairman thanked the witness and the witness withdrew. In camera evidence concluded at 11.30am.

The Committee adjourned for a short period.

The public hearing resumed at 11.38am.

Mr Terrence Peter Griffin, Commissioner and Ms Michelle Margaret O'Brien, Commission Solicitor, took the oath. Mr Allan Geoffrey Kearney, Director of Intelligence and Executive Services, affirmed. The letter from the Commissioner dated 22 October, providing information to the Committee on PIC investigations and joint taskforces, was tabled by the Commissioner as part of the sworn evidence and made public.

The Chairman commenced questioning the Commissioner and senior PIC officers, followed by other Members of the Committee.

Questioning concluded, the Chairman thanked the witnesses and the witnesses withdrew.

The Committee took a short adjournment at 12.18pm and resumed the public hearing at 12.20pm.

The Hon. Jerrold Cripps QC, Commissioner of the Independent Commission Against Corruption, and Mr John Pritchard, Deputy Commissioner, took the oath.

Appendix One - Committee Minutes

The Chairman, followed by other Members of the Committee, questioned the Commissioner and Deputy Commissioner.

The Committee went in camera at 12.45pm. Questioning concluded, the Chairman thanked the witnesses and the witnesses withdrew. The in camera evidence concluded at 12.52pm and the Committee adjourned for lunch until 2.00pm.

The public hearing resumed at 2.07pm.

Assistant Commissioner John Thomas Carroll, Professional Standards Command, NSW Police, took the oath and made an opening statement.

The Chairman, followed by other Members of the Committee, questioned the Assistant Commissioner.

Questioning concluded, the Chairman thanked the witness and the witness withdrew. The public hearing concluded at 3.05pm and the Committee adjourned until 9 November 2005.

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**Minutes of Proceedings of the Committee on the Office of the Ombudsman and the Police Integrity Commission**

Wednesday 9 November 2005, 6.30pm  
Room 1043, Parliament House

**Members Present**

Mr Lynch (Chair), Mr Breen, Ms Burnswoods, Mr Chaytor, and Mr Corrigan

**Apologies:** Mr Kerr

In attendance: Helen Minnican, Hilary Parker, Pru Sheaves

The Chairman commenced proceedings at 6.37pm.

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**3. Inquiry Program**

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*Inquiry into Section 10(5) of the PIC Act:*

The Committee noted the NSW Crime Commission hearing preamble provided by the Commissioner, Mr Bradley, following his appearance before the Committee on 2 November 2005.

The Chairman advised that sufficient evidence had now been gathered for the drafting of a report on Phase 2 of the inquiry and the Committee agreed to proceed on this basis.

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**Committee on the Office of the Ombudsman and the Police Integrity Commission**

Thursday 1 December 2005 at 10.00am

Room 1153, Parliament House

**Members Present**

Mr Lynch (Chair), Ms Burnswoods (Vice-Chair), Mr Chaytor, Mr Clarke, Mr Corrigan and Mr Kerr

In attendance: Helen Minnican, Hilary Parker, Pru Sheaves.

The Chairman commenced proceedings at 10.05am.

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**3. Inquiry Program**

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*Inquiry into Section 10(5) of the PIC Act*

Resolved on the motion of Mr Chaytor, seconded by Mr Kerr, that:

- i. the Committee's report on the second phase of its inquiry into s10(5) of the *Police Integrity Commission Act 1996* shall consist of:
  - the submission by the PIC, dated 27 October 2005, and letter dated 15 November 2005;
  - corrected transcript of proceedings of evidence taken by the Committee during the public hearing on 2 November 2005;
  - the commentary circulated by the Chair to the Committee Members, which is the subject of consensus by the Members, highlighting issues such as: clarifying the nature and extent of PIC's involvement with other investigative and law enforcement agencies, issues relating to the management of joint taskforces (including the various memoranda between the PIC and its investigative partners), the assembling of evidence and the preparation of briefs following joint taskforce investigations, and the Committee's previous recommendation re the need to extend the Inspector's jurisdiction to include the conduct of PIC's investigative partners;
- ii. the report, so comprised, be adopted as the report of the Committee and that it be signed by the Chair and presented to the House, together with the minutes of evidence;

- iii. the Chair and Committee Manager be permitted to correct stylistic, typographical and grammatical errors.

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PARLIAMENT OF NEW SOUTH WALES  
COMMITTEE ON THE OFFICE OF THE OMBUDSMAN AND THE POLICE INTEGRITY COMMISSION

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**Minutes of Proceedings of the Committee on the Office of the Ombudsman and the Police Integrity Commission**

Wednesday 15 November 2006 at 6.30pm  
Room 1043, Parliament House

**Members Present**

Mr Lynch (Chairman), Ms Burnswoods, Mr Chaytor, Mr Clarke, Mr Corrigan, Mr Kerr and Ms Rhiannon

In attendance: Ms Helen Minnican, Jennifer North, Pru Sheaves

The Chairman commenced proceedings at 6.35pm . . .

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**3. Inquiry Program – Draft Reports**

- i. The Committee considered the following draft reports and schedule of amendments as previously circulated:

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- Draft report on phase two of the inquiry into s.10(5) of the *Police Integrity Commission Act 1996*

Report adopted.

Resolved on the motion of Mr Chaytor, seconded by Ms Rhiannon, that the draft reports, as amended, be the Reports of the Committee, that they be signed by the Chairman and presented to the House, together with the minutes of evidence and that the Chairman, Committee Manager and Senior Committee Officer be permitted to correct minor stylistic, typographical and grammatical errors.

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The Committee adjourned at 7:00 pm *sine die*.

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Chairman

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Committee Manager

## Appendix Two - PIC Submission

Our Ref: 13760/40

27 October 2005

Mr Paul Lynch MP  
Chairman  
Committee on the Officer of the Ombudsman  
and Police Integrity Commission  
Parliament of New South Wales  
Macquarie Street  
Sydney NSW 2000

Dear Mr Lynch

### **COMMISSION INVESTIGATIONS**

I refer to your letter of 12 October 2005 advising of the hearing set down for 2 November and your request for a list of “all PIC operations, their origins and the way in which they were conducted”.

Data of this kind is not specifically collected and aggregated by the Commission. The effort involved in meeting this request is substantial. I understand that Mr Kearney, from the Commission, has since spoken with Ms Minnican and established that data for a smaller set of investigations, those which have been reported publicly, may suffice. Nonetheless, even with a reduced number of investigations, identifying all relevant data is problematic given the time and resources available. The information provided therefore is as complete, and as accurate as possible within those constraints. I trust this is acceptable for your purposes.

To assist the Commission, the Secretariat has provided a table listing investigations and other data collated from various Commission Reports. The requested information has been appended to that table. An electronic copy of the table has been provided to the Secretariat.

Joint Task Force (JTF) is a term which is used to describe the relationship between two or more agencies. The nature of the relationship, and the formality which attaches to it, varies from investigation to investigation.

The relationship may be formed to facilitate communication of information arising from a Commission investigation to another agency for the purpose of its investigation. There may also be some coordination of overt investigation activities. Otherwise, there is generally no common purpose. This limited kind of relationship is not normally documented in a written

Appendix Two - PIC Submission

agreement. It is the most common form of joint arrangement undertaken by the Commission. Operation Icebent involved this kind of relationship with NSW Police. Operation Icebent concerned drug use and supply by some police. During the investigation civilians involved in the supply of drugs were identified. Considerable information and evidence was provided to Police to facilitate investigation of the civilians. The Commission and NSW Police also coordinated overt action including the execution of search warrants.

The relationship may also involve, or be likely to involve, ongoing communication of information and coordination of investigation activities, although the purposes of the Commission and the agency remain discrete. This kind of relationship is generally documented in an agreement or MOU. Operation Rosella involved this kind of relationship with NSW Police. Operation Rosella investigated serious police misconduct. During the investigation evidence of drug trafficking and murder by a number of civilians was obtained by the Commission. A JTF was established to facilitate the flow of information and evidence and to provide ongoing support to the NSW Police investigation.

The commonly understood form of JTF, a joint investigation with a common purpose and common targets, is rare for the Commission. Six investigations listed in the attached table, including Operations Jetz and Florida, were such task forces. In each case the nature of the joint relationship was documented.

To assist in analysis, each of the investigations in the attached table has been categorised as one of the following 'investigation types':

Written agreement – Joint Investigation;

Written agreement – Dissemination of Information/Coordination;

No written agreement – Dissemination of Information/Coordination; and,

Nil or negligible involvement by other agency (although may include some dissemination of information incidental to investigations or information relating to subsequent disciplinary action)

The 'source' of the investigation is listed as:

(Agency Name): includes matters which are subject to active investigation by another agency and are 'taken over' by the Commission, or where joint investigation arrangements are subsequently put in place;

Self-initiated: investigations which arise from referred and non-referred complaints, from existing Commission investigations or intelligence assessments, or, arise from concluded investigations by another agency (usually NSW Police).

You will note that a distinction is made, in terms of 'source', depending on whether a related investigation by another agency has been concluded or not. Where an investigation by another agency is open and is taken over by the Commission or where joint investigation arrangements follow, the source is: (Agency). Where the Commission conducts an investigation some time after a related investigation has been concluded by another agency



the source is: Self-initiated. A note is made in the table where this occurs indicating the status of the original investigation at the time of the Commission's involvement.

I am happy to discuss these matters further during the hearing on 2 November 2005, or take additional questions on notice. I note, however, the potential for some discussion around joint task force arrangements to touch on operationally sensitive matters or relate to investigative methodology. Should sensitive matters arise during the hearing I request that consideration be given to evidence being heard '*in camera*'.

Yours sincerely

**T P Griffin**  
**Commissioner**

## POLICE INTEGRITY COMMISSION OPERATIONS

CMSU: Crime Management Support Unit

IA: Internal Affairs

ICAC: Independent Commission Against Corruption

NSWCC: New South Wales Crime Commission

PSSCIA: Police Service Special Crime and Internal Affairs

RCPS: Royal Commission into the NSW Police Service

### OPERATIONS REPORTED TO PARLIAMENT

Operation	Date Reported	Purpose	Conduct Plus Interagency Involvement	Type of Investigation	Source	Notes
Special Branch	17/06/1998	Audit the former Special Branch of the New South Wales Police Service.	Arose from evidence led at hearings of the Royal Commission in Dec 96 and Mar 97. Own motion investigation commenced 13 March 1997.	Nil or negligible involvement by another agency	RCPS	Some specialist assistance provided by NSW Police (Audit)

Operation	Date Reported	Purpose	Conduct Plus Interagency Involvement	Type of Investigation	Source	Notes
<b>Jade</b>	20/10/1998	Investigate the unauthorised release of information by a member of the former Task Force Bax of the New South Wales Police Service to a convicted heroin dealer.	Arose from information supplied to PIC by NSWCC. PIC commenced its investigation in May 1997, establishing a joint task force with NSWCC. Both agencies shared information and co-operated in the investigation. PIC was assisted by IA officers "including initiatives by them" <sup>55</sup> Jun-Nov 97. PIC conducted public hearings Nov 97-Jan 98.	Written agreement – Dissemination of Information / Coordination	NSWCC	NSWCC investigation open at time of Commission involvement.
<b>Warsaw</b>	9/02/1999	Investigate the involvement of police personnel in the supply of security related goods and services to the New South Wales Police Service, particularly the Sydney 2000 Olympic Games.	Jan-Nov 98, PIC collected information and evidence concerning possible police misconduct. Public hearings held Mar-Aug 99.	Nil or negligible involvement by other agency	Self initiated	
<b>Jade – Supp. Report</b>	1/4/1999	Clarify certain issues in the Operation Jade Report of October 1998.	N/A	N/A	N/A	

<sup>55</sup> *Police Integrity Commission Annual Report 1997-1998*, page 14

<b>Operation</b>	<b>Date Reported</b>	<b>Purpose</b>	<b>Conduct Plus Interagency Involvement</b>	<b>Type of Investigation</b>	<b>Source</b>	<b>Notes</b>
<b>Algiers</b>	30/06/2000	Investigate the involvement of a Superintendent of the New South Wales Police Service in operation of various business and financial interests.	PIC commenced investigation Jan 98, unaware that Police Service had also begun an investigation following an internal police complaint in Jan 98. The Police Service reported Aug 98, recommending no further action. In Sept 98 PIC notified Police Service that it was taking over investigation. Public hearings held Mar-Aug 99.	Nil or negligible involvement by other agency	Self initiated	NSW Police investigation in process of being finalised when taken over by Commission.
<b>Copper, Triton, Nickel</b>	30/06/2000	Investigate the falsification of the signature of a police officer, by another police officer, on documents intended for court proceedings.	Investigation commenced following reporting of the misconduct by the victims of the forgeries. Public hearings held May-Jul 98.	Nil or negligible involvement by other agency	Self initiated	
<b>Belfast</b>	18/10/2000	Review the police investigation of the murder of Leigh Leigh and the police involvement in court proceedings in relation to the murder.	Oct 96 NSWCC commenced re-investigation of the matter and reported in Mar 98. Matter referred to PIC by Police Minister. Public hearings held Nov 98 – Feb 99.	Nil or negligible involvement by other agency	Self initiated	Investigation concerned matters not originally considered in detail by NSWCC investigation

<b>Operation</b>	<b>Date Reported</b>	<b>Purpose</b>	<b>Conduct Plus Interagency Involvement</b>	<b>Type of Investigation</b>	<b>Source</b>	<b>Notes</b>
<b>Glacier</b>	22/11/2000	Investigate the unauthorised release of information by a member of the New South Wales Police Service to a member of the public.	Information received from ICAC in Nov 98. Public hearings held Oct 99.	Nil or negligible involvement by another agency.	Self initiated	
<b>Oslo</b>	15/06/2001	Investigate the involvement of officers of the New South Wales Police Service in relation to unauthorised release of information and the protection of illegal activities.	PIC commenced investigation in June 97. Public hearings held Apr-Jun 99.	Written agreement – Dissemination of Information / Coordination (MOU with ICAC)	Self initiated	Joint arrangements concerned limited aspects of Oslo investigation.
<b>Saigon</b>	15/06/2001	Investigate the alleged use and/supply of prohibited drugs by members of the NSW Police Service and also review the police investigation of the shooting of Roni Levi.	Initiated on the basis of information and evidence provided by Police Service IA in Dec 98. Further investigation undertaken by PIC. Hearings held Feb 99 – Feb 00, relying on evidence obtained by the Police Service in Operations Borden, Addlestone and Hull, as well as information obtained by PIC.	Written agreement – Joint Investigation.	NSW Police	
<b>Pelican</b>	17/08/2001	Investigate allegations of serious police misconduct in the police investigations of three violent incidents.	Investigation commenced in 2000, conducted jointly with NSWCC and PSSCIA. Public hearings held Nov 00 and Jun 01.	Written agreement – Joint Investigation (NSW Police, NSW Crime Commission)	NSWCC	Pelican arose from Operation Florida / Mascot.

<b>Operation</b>	<b>Date Reported</b>	<b>Purpose</b>	<b>Conduct Plus Interagency Involvement</b>	<b>Type of Investigation</b>	<b>Source</b>	<b>Notes</b>
<b>Jetz</b>	7/02/2003	Investigate allegations that a small group of serving police officers were manipulating the police promotions system for personal benefit.	Jan 01 NSW Police commenced investigation and sought PIC assistance. Joint task force with PSCCIA. Public hearings held Aug-Nov 01.	Written agreement – Joint Investigation (NSW Police)	NSW Police / NSWCC	NSW Police / NSWCC investigation open at time of Commission involvement.
<b>Malta</b>	12/02/2003	Investigate allegations made by four members of the NSW Police Service CMSU that senior police were obstructing the reform of the Service.	PIC commenced preliminary investigation in Oct 00 following a formal complaint by 3 members of the CMSU. From Mar 01 to Mar 02, 73 days of public hearing were held and 51 witnesses gave evidence.	Nil or negligible involvement by other agency	Self initiated	
<b>Ibis</b>	05/09/03	Determine whether the matters referred to in papers provided to the Commission by Hon Charlie Lynn MLC on 28 May 2003 disclosed conduct by police that might be made the subject of a more complete investigation.	Reference from Hon Charlie Lynn MLC.	Nil or negligible involvement by other agency	Self initiated	

<b>Operation</b>	<b>Date Reported</b>	<b>Purpose</b>	<b>Conduct Plus Interagency Involvement</b>	<b>Type of Investigation</b>	<b>Source</b>	<b>Notes</b>
<b>Tower</b>	04/04	Examined a complaint by Mr. John Marsden about a police investigation into paedophilia allegations against him.	Arose from complaints made by Mr John Marsden.	Nil or negligible involvement by another agency	Self initiated	
<b>Florida</b>	06/04	Had seven investigations within the one report, most of which were historical complaints dating back to before the NSW Police Royal Commission. The PIC held hearings for Florida which included the investigation of allegations of corruption and misconduct by members of the NSW Police Service attached to Manly-Davidson and/or Northern Beaches local area commands.	Arose from Operation Mascot, a joint NSW Police/NSWCC covert investigation which ran for about 2 years. Operation Florida was a joint investigation, building on the earlier work. Public hearings were held Oct 01 – Nov 02.	Written agreement – Joint Investigation (NSW Police, NSW Crime Commission)	NSWCC / NSW Police	NSWCC / NSW Police investigation open at time of Commission involvement.

<b>Operation</b>	<b>Date Reported</b>	<b>Purpose</b>	<b>Conduct Plus Interagency Involvement</b>	<b>Type of Investigation</b>	<b>Source</b>	<b>Notes</b>
<b>Abelia</b>	On-going	Examine the use of illicit drugs and the abuse of prescription drugs by some police officers in NSW.	Operations Saigon, Dakota and Regal prompted concern about the extent of prohibited drug use by police. The project, commenced 2003-2003, involves consultation with NSW Police, and other policing agencies and oversight bodies in Australia and overseas.	No written agreement – Dissemination of Information / Coordination (NSW Police).	Self initiated	See Operations Saigon, Norandra, Icemint, Anthill
<b>Alpine</b>	Ongoing	Investigation of police officers taking drugs, stealing drugs and receiving the proceeds from drug sales. Included evidence of corruption by a Vic officer seconded to the Australian Crime Commission.	Will be reported on in the Abelia Report. Own motion investigation commenced September 2003.	No written agreement – Dissemination of Information / Coordination (ACC, Vic. Police, NSW Police)	Self initiated	
<b>Cobalt</b>	Ongoing	Investigating allegations of corruption by Sergeant Chris Laycock	Own motion, hearings began 8 October 2004.	No written agreement – Dissemination of Information / Coordination (NSW Police)	Self initiated	Some surveillance and specialist assistance (Risk Assessment) provided by NSW Police during investigation.



Operation	Date Reported	Purpose	Conduct Plus Interagency Involvement	Type of Investigation	Source	Notes
<b>Banff</b>	Ongoing	Investigating actions of NSW Police in the matter of Jeff Shaw's car accident	Referred by Minister, hearings began 15 November 2004.	Nil or negligible involvement by other agency	Self initiated	
<b>Whistler</b>	Ongoing	Investigating an alleged assault by NSW Police officers in Wagga.	Referred by local magistrate, public hearings commenced 21 February 2005 at Wagga Courthouse.	Nil or negligible involvement by another agency	Self initiated	
<b>Sandvalley</b>	Ongoing	Investigating Senior Constable Daniel Ryan's involvement in criminal activity involving theft from ATMs and suspicious financial activities and his secondary employment.	Referred by NSW Crime Commission in May 2003. Public hearings held in March 2004. Investigation ongoing.	No written agreement – Dissemination of Information / Coordination (NSW Police)	Self initiated	
<b>Vail</b>	26/04/2005	Investigation into whether five senior police officers, including a Deputy Commissioner, had breached the <i>Telecommunications (Interception) Act 1979</i> Cth.	Referred by Police at Ombudsman's direction. Recommended charges be considered against Deputy Commissioner David Madden and Assistant Commissioner Peter Parsons.	Nil or negligible involvement by another agency	NSW Police	NSW Police Investigation open when taken over by the Commission.

**OPERATIONS NOT REPORTED TO PARLIAMENT BUT LISTED IN ANNUAL REPORTS**

<b>Operation</b>	<b>Purpose</b>	<b>Conduct plus interagency involvement</b>	<b>Type of Investigation</b>	<b>Source</b>	<b>Notes</b>
<b>Bangkok</b>	Investigate the fundraising activities of the NSW Police Cricket Association.	Nov 98 PIC commenced preliminary investigation. Former Cricket Association President charged and sentenced Feb 02.	Nil or negligible involvement by other agency	Self initiated	
<b>Mosaic</b>	Investigate the awarding of a police radio communications contract.	Referral by NSW Police in Jan 99. PIC monitored NSW Police investigation. Jul 00 PIC took over investigation. Private hearings conducted Dec 00 – Mar 01. Following consultation, matter referred to NSW Police under s77 of PIC Act.	Nil or negligible involvement by other agency	Self initiated	NSW Police investigation concluded at time of Commission involvement.
<b>Jose</b>	Investigate allegations of criminal conduct by former senior constable.	Commenced in 1999 following an investigation by PSSCIA.	Written agreement – Joint Investigation (NSW Police)	NSW Police	Commission initiated CARA action following NSW Police investigation
<b>Oracle/Dallas</b>	Investigate alleged assault by police officer in Bankstown area	Referred to NSW Police for disciplinary, training and procedural action as appropriate.	Written agreement – Dissemination of Information/Coordination (NSW Police)	NSW Police	
<b>Nevada</b>	Investigate allegations that a NSW police officer had been involved in the death of a juvenile in Wagga Wagga in 1998.	Investigation initiated by PIC May 00. PIC referred aspects of the matter to Police Commissioner for further action.	Nil or negligible involvement	Self initiated	

<b>Operation</b>	<b>Purpose</b>	<b>Conduct plus interagency involvement</b>	<b>Type of Investigation</b>	<b>Source</b>	<b>Notes</b>
<b>Alabama</b>	Investigate an allegation of conspiracy to pervert the course of justice.	Commenced Aug 00. Private hearings held. As a result of the investigation, NSW Police were notified of PIC's concerns.	No written agreement – Dissemination of information / Coordination (NSW Police)	Self initiated	
<b>Rosella</b>	Investigate serious police misconduct in Sydney's western suburbs primarily concerned with police misconduct, the operation of an illegal brothel and suspected drug use and supply associated with that brothel.	Joint task force with the Crime Agencies Command of the Police Service.	Written agreement – Dissemination of Information / Coordination (NSW Police)	Self initiated	
<b>Dakota</b>	Investigate the drug dealing activities of a NSW Police senior constable and his associates.	Own volition. Preliminary investigation initiated Jul 00, full investigation Oct 00. Private hearings at the Commission. Senior constable charged with a number of offences involving supply of prohibited drugs. Three civilians have pleaded guilty to drug charges.	Written agreement – Dissemination of Information / Coordination (NSW Police)	Self initiated	
<b>Haybridge</b>	No details available.	Covert investigation begun 2001-02. Ongoing.	Nil or negligible involvement by other agency	Self initiated	

<b>Operation</b>	<b>Purpose</b>	<b>Conduct plus interagency involvement</b>	<b>Type of Investigation</b>	<b>Source</b>	<b>Notes</b>
<b>Regal</b>	Investigate the association between a number of current and former police officers and civilians suspected of being involved in the use and supply of prohibited drugs.	Covert investigation begun 2001-02. Private hearings held. Ongoing. Will be reported on in Abelia Report.	Nil or negligible involvement by another agency	Self initiated	
<b>Icemint</b>	Investigate the association between certain members of NSW Police and other individuals suspected of being involved in drug use and/or supply.	Covert investigation initiated 2002-03. Will be reported on in Abelia Report.	No written agreement – Dissemination of Information / Coordination (NSW Police)	Self initiated	
<b>Anthill</b>	Investigate whether a NSW Police constable and her associates were involved in any police misconduct or criminal conduct.	Preliminary investigation commenced in Nov 02, full investigation Mar 03. Police officer charged with criminal offences Apr 03.	Written agreement – Dissemination of Information / Coordination (NSW Police)	Self initiated	
<b>Colorado</b>	Investigation into the death of Edward James Murray in 1981.	Preliminary investigation into the death of Mr Murray was completed in September 2003, and it was decided not to	Nil or negligible involvement	Self initiated	

<b>Operation</b>	<b>Purpose</b>	<b>Conduct plus interagency involvement</b>	<b>Type of Investigation</b>	<b>Source</b>	<b>Notes</b>
<b>Norandra</b>	Investigation into a police officer selling ecstasy at Manly.	Commenced Nov 2003 as a result of information supplied to the PIC by NSW Police. Will be reported in Operation Abelia.	Written agreement – Joint Investigation (NSW Police)	NSW Police	NSW Police investigation ongoing during Commission involvement.
<b>Ovalbay</b>	No details available	Covert investigation begun 2003 – 2004.	No written agreement - Dissemination of Information / Coordination (NSW Police)	NSW Police	NSW Police investigation ongoing during Commission involvement.