

I·C·A·C

INDEPENDENT COMMISSION
AGAINST CORRUPTION



**HEARING INTO
THE 2009–2010
AND 2010–2011
ANNUAL REPORTS**

**QUESTIONS ON
NOTICE 2012**

**COMMITTEE ON
THE INDEPENDENT
COMMISSION
AGAINST CORRUPTION**

**HEARING DATE:
17 FEBRUARY 2012**

**Review of the ICAC's 2009-10 and 2010-11 Annual Reports
and other reports
Questions on notice**

Assessing matters

1. **The number of section 53/54 referrals to agencies increased by over 40% in 2009-10, from 27 to 39, and there were 36 such referrals in 2010-11. The Committee notes that, as part of a review of the conduct of referred investigations completed in 2010-11, the Manager of the Section developed a protocol for referred investigations, to clarify which matters were suitable for referral to agencies and outline factors required in analysing an agency investigation and report. The review also identified the need to train ICAC staff on effective investigation oversight (p 17).**

a. Please provide the Committee with a copy of the protocol.

A copy of the protocol is attached (Attachment 1).

b. Please provide details on the conduct of staff training that was identified as part of the review.

The Manager Assessments had identified that staff would benefit from training on how to assess whether:

- the investigating body had properly identified the core factual issues for determination from the outset
- the investigation itself was sound, in that appropriate evidence was gathered, key witnesses interviewed and relevant documents obtained and analysed
- any findings were based upon the evidence; and
- any recommendations made were reasonable and appropriate to the circumstances.

A half-day session was conducted in November 2010 with all Assessments staff, run by the then Deputy Manager Assessments, formerly an Inspector with the NSW Police Force. This training covered investigation principles and best practice, and the points identified above. A refresher session is planned in the first half of 2012 to be conducted by the current Deputy Manager Assessments.

c. The Commission states that it now requests investigation plans and progress reports from agencies as part of a section 53/54 referral (p 17). Is the Commission satisfied with the agency response to these new requirements?

In the main, yes. Some agencies have submitted insufficient detail in investigation plans or progress reports, but the Commission has liaised successfully with these agencies to obtain the level of detail required for the Commission to make a meaningful appraisal of the adequacy of these interim reports.

- 2. In 2010-11 the Manager of the Assessments Section led a review of the Commission's management of protected disclosures, which resulted in recommendations including the establishment of an internal Committee to provide guidance to whistleblowers and assistance to staff handling protected disclosures, and to advise the Commissioner in his capacity as a member of the Steering Committee on the Public Interest Disclosures Act (p 22). Please provide the Committee with details on the other outcomes and recommendations of the review.**

The recommendations were made at a time when the *Protected Disclosures Amendment (Public Interest Disclosures) Bill 2010* had been proclaimed but had not commenced. The other recommendations and outcomes were:

- that staff training take place about the forthcoming amendments and the operation of the legislation generally and that refresher training occur annually. In the second half of 2011, the Deputy Commissioner conducted training on the new public interest disclosure legislation for staff in the Assessments and Investigation Divisions.
- that appropriate fact sheets and website content be compiled, aimed at actual and potential whistleblowers. The Manager Assessments has completed this.
- that staff be reminded to ensure that matters which had commenced within an agency as an internal public interest disclosure, and were then reported to the Commission by principal officers under section 11 of the ICAC Act, were recorded in the Commission's database as public interest disclosures where appropriate. This reminder has been issued. As a corollary to that, Assessments now seeks, as a matter of course, clarification from agencies as to whether the agency is treating a matter reported under section 11 as a public interest disclosure. In some instances, where the agency has advised that it is not doing so, the Commission has provided advice to agencies about apparent misconceptions concerning the PID Act's applicability.
- that where a matter was being closed after progressing to a preliminary investigation or further, and the matter had commenced as a public interest disclosure, consideration be given to forwarding a letter to the discloser from the Deputy Commissioner. The purpose of the letter would be to inform the discloser about the outcome of the matter and to thank them for taking a stance on ethical issues. Investigation staff have been instructed to have regard to whether the forwarding of such a letter ought to occur upon completion of appropriate matters.

- 3. As to the new internal Public Interest Disclosures Committee (referred to at p 22 of the 2010-11 Annual Report):**

a. How is it constituted?

A copy of the charter is attached (Attachment 2). The Committee comprises senior staff from all operational areas of the Commission and is convened by the Manager Assessments.

b. Could you please particularise its workload since 1 July 2011?

The Committee members communicate regularly on an informal basis to discuss whistleblower matters. It meets formally each quarter. Its members have provided informal advice to Commission staff about the operation of the PID Act and about management of whistleblower relationships generally and in specific circumstances. Committee members have discussed general welfare concerns with whistleblowers who have contacted the Commission. Its convenor monitors legislative developments and liaises with the Deputy Commissioner and the Solicitor to the Commission about legislative and policy issues as they apply to the Commission, both in the Commission's capacity as an investigative agency, and in its capacity as an employer and potential recipient of staff disclosures.

4. In 2009-10 (p 30), 133 matters were referred to the Investigation Division for preliminary investigation, compared with 62 in 2010-11 (p 25). What factors led to the reduction in matters referred for preliminary investigation?

During 2009-10, the Commission was considering conducting public inquiries into two large public authorities, in order to examine systemic deficiencies, given the large number of complaints and reports received about those two agencies. A number of closed files were reviewed by both Investigation Division staff and by the Manager Assessments in relation to those two agencies.

In the result, numerous files were reactivated and referred as preliminary investigations to the Investigation Division to be considered with preliminary investigations that were already underway. In the event, public inquiries did not proceed into those two agencies as a result of these preliminary investigations.

However, in one instance, the agency was provided with a report prepared by the Commission under section 14 (2) of the ICAC Act, which highlighted systemic deficiencies the Commission believed required addressing. This section 14 report was based largely, but not solely, upon the Commission's examination of numerous files which had been the subject of preliminary investigations. The process of re-activating numerous files as part of this investigation was largely responsible for the increased number of matters referred for preliminary investigation in 2009-10.

Investigating corruption

- 5. As noted above, referrals of investigations to other agencies under sections 53 and 54 of the ICAC Act increased from 27 the previous financial year to 39 in 2009-10 and 36 in 2010-11. The Commission indicated during the Committee's last Annual Report review that the rise in referrals was largely due to ICAC having insufficient resources to investigate matters and also the rigorous approach taken to selecting matters for investigation.¹ Does the Commission have any comment on the factors that impacted on section 53/54 referrals in 2010-11?**

The number of referrals in the 2010-11 year was similar to that in 2009-10. It is anticipated that the number of referrals in 2011-12 will not vary greatly, and the Commission continues to work with agencies, as discussed in Answer 1c, to ensure that they can adequately deal with sections 53/54 referrals. Referrals under sections 53/54 remain a valuable tool for the Commission to ensure that matters that require investigation, but that cannot be dealt with directly by the Commission because of competing priorities, are still investigated by the responsible agencies.

- 6. In 2010-11 the Commission conducted 130 compulsory examinations (p 37), compared with 124 for 2009-10 and 33 for 2008-09 (p 34). What factors have led to this increase?**

Compulsory examinations are conducted to assist with the gathering of evidence for investigations conducted by the Commission. The number of compulsory examinations depends on a number of factors. These include the number of investigations being conducted by the Commission, the number of people involved in each investigation from whom evidence is required, whether the evidence is required under oath or can be obtained in some other way (for example, by interview) and whether the witness has declined to be interviewed (in which case a compulsory examination may be necessary).

Since 2008-09 the number of matters investigated by the Commission has increased. This has led to an increased need for compulsory examinations. The Commission commenced 138 preliminary investigations in 2009-10 compared to 58 in 2008-09. Over the same period there was also a 186% increase in the number of full investigations undertaken (up from seven in 2008-09 to 20 in 2009-10). This high workload was sustained in 2010-11 with 66 preliminary investigations commenced (in addition to the 74 preliminary investigations carried over from the previous year) and 15 full investigations commenced (in addition to nine investigations carried over from the previous year).

- 7. Does the Commission have any difficulties with any of the memoranda of understanding referred to at p 35 of the 2010-11 Annual Report?**

The Commission has memoranda of understanding (MOUs) with the Australian Transaction Reports and Analysis Centre (AusTrac), the NSW Police Force, the Australian Taxation Office, the Police Integrity Commission, and the Director of Public Prosecutions.

The MOUs with AusTrac and the NSW Police Force are in the process of being renewed.

The Commission considers the various MOUs generally meet its operational needs.

¹ Committee on the ICAC, *Review of the 2008-2009 Annual Report of the Independent Commission Against Corruption*, report 12/54, November 2010, p 6

The Commission entered into the current MOU with the DPP on 17 May 2011. This MOU clarifies the evidence to be provided to the DPP and assists in ensuring only relevant material is provided to the DPP. It also sets out a timetable for the Commission to provide briefs of evidence to the DPP (generally within four months of the receipt of final submissions from all legal representatives at a public inquiry or, if there is no public inquiry, within four months of the end of the investigation).

The MOU sets out timetables for the DPP to advise the name of the DPP lawyer assigned to the matter (within two weeks of the receipt of the brief), to arrange a conference with relevant Commission officers (within three months of receipt of the documentation) and for the provision of advice from the DPP on what charges are available (six months for standard matters and 12 months for complex matters). Both organisations are working towards achieving these times. So far the timetables have substantially been met. There are, however, instances where either the Commission or the DPP or both have not complied with the timetables. Generally this has occurred because of competing priorities. The Commission is actively monitoring both its own compliance with these times and that of the DPP.

COPS Issue

The Commission has a separate agreement with the NSW Police Force to enable the Commission to access the NSW Police Computerised Operational Policing System (COPS) database for purposes of investigations being conducted by the Commission.

The COPS database contains information on criminal convictions, court appearances, use of aliases, and relevant background intelligence. It is a vital tool for obtaining information on persons of interest in an investigation. The information contained in the COPS database is also highly relevant to assessing the suitability of applicants for employment by the Commission.

At present the Commission is unable to use the COPS database for the purpose of vetting prospective employees.

The NSW Police Force has obtained legal advice that using the COPS database for this purpose may be in breach of some of the information protection principles in the *Privacy and Personal Information Protection Act 1998* and has asked the Commission not to use the COPS database for vetting applicants for employment. The Commission understands that the NSW Police Force and other integrity agencies such as the Police Integrity Commission and the NSW Crime Commission are also unable to use the COPS database for this purpose.

The Commission needs to use the COPS database for employment vetting in relation to three categories of person.

The first category is prospective employees, contractors and consultants. The second category is associates nominated by prospective employees, contractors and consultants in their probity assessment disclosure statements. In some cases, depending on the nature of the disclosure, it may be necessary to make further enquiries about particular associates. The third category is associates of the prospective employee who are identified in the course of the vetting process. These are associates who are not nominated in the probity assessment disclosure statement but whose relationship with the applicant may give rise to security concerns or involve a conflict of interest.

Given the nature of the Commission's work, it is vital for the Commission to establish whether prospective employees are of suitable character and background to be employed by the Commission. Whether an applicant has a criminal history, the nature of any criminal history, and background criminal intelligence are important elements in determining the applicant's suitability

for employment by the Commission. In undertaking such assessments, it is also vital that the Commission be able to check on those persons the applicant nominates as associates and any additional persons the Commission identifies as associates during the course of its assessment process. The current inability to use the COPS database for this purpose poses a significant security risk to the Commission.

The inability to use the COPS system for this purpose is also causing delays in undertaking security vetting. This has an adverse impact on the Commission's ability to recruit new staff in a timely manner.

Both Houses of the NSW Parliament recently referred to the Commission for investigation and report matters concerning the application for and allocation of an exploration licence to Doyles Creek Mining Pty Ltd. In order for the Commission to undertake this investigation in a timely manner it needs to engage additional staff. The Commission has been granted additional funding for this purpose but the inability to use the COPS database for employment vetting purposes means that there will be delays in engaging all the necessary additional staff. This in turn will result in delays to the investigation.

The Commission has previously written to the Premier about this matter and understands that the Attorney General's Department is currently considering the matter with a view to determining whether any legislative changes should be sought.

8. In 2010-11 the Commission began requesting agencies to advise of disciplinary outcomes for agency employees to better track previous adverse findings against public officials (p 26). Is the Commission satisfied with agency responses to these requests? How does the Commission use these reports?

Yes, by and large agencies have been very responsive in advising the Commission upon the conclusion of a disciplinary process as to what the outcome of that process has been. Usually this is in the form of a letter, not a report as such. The Commission records the outcome of disciplinary investigations in its database, MOCCA, against the agency and the individual concerned. This information can be referred to by the Commission if it is subsequently made aware of further allegations relating to that individual.

9. The Commission met its performance target of completing preliminary investigations within 120 days for 41% of matters in 2009-10 and 2010-11. In its 2010 request for additional recurrent funding, the ICAC stated that it expected the impact of increased funding to be most significant in terms of preliminary investigations, with important matters requiring full investigation being identified in a timely and effective way, and the decision to upgrade or close matters being made more quickly.² Has the establishment of a preliminary investigation team in August 2010 impacted on the conduct of preliminary investigations in general, and on the Commission's ability to meet internal targets?

When established, the preliminary investigation team consisted of two investigators overseen by the Chief Investigator (Operations Adviser). The establishment of the team meant that the majority of new preliminary investigations could be referred to this team as opposed to being distributed throughout the division, as had previously been the case. Matters which related directly to ongoing investigations naturally were referred to the team handling those matters rather than the preliminary investigation team.

² Committee on the ICAC, *Review of the 2008-2009 Annual Report of the Independent Commission Against Corruption*, report 12/54, November 2010, p 8

Initially, the preliminary investigation team had to deal with a backlog of matters that had accrued due to the increased number of matters referred (74 outstanding matters as at 1 July 2010). This decreased to 59, 27 and 31 at the beginning of the subsequent three quarters.

The preliminary investigation team has since been supplemented by the addition of a further investigator, a financial investigator, an analyst and a support officer. This has allowed the team to be largely self-sufficient rather than relying on specialist financial, analytical and support services from elsewhere within the division. Timeframes have now improved markedly, with the percentage of matters now being completed within the performance target rising from 41% for the 2010-2011 year to around 80% presently. Further, matters warranting full investigation are being identified and upgraded to full investigation earlier.

10. The 2009-10 and 2010-11 Annual Reports identify the increasing complexity of investigations as a challenge for the ICAC, in particular the tracking of financial transactions. The 2009-10 Report stated that the supply of information from various financial institutions is an ongoing issue that is being monitored by the Commission to ensure a more rapid response to requests (p 37). What strategies have been identified to monitor this aspect of the Division's work, and to improve the timeliness of responses from financial institutions?

Generally, financial institutions are given two weeks to produce records under formal notice from the Commission. The service of these notices and the due dates are recorded and monitored via the Commission's MOCCA case management system. Any anticipated delay from the institutions is discussed with the institution and recorded. In the past, there have been delays in the provision of material by some of the larger financial institutions. The Commission has now introduced a system where, following the issue of notices to produce to financial institutions, telephone calls are made to liaison officers within the institutions to discuss timelines and any potential delays in the provision of information.

As a result, the Commission has generally not experienced unacceptable delays from any financial institutions in the 2010-2011 financial year. The issue continues to be monitored with communication between the Commission and financial institutions occurring on an ongoing basis.

11. According to the 2010-11 Annual Report, the Commission recently instituted a new reporting tool to assist with identifying the breakdown of activities undertaken within the Investigation Division and the amount of time spent on each of these activities (p 31). Please provide a breakdown of work within the Investigation Division for 2010-11, similar to that contained in the 2009-10 Annual Report (p 37).

In January 2011 the Commission moved to a new 'Timekeeper' reporting tool. This tool changed the categories of work activities undertaken by staff against which they record their hours worked. Obtaining data for the first half of that year would require an exhaustive manual analysis and count of all hours worked by staff against different categories and then re-categorising that information into the existing criteria. The alternative would be to do the same in reverse and work off the old criteria.

For the purpose of responding to the Committee's present question, the figures from January to June have been extrapolated to determine the percentage breakdown of activities throughout the entire year.

Those figures are: Operations 69%
 Preliminary investigations 11%
 Administration 14%
 Brief preparation 3%
 Training 3%.

12. The 2009-10 Annual Report identified the lack of relevant training opportunities for specialist investigators as a challenge for the Commission (p 37). The Report stated that discussions with the PIC had resulted in the development of a new training course for senior investigators on managing an investigation using coercive powers, expected to commence in 2010-11. Please provide an update on current training opportunities for Commission investigators.

The Police Integrity Commission facilitated a course (in conjunction with the Charles Sturt University) entitled, "Investigations Interviewing Management". Two senior and one chief investigator from the ICAC attended the course in November 2010.

Staff of the Investigation Division have also attended training in the better use of the Internet in the conduct of investigations. Various staff have undertaken training in the use of Nuix 3 software for the forensic interrogation of computer data. All operational staff have attended training in the amendments to the Public Interest Disclosures Act. New investigation staff have accessed webcast training sessions on the ICAC Act, public interest disclosures, obtaining and executing search warrants, preparing briefs for the DPP and obtaining and executing telecommunications interception and surveillance device warrants.

Two staff members are presently undertaking the Diploma of Government (Management).

All Commission analysts have successfully completed the National Strategic Intelligence Course run by the Australian Federal Police. Surveillance staff undertake periodic refresher driver training and rural surveillance training. One chief investigator has attended Merit Selection Training.

Enquiries are being made with the AFP for details of its Financial Investigator training course and the Investigations Management Course. Enquiries have also been made with Charles Sturt University for details of the Commercial Crime Course. We are currently seeking quotes for contemporary interview training for investigators.

Various investigative staff attended the bi-annual Australian Public Sector Anti-Corruption Conference and we presently provide study leave for two staff to undertake external study (for a Master of Commerce degree and a Bachelor of Science (Health and Safety) degree).

13. The 2010-11 Annual Report identified improvements to the Management of Cases, Complaints and Assessments System (MOCCA) as a strategy to enable greater oversight and management of investigations (p 34). Please provide details of the improvements.

During the first six months of MOCCA going live (from November 2009), a number of deficiencies and short comings were identified by users. Most of these, in order of importance, were revised and changed to improve and simplify MOCCA so that creation and access to information became more manageable, user-friendly and efficient.

The improvements that the Commission received from these enhancements are:

1. Increased productivity and efficiency for conducting day to day activities with faster turn-around times to create matters and link entities.
2. Improved intelligence building and information gathering by allowing multiple links to activities, listing a broader set of associated links, capturing better briefs of evidence, reporting and printing of valuable information for both statistical and assessment purposes, all of which leads to more accurate decision making.
3. Better capture and control of information resulting in a more robust database with fewer duplicated or unlinked records being created.
4. Better quality checks of information being entered to ensure that all required information is registered and aligned with operational business processes.
5. Facilitation of the processing of property items handled by Records & Property.
6. Improved capacity to automatically generate tasks and email messages to increase processing time and output of tasks.
7. Reducing some of the restrictions within MOCCA by allowing case officers and matter managers to perform some work (for example, entering location of file volumes) normally undertaken by Records staff.
8. Better and more effective searching and displaying of information.

14. Could you please particularise the MOCCA system referred to at p 12 of the 2010-11 Annual Report?

The following system enhancements have been completed during the year:-

1. New functionality to link identities and organisations with roles to a matter.
2. Additional requirements and improvements to matters, activities, identities and organisations in general: improved list of associated links, TRIM integration, additional lookup search for fields linking to related identities, organisations and addresses, and ability for matter managers and case officers to change the location of file volumes and parts which is normally a Records & Property function.
3. New functionality to link other entities (identities, organisations, matters, vehicles, addresses and activities) to an activity.
4. New facility to quickly search for one or more activities.
5. Addition of a new type and classification of matter for feedback.
6. Additional business rules to enforce some validity checks before allowing a matter to be closed. For example, a user cannot now close a matter without a subject and originator.
7. Modification to existing reports such as property listing and property receipt, and existing information sheets for printing such as Assessment Panel decisions and activities.
8. New functionality to generate a profile of an identity.

9. Improvements to brief of evidence, activity group and prosecution entities to allow better measurement of key performance statistics and more accurate data capture.
10. Improvements to workflows for auto-generation of activities/tasks.
11. Improvement to the operational performance of MOCCA in terms of speed and usability through the identification of issues adversely affecting system speed, revising the maintenance plan and carrying out performance tuning.

15. According to the 2010-11 Annual Report, the Commission entered into a new memorandum of understanding with the Office of the Director of Public Prosecutions during the reporting year (p 34). Please provide the Committee with a copy of the MoU.

A copy of the new MOU is attached (Attachment 3).

16. During 2008-09 the ICAC referred four matters to the NSW Crime Commission for consideration of assets restraint or forfeiture, for amounts totalling \$2.634 million. The Committee notes that in 2010-11 the ICAC referred a matter arising from its investigation into corrupt conduct at Canada Bay City Council to the Crime Commission for potential proceeds of crime action (p 35).

a. What is the status of this referral?

The NSW Supreme Court issued a monetary order against M. Hedley Peter Higgs, Manager City Services, City of Canada Bay Council, in the amount of \$100,000. This amount has been paid by Mr Higgs.

b. How many matters were referred to the NSW Crime Commission during 2009-10 and 2010-11 and what is their current status?

In the 2009-2010 year, one matter was referred. It concerned Mr Ahmed Moosani, the Principal of Roger Training Academy. Mr. Moosani's conduct had featured in the Commission's investigation into Corruption in the Provision and Certification of Security Industry Training (Operation Columba). The Supreme Court issued a monetary order against M. Moosani in the amount of \$425,000. This amount has been paid in full by Mr Moosani.

The matter of Mr Peter Hedley Higgs of the City of Canada Bay Council was the only matter the Commission referred during the 2010-2011 year. The result of that matter is referred to in answer 16a above. While the Commission always monitors matters under investigation to identify appropriate cases for referral for confiscation action, not all corrupt conduct matters are suitable for referral.

In order to make confiscation action worthwhile, the corrupt conduct in question must have generated substantial funds or assets, and those funds or assets must still be identifiable and available for confiscation. In the 2010-11 year, only one such matter was identified.

17. During the Committee's previous Annual Report review, the Commission indicated that it was planning to be more selective in determining whether to refer matters to the DPP, and would refer more serious matters that are more likely to result in convictions.³ During the 2010-11 reporting year 16 matters were referred to the DPP for consideration of prosecution action, compared with 24 for the previous year. What factors does the Commission take into account in considering whether to refer a matter to the DPP?

In considering what statement to make under section 74A(2)(a) of the ICAC Act, the Commission first takes into account the availability of relevant admissible evidence. The Commission will seek the advice of the DPP only where the Commission considers there is sufficient admissible evidence for a successful prosecution.

Once the Commission is satisfied there is sufficient admissible evidence, the Commission then considers whether there are any factors militating against referral. Such factors may include whether the matter is sufficiently serious to warrant referral, the degree to which the relevant person cooperated with the Commission's investigation (for example, the Commission may decide not to seek the advice of the DPP with respect to a prosecution under section 87 of the ICAC Act for giving false evidence where the witness has immediately corrected his or her evidence and subsequently fully cooperated with the Commission), and whether any prosecution is required as a deterrent (for example, in the Commission's November 2011 report on its investigation into the misuse of access rights to a Land and Property Management Authority database, the Commission decided not to refer Ms Kim Hildebrand to the DPP for consideration of prosecution because her loss of accreditation as a valuer and the findings of corrupt conduct against her would have a detrimental effect on her future employment, and the Commission was satisfied that these circumstances would deter her from engaging in similar conduct in the future).

18. A recent amendment to the ICAC's other functions under s 14 of the ICAC Act enables the Commission to gather and assemble evidence during or after the discontinuance or completion of its investigations and furnish it to the DPP. What effect has the amendment had on the ICAC's investigative practices and brief preparation processes, including the timeliness of provision of briefs to the DPP?

The amendment has not affected the Commission's investigative practices or brief preparation procedures or the timeliness of provision of briefs to the DPP.

The purpose of the amendment was to remove any doubt that the Commission could continue to gather evidence for the DPP once it had discontinued or completed its investigation. The Commission often continues to gather admissible evidence for the DPP once an investigation has been completed. This is sometimes done on the Commission's initiative while it is assembling a brief of evidence for the DPP and sometimes in response to requisitions issued by the DPP.

19. What is the current status of disciplinary action against Anthony Paul, which was referred to the Legal Services Commissioner during 2009-10 (p 136)?

The Commission has been advised that a formal determination was made by the NSW Law Society Council on 18 August 2011 to refer this matter to the Administrative Decisions Tribunal to commence disciplinary proceedings. Proceedings are required to be commenced within six months of the determination.

³ Committee on the ICAC, *Review of the 2008-2009 Annual Report of the Independent Commission Against Corruption*, report 12/54, November 2010, p 11

Brief preparation

20. Please provide a table, similar to that provided to the Committee during its previous reviews, detailing the period of time that has elapsed between ICAC's provision of briefs of evidence to the Office of the DPP and the Office's decision on each matter, for matters current during the 2010-11 reporting period to date. Please include the date of all requisitions received from the Office of the DPP for each matter.

The table is attached (Attachment 4). For the sake of completeness it covers the period 1 July 2010 to 31 December 2011.

There are a number of old matters for which the Commission is still awaiting advice from the DPP. These are operations Ambrosia, Mirna, Monto A, Monto GH/Minerva and Columba. The Commissioner wrote to the Director of Public Prosecutions, Mr Lloyd Babb SC, in early December 2011 expressing concern about the delays in receiving advice on these matters. Mr Babb has responded, advising that he anticipates being able to make a determination in most of these matters by the end of February 2012.

21. The Commission implemented a new strategy for the preparation of briefs of evidence for the DPP in 2009-10, giving one investigator full responsibility for brief preparation and excluding other duties, where possible.

a. What impact has this strategy had on the timeliness and quality of briefs?

In 2008, the Commission engaged a former chief inspector with the NSW Police Force to address a significant brief preparation backlog which had developed. The officer concerned had been a police prosecutor for in excess of 20 years.

At the time, brief preparation was largely undertaken at the conclusion of an investigation. This work competed directly with other ongoing investigations being conducted by the officers concerned. Over the ensuing 12 months, the officer managed to clear the brief preparation backlog. The officer was subsequently moved to other duties within the Investigation Division.

In the 2009-2010 year, a change of procedure was introduced in order to ensure that a backlog did not reoccur. Where an investigation disclosed sufficient evidence to base a referral of a brief of evidence to the DPP, the investigation case officer was largely withdrawn from conventional investigation duties so that priority could be given to preparation of the necessary brief of evidence.

Implementation of this strategy has ensured that no significant delays have occurred in the provision of briefs of evidence to the Legal Division. The fact that the case officer, rather than a person not acquainted with the investigation, prepares the brief has improved both quality and timeliness. Together with a revised MOU and improved brief handling processes between the Commission and the DPP, there has been an improvement in the current timeliness of briefs.

b. What other brief preparation processes and practices did the Commission review and amend during 2010-11 (p 34)?

Improvements were made to the brief module within the Commission's MOCCA case management system. The improvements allow for the registration of all briefs of evidence within the module. Improvements also include the identification of a series of commonly prosecuted offences, legal codes and case law and the inclusion of specific date fields.

This has allowed an improved ability to select appropriate offences, identify evidentiary requirements and to monitor brief preparation commencement and completion dates as well as ongoing progress.

22. The Commission's request for additional recurrent funding in 2010 proposed the recruitment of an additional lawyer to assist with and oversee the preparation of briefs of evidence.⁴ Has the lawyer been recruited?

In 2010, the Commission successfully requested supplementary funding for the 2010-11 period to retain the services of a lawyer seconded from the DPP who undertook the role of Principal Lawyer (Prosecutions).

In 2010, also, the Commission successfully requested recurrent funding for 2011-12 onwards to retain the position of Principal Lawyer (Prosecutions).

As a result, a new full-time permanent position of Principal Lawyer (Prosecutions) was created and recruitment for the position was commenced in August 2011. After completing a merit selection process a new person was selected for the position. The person commenced work for the Commission in December 2011.

The Principal Lawyer (Prosecutions) undertakes the usual duties of a Commission principal lawyer but also has additional duties involving identifying improvements to Commission brief preparation procedures and identifying the need for, and undertaking training of, Commission officers to ensure those responsible for the preparation of briefs of evidence understand and meet relevant DPP, Commission and evidentiary requirements.

⁴ Committee on the ICAC, *Review of the 2008-2009 Annual Report of the Independent Commission Against Corruption*, report 12/54, November 2010, p 11

Preventing corruption

23. In its 2010-11 Annual Report, the Commission stated that two key reforms relating to success fees for lobbyists and a cooling-off period for former Ministers and Parliamentary Secretaries were implemented in March 2011 (p 44).

a. What is the status of the remaining corruption prevention recommendations arising from the lobbying inquiry?

The Commission's investigation into corruption risks involved in lobbying found that the NSW lobbying regulatory regime is a major corruption risk and contributes significantly to public perceptions of corruption.

The Commission's November 2010 report on its investigation contained 17 recommendations to reform lobbying in NSW. The recommendations were designed to bring about a new lobbying regulatory regime which would improve transparency and address identified corruption risks in a practical manner but would not unduly interfere with legitimate access to government decision makers.

To date, only two of the recommendations have been addressed. The *Lobbying of Government Officials Act 2011* provides that ministers and parliamentary secretaries must not engage in lobbying relating to matters they had dealings with during the last 18 months of office for a period of 18 months after leaving office (recommendation 11) and bans success fees for lobbying (recommendation 12).

The government has not given any indication whether any of the remaining recommendations will be adopted.

b. How does the Commission monitor and report on the implementation of recommendations arising out of its corruption-prevention based investigations into systemic issues?

Some recommendations arising out of corruption prevention-based investigations propose specific changes to internal policies, procedures or work practices of particular agencies, and the implementation of these recommendations can be monitored by the Commission in the usual way, in accordance with the provisions of sections 13(3)(b) and 111E of the ICAC Act.

Other recommendations, however, relate to broad-ranging government policy issues. These include recommendations that the government give consideration to amending legislation or public sector-wide policies. In matters relating to government policy, there are many factors to be considered apart from the ICAC's recommendations. In such cases, the Commission does not consider that it would be appropriate for it to insist on the implementation of its recommended policy and legislative changes, as these issues are ultimately a matter for the elected government.

In such cases, the Commission uses, as appropriate, the following methods to encourage consideration and implementation of its corruption prevention recommendations:

- Public release of the reports, where appropriate, to inform the government, public service and the public of the issues identified by the ICAC.
- Distribution of reports to relevant government ministers and CEOs.

- Where practicable, meetings with, and presentations to, audiences relevant to the implementation of the recommendations.

24. The 2009-10 Annual Report addressed the issue of public officials who have engaged in misconduct being re-employed elsewhere in the public sector, due to poor employment screening practices and agencies discontinuing internal investigations upon an employee's resignation, therefore resulting in no recorded finding of misconduct. The Committee notes that during 2009-10 the ICAC made corruption prevention recommendations aimed at poor employment screening practices, as well as producing a Tip Sheet for agencies, which addressed employment screening and pre-emptive resignations to avoid internal investigations.⁵ In the Commission's view, are state and local government recruitment practices and guidelines adequate to prevent or minimise such cases?

Undertaking a formal analysis of recruitment practices in the NSW public sector would require a detailed review of the policies and procedures of all departments, agencies and local authorities. While such a review may have merit, it would be beyond the resources of the Commission and only marginally related to our core role of corruption prevention. While practices that allow the resignation and reemployment of a corrupt person are a risk of concern to the Commission, the risk exists only as one part of a broader set of issues relating to recruitment, performance management and dismissal practices in the public sector. These practices are generally outside the jurisdiction of the Commission, in the absence of specific evidence of corrupt conduct or systems conducive to corrupt conduct.

From the Commission's discussions with public sector managers, it appears that factors limiting the effectiveness of recruitment, performance management and dismissal practices in the public sector include inadequate guidelines and practices, mistaken beliefs and risk aversion. In particular, managers commonly raise the following perceived problems:

- the system of background checking allows only nominated referees to be contacted and they are selected by the applicant to be biased
- saying something negative about an applicant can lead to legal risks for a referee
- completing an investigation is not realistic if a problem person has offered to resign. The effects on morale and the risk of an appeal overturning the investigation are often considered too great, and the benefit too small
- dismissing staff from the public service is almost impossible, not only because of the rules but also because of the attitude of senior management
- the use of private employment screening companies is considered to be very expensive.

The Commission has addressed some of these concerns in its tipsheet and through recommendations about these issues in its public reports.

⁵ ICAC, *Recruitment: the background check risk, Tip Sheet for NSW public officials*, August 2010

25. In the 2009-10 Annual Report, the Commission stated that its public inquiry into an official's conduct in concealing his employment history demonstrated the importance of agencies reporting instances of resume falsification to the Commission (p 56).

a. What strategies has the Commission used to convey the need for public sector agencies to notify it of such instances?

The report into Operation Avoca (Investigation into attempted corrupt payment and submission of false resumes to public authorities) states:

“The Commission will write to the principal officers to remind them of their obligations under section 11 of the ICAC Act and discuss a range of conduct that may constitute corrupt conduct, including résumé falsification.”

In August 2010, the Commission wrote to all principal officers reinforcing the need to report résumé falsification. A section of the letter entitled “Résumé falsification is corrupt conduct that should be reported to the Commission” addressed the reporting matter. The letter laid out the key risks, danger signs and suggested actions, including:

- Conducting employment screening checks on preferred applicants. The frequency of résumé falsification (approximately 25%) was stressed, including the risk of false references, false claims of work experience and omissions of jobs that had negative outcomes. It was recommended that the Australian Standard on Employment Screening be adopted and consent be obtained for the conducting of screening checks. Where this presented difficulty it was recommended that the services of an employment screening company be used.
- Avoiding uninformed reliance on professional body membership. Different professional bodies have different standards of verification of qualifications. It was recommended that agencies should be satisfied with the rigour of checking conducted by professional bodies before accepting the membership as evidence of a candidate's skills.
- The risk to rural councils. Operation Avoca showed that rural councils were targeted because they had difficulty recruiting staff. It was recommended that vigilance be sustained for any position that is difficult to fill.

Included with the letter was a tipsheet that dealt with employment screening as well as the Commission's position on pre-emptive resignations designed to avoid an investigation. The tipsheet provides advice on the risks of not completing the investigation, and about ensuring procedural fairness for the affected person.

The tipsheet states that “if a matter concerns a reasonable suspicion of corrupt conduct it should be reported to the Commission as required under Section 11 of the *Independent Commission Against Corruption Act 1988*”.

The tipsheet was distributed to over 390 principal officers and is available on the Commission's website.

b. Is the Commission satisfied that public sector agencies' awareness of the importance of reporting such incidents has improved?

The Commission is satisfied that agencies' awareness has been improved, as it has written to every principal officer and has placed the relevant publication on its website. Its letter to all principal officers on this topic (see answer 25a above) refers the reader to the "reporting corruption" section of the ICAC website that provides information on how and what to report, as well as to the publication, *Section 11 Report Guidelines for Principal Officers*, also available from the website.

In the coming year, the Commission intends to issue a reminder to all principal officers of their obligation to report such conduct to the Commission.

26. According to the 2010-11 Annual Report, the number of telephone and email inquiries for corruption prevention advice was 97, compared with 155 for the previous year. The Commission states that this may be due to the release of the online corruption prevention toolkit on best practice (p 10). Does the Commission measure website hits to assess the number of downloads of its online corruption prevention material?

The Commission does not monitor the downloading of corruption prevention material from the website. Interpreting trends from the numbers of website visitors and downloads is difficult. External factors such as the media coverage of an individual inquiry appear to greatly influence the number of visits.

In these circumstances, identifying the number of visits to new material on the website may have minimal significance. As an example, six visits by agencies that adopt changes as a result of what they download may be more significant than a thousand visits by web surfers interested in the latest inquiry.

Rather, the Commission monitors communication to known audiences by monitoring the following:

- training sessions and audience numbers
- advice provided by phone and email
- presentations.

The 2010-2011 Annual Report indicated the drop in advice requests may have been due to the availability of web-based corruption prevention material. It is equally plausible that increased communication through the other channels listed above contributed to the reduced need for advice.

Some part of the changes in advice request numbers from 2009-2011 may be random fluctuations in demand. Comparing the period from July to December 2011 with the corresponding periods from the two previous years, the number of requests for advice was 69, 52 and 89 respectively. In effect, 50% of the drop from 2009-2010 to 2010-2011 has been recovered during the current financial year to date.

Finally, there are changing concerns of agencies and responsibilities within oversight agencies that affect the overall demand for advice. The consolidation of public interest disclosure (PID) responsibility within the office of the Ombudsman has led to a sharp decline in PID related advice requests to the Commission, from 19 in 2009-2010, to seven in 2010-2011 and zero in the current year to date.

Comparing year-to-date figures for the financial years beginning 2009, 2010 and 2011, there has also been a drop in requests for general information about the ICAC, employment practices and conflicts of interest.

During the same period there has been a notable increase in requests for advice around the management of gifts and benefits, the public private interface, regulatory functions including planning, codes of conduct and prevention planning.

27. The 2009-10 Annual Report stated that in 2010-11 the Corruption Prevention Division would focus on two high risk areas: governance structures in local government and service delivery through non-government organisations (p 59). What corruption prevention activities did the Division undertake in relation to these areas during 2010-11?

At the time the 2009-2010 Annual Report was produced, it was intended that the Corruption Prevention Division would produce a report to government on governance structures in local government independent of the inquiry into the Burwood Council (Operation Magnus).

It transpired that the Burwood inquiry became considerably broader than anticipated, and examined the governance issues of concern to the Division. The corruption prevention chapter of the Commission's report (*Investigation into alleged corrupt conduct involving Burwood Council's General Manager and Others*, April 2011) made significant recommendations for change. A second freestanding report on this topic was considered unnecessary.

The Operation Magnus corruption prevention chapter made 31 recommendations for change to address the power and oversight of general managers, the use of internal audit in local government, management of gaps in the knowledge necessary for councillors to exercise their oversight roles and changes in complaint handling.

The essence of the key recommendations to the government and the Division of Local Government (DLG) is:

- Legislative changes to give authority to the DLG to require councils to adopt important policies and practices in much the same way as Department of Premier and Cabinet circulars are binding on the state public sector. It was further recommended that the DLG review all circulars by the Department of Premier and Cabinet for issues of relevance and issue guidelines to councils accordingly.
- Legislative amendment to the *Local Government Act 1993* should be made to establish internal audit for local authorities as a statutory function. The report also makes several recommendations on the functioning of internal audit including the removal of the right of the general manager to attend all audit committee meetings.
- It was recommended that Part 3 of the Model Code of Conduct for local Councils in NSW be amended to improve guidance to mayors in their management of complaints about general managers, and that the DLG amended the standard contract for the employment of general managers to allow councils to suspend a general manager from duty on reasonable suspicion that he or she has engaged in improper conduct.
- The DLG was asked to consider providing accreditation for training packages for councillors to ensure that they have the knowledge to discharge their roles and their oversight functions, and it was recommended that all NSW councillors undertake such accredited training at least once per term.

Progress has been made on the Non Government Organisations (NGO) project in 2010-2011 with over 40 meetings held with funding and oversight agencies, NGOs, peak bodies, and academic and industry experts. Relevant policy frameworks, legislation and regulatory codes have been examined and cross-jurisdictional comparisons have been made.

Commission holdings and more than a dozen non-ICAC investigation and policy reports have been reviewed, along with the report of the parliamentary inquiry into Ageing Disability and Home Care services: Legislative Council Standing Committee on Social Issues *Report 44: Services provided or funded by the Department of Ageing, Disability and Home Care* (November 2010).

Funding agencies' reports of funds granted to NGOs have been analysed. In addition to these project-specific activities, the topic of corruption risks in NGOs has been raised in forums such as regional visits and agency liaison meetings.

The period 2010-2011 saw a significant expansion in the scope of the Division's procurement project, with three final reports being released rather than a single report as initially planned. This impacted on the resources available for the NGO project, however, a report is anticipated this financial year.

Compliance and accountability

28. The 2009-10 (p 69) and 2010-11 (p 56) Annual Reports both state that an assumed identity audit conducted by the Executive Director, Legal identified that records of financial transactions and use of the assumed identity in relation to one authorisation were not completed for a two month period. The Committee notes that the audits found that all other aspects of the legislation relating to assumed identities were complied with. Has the Commission made any changes to record keeping procedures or any other processes as a result of the audits?

The Commission officer responsible for collecting records of financial transactions and details of the use of assumed identities regularly reviews returns submitted by Commission officers to ensure they are up-to-date.

The Solicitor to the Commission conducted an audit in November 2011. All records were up-to-date.

29. Please update the Committee on the progress of the litigation, commenced in April 2011, arising from the Commission's findings of corrupt conduct against Angela D'Amore MP (p 59).

On 29 April 2011, Ms D'Amore's solicitors filed a summons in the NSW Supreme Court seeking a declaration that the Commission had exceeded its powers under the ICAC Act in making its report concerning Ms D'Amore's conduct. It was claimed that the findings that Ms D'Amore had engaged in corrupt conduct required evidence that she knew that the prescriptive conditions of the sitting day relief entitlement had been contravened, and that there was no such evidence before the Commission.

The Commission instructed the Crown Solicitor to act on its behalf. Mr Justin Gleeson SC and Ms Anna Mitchelmore have been briefed as counsel for the Commission.

The plaintiff's points of claim were filed on 7 June 2011 and the defendant's points of defence were filed on 24 June.

On 23 August orders were made by Registrar Bradford that:

1. The matter be listed for a two day hearing to commence on 2 April 2012.
2. Plaintiff's submissions to be served by 26 October 2011.
3. Defendant's submissions to be served by 7 December 2011.
4. Liberty to apply for further mention on three days' notice.

The plaintiff did not serve submissions by the due date and sought an extension of time. On 8 December orders were made by Registrar Bradford that:

1. The plaintiff file and serve her submissions by 30 January 2012.
2. The defendant file and serve its submissions by 16 March 2012.
3. The plaintiff file and serve any reply by 23 March 2012.

The matter remains listed for a two day hearing to commence on 2 April 2012.

Our organisation

30. A review of the ICAC's information, communications and technology infrastructure is noted as a major challenge for the Corporate Services Division in 2010-11. A business case was prepared and submitted to NSW Treasury for funding of an upgrade of the Commission's information, communications and technology equipment and software (p 66). What is the status of the proposed upgrade?

The Commission was formally advised of its capital allocation on 15 July 2011. A request for quotation (RFQ) proposal was sought from tenderers to develop detailed design specifications for the equipment upgrade. The contract was signed on 5 October 2011. On 15 December 2011, the contractor produced a detailed architecture design covering all aspects of information, communication and technology (ICT) infrastructure. It is proposed to divide the design document as follows:

- **First part:** involves the construction of the communications room to house infrastructure-related equipment, installation of air-conditioning, uninterrupted power supply, gas fire suppression system, raised flooring, server racks, et cetera. A request for tender/quotation will be issued for this phase and it is envisaged that work on this phase will commence in March 2012 and be completed by May 2012.
- **Second part:** consists of supply, configuration and commissioning of new equipment and migration of all services from the existing servers to the new servers. This will also include the supply, configuration and commissioning of all equipment for the real-time backup disaster recovery site. A request for tender for this phase is expected to be issued in the last week of January. Work is expected to commence in April 2012 and to be completed by November/ December 2012.

31. Please update the Committee on the Commission's business case for relocating from its current premises to a lower level floor during 2010-11 (p 66). Is the relocation expected to result in savings for the Commission?

The proposal to relocate to lower floors will not now be proceeding, as the lessor has entered into an agreement with a private organisation to lease the floors in question. The proposed relocation was expected to result in significant capital fit-out cost savings for the Commission through a substantial relocation incentive contribution that had been offered during negotiations with the lessor.

The Commission will now seek relocation capital funding during the 2012/13 budget process, as its current lease expires on 14 October 2014 and it is likely that it will have to move premises at that time. At this stage, no alternative accommodation has been sourced, but work will continue to identify suitable premises.

32. The Commission received a \$1.2 million budget supplementation from NSW Treasury during 2010-11, allowing it to meet increased legal costs and fund four full-time equivalent positions (p 67).

a. Is the budget supplementation being provided on a recurrent basis?

NSW Treasury has provided funding (\$2.2M) on a recurrent basis.

b. Has the Commission recruited staff to fill the additional positions funded through the budget supplementation? If so, which Division have the additional staff been allocated to?

As a result of the initial budget supplementation, additional temporary staff were allocated to the Investigation Division (three) and the Legal Division (one). The recurrent budget supplementation has allowed the following permanent staff to be employed in the Investigation Division:

- Support officer
- Chief investigator
- 3 x Investigators
- Senior financial investigator
- Financial investigator

It has also allowed the following permanent staff to be employed in other areas of the Commission:

- Administration officer (Assessments)
- Corruption prevention officer
- Records and property officer
- Principal lawyer (prosecutions)

33. During the Committee's previous review, a key challenge identified by the ICAC over the next five years was the development and retention of high-performing staff, by providing opportunities for their progression within the organisation. The Commission stated that 'we need to better utilise our internal trainers to develop our own staff and make a commitment to staff development through collaborative means across Divisions; for example, mentoring arrangements across Divisions.'⁶ What strategies does the ICAC use to develop and retain staff on an ongoing basis?

The ICAC's performance management system identifies individual staff training and development needs. In addition, opportunities through higher duties or temporary appointments for staff to act in supervisory or management positions are frequently used. We are active in promoting external development opportunities for staff secondments to other NSW and Commonwealth public sector agencies like Ombudsman's offices, the Health Care Complaints Commission, the Australian Tax Office and state-based crime commissions.

We also provide study assistance to employees to assist in their career development. The ICAC has very flexible work arrangement policies to allow for transition from full- to part-time work or to work around tertiary studies. We have flexible working hours and allow staff to accrue flex-time which enables to take time out when they need it for family or other reasons. We foster career development across divisions, with recent placements including one officer who works in Assessments and also as a research officer in the Corruption Prevention Division. One officer

⁶ Committee on the ICAC, *Review of the 2008-2009 Annual Report of the Independent Commission Against Corruption*, report 12/54, November 2010, p 73

who works in the Communications and Media Section is also gaining experience as an analyst within the Investigation Division. In recent times two female staff members progressed from analyst and assessment positions to investigator positions following successful accreditation training in investigations.

34. The Committee notes that there were 345 attendances at staff training sessions during 2010-11, compared with 572 attendances for the previous financial year (p 68). The 2010-11 Annual Report states that during 2011-12 the ICAC will continue to provide staff with suitable training and development opportunities. What opportunities has the Commission identified for staff training and development during the current reporting year to date?

The significant variation in training sessions can be attributed to the implementation in late 2009 of MOCCA and the training of all ICAC staff using the case management system which was substantial in terms of training hours. There was also extensive Microsoft Office training (upgrade from Windows XP to Windows Vista operating system). Neither of these forms of training was conducted during the 2010-2011 reporting period. Furthermore, 2010-11 has been a very busy year for the Commission in terms of public inquiries and associated work, which has impacted on opportunities for staff to attend training.

For the current reporting year the following training is planned: additional Microsoft Office training, EEO/diversity training, OHS refresher information sessions for managers and merit selection training for recruitment panels. Divisional training includes interview techniques for investigations and public interest disclosures training.

35. Could you please particularise the “ICT Infrastructure Upgrade Project” referred to at p 12 of the 2010-11 Annual Report?

Particulars of the ICT Infrastructure upgrade project include:

- Construction of a new server room with adequate back-up air-conditioning and power supply.
- Commissioning of new servers in a virtualised environment which will provide scalable and seamless fault tolerance.
- Commissioning of SAN data storage which will provide scalable and seamless fault tolerance.
- New Voice Over IP (VoIP) telephone system (PABX) which will have call logging and on demand call recording capabilities.
- Real-time backup disaster site where data will be replicated. This will also reduce the return to operation (RTO) time for key systems from two weeks to two hours and for non-key systems from six weeks to two days in case of a full disaster.
- Fully networked multifunction devices for printing, scanning and copying.
- Reliable and improved remote access facility for staff working in the field.
- Upgraded server operating systems and databases to the latest versions.
- Unified messaging services covering both digital and voice messaging.
- Commissioning of gigabit network equipment for improved speed within the local area network (LAN).



**INDEPENDENT COMMISSION
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ATTACHMENT 1

PROTOCOL DOCUMENT FOR THE USE OF SECTIONS 53, 54 OF THE ICAC ACT TO REFER A MATTER FOR INVESTIGATION TO A RELEVANT AUTHORITY

i. When should referral pursuant to ss. 53, 54 be considered

To recommend that the ICAC refer a matter to another agency for investigation and report back, one or more of the following factors must apply:

- a. The matter has some degree of seriousness and may involve systemic issues
- b. The matter is symptomatic of prior incidences of similar conduct
- c. The matter relates to a serious single or confined incident of suspected corrupt conduct, or involves multiple instances of ongoing conduct.
- d. The ICAC has a specific interest in the agency/sector involved
- e. The allegation does not appear to have been investigated previously (by ICAC or others) or previous investigations were unsatisfactory
- f. The allegations are unambiguous and there appears to be a series of enquiries/searches/research/interviews that could be conducted to investigate the matter
- g. The matter is not so old that witnesses/evidence are unlikely to be available
- h. Where the complainant's identity is unknown/not to be disclosed, other lines of enquiry exist
- i. The allegations are amendable to being properly dealt with as an internal or disciplinary investigation.
- j. ICAC coercive powers are not needed (eg no need to obtain records such as a subject's financial records which only obtainable via use of coercive powers)
- k. The information necessary to resolve matter would be within the agency's possession
- l. The matter can be investigated without reliance on the co-operation of outside parties. (Note that computer forensic auditors, private investigators/surveillance operatives and investigators can be contracted from the private sector if there is no in-house capacity)
- m. The agency possesses resources to obtain external assistance in undertaking the type of investigation required
- n. There do not appear to be any conflicts of interest that are likely to seriously jeopardise the integrity of the investigation
- o. The Commission has no concerns that the investigation is likely to be compromised by the agency it is to be referred to (including where an agency is to investigate matters within its own responsibility)

Where the CEO or some other senior officer may be the subject of the allegations being referred (or is somehow implicated in them), the following apply:

- If the matter relates to a CEO (or other very senior official), consider referring the matter to the Director General of the Department of Premier and Cabinet

- If the matter relates to the General Manager/Administrator of a local council, consider referring the matter to the Mayor. It may also be appropriate to consider referring the matter to the Deputy Director General, Division of Local Government within the Department of Premier and Cabinet.

In other circumstances, include a strong recommendation that an external investigator is appointed¹.

ii. At what point should consultation occur with the relevant authority

Consultation with the relevant authority is required under the ICAC Act. It can occur as soon as practicable after the Assessment Panel has determined that the matter be made the subject of a referral. Consultation will be between the Assessment Officer with carriage of the matter and the relevant contact officer for the authority (in the case of a local council, its General Manager; for a larger, state authority, with its Head of Audit or Internal Governance).

iii. Which ICAC officers should have carriage of ss. 53, 54 matters

Unless there are compelling reasons to the contrary², and within the discretion of the Manager Assessments, ss. 53, 54 matters should be handled by Senior Assessment Officers.

iv. Who has ultimate oversight of ss. 53, 54 matters

The Strategic Investigations Group will consider the progress of all matters on a monthly basis.

v. What type of recommendations ought to be given to the relevant authority regarding the scope of the investigation and/or who should conduct it

This will depend to some extent on the nature of the allegations made. As far as is practicable, the scope of the investigation should be clearly defined as to

- who is involved
- the time period in question;
- and the nature of the conduct alleged.

Where it has been recommended to the agency that it appoints an external investigator, request that the agency contacts the Commission to advise whom it proposes to appoint and why (relevant qualifications, experience, eg for an individual). The Assessment Officer with carriage is to discuss with the Manager Assessments whom the agency proposes to contract to carry out the investigation. If there is doubt as to the suitability of the proposed investigator, the Manager Assessments will discuss this with the Deputy Commissioner.

¹ We do not have the power under the ICAC Act to direct an agency to appoint an external investigator

² For example, an experienced Assessment Officer wishes to gain further experience in order to assist in an application to be re-graded as a Senior Assessment Officer

vi. What time frame should be given to the relevant authority for completion of the investigation and report

This will depend upon such issues as the complexity of the matter (such as where a large amount of data or documentation needs to be analysed or there are in excess of 20 interviewees) and whether the agency can investigate itself or is to appoint an external investigator. As a general rule, 8-12 weeks ought to be sufficient time in which to conduct an investigation and to report back. However, for more complex matters, up to 16 weeks may be warranted.

vii. What should be requested of the agency from the outset, during the course of an investigation and upon its completion

From the outset

The Commission cannot compel an investigating agency to provide one, but it is good practice to make a request for the agency to provide **an investigation plan**. This will enable Assessments to determine whether the plan appears methodical and appropriate; any concerns as to the manner in which the investigation is proposed to occur can be raised from the outset.

The areas a good investigation plan will cover include:

- An overview, including why the investigation is being conducted
- Scope and purpose, being the rationale for the investigation or what it is trying to achieve (eg a list of issues to resolve such as to determine whether the contract between the agency and XYZ Pty Ltd should be terminated)
- Resources, being what is required to carry it out, such as people and technical facilities required
- Timeframe, being how long it is envisaged to take
- Who are the affected persons
- What appear to be the core factual issues
- Risk assessment, being what risks have been identified, an analysis thereof, and how the risks will be treated
- How information is to be gathered relevant to the core factual issues, namely what documents are likely to assist and how will these be obtained and what witnesses are relevant to which issues

An investigation plan is therefore to be requested at the time a due date has been agreed upon and giving the agency 14 days in which to provide it. Appropriate follow up should occur. Assessment Officers are to provide their supervisor with an assessment of the adequacy of the investigation plan.

During

During the course of the investigation, at least one **progress report** should be sought, around the half way mark of an investigation. That is, if the agency has been given 10 weeks to complete its investigation, request a progress report in writing, allowing 7 days for compliance, at the 5 week mark. Any concerns must be brought to the attention of the Assessment Officer's supervisor.

Upon completion

Agencies are to be required to advise, when providing the section 54 report, what steps are proposed to be taken in light of the investigation's findings, eg disciplinary action, revision of processes or policies.

viii. What factors should be considered in a request for an extension of time

All requests for an extension of the agreed due date are to be made in writing and submitted by the relevant authority for the attention of the Deputy Commissioner, setting out the reason(s) for the requested extension. The Senior Assessment Officer with carriage of the matter will provide the Deputy Commissioner with a minute including a recommendation as to whether the request is reasonable, with a consideration of factors such as what issues have arisen since the investigation's commencement, so as to make completion within the time frame initially agreed upon unfeasible; the length of the extension sought; and whether it is the first request for an extension.

ix. Upon receipt of the section 54 investigation report, what factors or criteria should be considered by Assessments staff in determining whether the investigation and report are satisfactory

Matters to be satisfied of include:

- a. The investigator has addressed all aspects or allegations set out in the referral documentation
- b. Relevant core factual issues have been identified
- c. There is no sense that the investigator has prejudged the issues
- d. The language used is clear and unambiguous; there is no sense of fudging any issues
- e. There is no mitigating commentary or opinion, eg the subject of the allegations is generally well-regarded in the workplace
- f. It is apparent what documents, policies and/or procedures have been examined (and what versions), and that this is the relevant documentation pertaining to the allegations made

- g. The source of the allegations has been interviewed, where possible
- h. Appropriate questions have been asked of the source, such as how s/he became aware of the allegations; complete details as to what occurred and how, who was involved, what functions and policies of the organisation were affected; are there others who may have information or evidence on point; has the matter been reported elsewhere and with what outcome; what documents or other evidence exist that may corroborate the allegations
- i. Relevant witnesses have been interviewed or attempts made to do so
- j. The subject of the allegations was interviewed and afforded natural justice
- k. The subject's version of events has been tested, where possible
- l. The subject was not given too much information by way of a preamble so as to enable him/her to assess the strength of available evidence
- m. There is no undue delay between interviewing witnesses which could have led to collusion
- n. Non-leading questioning of all interviewees has been used, that is questions were not asked in such a way as to provoke an exculpatory response as regards the subject in particular
- o. All possible explanations for the allegations have been considered
- p. There is a valid assessment of the reliability of the evidence gathered, including conclusions as to witness accounts and document relevance and reliability
- q. Findings of fact directly relate to the evidence collected

x. How should enquiries be dealt with in relation to what information can or cannot be disclosed

If the Commission communicates information under a s. 53 referral on the basis that the information is confidential, then section 111 of the ICAC Act (the secrecy provisions) applies to that information³. The application of s. 111 should be made clear in any dissemination. In such cases, an agency cannot disclose publicly the contents of the referral documentation we send them. However, this does not apply to them affording procedural fairness to the subject(s) of the allegations in accordance with normal investigative practice.

However, the s. 54 report produced by a referral authority (or its contracted external investigator) is a report of that authority and not a report of the ICAC.

Commission staff are to deal with enquiries in this way:

From the relevant authority, whether its s. 54 report can be used for disciplinary purposes

Yes

³ See section 111(1)(d) of the ICAC Act

From the relevant authority whether it can respond to media enquiries about its s. 54 investigation and report

This is a matter for the authority. Note: No Commission staff are to advise agencies as to how to deal with media enquiries they receive, nor are staff to refer agencies in that respect to the Commission's Manager Communications and Media.

From the relevant authority, whether it can discuss with the subject of the allegations and/or the source of the allegations the outcome of the investigation and s. 54 report

This is a matter for the authority

From the subject of allegations canvassed in a s. 54 investigation report, whether the ICAC can advise them of the outcome

They should contact the relevant authority

From the media, whether we can confirm or deny details of a ss. 53, 54 investigation and report (ie it's apparent the media is aware that an investigation took place)

Refer the enquirer to the Manager Communications and Media on 0417 467 801.

xi. What time frame applies to Assessments for consideration of a section 54 report and subsequent re-reporting of the matter to the Assessment Panel

Under Assessments' internal turnaround times, 28 calendar days from the date of receipt of the section 54 report is the target for re-reporting a ss. 53, 54 matter to the Assessment Panel.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Public Interest Disclosures Committee Charter

Purpose

The Commission recognises the importance to its functions of receiving information about potential corrupt conduct from current public officials, which includes some individuals who are contracted to public agencies, who 'blow the whistle' on wrongdoing involving the NSW public sector.

In order to continue to encourage public officials and individual contractors ("whistleblowers") to bring information to the Commission, the Public Interest Disclosures Committee ("the committee") has been established to:

1. offer guidance and assistance to whistleblowers
2. act as an advisory body to the Commissioner (or his delegate) in his capacity as a member of the Steering Committee on the *Public Interest Disclosures Act 1994* ("the PID Act")
3. mentor Commission staff and ensure that they receive appropriate training and support
4. work with the Solicitor to the Commission to ensure the Commission complies with its obligations under the PID Act.

Committee responsibilities

The committee members' responsibilities require them to have a sound understanding of the PID Act and to possess high level communication and interpersonal skills.

In their role of providing guidance and assistance to whistleblowers, committee members are required to explain the protections and limitations under the PID Act and Commission processes generally; to make whistleblowers aware of support mechanisms that exist in their own workplace and elsewhere; and to discuss workplace and general wellbeing issues that are outside of the scope of the complaint submitted to the Commission. Committee members will not only respond to contact initiated by whistleblowers but will actively identify matters where a whistleblower would benefit from contact and liaison with a committee member.

In their role of providing advice to the Commissioner or his delegate, committee members are required to keep abreast of developments in the area of whistleblower rights and the committee chair will liaise regularly with the PID unit of the NSW Ombudsman's Office.

In their role of acting as mentors of and advisors to Commission staff, committee members will respond to queries from staff and will actively monitor training and support provided to staff who deal with whistleblower matters to ensure it is appropriate.

In working with the Solicitor to the Commission, committee members will ensure the Commission meets its reporting and other obligations under the PID Act and will ensure that staff are properly recording matters in the Commission's database, MOCCA.

Principles of operation

Committee members will generally not discuss operational matters with a whistleblower and will ensure that whistleblowers understand the purpose of the committee, which is to guide and assist. There is no limit on the number of discussions or contacts that may be had with a whistleblower and contact can continue even after the Commission has advised the whistleblower that it is taking no action or has referred their information to another agency.

Committee members will record any conversations or contact with whistleblowers in TRIM and save the notes of any discussions into a designated Z file. Any factual matters that are volunteered by the whistleblower should be recorded against the relevant E file in MOCCA and drawn to the attention of the matter owner.

Committee members will be rostered on for a week at a time, with one back-up member in the event of illness or unavailability during that week of the primary contact person. Contact will occur as a result of a Commission staffmember passing on details to a committee member of a whistleblower who wishes to discuss their concerns, or suggesting that the whistleblower contacts the committee him or herself; via email contact initiated by the whistleblower; or via a committee member making contact with a whistleblower after having been made aware that some form of advice and guidance to that person is warranted.

Membership

Membership of the committee will comprise at least one representative from:

1. Assessments Section
2. Corruption Prevention Division
3. Investigation Division
4. Legal Division

The committee's chair is the Manager Assessments.

Meetings

The committee will meet on a quarterly basis to debrief on matters dealt with in the previous quarter and to discuss any matters that require action through being raised with the Commissioner or otherwise. Minutes will not be recorded on the intranet, given the potential for confidential matters to be raised. Minutes will be recorded in the Z file referred to above.

Related committees

The Steering Committee for the *Public Interest Disclosures Act 1994*; the ICAC's OH&S committee

MEMORANDUM OF UNDERSTANDING

1. This Memorandum of Understanding ("MOU") is made on the ^{17th} day of ^{May} 2011 between the Independent Commission Against Corruption ("ICAC") and the Office of the Director of Public Prosecutions ("ODPP").

PURPOSE

2. The purpose of this MOU is to enable charges arising out of ICAC investigations to be laid, whenever appropriate, and prosecuted promptly, and to set out in general terms the responsibilities of the ICAC and ODPP in relation to:
 - a) the furnishing by the ICAC to the ODPP of admissible evidence obtained as the result of ICAC investigations, pursuant to its function under section 14(1)(a) of the *Independent Commission Against Corruption Act 1988* ("the ICAC Act"); and
 - b) liaison arrangements between the ICAC and ODPP to ensure that:
 - i) any evidence furnished by the ICAC to ODPP is provided in a timely manner and presented in an orderly, comprehensive and accurate form;
 - ii) the ODPP assigns an appropriately senior officer to consider such evidence in a timely and efficient manner;
 - (iii) the ODPP provides advice in a timely manner to the ICAC about whether or not a prosecution should be commenced.

FURNISHING OF EVIDENCE

3. The ICAC will, within 4 months of the receipt of final submissions from all legal representatives at a public inquiry (or if there is no public inquiry, within 4 months of the end of an investigation) provide copies of statements, exhibits annexed to relevant statements and any other relevant admissible material to the ODPP, together with a covering letter outlining what charges have been identified by the ICAC as being open on the evidence. The letter will outline the evidence obtained during the ICAC investigation and any relevant legal and evidentiary issues.
4. The letter should:
 - identify each of the proof elements for the identified charge(s);
 - identify any known or expected difficulties of proof;

- identify which witnesses have indicated that they are willing to give evidence, and particulars of the manner in which this willingness was conveyed to the ICAC;
 - identify which witnesses have indicated that they are not willing to give evidence and particulars of the manner in which this unwillingness was conveyed to the ICAC;
 - identify and explain the significance of the documents included in the brief (preferably in the form of a table attached to the letter);
 - advise if there is any particular urgency, and, in the case of matters in which summary charges are considered appropriate, advise of the last date on which proceedings can be instituted
5. Admissible material involves the following:
- a) signed witness statements including a jurat;
 - b) banker's affidavits, producing banking records;
 - c) transcript not subject to objection under s38 of the ICAC Act (unless such transcript relates to an offence under the ICAC Act);
 - d) exhibits, annexed to the relevant statements, not to a general statement by an ICAC investigator.
6. Admissible material does not include, and the ICAC will not furnish unless and until requested by the ODPP:
- a) transcripts of evidence given on objection, except in relation to an offence under the ICAC Act where the same are probative;
 - b) subject to the same exception, exhibits produced under objection;
 - c) the ICAC public investigation report;

In cases where a significant witness refuses to provide a statement, transcripts of relevant portions of that witness's evidence given under objection may be provided with the brief in order that the ODPP may consider whether such witness should be called without a statement having been provided. However, the transcript of evidence of such a witness will be provided with the brief only if the prior approval of the Managing Lawyer for ODPP Group 6 has been obtained.

7. The ODPP will not furnish preliminary advice on an incomplete brief, except in special extenuating circumstances as agreed between the persons stipulated in paragraph 37 below.
8. Where potential offences are summary offences, the ICAC will ensure that the documentation referred to in paragraph 3 is provided to the ODPP as soon as practicable and the ODPP will ensure that the advice as to whether any criminal

charges are available is rendered in a timely manner, allowing the ICAC sufficient time for an ICAC officer to take out a CAN in accordance with the advice.

9. In matters in which any charges identified by the ICAC are time-limited summary offences, the ICAC brief will be provided as early as is practicable, and in any event not later than three months before the time will expire. Within eight weeks of the ODPP receiving the material referred to in paragraph 3, the ODPP will advise the ICAC if criminal charges are available or will provide a progress report. Where charges are available, the ODPP will identify them and provide the appropriate wording for the CANs and a statement of facts.

INDICTABLE OFFENCES

10. Upon receipt of the documentation referred to in paragraph 3, the ODPP will assign the matter to an appropriately senior ODPP lawyer. The ODPP will advise the ICAC of the name of the lawyer to whom the matter has been referred, his/her telephone number and other contact details within two weeks of the receipt of the documentation. The assigned lawyer will arrange a conference with relevant ICAC officers within three months of receipt of the documentation.
11. At the conference, a timetable for the answering of requisitions and the furnishing of advice by the ODPP as to whether criminal charges are available will be agreed, and confirmed in writing by the ODPP.
12. Any variation to this timetable, including any requests for further requisitions, should be raised by the ODPP lawyer by way of initial discussion and then confirmed in writing.
13. The ODPP will aim to provide advice to the ICAC as to whether criminal charges are available as quickly as practicable after receipt of the brief, and at least within 6 months for standard matters and within 12 months for complex matters, subject to the ICAC providing responses to any requisitions issued within the agreed timeframes. The Managing Lawyer for ODPP Group 6 will nominate whether a matter is standard or complex when allocating the matter to an ODPP lawyer.

INDICATION OF EARLY GUILTY PLEA

14. In cases where ICAC officers have been advised that a person who has been the subject of an investigation by the ICAC wants to plead guilty, a brief of evidence may be provided that is streamlined but contains the evidentiary material capable of supporting the elements of the charge.
15. In cases where there are co-offenders, and a plea of guilty is being offered on the basis that evidence will be given against other offenders and recognition sought for such cooperation on sentence, ICAC officers will also provide the evidence then available in respect of the co-offenders, a detailed summary of that evidence, and an indication of how the cooperation offered would assist in the prosecution of such co-offenders, but will not be required to provide full briefs of evidence in respect of all such possible co-offenders at the time of

the consideration by the ODPP of the proposed guilty plea.

REQUISITIONS

16. Upon receipt of the material referred to in paragraph 3, and before or at the conference referred to in paragraph 10, the ODPP may raise requisitions, in writing, identifying any additional evidence or other material required to be obtained by the ICAC.
17. The ICAC will obtain additional evidence as requested by the ODPP. If any questions of law arise, clarification and advice will be sought from the ODPP, preferably through another conference.
18. Where the ODPP, after receiving a response to requisitions, raises additional requisitions necessary to complete the brief of evidence, the ODPP advice as to the charges to be laid will be provided within six weeks of receiving the additional material, or the ODPP will provide a progress report prior to the expiration of the six weeks, indicating the date by which it is expected the advice will be provided.

INSTITUTING A PROSECUTION

19. If, after consideration of the advice of the ODPP, the ICAC is of the view that other charges (based on the same evidence) are preferable to those advised by the ODPP, the ICAC will consult with the ODPP regarding the laying of those CANs.
20. Upon receipt of appropriate wording for the CANS and statement of facts and a decision by the ICAC to proceed, an ICAC case officer will prepare CANS and then proceed to issue the CANS, obtain a date and serve the CANS upon the Defendant. Prior to obtaining a date for the CANS, the ICAC case officer will consult with the ODPP about a suitable return date. If for any reason CANS are not served within four weeks of receipt of the ODPP's advice to prosecute (or such shorter period as is appropriate where statutory time limits apply), the ICAC will advise the ODPP in writing of its intended action.
21. The ICAC will file the affidavit of service and court copy of the CANS with the registry of the relevant court and advise the ODPP when this has been done.
22. The ICAC case officer will provide a copy of the CANS and the affidavit of service to the ODPP lawyer within three working days of service.
23. The ODPP will appear on the return date of the CANS and will take over the prosecution at that time under s.9 of the *Director of Public Prosecutions Act 1986*.
24. In respect of indictable offences, the ICAC will serve a disclosure certificate on the ODPP prior to the brief of evidence being served on the accused. The disclosure certificate will be in the same form as Schedule 1 to the *Director of Public Prosecutions Regulation 2010* relating to the duty of disclosure upon police officers.

25. The ODPP will specify in writing to the ICAC the documents required to be included in the brief of evidence to be served upon the defendant.
26. The ICAC case officer will prepare the s75(a) notice and serve it and a copy of the brief of evidence in accordance with the relevant practice note of the Local Court. A copy of the s75 notice as served on the defendant will be provided by the ICAC officer to the ODPP lawyer with carriage of the matter within three working days of service upon the defendant.
27. The disclosure certificate and s75 notice will specify the documents and other contents of the brief of evidence through a detailed description.

COSTS

28. The ICAC is responsible for meeting the expenses of security arrangements for ICAC witnesses who are the subject of witness security arrangements.
29. The ODPP is responsible for meeting the cost of witness expenses for those witnesses who are not the subject of witness security arrangements. These expenses include travel costs in all prosecutions conducted by the ODPP and any order for costs to be paid to the defendant if the prosecution fails.
30. The ICAC will bear the costs relating to the investigation of the charge and the obtaining of evidence.
31. The ODPP and the ICAC may make arrangements for the sharing of costs associated with the preparation of evidence for trial.
32. The ICAC will be responsible for arranging for the attendance of witnesses at the hearings. The ODPP will provide the ICAC with information, updated as necessary explaining payment of costs and related matters. The ICAC will forward relevant aspects of this information to witnesses.

SUMMARY HEARINGS, COMMITTAL AND TRIAL

33. The ODPP will provide subpoenas to the ICAC within an adequate time to permit the ICAC to attend to service.
34. The ODPP lawyer with the carriage of a prosecution will liaise with relevant ICAC officers in relation to witnesses and exhibits that will be required at hearings.
35. The ICAC is generally responsible for the storing and transporting of ICAC exhibits and original documentation. The ICAC will arrange for attendance by appropriate ICAC officer(s) at hearings.

DECISION NOT TO PROCEED

36. The ODPP will convey to the ICAC, in writing when requested, short reasons why prosecutions are not commenced or continued. In particular, it will advise if it be the case that a prosecution cannot be continued because a witness has become unavailable or has declined to provide evidence.

POINTS OF CONTACT

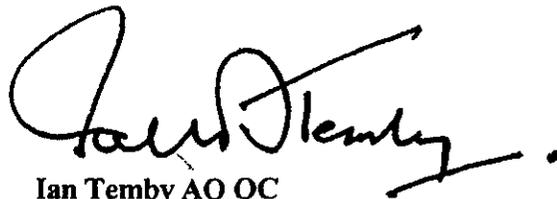
37. The official points of contact, and the points of contact for all matters of a serious or sensitive nature, will be the Deputy Commissioner of the ICAC and the Managing Lawyer for ODPP Group 6.
38. As well as liaising in respect of specific issues that might arise, these officers will meet at least once every two months to discuss the progress of preparation of advice by ODPP lawyers and the progress of responses to requisitions by ICAC officers.
39. The usual points of contact for each prosecution will be between the relevant ODPP lawyer and the ICAC case lawyer.
40. When the ICAC works jointly on investigations with another investigative body or bodies, an officer from the ICAC will be nominated to be the contact officer in relation to the answering of requisitions and the collation of the brief of evidence.
41. The address for all correspondence between the ICAC and the ODPP is:

To the ICAC:
The Solicitor to the Commission
Independent Commission Against Corruption
DX 557 SYDNEY
ATTENTION:(name of ICAC case lawyer)

To the ODPP:
Solicitor for Public Prosecutions
Office of the Director of Public Prosecutions
DX 11525 SYDNEY DOWNTOWN



The Hon David Ipp AO QC
Commissioner ICAC



Ian Temby AO QC
A/Director of Public Prosecutions

**PROSECUTION TIMESCALES
FOR
MATTERS CURRENT
FROM
1 JULY 2010 TO 19 JANUARY 2012**

| REPORT | DATE OF REPORT | DATE BRIEF TO DPP | DAYS FROM REPORT TO BRIEF TO DPP | DATE OF DPP REQUISITIONS | DATE OF RESPONSE TO DPP REQUISITIONS | DATE OF FINAL DPP ADVICE | DAYS BETWEEN DELIVERY OF BRIEF AND FINAL DPP ADVICE |
|-----------|----------------|-------------------|----------------------------------|--------------------------|--------------------------------------|--------------------------|-----------------------------------------------------|
| CASSOWARY | | | | | | | |
| Whitcher | 14/12/05 | 14/12/07 | 730 | 4/8/09 & | 13/9/09 & | | |
| Whaanga | 14/12/05 | 14/12/07 | 730 | 13/8/09 | 11/9/09 | | |
| Fraser | 14/12/05 | 14/12/07 | 730 | | | | |
| Ratkovic | 14/12/05 | 14/12/07 | 730 | | | | |
| Browning | 14/12/05 | 14/12/07 | 730 | Preliminary | Statements | | |
| Gomez | 14/12/05 | 14/12/07 | 730 | advice | being | | |
| Mohammad | 14/12/05 | 14/12/07 | 730 | received | obtained. | | |
| Abboud | 14/12/05 | 14/12/07 | 730 | 8/9/11 but | | | |
| Leon | 14/12/05 | 14/12/07 | 730 | subject to | | | |
| Noel | 14/12/05 | 14/12/07 | 730 | obtaining | | | |
| Ritchie | 14/12/05 | 14/12/07 | 730 | further | | | |
| Kalland | 14/12/05 | 14/12/07 | 730 | statements | | | |
| Burton | 14/12/05 | 14/12/07 | 730 | from | | | |
| Bacon | 14/12/05 | 14/12/07 | 730 | WorkCover. | | | |
| Bishop | 14/12/05 | 14/12/07 | 730 | | | | |
| McAndrew | 14/12/05 | 14/12/07 | 730 | | | | |
| Atkins | 14/12/05 | 14/12/07 | 730 | | | | |
| McMaster | 14/12/05 | 14/12/07 | 730 | | | | |
| Moya | 14/12/05 | 14/12/07 | 730 | | | | |
| Senior | 14/12/05 | 14/12/07 | 730 | | | | |

| REPORT | DATE OF REPORT | DATE BRIEF TO DPP | DAYS FROM REPORT TO BRIEF TO DPP | DATE OF DPP REQUISITIONS | DATE OF ICAC FINAL RESPONSE TO DPP REQUISITIONS | DATE OF FINAL DPP ADVICE | DAYS BETWEEN DELIVERY OF BRIEF AND FINAL DPP ADVICE |
|------------|----------------|-------------------|----------------------------------|--------------------------|-------------------------------------------------|--------------------------|-----------------------------------------------------|
| AMBROSIA | | | | | | | |
| Williams | 21/12/05 | 16/3/07 | 450 | | | 3/3/11* | *Awaiting details from DPP |
| More | 21/12/05 | 16/3/07 | 450 | | | 3/3/11* | *Awaiting details from DPP |
| Younis | 21/12/05 | 16/3/07 | 450 | | | | |
| Kayrouz | 21/12/05 | 16/3/07 | 450 | | | | |
| Aboulhosn | 21/12/05 | 16/3/07 | 450 | | | 3/3/11* | *Awaiting details from DPP |
| Sleiman | 21/12/05 | 16/3/07 | 450 | | | 3/3/11* | *Awaiting details from DPP |
| Karam | 21/12/05 | 16/3/07 | 450 | | | | |
| Bazouni | 21/12/05 | 16/3/07 | 450 | | | 4/11/11 | 1694 |
| Tannous | 21/12/05 | 16/3/07 | 450 | | | 15/6/11 | 1552 |
| Makdessi | 21/12/05 | 16/3/07 | 450 | | | 15/6/11 | 1552 |
| Nader | 21/12/05 | 16/3/07 | 450 | | | 15/6/11 | 1552 |
| Ben | 21/12/05 | 16/3/07 | 450 | | | 21/6/11 | 1558 |
| Dib | 21/12/05 | 16/3/07 | 450 | | | 23/6/11 | 1560 |
| Punz | 21/12/05 | 16/3/07 | 450 | | | | |
| Borovina | 21/12/05 | 16/3/07 | 450 | | | 4/11/11 | 1694 |
| Akiki | 21/12/05 | 16/3/07 | 450 | | | 4/11/11 | 1694 |
| Ayoub | 21/12/05 | 16/3/07 | 450 | | | 3/3/11* | *Awaiting details from DPP |
| Harb, B | 21/12/05 | 16/3/07 | 450 | | | 16/6/11 | 1553 |
| Allem | 21/12/05 | 18/9/07 | 636 | | | | |
| Megas | 21/12/05 | 22/4/08 | 853 | | | | |
| Constantin | 21/12/05 | 18/9/07 | 636 | | | | |
| Barrakat | 21/12/05 | 17/3/08 | 817 | | | | |

| REPORT | DATE OF REPORT | DATE BRIEF TO DPP | DAYS FROM REPORT TO BRIEF TO DPP | DATE OF DPP REQUISITIONS | DATE OF ICAC FINAL RESPONSE TO DPP REQUISITIONS | DATE OF FINAL DPP ADVICE | DAYS BETWEEN DELIVERY OF BRIEF AND FINAL DPP ADVICE |
|---------------------------------------------------------------------------------------------|----------------------------------------------------------|----------------------------------------------------------------------|----------------------------------------------------------------------------------|------------------------------------------------|--------------------------------------------------------|----------------------------------------------------------|----------------------------------------------------------------------------------|
| GREENWAY Murray | 31/1/08 | 30/9/08 | 243 | 6/2/09 | 29/06/09 | 6/12/10 | 797 |
| MONTO F Blackstock Madrajat Ward Chambers Clarke | 13/8/08 13/8/08 13/8/08 13/8/08 13/8/08 | 14/10/08 14/10/08 14/10/08 14/10/08 14/10/08 | 62 62 62 62 62 | 12/03/09 12/03/09 12/03/09 Nil Nil | 21/10/09 22/7/09 12/10/09 N/A N/A | 12/1/11 12/1/11 11/1/11 4/11/10 17/9/10 | 820 820 819 751 703 |
| MONTO C Hughes Kuipers, W Kuipers, K | 13/8/08 13/8/08 13/8/08 | 31/10/08 31/10/08 31/10/08 | 79 79 79 | 28/5/09 28/5/09 28/5/09 | 16/06/09 16/06/09 16/06/09 | 3/9/10 9/3/11 9/3/11 | 672 859 859 |
| MONTO B Walker Azzopardi Kuipers, W Napier, Michael Napier, Matt Dulhunty | 8/9/08 8/9/08 8/9/08 8/9/08 8/9/08 8/9/08 | 22/04/09 22/04/09 22/94/09 22/04/09 22/04/09 22/04/09 | 226 226 226 226 226 226 | Nil Nil Nil Nil Nil Nil | N/A N/A N/A N/A N/A N/A | 1/2/11 1/2/11 1/2/11 1/2/11 1/2/11 1/2/11 | 650 650 650 650 650 650 |
| MONTO D Stanic Szoboszlai Kouraas Palombo | 8/9/08 8/9/08 8/9/08 8/9/08 | 7/7/09 7/7/09 7/7/09 7/7/09 | 302 302 302 302 | Nil Nil Nil Nil | N/A N/A N/A N/A | 20/9/11 20/9/11 20/9/11 20/9/11 | 805 805 805 805 |

| | DATE OF REPORT | DATE BRIEF TO DPP | DAYS FROM REPORT TO BRIEF TO DPP | DATE OF DPP REQUISITIONS | DATE OF ICAC FINAL RESPONSE TO DPP REQUISITIONS | DATE OF FINAL DPP ADVICE | DAYS BETWEEN DELIVERY OF BRIEF AND FINAL DPP ADVICE |
|-------------------|-----------------------|--------------------------|-----------------------------------------|---------------------------------|--------------------------------------------------------|---------------------------------|------------------------------------------------------------|
| MONTO A | | | | | | | |
| Hetman | 25/9/08 | 14/10/09 | 384 | | | | |
| Murdocca, D | 25/9/08 | 14/10/09 | 384 | | | | |
| Murdocca, S | 25/9/08 | 14/10/09 | 384 | | | | |
| Murdocca, P | 25/9/08 | 14/10/09 | 384 | | | | |
| MONTO E | | | | | | | |
| Akkawi | 25/9/08 | 23/04/09 | 210 | N/A | N/A | 13/9/10 | 508 |
| ATLAS | | | | | | | |
| Morgan (Ch 5) | 8/10/08 | 17/7/09 | 282 | 20/5/11 | | | |
| Morgan (Ch 3 & 4) | 8/10/08 | 17/7/09 | 282 | N/A | N/A | 28/9/10 | 438 |
| Morgan (Ch 11) | 8/10/08 | 13/7/09 | 278 | N/A | N/A | 28/9/10 | 442 |
| Vellar (Ch 5) | 8/10/08 | 17/7/09 | 282 | | | | |
| Vellar (Ch 9) | 8/10/08 | 6/7/09 | 271 | 20/5/11 | | | |
| Vellar (Ch 9) | 8/10/08 | 13/7/09 | 278 | N/A | N/A | 28/9/10 | 442 |
| Zanotto (Ch 9) | 8/10/08 | 6/7/09 | 271 | | | | |
| Zanotto (Ch 11) | 8/10/08 | 13/7/09 | 278 | N/A | N/A | 6/5/11 | 662 |
| Younan (Ch 11) | 8/10/08 | 13/7/09 | 278 | N/A | N/A | 6/5/11 | 662 |
| Younan (s.87) | 8/10/08 | 13/7/09 | 278 | | | | |
| Carroll (Ch 11) | 8/10/08 | 13/7/09 | 278 | N/A | N/A | 6/5/11 | 662 |
| Carroll (s.87) | 8/10/08 | 13/7/09 | 278 | | | | |
| Tasich (Ch 11) | 8/10/08 | 13/7/09 | 278 | N/A | N/A | 6/5/11 | 662 |
| Scimone (Ch 11) | 8/10/08 | 13/7/09 | 278 | N/A | N/A | 28/9/10 | 442 |
| Gigliotti (Ch 11) | 8/10/08 | 13/7/09 | 278 | N/A | N/A | 28/9/10 | 442 |
| Tabak (Ch 3) | 8/10/08 | 17/7/09 | 282 | N/A | N/A | 20/5/11 | 672 |

| | DATE OF REPORT | DATE BRIEF TO DPP | DAYS FROM REPORT TO BRIEF TO DPP | DATE OF DPP REQUISITIONS | DATE OF ICAC FINAL RESPONSE TO DPP REQUISITIONS | DATE OF FINAL DPP ADVICE | DAYS BETWEEN DELIVERY OF BRIEF AND FINAL DPP ADVICE |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|--------------------------------------------------------|---------------------------------|------------------------------------------------------------|
| MONTO GHJ&MINERVA Laidlaw Kotevski Hansen Araldi Hili Schliebs Severino Petrovski Affleck Penny Skinner Dulhunty | 19/11/08 19/11/08 19/11/08 19/11/08 19/11/08 19/11/08 19/11/08 19/11/08 19/11/08 19/11/08 19/11/08 19/11/08 19/11/09 | 25/11/09 25/11/09 25/11/09 25/11/09 25/11/09 25/11/09 25/11/09 25/11/09 25/11/09 25/11/09 25/11/09 25/11/09 25/11/09 | 371 371 371 371 371 371 371 371 371 371 371 371 371 | | | | |
| MIRNA Sanhueza C. Taylor A Taylor Xuereb | 18/12/08 18/12/08 18/12/08 18/12/08 | 8/1/09 8/1/09 8/1/09 8/1/09 | 21 21 21 21 | | | | |
| TAMBO Pevec. G Murdocca Pevec. L | 9/9/09 9/9/09 9/9/09 | 8/2/10 11/2/10 11/2/10 | 152 155 155 | Nil | N/A | 23/9/11 | 592 |
| CHAUCER Khan. W Ali Khan. T | 23/9/09 23/9/09 23/9/09 | 29/9/09 29/9/09 29/9/09 | 6 6 6 | Nil Nil Nil | N/A N/A N/A | 4/4/11 28/2/11 28/2/11 | 552 517 517 |

| | DATE OF REPORT | DATE BRIEF TO DPP | DAYS FROM REPORT TO BRIEF TO DPP | DATE OF DPP REQUISITIONS | DATE OF ICAC FINAL RESPONSE TO DPP REQUISITIONS | DATE OF FINAL DPP ADVICE | DAYS BETWEEN DELIVERY OF BRIEF AND FINAL DPP ADVICE |
|-------------------------|-----------------------|--------------------------|-----------------------------------------|---------------------------------|--------------------------------------------------------|---------------------------------|------------------------------------------------------------|
| ARGYLE | | | | | | | |
| Smith | 4/11/09 | 12/10/10 | 342 | 12/1/11 | 5/9/11 | 5/10/11 | 358 |
| Rossello | 4/11/09 | 14/9/10 | 314 | 12/4/11 | 19/5/11 | 12/4/11 | 210 |
| COLUMBA | | | | | | | |
| Merchant | 9/12/09 | 24/5/10 | 166 | Nil | N/A | 19/1/12 | 605 |
| Hyland | 9/12/09 | 24/5/10 | 166 | “ | “ | “ | 605 |
| Moosani | 9/12/09 | 24/5/10 | 166 | “ | “ | “ | 605 |
| Camilleri | 9/12/09 | 24/5/10 | 166 | “ | “ | “ | 605 |
| Alqudsi | 9/12/09 | 24/5/10 | 166 | “ | “ | “ | 605 |
| Raghavan | 9/12/09 | 24/5/10 | 166 | “ | “ | “ | 605 |
| Brandusoiu | 9/12/09 | 24/5/10 | 166 | “ | “ | “ | 605 |
| Wheeler | 9/12/09 | 24/5/10 | 166 | “ | “ | “ | 605 |
| SEGOMO* | | | | | | | |
| Hart | 15/3/10 | 7/9/10 | 176 | 11/3/11 & | 17/5/11 | | |
| Paul | 15/3/10 | 7/9/10 | 176 | 11/10/11 | (working on | | |
| Kelly | 15/3/10 | 7/9/10 | 176 | “ | 11/10/11 reqs) | | |
| Trinder | 15/3/10 | 7/9/10 | 176 | “ | | | |
| Nankivell | 15/3/10 | 7/9/10 | 176 | “ | | | |
| (*With Crown Solicitor) | | | | | | | |
| CENTURION | | | | | | | |
| Pyo | 13/5/10 | 13/5/10 | 0 | Nil | N/A | 19/8/11 | 463 |
| CORAL | | | | | | | |
| Garzaniti | 2/6/10 | 18/6/10 | 16 | Nil | N/A | 24/9/10 | 463 |
| CORSAIR | | | | | | | |
| Cooper | 10/6/10 | 26/5/10 | (-15) | Nil | N/A | 6/5/11 | 345 |

| | DATE OF REPORT | DATE BRIEF TO DPP | DAYS FROM REPORT TO BRIEF TO DPP | DATE OF DPP REQUISITIONS | DATE OF ICAC FINAL RESPONSE TO DPP REQUISITIONS | DATE OF FINAL DPP ADVICE | DAYS BETWEEN DELIVERY OF BRIEF AND FINAL DPP ADVICE |
|-----------------------------------------------------------|------------------------------------------------------|------------------------------------------------|---------------------------------------------------------------|---------------------------------|--------------------------------------------------------|---------------------------------|------------------------------------------------------------|
| CORINTH Paluzzano | 13/7/10 | 19/7/10 | 6 | 24/2/11 & 1/5/11 | 3/3/11 & 8/7/11 | 21/9/11 | 429 |
| CICERO Wade | 27/7/10 | 9/9/10 | 44 | Nil | N/A | 11/11/10 | 63 |
| AVOCA Gamage | 12/8/10 | 27/7/10 | (-16) | Nil | N/A | 20/1/11 | 177 |
| VARGAS Kelly Dacombe | 1/9/10 1/9/10 | 19/11/10 19/11/10 | 79 79 | 10/2/11 | 13/9/11 | 2/8/11 | 256 |
| SYRACUSE D'Amore | 7/12/10 | 10/3/11 | 93 | 29/4/11 & 21/9/11 | 8/7/11 Being done | | |
| CHALLENGER Higgs Turner | 21/12/10 21/12/10 | 21/12/10 21/12/10 | 0 0 | 8 & 20/9/11 | 27/9 to 17/10 | 18/7/11 18/7/11 | 209 209 |
| SIREN Buckley Funovski Kane Harvey Makucha | 22/3/11 22/3/11 22/3/11 22/32/11 22/3/11 | 1/4/11 1/4/11 1/4/11 1/4/11 1/4/11 | 10 10 10 10 10 | 2/5/11 & 10/11/11 | | | |
| MAGNUS Romano (PD) Romano | 20/4/11 20/4/11 | 15/3/11 12/9/11 | (-35) 145 | Nil 14/10/11 | N/A | 16/3/11 | 0 |
| DANBY Chau | 12/5/11 | 12/7/11 | 61 | | | | |
| CHURCHILL Karkowski | 22/6/11 | 8/7/11 | 16 | | | | |