



PARLIAMENT OF NEW SOUTH WALES

# Committee on the Independent Commission Against Corruption

REPORT 4/55 – OCTOBER 2013

REVIEW OF THE 2011-2012 ANNUAL REPORT OF THE  
INDEPENDENT COMMISSION AGAINST CORRUPTION



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The motto of the coat of arms for the state of New South Wales is "Orta recens quam pura nites". It is written in Latin and means "newly risen, how brightly you shine".

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# Membership

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# Functions of the Committee

## **INDEPENDENT COMMISSION AGAINST CORRUPTION ACT 1988 (ICAC ACT)**

### **Section 64 Functions**

(1) The functions of the Joint Committee are as follows:

- (a) to monitor and to review the exercise by the Commission and the Inspector of the Commission's and Inspector's functions,
- (b) to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission or the Inspector or connected with the exercise of its functions to which, in the opinion of the Joint Committee, the attention of Parliament should be directed,
- (c) to examine each annual and other report of the Commission and of the Inspector and report to both Houses of Parliament on any matter appearing in, or arising out of, any such report,
- (d) to examine trends and changes in corrupt conduct, and practices and methods relating to corrupt conduct, and report to both Houses of Parliament any change which the Joint Committee thinks desirable to the functions, structures and procedures of the Commission and the Inspector,
- (e) to inquire into any question in connection with its functions which is referred to it by both Houses of Parliament, and report to both Houses on that question.

(2) Nothing in this Part authorises the Joint Committee:

- (a) to investigate a matter relating to particular conduct, or
- (b) to reconsider a decision to investigate, not to investigate or to discontinue investigation of a particular complaint, or
- (c) to reconsider the findings, recommendations, determinations or other decisions of the Commission in relation to a particular investigation or complaint.

## Chair's Foreword

As part of its second annual report review for this Parliament, the Committee examined a number of issues including: legislative changes, reporting of travel expenses, investigating corruption and the ICAC's corruption prevention projects.

The reporting of travel expenses was examined by the Committee, and the Committee notes that while overseas trips paid for by other organisations were recorded, the annual report did not explicitly state that travel costs were met by other organisations, nor did it provide the costs borne by the hosting organisation. The Committee considers that it is preferable for the ICAC to note where part or all of ICAC staff travel expenses are paid for by other organisations.

Three amendments have been made to the *Independent Commission Against Corruption Act 1988* since the Committee's last review. In October 2012 an amendment was made to remove any doubt that the ICAC could access the registers of disclosures as part of its investigations into mining tenements. The *Act* was also amended to improve public sector organisations' ability to take disciplinary action where corruption findings have been made against employees. This amendment implemented a recommendation of the previous Committee.

A further amendment to the *Act* enabled agencies including the ICAC to simplify security vetting procedures for potential employees. The Committee is satisfied that these amendments will enhance the Commission's ability to perform its statutory functions.

The Committee examined whether the increasingly complex investigative environment and an increasing number of investigations had impacted on the ICAC's performance of its functions. The Committee is satisfied that increased funding and the refinement of investigation procedures has enabled the ICAC to continue to satisfactorily investigate and expose corrupt conduct in the NSW public sector.

In terms of prosecutions arising from investigations, the ICAC has continued to refine processes for the provision of briefs to the Office of the Director of Public Prosecutions and to improve liaison with the DPP.

While the wider community often focuses on the ICAC's corruption investigations, corruption prevention and provision of education and advice are equally important statutory functions. In 2011-2012, the ICAC's Corruption Prevention Division undertook a number of education and corruption prevention projects on: procurement; anti-corruption safeguards in state planning; non-government organisations, and information and communications technology contractors.

The Committee has been assisted in its work by the co-operation and assistance shown by Commissioner Ipp and Commission staff. I thank my fellow Committee members for their work on the Committee, and in particular I wish to acknowledge the contribution of the former Chair, Mr Mark Speakman. I also wish to thank Committee staff for their work and support.

**Dominic Perrottet MP**  
Chair





# Commentary

1. The functions of the Committee on the Independent Commission Against Corruption (the Committee) include examining each annual report and other report of the Independent Commission Against Corruption (the ICAC) and reporting to both Houses of Parliament on any matter appearing in, or arising out of, such reports.

## INTRODUCTION

2. The ICAC's role is to investigate, expose and prevent public sector corruption and to educate the community and public sector about corruption. The ICAC's functions include investigating complaints of corrupt conduct; examining laws, practices and procedures to detect corrupt conduct and to secure changes in work methods or procedures that may be conducive to corrupt conduct; advising and instructing public authorities and officials about changes in practices and procedures to reduce the likelihood of corrupt conduct; and educating the public and providing information about the detrimental effects of corrupt conduct and the importance of maintaining integrity in public administration.<sup>1</sup> The ICAC is also required to investigate matters referred to it by both Houses of Parliament.
3. As part of the current review, the ICAC was provided with questions on notice on matters arising from the *ICAC Annual Report 2011-2012* and the Committee conducted a public hearing on 21 June 2013. The full text of answers to questions on notice and the transcript of evidence from the public hearing are reproduced as Appendices to this report.
4. The Committee's review has focused on the following issues:
  - (1) Legislative changes
  - (2) Reporting of travel expenses
  - (3) Investigating corruption
  - (4) Corruption prevention projects.

## LEGISLATIVE CHANGES

5. Since the Committee's last review, three amendments have been made to the ICAC Act. At the public hearing held on 21 June 2013, the Committee enquired if the Commissioner proposed any further amendments to the Act. In response, the Commissioner advised that he is 'a person perfectly content'<sup>2</sup> and that, from his perspective, no further amendments (including any suggested by recent Victorian and South Australian legislation) are currently required.
6. A brief summary of the effect of the three amendments to the Act follows.

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<sup>1</sup> *Independent Commission Against Corruption Act 1988* s 13

<sup>2</sup> The Hon David Ipp AO QC, Commissioner of the ICAC, *Transcript of evidence*, 21 June 2013, p4

*Independent Commission Against Corruption Amendment (Register of Disclosures by Members) Act 2012*

7. The Independent Commission Against Corruption Amendment (Register of Disclosures by Members) Bill was introduced in October 2012 to clarify any uncertainty that the ICAC could access the Registers of Disclosures of Members of Parliament (pecuniary interest register), maintained by the Clerks of each House.
8. The ICAC had sought to obtain access to the registers of the Legislative Council as part of its investigations into mining tenements, however questions were raised as to whether parliamentary privilege applied to the registers. Legal advice was sought by the Presiding Officers and legislation enacted to remove any doubt that the ICAC could access the registers.<sup>3</sup>

*Independent Commission Against Corruption Amendment (Disciplinary Proceedings) Act 2013*

9. This Act implemented a recommendation made by a previous ICAC Committee, as part of an inquiry into proposed amendments to the ICAC Act. The inquiry was initiated when the ICAC proposed certain amendments including an amendment to allow evidence obtained under objection by the ICAC to be used in subsequent disciplinary proceedings against an individual.
10. The Committee's report *Proposed amendments to the Independent Commission Against Corruption Act 1988* was tabled in September 2010, and recommended that the Act be amended to facilitate the proposed amendment.
11. The amendment alleviates the need for an employer to conduct a separate investigation into a public official's conduct, by authorising employers to take disciplinary action on the basis of the ICAC's corruption findings, and to use self-incriminating evidence given by the official to the ICAC. Previously, when a public official was found by the ICAC to have engaged in corrupt conduct, the official's employer was required to conduct their own investigation to determine if there had been misconduct before taking disciplinary action.<sup>4</sup>
12. In making its recommendation to amend the Act, the previous Committee noted that the amendment would remove the duplication of effort:

The Committee received evidence that the removal of the restriction has the potential to assist government agencies in the often resource intensive and time consuming task of investigating and commencing disciplinary and civil matters arising from an ICAC investigation. The ability to use evidence provided under objection to the ICAC would improve the efficiency and timeliness of such proceedings, which in turn supports the public interest in ensuring that those who have admitted to corrupt conduct face disciplinary action and, where applicable, the proceeds of their corrupt conduct are recovered.<sup>5</sup>

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<sup>3</sup> New South Wales, Legislative Assembly, *Debates*, 23 October 2012, p 16215 (Barry O'Farrell, Premier)

<sup>4</sup> New South Wales, Legislative Assembly, *Debates*, 28 February 2013, p 18285 (Barry O'Farrell, Premier)

<sup>5</sup> Committee on the ICAC, *Proposed amendments to the Independent Commission Against Corruption Act 1988*, report 10/54, September 2010, p v

13. The amendment will improve the ability of public sector organisations to take disciplinary action where corruption findings have been made and avoid waste of resources by removing the need to conduct a separate investigation.

*Independent Commission Against Corruption and Other Legislation Amendment Act 2013*

14. In a previous annual report review, the ICAC raised the issue of restrictions on using the NSW Police Computerised Operational Policing System (“COPS”) database when assessing the suitability of applicants for employment. The COPS database holds information on criminal convictions, court appearances, use of aliases and background intelligence.<sup>6</sup>
15. The NSW Police Force had obtained legal advice indicating that the ICAC could not access the COPS database for the purpose of vetting potential employees, as the access could breach the *Privacy and Personal Information Protection Act 1998*.
16. In answer to a question on notice as part of the 2010-2011 inquiry, the ICAC noted that its inability to use the COPS database posed a significant security risk and delays in undertaking security vetting had an adverse impact on its ability to recruit staff in a timely manner.<sup>7</sup>
17. Following representations by ICAC to the Premier, the ICAC Act was amended in May 2013. The amendment enabled a number of agencies, including the ICAC and the Inspector of the ICAC, to use, request and disclose certain information, including criminal intelligence, when vetting applicants for employment. The agencies may also authorise use, request and disclose information about associates and family members of the applicant, without the consent of the applicant.
18. The Committee recognises the importance of ICAC and other agencies being able to carry out due diligence on potential employees and is satisfied that the amendment requested by the ICAC will provide administrative efficiency by simplifying vetting procedures for potential employees.

**REPORTING OF TRAVEL EXPENSES**

19. In its 2010-2011 annual report review, the Committee considered that travel expenses for ICAC officers travelling overseas paid for by other organisations should be included in the ICAC’s annual report:

The Committee notes that in its reporting of overseas visits, the ICAC complies with current reporting requirements outlined in the NSW annual reporting legislation, as well as those outlined in the ICAC Act. However, the Committee considers that travel expenses for ICAC officers travelling overseas paid for by other organisations, and

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<sup>6</sup> Committee on the ICAC, *Review of the 2009-10 and 2010-11 Annual Reports of the ICAC*, report 1/55, June 2012, pp 5-6

<sup>7</sup> ICAC, *Answers to questions on notice 2012*, 25 January 2012, question 7, p 5

any ICAC expenditure on conferences in Australia including any money paid for overseas attendees, should be included in the annual report.<sup>8</sup>

20. At the public hearing held on 21 June 2013, the reporting of overseas trips paid for by hosting organisations was again raised by the Committee. The trips were listed in the ICAC's Annual Report<sup>9</sup>, however, the report did not explicitly state that the travel costs were met by another organisation, nor did it provide the costs borne by the hosting organisation. The ICAC pointed out that while the costs were not itemised in the annual report, they were however reported to the Department of Premier and Cabinet.<sup>10</sup>
21. The Committee considers that the current method of reporting travel expenses paid for by hosting organisations is insufficient. In line with the previous report, the Committee continues to consider that, while not a statutory requirement, for clarity and ease of understanding, it would be preferable for the ICAC to note in its annual report where part or all of ICAC staff travel expenses are paid for by other organisations.

## INVESTIGATING CORRUPTION

22. The Committee heard evidence of an increase in the ICAC's investigative workload in the 2011-2012 reporting period. The Commissioner informed the Committee that the ICAC currently conducts an average of 15 full investigations at any one time, a 50% increase on the previous four year average.<sup>11</sup> In addition to this, investigations are becoming increasingly complex and resource intensive. The ICAC's Annual Report noted the challenge of this increasing complexity:

The size and complexity of investigations the Commission undertakes is a continuing challenge. The facts investigated by the Commission are increasingly complex, involving interrelated activities by multiple parties in highly specialised fields. Additionally, the explosion of digital communications and the increasing complexity of records capture continue to test the Commission's investigative capability.<sup>12</sup>

23. The Committee examined the impact of the increased workload on the timeliness of the conduct of investigations, whether the ICAC was resourced adequately and the ICAC's refinement of investigation procedures.

### Timeliness of the conduct of investigations

24. The Investigation Division conducts preliminary investigations on all matters referred to it, with the aim of completing 80% of preliminary investigations within 120 days.<sup>13</sup> The outcome of a preliminary investigation will determine whether or not a matter is escalated to a full investigation known as an operation. At the public hearing held on 21 June 2013, the Commissioner told the Committee that

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<sup>8</sup> Committee on the ICAC, *Review of the 2009-2010 and 2010-2011 Annual Reports of the Independent Commission Against Corruption*, report 1/55, June 2012, p 7

<sup>9</sup> ICAC, *Annual Report 2011-2012*, p 141

<sup>10</sup> Ms Theresa Hamilton, Deputy Commissioner of the ICAC, *Transcript of evidence*, 21 June 2013, p 15

<sup>11</sup> The Hon David Ipp AO QC, Commissioner of the ICAC, *Transcript of evidence*, 21 June 2013, p 2

<sup>12</sup> ICAC, *Annual Report 2011-2012*, p 33

<sup>13</sup> ICAC, *Answers to questions on notice 2013*, q 9, p 5

while the average number of preliminary investigations undertaken by the ICAC has remained relatively stable for the past five years, the seriousness of the matters being investigated has increased.<sup>14</sup>

25. The percentage of preliminary investigations completed within 120 days increased from 41% in 2010-2011 to 77% in 2011-2012.<sup>15</sup> A significant factor in the improvement was the establishment of a preliminary investigation team in 2010.
26. While the percentage of preliminary investigations completed within 120 days greatly increased, the Committee notes that in the same period the percentage of operations completed within twelve months decreased slightly from 95% to 90%. However, this was still well above the ICAC's target of completing 80% of full investigations within 12 months.<sup>16</sup>
27. The Committee understands that the slight decrease is due to a number of factors, including the higher volume of completed preliminary investigations leading to a greater number of matters being identified and upgraded to a full investigation earlier, and the increased complexity of investigations. Speaking at the public hearing, the Commissioner discussed the circumstances affecting the completion of full investigations:

There has been an increase in the preliminary investigations completed within our timeliness standards from a five-year low of around 40 per cent to now more than 80 per cent. This in turn has resulted in a steady upward trend in the number of full investigations undertaken by the Commission. Added to this is the increased complexity of the investigations. These factors together are responsible for the significant pressure on the Commission's investigation resources. Timeliness for completion of full investigations has been affected by this.<sup>17</sup>

### Resources to conduct investigations

28. Resourcing of the ICAC has been raised by the Commission as an issue during previous annual report reviews.<sup>18</sup> However the Committee heard that for the 2011-2012 reporting period, funding levels had been at an appropriate level and that sufficient funding had been allocated for the upcoming year.<sup>19</sup>
29. The Commissioner informed the Committee that a \$3.2 million funding grant had enabled the ICAC to conduct several significant investigations and to construct a new hearing room. A further grant of \$3.5 million enabled the ICAC to continue with the investigations and to ensure further investigations could be undertaken, while maintaining normal activity across all divisions:

The Commission has been able to maintain its overall output, and to a substantial extent its compliance with its internal standards on all of its other statutory

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<sup>14</sup> The Hon David Ipp AO QC, Commissioner of the ICAC, *Transcript of evidence*, 21 June 2013, p 2

<sup>15</sup> ICAC, *Annual Report 2011-2012*, p 35

<sup>16</sup> ICAC, *Annual Report 2011-2012*, p 34

<sup>17</sup> The Hon David Ipp AO QC, Commissioner of the ICAC, *Transcript of evidence*, 21 June 2013, p 2

<sup>18</sup> Committee on the ICAC, *Review of the 2008-2009 Annual Report of the Independent Commission Against Corruption*, report 12/54, November 2010, p 8

<sup>19</sup> The Hon David Ipp AO QC, Commissioner of the ICAC, *Transcript of evidence*, 21 June 2013, p 3

activities, including the investigation of other potential instances of corrupt conduct.<sup>20</sup>

30. The Committee accepts the Commissioner's comments about the resourcing of the ICAC and notes that the receipt of additional funding and resources has enabled the ICAC to conduct operations of this scale without impacting on the output of other divisions.

### Refinement of investigative procedures

31. The Committee was informed that in the 2011-12 reporting period, the ICAC conducted a review of standards to improve efficiency, consistency and investigative practice. This led to the development of a policy and standard known as the *General Investigation Standards and Procedures* (GISP) to inform the conduct of investigations. The development of the GISP has enabled the ICAC to:

- Identify and resolve policy and procedural gaps in the Commission's Operations and Assessments Manual
- Eliminate any inter-divisional inconsistencies in the Commission's approach to the investigative process
- Provide a solid framework for future quality assurance audits, and
- Guide improvements to the Commission's electronic case and file management systems.<sup>21</sup>

32. The GISP is modelled on the Australian Government Investigation Standards, taking into account the specific jurisdiction and requirements of the ICAC.<sup>22</sup> The ICAC informed the Committee that subsequent to the development of the GISP, a substantive review of the Operations Manual had commenced with an expected completion date of June 2014.<sup>23</sup>

33. In light of the continuing challenge of investigating increasingly large and complex matters, the Committee will continue to follow developments in this area and expects to hear that this review will have a positive impact on the practices of the Investigation Division.

### Prosecution of matters arising from investigations

34. Prosecuting matters arising from ICAC investigations is an issue that has occupied the Committee in previous reviews. At the public hearing with the Inspector of the ICAC, His Honour Harvey Cooper AM, the Committee raised the issue of community expectations that particular findings and prosecutions would occur for certain individuals. The Inspector commented that the public perception on prosecution of matters demonstrated a lack of understanding of the role of the ICAC:

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<sup>20</sup> The Hon David Ipp AO QC, Commissioner of the ICAC, *Transcript of evidence*, 21 June 2013, p 2

<sup>21</sup> ICAC, *Annual Report 2011-2012*, p 33

<sup>22</sup> ICAC, *Answers to questions on notice 2013*, q8, p 4

<sup>23</sup> ICAC, *Answers to questions on notice 2013*, qu4, p 3

I get people who say, "This is just a sham; those people won't be charged." When you explain to them, "They don't have to be charged, that is not ICAC's function; the Commission's function is to determine the facts and then it is up to other people to decide whether there is evidence", they understand. They also understand that the Independent Commission Against Corruption can make findings on evidence that would not be admissible at a criminal trial.<sup>24</sup>

35. The Commissioner echoed the views of the Inspector when commenting on public perceptions, stating that it was 'quite unfair to blame the Commission for failure to get convictions.'<sup>25</sup>

36. The Committee enquired as to whether the ICAC considers the likelihood of conviction when determining whether to conduct a public inquiry. The Commissioner responded that the overriding factor in determining whether or not to have an inquiry was the likely possibility of being able to expose potential corruption, not the possibility of a conviction:

... assume hypothetically that the information we obtained which led us to hold a public inquiry was such as to lead us to the view that we had no hope of getting a criminal conviction but that the corruption which we could prove on the evidence available to us was such that it was in the public interest to have an inquiry. We would have the inquiry even though we knew that we would not get a criminal conviction before we even started if we were of the view that on the evidence available to us the potential corruption was so important that it justified exposing it. That is one of the factors that we always take into account.<sup>26</sup>

37. The Committee acknowledges the Commissioner's view and notes that the role of the ICAC is not prosecution of corrupt conduct, but rather:

- to investigate and expose corrupt conduct in the NSW public sector
- to actively prevent corruption through advice and assistance, and
- to educate the NSW community and public sector about corruption and its effects.<sup>27</sup>

38. In 2011-2012, the ICAC completed 20 full investigations and made findings of corrupt conduct against 14 people.<sup>28</sup> Of the 14 people against whom there had been a finding of corrupt conduct, nine were referred to the Director of Public Prosecutions (DPP) for consideration of prosecution action. At the time of tabling its Annual Report, the ICAC was finalising briefs of evidence for three matters and awaiting the DPP's decision on whether to prosecute on six matters.<sup>29</sup>

39. Delays by the Office of the DPP in deciding whether to prosecute in matters arising out of ICAC investigations and the working relationship between the ICAC

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<sup>24</sup> His Hon Harvey Cooper AM, Inspector of the ICAC, *Transcript of evidence*, 21 June 2013, p 3

<sup>25</sup> The Hon David Ipp AO QC, Commissioner of the ICAC, *Transcript of evidence*, 21 June 2013, p 8

<sup>26</sup> The Hon David Ipp AO QC, Commissioner of the ICAC, *Transcript of evidence*, 21 June 2013, pp 8-9

<sup>27</sup> ICAC, Overview, <<http://www.icac.nsw.gov.au/about-the-icac/overview>>, accessed 2 August 2013

<sup>28</sup> ICAC, *Annual Report 2011-2012*, p 38

<sup>29</sup> ICAC, *Annual Report 2011-2012*, pp 124-125

and the Office of the DPP has been a matter of interest for the Committee for several annual report reviews.

40. The Committee enquired on the working relationship between the ICAC and the Office of the DPP. The Committee notes that the relationship has continued to improve and that the ICAC Commissioner is satisfied with the improved timeliness of the DPP in providing decisions on briefs of evidence referred by the ICAC:

... The big improvement has been in the reduction of waiting time on the part of the Director of Public Prosecutions. We do not have to wait so long for the Director of Public Prosecutions to tell us what he is going to do and there has been a big improvement in that. That helps.<sup>30</sup>

41. In answer to a question on notice, the ICAC informed the Committee that the improved timeliness was attributable to a number of factors, including:

- regular liaison meetings between the Deputy Commissioner and the DPP officer responsible for ICAC briefs, and
- the introduction of a new policy of briefing the DPP's office on new matters before they are referred in order to assist the DPP with advance planning on likely resources required.<sup>31</sup>

42. Further to improved timeliness of the DPP in providing decisions, the ICAC reviewed its practices relating to the preparation of briefs of evidence for referral to the DPP. Several changes were introduced as a result of this review:

- Primary responsibility for brief preparation was handed from individual case officers to the Deputy Director of the Investigation Division.
- Case officers are, as far as practicable, no longer assigned further investigations until their outstanding briefs are completed.
- The Memorandum of Understanding (MoU) between the ICAC and DPP was revised so the timeframe allowed to the Investigative Division for the preparation of briefs was extended to 90 days.<sup>32</sup>

43. These changes led to 75% of briefs meeting the timeliness target at the end of the 2011-2012 reporting period, compared to 54% of briefs in the 2010-2011 reporting period.<sup>33</sup>

44. The Deputy Commissioner, Ms Theresa Hamilton, commented on the positive effect of the revised MoU:

There are currently only three matters with the Director of Public Prosecutions and they all went over last year. So it is still not the speed of light but it is certainly not

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<sup>30</sup> The Hon David Ipp AO QC, Commissioner of the ICAC, *Transcript of evidence*, 21 June 2013, p 12

<sup>31</sup> ICAC, *Answers to questions on notice 2013*, qu14, p 8

<sup>32</sup> ICAC, *Answers to questions on notice 2013*, qu15, pp 8-9

<sup>33</sup> ICAC, *Answers to questions on notice 2013*, qu15, p 9



the case anymore that matters are sitting there for years. All of the old matters have been finalised, and there are only three relatively new matters now with the DPP. So the system of working through and revising the MOU seems to have had an effect and we will keep that going.<sup>34</sup>

45. The Committee recognises the ongoing efforts made by ICAC to refine the process for the provision of briefs to the DPP and to improve liaison between the ICAC and the DPP. The Committee commends the ICAC for its commitment to minimising the time taken for preparation of briefs and will continue to monitor this issue during future annual report reviews.

## PREVENTING CORRUPTION

46. As discussed earlier in this report, while the wider community often focuses on the corruption investigation activities of the ICAC, the prevention of corruption and provision of education and advice are equally important statutory functions. The Committee examines the ICAC's performance of these functions in this section.
47. In 2011-2012, the ICAC had a substantial workload in terms of investigative work, requiring a one-off additional funding allocation from Treasury and the secondment of officers from other agencies.<sup>35</sup> The ICAC informed the Committee that the heavy investigative workload did not impact on the performance of the Corruption Prevention Division, and the division had been able to meet its planned workload in the areas of policy research and analysis, investigations, agency development and community awareness and reporting. This was mainly because the Corruption Prevention Division's officers were not as heavily involved in investigations as other sections.<sup>36</sup>

### Corruption prevention projects

48. In the 2011-2012 reporting period the Corruption Prevention Division undertook corruption prevention projects in the areas of procurement, anti-corruption safeguards in state planning, non-government organisations and information and communications technology contractors. In its annual report the ICAC noted that the projects were selected on the basis of the degrees of public concern and the extent of corruption risks.<sup>37</sup>

#### *Addressing corruption risks in NSW government procurement*

49. Over the previous two reporting periods the ICAC has examined the corruption risks associated with public sector procurement, culminating in the release of four papers, including *Corruption risks in NSW Government procurement – The management challenge*. The paper did not make recommendations for the prevention of corruption in relation to procurement, but rather provided options for managers to choose from based on the specific characteristics of their operating environment.

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<sup>34</sup> Ms Theresa Hamilton, Deputy Commissioner of the ICAC, *Transcript of evidence*, 21 June 2013, p 15

<sup>35</sup> The Hon David Ipp AO QC, Commissioner of the ICAC, *Transcript of evidence*, 21 June 2013, p 1

<sup>36</sup> The Hon David Ipp AO QC, Commissioner of the ICAC, *Transcript of evidence*, 21 June 2013, p 5

<sup>37</sup> ICAC, *Annual Report 2011-2012*, p 43

50. The ICAC informed the Committee that the paper had been well received and had led to numerous speaking engagements and the integration of new content into procurement training:

Anecdotally the paper was well received with positive feedback from numerous senior officers, including NSW Procurement and Transport for NSW. Invitations were accepted for 16 speaking engagements specifically relating to this paper reaching an audience of over 800 people. In addition, the paper has been picked up by several relevant newsletters and reprinted in some form. The content of the paper has also been integrated into the speaking program that followed the release of the Commission's report on Operation Jarek and in procurement training.<sup>38</sup>

#### *Anti-corruption safeguards in state planning*

51. In its 2011-2012 Annual Report, ICAC reported the release of *Anti-corruption safeguards and the NSW planning system* to communicate its views on key anti-corruption safeguards that should underpin the NSW planning system. The report contained six corruption prevention safeguards and 16 reform recommendations, and was submitted to a NSW Government review of the current planning system.
52. The release of the *Anti-corruption safeguards in state planning* report followed on from significant work already conducted by ICAC in the area of state planning, including the joint task force established in 2010 between ICAC and the NSW Department of Planning which led to 20 recommendations to amend Part 3A of the *Environmental Planning and Assessment Act 1979*.

#### *Decentralised delivery of human services by non-government organisations*

53. The 2011-2012 reporting period saw the ICAC conduct a research project into the corruption risks associated with the delivery of human services by non-government organisations (NGOs). The annual report noted that there has been a shift from centralised in-house delivery of human services<sup>39</sup> to outsourcing by funding NGOs. Each year NGOs receive billions of dollars from the NSW Government to deliver human services, often to very vulnerable clients. However oversight bodies such as the ICAC do not have any jurisdiction over the operations of NGOs, leading to opportunities for corrupt conduct.<sup>40</sup>
54. A consultation paper was released in August 2012. The ICAC also sought submissions from and consulted with relevant experts and examined decentralised human services delivery in Victoria and Scotland, considered leaders in the implementation of decentralised human services delivery.
55. A position paper was released in December 2012 with 18 recommendations in the areas of:
- segregation of duties and transparency of decisions within regions and local areas

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<sup>38</sup> ICAC, *Answers to questions on notice 2013*, qu 17, p 10

<sup>39</sup> The field of human services is broadly defined; it involves providing a range of health, welfare and social services to support the needs of individuals, families and communities: ICAC, *Funding NGO Delivery of Human Services in NSW: A period of transition – position paper*, p 4

<sup>40</sup> ICAC, *Annual Report 2011-2012*, p 44

- importance of adequate information and its effective management
- establishment of clear accountabilities within the system
- simplification of agency-NGO transactions
- enhanced central office oversight
- independent assurance of NGO governance capacity and service standards
- bringing funds provided by government to NGOs under the external oversight of the NSW Auditor-General and the ICAC.<sup>41</sup>

56. The ICAC informed the Committee in answer to a question on notice that it was working with the Department of Premier and Cabinet on issues arising from the report:

The ICAC continues to work with the Department of Premier and Cabinet (DPC) on this issue, as a result of interest expressed by several Ministers. DPC is working on the development of a more appropriate measurement and information system, a central part of the foundation of any decentralised control system.<sup>42</sup>

*Corruption prevention in the area of information and communications technology contractors*

57. The ICAC has conducted a number of investigations involving information and communications technology (ICT) contractors, leading them to research the area of corruption risks when engaging ICT contractors.

58. The ICAC's annual report noted that ICT contractors were often skilled in areas their project managers had little understanding of, leading to the potential for corrupt behaviour:

Often the contractors are the only people who understand the software, creating a long-term dependence on the contractor. This can lead to an over-reliance on contractors, and gives contractors an opportunity to manipulate ICT projects to corrupt ends; for example, by way of favouritism, oversupply, overcharging and under-delivery.<sup>43</sup>

59. The ICAC will release a publication in 2012-2013 on the ICT project, which will 'outline best practice principles drawn from private sector management'.<sup>44</sup> Given that approximately \$211 million is spent by the NSW Government each year on ICT contractor services,<sup>45</sup> the Committee is interested in the outcome of this research project.

## CONCLUSION

60. In examining the ICAC's operations in the 2011-2012 reporting period, the Committee found that there were no major areas of concern. The Committee is satisfied that the ICAC has adequately performed all of its statutory functions.

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<sup>41</sup> ICAC, *Funding NGO delivery of human services in NSW: a period of transition*, December 2012

<sup>42</sup> ICAC, *Answers to questions on notice 2013*, qu 19, p 12

<sup>43</sup> ICAC, *Annual Report 2011-2012*, p 44

<sup>44</sup> ICAC, *Annual Report 2011-2012*, p 44

<sup>45</sup> ICAC, *Corruption Matters*, Issue 40, p 6

## Appendix One – Answers to questions on notice

**1. In his 2011-12 Annual Report, the Inspector of the ICAC commented on his power to make adverse findings against the Commission and/or its officers (pp 4-5). What are your observations on his comments?**

The Commission agrees with the Inspector's comments concerning the type of adverse findings he is entitled to make. The Commission notes that section 57C(g) of the *Independent Commission Against Corruption Act 1988* (the ICAC Act) specifically provides that the Inspector may recommend disciplinary action or criminal prosecution against officers of the Commission. The Commission agrees with the Inspector's comments that he is not entitled to make findings that the Commission or an officer of the Commission was or may have been guilty of a criminal offence or engaged in corrupt conduct. The Commission also considers that, on the same reasoning as applied by the Inspector at page 5 of his 2011-12 Annual Report, the Inspector would not be entitled to make a finding that a Commission officer had committed a particular disciplinary offence. These limitations are similar to those which have been placed upon the Commission's powers to make and report findings against individuals.

### Assessing matters

**2. The ICAC's 2010-11 Annual Report (p 27) stated that in the year ahead the Assessments Section would formulate tools to assist principal officers of agencies to report suspected corrupt conduct to the Commission. Please inform the Committee of developments in this area.**

As noted on page 18 of the ICAC's 2011-12 Annual Report, the Manager, Assessments developed a template for principal officers to use, to assist them to comply with their section 11 reporting obligations.

The "take-up" of this form has been significant and the details called for in the template assist Assessments to clearly identify the nature of matters reported and whether there are any connections between those matters and matters already in the Commission's database. The template was developed in part because some agencies were not providing enough details in their initial section 11 reports. Whilst a written guideline for principal officers has existed for several years, including a checklist of relevant information the Commission requires in conducting an initial assessment, the template is more directive.

A copy of the template is attached as Annexure A. The Manager, Assessments has continued in the 2011-12 year to deal with queries from principal officers and their staff about reporting obligations and initiated meetings or discussions with agency staff where it appeared that reporting obligations were not well understood.

**3. The 2011-12 Annual Report (p 17) notes that in 2011, the Assessments Section instigated a survey of complainants from the general public and public officials who made PID complaints. The Annual Report notes that the purpose of the survey was to gauge the effectiveness of the Commission's written and electronic materials, and professionalism of staff. Has the Commission made changes to any material or any procedures as a result of the survey?**

The results of the survey did not result in any material changes to template letters, web content or fact sheets or to procedures. Comments made by respondents did serve, however, to remind staff that communication with complainants should be in plain English at all times and avoid bureaucratic jargon.

The results of the survey also led to the Manager, Assessments conducting training with her staff in December 2012 on the need to provide complainants with detailed and meaningful reasons for ICAC decisions.

**4. Page 19 of the Annual Report states that a procedural change in the way schedules of allegations are registered has contributed to the increase in section 11 reports from public sector agencies (from 638 in 2010-11 to 812 in 2011-12). Please elaborate on this procedural change.**

A schedule from a large agency may include many separate sets of allegations and agencies can report by schedule either on a monthly or quarterly basis. The Commission has been encouraging those agencies that have previously reported by way of quarterly schedule to report on a monthly basis, with any urgent matters to be reported immediately. The procedural change is that, rather than registering in the database all allegations reported in a schedule as one matter as was previously the case, each allegation or set of allegations within an agency's schedule is now registered separately. Although this process has led to an increase in the number of section 11 reports recorded, it more accurately reflects the work undertaken by Assessments staff in assessing each matter, as each allegation on a schedule has to be separately considered. It has also improved the effectiveness of searching capabilities within the Commission's database when staff are seeking to determine whether a particular identity has been associated with prior matters.

**5. According to the Annual Report (p 28) there has been a marked increase in the number of matters where the Commission has requested an investigation report from an agency.**

**a) What in your view are the reasons for this increase?**

**b) What impact did this increase have on the workload of the Assessments Section?**

It is the Commission's observation that in the last few years there has been a greater appreciation on the part of principal officers of the need to consider what action they may need to take if the Commission does not commence an investigation into the matters reported, and the desirability of conveying any intended action when reporting the matter in the first instance. If the agency proposes to investigate the suspected corrupt conduct, and the Commission determines not to conduct an investigation itself, but believes the matter requires investigative action, the Assessment Panel decision will be to request the agency's final investigation report. Whilst there has been an increase in the number of reports requested, there has been a reduction in the number of section 53 referred investigations over the same period. The increase in the number of matters in respect of which the Commission has requested an agency's investigation report has not impacted significantly on the workload for the Commission, as those matters may otherwise have been the subject of a referred investigation under section 53. Further, where the Commission obtains an agency's report upon conclusion of an investigation the agency has conducted, that report still needs to be assessed by the Commission to ensure that the findings are sound and evidence-based, whether or not a referral has been made under section 53.

**6. Page 29 of the Annual Report notes that there has been a marked increase in the number of assessment enquiries undertaken by the Assessments Section, from 137 in 2008-09 to 226 in 2011-12. What are the factors leading to this increase?**

Since 2008, Assessments has focused on making enquiries in relevant matters to clarify and narrow the issues and to determine whether to recommend that a matter be made the subject of a preliminary investigation. This ensures that only the more serious or systemic matters are referred to the Investigation Division for further action. The making of assessment enquiries can also assist in the provision of meaningful reasons to complainants where the Commission's decision is not to commence an investigation.

**Investigating corruption**

**7. During the previous Annual Report review, the Commission raised the issue of access to the NSW Police Computerised Operational Policing System (COPS) database for the purpose of vetting prospective employees.<sup>46</sup> Please inform the Committee of any developments in relation to this matter.**

This matter is being addressed by legislation.

The Independent Commission Against Corruption and Other Legislation Amendment Bill 2013 was introduced into the Legislative Assembly on 14 March 2013. The objects of the Bill are to enable certain information, including criminal intelligence, to be requested, disclosed and used for vetting applicants for positions with the Commission, the ICAC Inspector, the NSW Crime Commission and the Inspector of that Commission, the NSW Police Force and the Police Integrity Commission and the Inspector of that Commission.

The Commission was consulted during the drafting of the Bill and is satisfied that, if passed, it will address the Commission's concerns raised with the Committee in the previous Annual Report review.

**8. The Annual Report notes the continuing challenge of investigating increasingly large and complex matters. Please elaborate on the enhancements of investigation procedures noted on page 33.**

Page 33 of the Annual Report noted that in 2011-2012 the Investigation Division focused on, 'enhancing its investigation procedures by reviewing its standards to improve on efficiency, consistency and investigative practice'.

In November 2011, the Executive Management Group (EMG) approved a project to articulate a policy and standard for the conduct of the Commission's investigation function. On 17 May 2012 the EMG approved the ICAC '*General Investigation Standards and Procedures*' (GISP).

The development of the GISP has enabled the Commission to:

- identify and resolve policy and procedural gaps in the Commission's Operations and Assessments Manual
- eliminate any inter-divisional inconsistencies in the Commission's approach to the investigative process

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<sup>46</sup> Committee on the ICAC, *Review of the 2009-2010 and 2010-2011 Annual Reports of the Independent Commission Against Corruption*, report 1/55, June 2012, pp 5-6

- provide a solid framework for future quality assurance audits, and
- guide improvements to the Commission's electronic case and file management systems.

There is no Australian Standard for the conduct of investigations. The Heads of Commonwealth Law Enforcement Agencies has approved the Australian Government Investigation Standards (the AGIS) which applies mandatory minimum standards for the conduct of investigations by Commonwealth agencies.

The GISP has been closely modelled on the AGIS, taking into account the specific jurisdiction and requirements of the Commission. Like the AGIS, the GISP is organised into four parts:

- *Operating Framework*: This part outlines standards dealing with the Commission's investigation policy and performance measures, related internal and external policies, legal framework, investigator qualifications, stakeholder relationships, information sharing and exchange, ethical conduct and media.
- *Identification of Matters for Investigation*: This part outlines how the Commission receives and evaluates matters for investigation and public inquiry and how it deals with intelligence.
- *Investigation Management*: This part outlines the supervisory and risk management framework for the investigation function. It deals with all phases and aspects of an investigation from commencement to closure.
- *Investigation Practices*: This part outlines policy with respect to discrete investigation activities and closely links policy to procedures in the Operations Manual.

The GISP is the first level (policy and standards) of the framework for the Commission's investigation function. The second level (procedures) is the Assessments Manual and the Operations Manual and, where necessary, there is a third level – Work Instructions. Work instructions deal largely with administrative procedures incidental to particular parts of the main procedure or for example, may provide instruction on how to operate/use a particular program or equipment. In June 2012, the EMG approved a project to undertake a substantive review of the Operations Manual. This project is expected to be completed by 30 June 2014.

**9. Page 33 of the Annual Report notes that in 2011-12 the Investigation Division improved its focus on the suitability of matters the Commission investigates and on key performance targets to improve timeliness and efficiency. Please provide the Committee with further detail on this improvement.**

The decision whether to commence or continue an investigation is critical to the efficiency with which the Commission's resources are engaged because the quality of those decisions affects whether the Commission's resources are expended on matters most likely to produce a timely outcome that advances the Commission's objectives.

The Commission aims to complete 80% of its preliminary investigations within 120 days and for matters that become full investigations, ensure that 80% of those are finalised or commence public inquiry or reporting phase within 12 months of escalation. In 2011-2012, the timeliness result for preliminary investigations improved from 41% in the previous year to 76.6%. In 2011-2012, the timeliness result for full investigations incurred a slight decrease on 2010-2011 result, going from 93% to 90% respectively, but still well above the 80% target.

These results were achieved by maintaining attention on the performance indicator, timely management intervention where necessary and adjusting some systems to better align them with the objective (i.e. use of out of session reporting).

**10. Page 40 of the Annual Report lists strategic alliances that ICAC has with other agencies. Please inform the Committee of any changes in systems and processes made as a result of the meetings with any of the Committees/forums listed.**

Some examples of changes in systems and processes have occurred or been influenced by information obtained and access to networks established through the Commission's participation in the Committees mentioned on page 40 of the Annual Report are outlined below:

- A problem with technical tracking equipment, used by the Commission and in common use among participating agencies, was identified by one of the agencies. That agency then worked with the supplier of the equipment and subsequently developed a solution that was supplied to all agencies using that technology, including the Commission.
- During one meeting, an agency participant demonstrated surveillance equipment to which they have access. The equipment is extremely expensive and outside the capability of small agencies such as the Commission. The Commission has since been able to use this technology on three occasions.
- The Commission is currently using covert video and image capture technology which was first identified and used by another agency and subsequently demonstrated and reviewed during one of the committee forums.
- In 2013-2014 the Commission plans to complete an upgrade to its mobile surveillance technology with systems first introduced and reviewed during one of the Committee forums.
- Participation in these committees also assists agencies to share the financial burden of maintaining technical and surveillance currency and breadth of capacity by assisting them to purchase mutually complimentary technologies that can be borrowed or used in conjunction with other technologies held by the group. For example, the Cellebrite technology mentioned below (question 29) was selected, after appropriate research and consultation, to build on and compliment existing technology in use at the PIC with a view to enhancing the capability of both agencies.
- Information discussed at the Interception Consultative Committee and Special Networks Committee (SNC) has informed aspects of the Commission's integrated telecommunications interception project (see further question 11), a substantial revision of the Commission's procedure for the use of powers under the *Telecommunications (Interception and Access) Act 1979* and has allowed the Commission to remain current on telecommunications carrier technical and compliance issues. Through the SNC the Commission also has input into the way in which carrier costs attributed to meeting these technical and compliance issues are distributed across interception agencies such as the Commission.



**11. The Annual Report (p 41) indicates that an integrated telecommunications interception project was due for completion on 31 October 2012. Please update the Committee on this project.**

Since its inception the Commission has had access to a telecommunications interception (TI) capability through the NSW Crime Commission (NSWCC). By October 2011 the NSWCC had moved to a virtualised information technology framework and the resulting incompatibility with the Commission's ICT framework produced technical and operational deficiencies for the Commission's access to TI capability. Consequently the Commission investigated and determined options to ensure it had access to a cost efficient and technically current TI capability, scalable to future requirements with reliable and timely technical assistance.

On 7 May 2012 the Commission received approval of government funding to establish an integrated TI capability in partnership with the Police Integrity Commission (PIC) that would be supplied and supported by JSI Telecom, a system already in use at the PIC. The TI project also included funding to establish a database for the Commission capable of maintaining information accessed by it under Chapter 4 of the *Telecommunications (Interception and Access) Act 1979*.

The Commission's TI system was installed in September 2012 and training for system administrators and users took place between 17 September 2012 and 28 September 2012. The system became fully operational on 5 November 2012. The Commission's arrangement with the PIC is supported by a memorandum of understanding.

The Chapter 4 information database will soon become fully operational. The customisation of this database experienced some delay due to the need to develop in-house, complimentary data cleansing software and to accommodate more recent changes to carrier data formats.

The Commission's TI interception system was delivered on time and at a total cost of approximately \$486,000, a figure within the project budget of \$490,000.

**12. Appendix 4 on page 111 of the Annual Report states that the Commission is still awaiting advice from the Director of Public Prosecutions (DPP) on the prosecution of matters arising from Operations Ambrosia, Mirna and Monto. During the previous Annual Report review, the Commission indicated that the Commissioner had written to the DPP expressing concern about delays in receiving advice on these matters, and that the DPP had advised that he anticipated being able to make a determination in most of the matters by the end of February 2012.<sup>47</sup>**

**a) Please update the Committee on the status of these matters.**

**b) Has the Commission received any indication from the DPP on when they are likely to be finalised?**

The Commission received final advice from the DPP in the second half of 2012 on all outstanding matters in operations Ambrosia, Mirna and Monto.

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<sup>47</sup> Committee on the ICAC, report 1/55, June 2012, p 31

**13. The Committee notes the comments of Chief Magistrate Graeme Henson regarding the period of time between offending and prosecution in the case of DPP v Hetman: *The defendant was charged before the Court with the offences on 1<sup>st</sup> May 2012. The Court asked why it had taken over 4 years to bring proceedings against the offender. The solicitor for the DPP was unable to inform the court of any reason why there had been such a prolonged period between the giving of false evidence and its retraction and the laying of Court Attendance Notices. The issue of delay is a significant factor to be addressed in sentencing for these offences.*<sup>48</sup>**

**Could you give your views on what led to the delay?**

In September 2008 the Commission furnished to the Presiding Officers its 5<sup>th</sup> report on its investigation into bribery and fraud at RailCorp. The report principally concerned the conduct of Guy Hetman, a RailCorp employee who received financial benefits of over \$110,000 from a RailCorp contractor in return for awarding RailCorp work to that contractor.

The report contained a statement pursuant to section 74A(2) of the ICAC Act that the Commission was of the opinion that consideration should be given to obtaining the advice of the DPP with respect to the prosecution of Mr Hetman for offences under sections 249B(1) and 178BA of the *Crimes Act 1900* and section 87 of the ICAC Act. The section 87 offences related to evidence he gave to the Commission in March 2008.

A brief of evidence, consisting of 11 folders of statements and other material, was compiled by Commission investigators and reviewed by a Commission lawyer before being delivered to the DPP on 13 October 2009.

The DPP did not issue requisitions to the Commission.

Between October 2009 and October 2010, three DPP solicitors had carriage of the matter in turn.

In August 2011 the Commission was advised by the DPP lawyer with carriage of the matter that she anticipated completing her advice on the matter shortly. In February 2012 the Commission was advised that the advice was with the Director awaiting determination as to appropriate charges.

On 23 March 2012 the Commission received advice from the DPP that there was sufficient evidence to prosecute Mr Hetman for four offences under section 87 of the ICAC Act. The advice did not refer to the Crimes Act offences identified in the Commission's report. After making further enquiry with the DPP solicitor with carriage of the matter the Commission was advised that the DPP did not consider there was sufficient admissible evidence to prosecute Mr Hetman for Crimes Act offences.

The Commission prepared Court Attendance Notices with respect to the section 87 offences. These were served on Mr Hetman on 19 April 2012. The first court appearance was on 1 May 2012.

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<sup>48</sup> Director of Public Prosecutions v Hetman [2012] NSWLC 8 at [4]

**14. Please provide a table, similar to that provided to the Committee during its previous Annual Report reviews, outlining the period of time that has elapsed between the ICAC's provision of briefs of evidence to the DPP and the DPP's decision on each matter, for matters current during the 2011-12 reporting period to date. Please include the date of all requisitions received from the DPP for each matter.**

The table is attached (Attachment B). It covers the period 1 July 2011 to 31 December 2012.

The Commission has also included a current table of matters with the DPP's office (Attachment c), as it shows the marked improvement in the timeliness of the consideration of briefs by the DPP. The current schedule shows that there are only 4 ICAC briefs currently with the DPP awaiting advice, and that those briefs were sent to the DPP on dates ranging from 16/7/12 to 28/11/12. It has taken time for the regular liaison meetings between the Deputy Commissioner of the ICAC and the DPP officer responsible for ICAC briefs to have a significant effect on timeliness, especially with respect to older matters like the matter arising from Operation Monto referred to in question 13. The schedule today reflects a significant reduction in both the matters on hand at the DPP's office and the time taken to consider such matters. In addition, the DPP's office is now briefed on new matters before they are even referred, so advance planning can be done about the likely resources needed to provide advice on those matters.

**15. Page 41 of the Annual Report states that in 2011-2012, the Investigation Division 'reviewed practices for dealing with the preparation of briefs of evidence for referral to the DPP for consideration of criminal proceedings.' Please elaborate on this review.**

In 2011-2012 the Investigation Division performance measures required 90% of briefs of evidence to be completed and referred to the Legal Division for review before referral to the DPP, within 90 days of final submissions being received in connection with a public inquiry. Prior to 2011-2012 responsibility for brief preparation and quality was assigned to individual case officers with oversight by the relevant chief investigator. Brief preparation delays occurred where these officers were engaged in current operational activities. To address this issue, three changes were made:

- Primary responsibility for brief preparation quality and timeliness now rests with the Deputy Director Investigation Division. This has enabled more consistent and improved co-ordination of brief preparation activity, supervision and follow-up.
- Generally, and as far as practicable, case officers are no longer assigned further investigations until their outstanding briefs are completed.
- In 2010-2011, the time frame allowed to the Investigation Division for brief preparation was 60 days but in that year only 54% of briefs were meeting that target. In May 2011 the Commission amended its memorandum of understanding (MOU) with the Director of Public Prosecutions (DPP). Under the terms of the amended MOU, the time frame for brief preparation in the Investigation Division was able to be extended to a more realistic objective of 90 days. By the end of the 2012 financial year, 75% of briefs were meeting the new timeliness target.

**16. The Committee notes that the Commission recruited a Principal Lawyer (Prosecutions) in December 2011.<sup>49</sup> Page 54 of the Annual Report states that in the face of a substantial workload, the Legal Division's principal lawyer for prosecutions was allocated to operational work, as opposed to work on prosecution brief preparation. What impact has this reallocation had on the Division's brief preparation work?**

At the time of recruitment in December 2011, it was intended that the Principal Lawyer (Prosecutions) would undertake the normal operational role of a Principal Lawyer as well as:

- a) identify improvements to the Commission's criminal prosecution brief preparation procedures to ensure briefs meet relevant DPP and evidentiary requirements;
- b) identify the need for and undertake training to improve the Commission's criminal brief preparation procedures; and

c) assist with and oversee preparation of criminal briefs for submission to the DPP. Due to operational needs the Principal Lawyer (Prosecutions) has been assigned to investigative work and has not had an opportunity to review criminal prosecution brief preparation procedures with a view to identifying whether changes are required to make criminal brief preparation more efficient or effective. The Principal Lawyer (Prosecutions) has carriage of one prosecution matter (Operation Vesta). Apart from this matter, the Principal Lawyer (Prosecutions) has not had an opportunity to assist with or oversee preparation of criminal briefs or to identify the need for or undertake training.

The allocation of the Principal Lawyer (Prosecutions) to primarily operational work has had little direct impact on the timeliness of brief preparation in general. This is because each of the Commission's other permanent lawyer positions has responsibility, in conjunction with the relevant investigator(s), for criminal brief preparation of particular matters.

### **Preventing corruption**

**17. Page 43 of the Annual Report notes that the Commission's report on procurement, *Corruption risks in NSW Procurement – the management challenge*, described a range of approaches to corruption control. Has the Commission been able to gauge the response by agencies to the recommended approaches to corruption control?**

The goal of the management challenge paper was to broadly educate, or remind managers of the range of organisation design factors that exert control over the procurement function. The paper examined structural arrangements, decision locations, systems, skill sets etc in the context of individual agency's operational demands. Recognising the varied operational imperatives and organisational capabilities of individual agencies, the paper did not make specific or universal recommendations. Rather the report described a range of approaches to corruption control from which managers could select to meet the unique challenges of their operating environment. Consequently the response of agencies cannot be gauged by implementation of specific recommendations.

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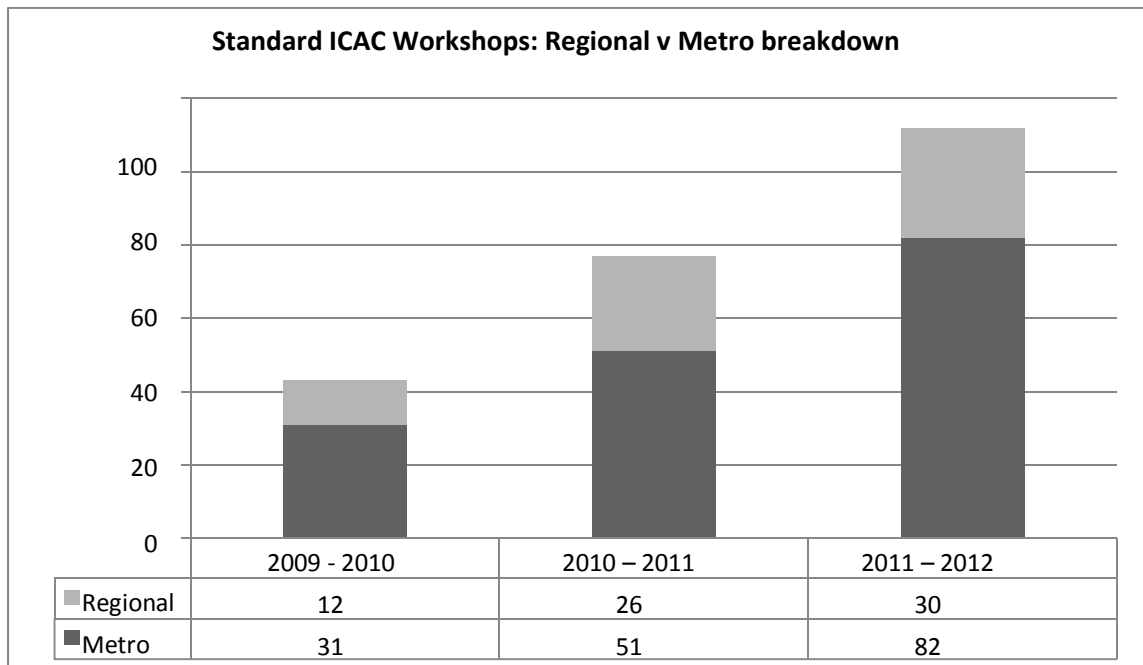
<sup>49</sup> Committee on the ICAC, report 1/55, June 2012, p 32

Anecdotally the paper was well received with positive feedback from numerous senior officers, including NSW Procurement and Transport for NSW. Invitations were accepted for 16 speaking engagements specifically relating to this paper reaching an audience of over 800 people. In addition, the paper has been picked up by several relevant newsletters and reprinted in some form. The content of the paper has also been integrated into the speaking program that followed the release of the Commission’s report on Operation Jarek and in procurement training.

**18. The Committee notes that since 2010-11 the Corruption Prevention Division has offered free training and workshops to public sector agencies, so that smaller agencies and those in remote locations have the same access as those in metropolitan agencies (p 46). What has been the response by agencies to this change in policy?**

The Commission introduced free training workshops on 1<sup>st</sup> July 2010 at the start of the 2010-11 financial year. At the same time the Commission introduced a new training course on the topic of procurement. As can be seen from the data below, the ratio of rural to metro has remained reasonably constant over time, with rural workshops representing approximately one third of all workshops delivered. The overall volume of training increased substantially, however, following the simultaneous removal of fees and the introduction of the “Corruption Prevention in Procurement” workshops. It is unclear whether this increase can be attributed to the fact that training is now free or to the fact that procurement is a topic of particular interest to public officials. Most likely it is a combination of both factors.

This chart shows the proportion of workshops completed in the Sydney Metro area versus regional areas from 01/07/2009 – 31/07/2012.



\* Please note these figures differ from those reported in the annual report as they relate only to ICAC’s core workshops, namely Corruption prevention for managers, Corruption prevention in procurement, Probity in procurement and Fact Finder workshops as well as customised versions thereof. Excluded are workshops held at rural and regional outreach events, Better Management of Protected Disclosures, which the Commission no longer offers, and workshops for special purposes such as those targeting senior executives, Aboriginal land

councils, Legal Studies Students and conferences. This is to ensure that the figures are representative of the Commission's core training program.

**19. Please update the Committee on the status of the Division's project on corruption risks associated with non-government organisations.**

The 2011-12 annual report indicated that a consultation paper on the corruption risks associated with non-government organisations (NGOs) would be released early in 2012-13. The NGO consultation paper was released in August 2012. A position paper was released in December 2012, containing 18 recommendations to government.

The recommendations address gaps in control of the funding of NGOs that have evolved in NSW and elsewhere as highly centralised government agencies are tasked with the delivery of locally responsive services in partnership with communities, individuals and NGOs. The mismatch between the traditional centralised control arrangements and new demands of decentralised delivery within the system was seen as a primary cause of weaknesses in the control of NGO funding. We observed the emergence of informal decentralised decision-making at the regional level and lower, as operational staff ignored central office policies in order to deliver results for clients.

The position paper, then, reflected an analysis of the organisational control requirements for the management of decentralised funding of community organisations. In addition to analysis of the NSW situation, the paper also drew on information available about how similar issues were dealt with in Victoria and Scotland, two sub-national Westminster systems that have made significant progress in gaining control of decentralised funding of NGOs. The paper also addressed the jurisdictional limitations on external oversight by both the Audit Office and the ICAC of government monies provided to NGOs.

The paper examines a number of problems stemming from the design of the current system, including the limitations of the centralised decision-making arrangements, problems of information management, low accountability within the system, difficulty dealing with NGOs with low governance and service capacity, and the complexity of transactions and funding arrangements within the current system. The paper also deals with the challenges of coordination and control within a decentralised system.

The ICAC continues to work with the Department of Premier and Cabinet (DPC) on this issue, as a result of interest expressed by several Ministers. DPC is working on the development of a more appropriate measurement and information system, a central part of the foundation of any decentralised control system. A summary of the results will be presented to the NSW Parliament Community Services Committee inquiry into "Outsourcing Community Service Delivery".

**20. The Committee notes that of the final reports received in 2011-12 (table 27, p 127) the Office of Liquor, Gaming and Racing did not implement one corruption prevention recommendation and partially implemented the other corruption prevention recommendation. NSW Maritime partially implemented two of the corruption prevention recommendations that it received. Is the Commission satisfied with these responses?**

From the reports received, it appears both agencies have made significant efforts to implement the recommendations. Due to circumstances largely beyond their control, they have not been able to fully implement the recommendations as contained in the report.

### **Operation Columba**

Recommendations were made to the Office of Liquor, Gaming and Racing (OLGR) in the report on Operation Columba - *Corruption in the Provision and Certification of Security Industry Training (Dec 2009)*. The OLGR provided its final implementation report in February 2012. The OLGR did not implement recommendation 13.

**Recommendation 13:** *The Office of Liquor, Gaming and Racing should review the validity of all responsible service of alcohol and responsible conduct of gaming certificates and statements of attainment issued through Roger Training Academy since 2006.*

When OLGR provided a 12-month implementation report, its intention was to implement this recommendation. However OLGR found a number of impediments to reviewing the certificates and statements of attainment issued through Roger Training Academy. As outlined in the Operation Columba report, Roger Training Academy was not licensed to issue responsible service of alcohol and responsible conduct of gaming certificates and so had entered into an agreement with Amstar Learning to issue the certificates in their name. When OLGR sought to obtain student records from Amstar, it was difficult to distinguish between the certificates issued legitimately by Amstar Learning and the certificates issued improperly for Roger Training Academy. In a related development, in 2010 Amstar Learning took action in the Supreme Court to review OLGR's decision to cancel Amstar Learning's approvals to conduct responsible service of alcohol training. OLGR obtained advice from the Crown Solicitor's office and, as a result, the matter was settled.

Given the difficulties in implementing the recommendation, the OLGR established an industry hotline, which received approximately 300 calls from industry stakeholders. The OLGR also took steps to inform the industry of these issues. The Commission recognises the difficulties encountered by OLGR in implementing this recommendation, and is satisfied with its response. The OLGR only partially implemented Recommendation 14.

**Recommendation 14:** *The OLGR should reduce the likelihood of fraud in the issue of RSA and RCG certificates by:*

- (a) conducting a comprehensive corruption risk assessment of the corruption risks present in RSA and RCG training and licensing. This risk assessment should include but not be limited to:*
  - i. analysis of the risks associated with training by training providers*
  - ii. analysis of the risks associated with any new procedures the OLGR may introduce to review RTOs*
- (b) develop a corruption risk management plan describing the corruption risks identified and the strategies the OLGR will adopt to manage each of these risks.*

The OLGR commissioned a consultant to conduct an independent fraud and corruption risk assessment report. The report made nine recommendations to minimise fraud and corruption in the responsible service of alcohol and responsible conduct of gambling training sectors. When the OLGR reported its progress to the ICAC, all but one of the nine recommendations were fully implemented.

## Operation Vargas

Recommendations were made to NSW Maritime in the report on Operation Vargas - *Report on allegations of corrupt conduct involving NSW Maritime officers*. In August 2011 NSW Maritime provided its final report on the implementation of recommendations from Operation Vargas. NSW Maritime accepted and intended to implement all seven recommendations however two recommendations were only partially implemented; one and seven.

***Recommendation 1:** That all employees of NSW Maritime in a supervisory role undertake training (and refresher training) in the operation of policies on:*

- secondary employment, including guidance on the identification and management of possible conflicts of interest that can occur within secondary employment*
- use of public resources, including how to identify and manage possible conflicts of interest that can occur when using public resources for personal purposes*
- recruitment processes, including their obligations under the personnel policies of NSW Maritime and applicable circulars, and ministerial memoranda issued by the Department of Premier and Cabinet. Particular attention is to be given to the requirements of merit selection, disclosure of conflicts of interest, and impartial decision-making during recruitment of staff.*

NSW Maritime developed two training programs for supervisors titled 'Ethics and Accountability' and 'People Management'. As at August 2011 NSW Maritime had commenced delivery of these courses but had not trained all supervisors. NSW Maritime anticipated that all supervisors would be trained by December 2011.

***Recommendation 7:** That NSW Maritime ensures that managers and supervisors understand their responsibilities in relation to performance management, and requires managers and supervisors to hold annual, formal and documented performance discussions with their staff.*

NSW Maritime reported that it has revised and reissued guides and tools for developing performance management plans. Supervisors have been trained on performance management as part of the training developed for recommendation 1. It was intended that all staff would have had formal performance discussions with their manager and developed new management plans by August 2011. In July 2011, however, the new Roads and Maritime Services agency was established and some functions were transferred from NSW Maritime to Transport for NSW. This affected the time lines for implementing this recommendation.

## Compliance and accountability

**21. The Committee notes that table 13 (p 62) of the Annual Report shows the time interval between completion of a public inquiry and furnishing the report, including the duration of the public inquiry. What factors influence the timeframe within which the Commission furnishes a report?**

The main factors which influence the timeframe for furnishing a report are the complexity of the evidence requiring analysis and the degree to which other work priorities affect the ability of Commission officers responsible for drafting, reviewing and editing the report to complete those tasks.



The factors affecting the complexity of the evidence include the number and nature of the issues under investigation, the number of witnesses who gave evidence and the length of their evidence, whether admissions were made, the extent to which evidence given by some witnesses was contradicted by that of other witnesses, the number and complexity of exhibits and the length and complexity of submissions received from affected parties.

**22. The Annual Report states that the corporate goal for furnishing investigation reports is 60 days where the duration of a public inquiry was five or less days and 90 days otherwise, and that the Commission intends to improve the time taken to finalise and publish investigation reports (pp 62-63).**

**a. Please inform the Committee of the strategies you have in place to meet this target.**

**b. Have time intervals for furnishing reports been reduced in the year to date?**

The Commission's corporate target is to furnish 80% of its reports within these target times.

a. The Commission has two main strategies to meet the relevant targets. The first is to ensure, as far as practical, that those responsible for drafting the investigation report are quarantined from other work. The second is to give investigation reports priority in the allocation of editing and desk-top publishing resources.

With the increase in the Commission's operational workload it has not been possible over at least the last two years to quarantine those drafting reports from other operational work. Instead, progress in report drafting is actively monitored and, when other operational work is assigned, it is selected for assignment on the basis that it will have as little direct impact as possible on the timeliness of drafting the report.

b. Table 13 (page 62) of the 2011-12 annual report shows that of the six investigation reports published in 2011-12, only one (Operation Barrow), was furnished within the Commission's target timeframe. The remaining five reports exceeded the target timeframe by between three and 53 days.

In the 2012-13 period to 20 March 2012 the Commission has furnished four investigation reports (Operations Crusader, Petrie, Citrus and Jarek). Of these, two (Crusader and Citrus), have been furnished within the target timeframe. The Petrie report was furnished 100 days outside the target time. This was primarily due to the lawyer responsible for drafting the corruption exposure chapters being involved in the preparation for the Operation Indus public inquiry and the longer than expected time taken to complete the review process. The Jarek report was furnished 62 days outside the target time. This was not unexpected given a combination of factors including the length of the public inquiry, the number of witnesses involved (55), the number of public authorities involved, and the significant corruption prevention issues which needed to be addressed.

#### **Our organisation**

**23. During the previous year's review, the Commission indicated that although the office relocation planned for 2010-11 was not proceeding, it is likely that the Commission will move premises due to its lease expiring in late 2014.<sup>50</sup> Please update the Committee on work on the planned office relocation.**

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<sup>50</sup> Committee on the ICAC, report 1/55 June 2012, p 39

The Commission has updated its Facilities Plan and has been given in principle approval to remain located in the Sydney CBD area. The Commission also submitted a Minute in March 2013 to the Cabinet Budget Committee to approve funding for an office fit-out (either in the current leased accommodation or in a new location) and relevant relocation expenses, in the event of relocation. Government Property NSW has been assisting the Commission in this process and in late January 2013 called for leasing proposals based on the Commission's office accommodation requirements. Government Property NSW and ICAC reviewed the leasing submissions and culled these to 10 in mid-February 2013 and building inspections were carried out in mid-March. Government Property NSW will soon request formal leasing proposals from the short-listed properties and thereafter conduct economic appraisals and ranking of proposals. It is anticipated the Commission will decide in mid-April on the preferred building. The Commission will be issuing a request for a fee proposal to provide interior design services to allow the Commission to go to open tender around July/August 2013.

**24. Please provide the Committee with an update on the construction of a new hearing room, as discussed on page 73 of the Annual Report.**

Relevant design work commenced in June 2012 and construction in August 2012. The room was completed in early October 2012. Compulsory examinations were held from mid-October to ensure any technical issues were resolved prior to the Jasper Public Inquiry commencing on 1 November 2012. Rent and outgoings for the new space are \$182,000 p.a. The lease commenced on 1 August 2012 and expires on 31 July 2013. The Commission has recently exercised its option to extend the lease for another term to 15 October 2014, to coincide with the expiration of its current office accommodation lease. The Department of Premier and Cabinet provided a recurrent expenditure grant to meet, amongst other things, the rental expense and also a capital grant of \$700,000 to fund the cost of construction (capitalised amount \$981,497). The shortfall was funded from the Commission's annual minor capital works provision.

**25. The Annual Report (p 65) notes that the Commission has requested changes and product enhancements to the Timekeeper module. Please inform the Committee of the nature and status of these changes.**

Aurion provided a software release patch addressing some of the issues/difficulties that staff were experiencing with the Timekeeper module. The patch was loaded in the Aurion TEST database for testing before loading to the Aurion live PRODUCTION database.

Testing has been completed and the following issues resolved:

1. The minimum and maximum hours for both Flex and Banked Flex carried forward hours for staff on a part-time work pattern are now being calculated automatically, negating the need for HR staff to do manual adjustments at the end of each Flex period. This has been tested and appears to be working correctly.
2. Staff are now able to apply for future Banked Flex that does not currently fall into the current Flex period and the pre-booked leave is not taken into account when calculating the Banked Flex carried forward. This has been tested and appears to be working correctly.
3. Timekeeper forms that are pending approval and are recalled now have their related "pending approval" mail message cancelled. Previously the mail message remained "pending approval" until the receiver of the message tried to action the message.
4. Timekeeper forms that have a Flex leave type and have been approved now have a grid showing the credit and debit history for that leave type.

5. In Timesheets, adding a new row places a new row beneath the selected row. If no row is selected the new row is added as the first row. Previously, selecting a new row would always place it at the top of the timesheet forcing staff to scroll to the top of their timesheet to input data.

**26. According to the Annual Report (p 66) an unprecedented 70 referrals were received for the implementation of security vetting in the 2011-12 reporting year. How did the Commission ensure that the vetting process was thorough with such a large number of security vetting procedures to complete?**

Despite this larger number of vetting requests (caused largely by the employment of additional staff for mining-related inquiries (14) and the use of external building contractors and technicians for work on the new communications room and other projects) the standard vetting procedures and processes were followed in each case. The Security and Risk Assessment Officer at times exclusively worked on the vetting of new employees. Additionally, another officer was also trained to assist this officer at the peak of vetting demand.

**27. The Annual Report (p 68) states that a new ICT infrastructure architecture has been designed to better serve the ICT needs of the Commission. Please update the Committee on the status of this project.**

This project has been only partially implemented (construction of new IT communications room) as a result of a substantial funding shortfall identified from the preparation of detailed design specifications. The Commission's IT consultants significantly underestimated the amount (\$1.4 million) required to implement fully the ICT strategy. In March 2013, the Commission submitted a Parameter and Technical Adjustment request for an additional \$3.4 million to complete the project, including an amount of \$1.2 million to set up a disaster recovery site and \$475,000 as contingency. The project is now on hold pending the outcome of the funding request, albeit planning is well advanced for the issuing of tender specifications to implement the project as well as to engage a project manager. NSW Treasury has been advised that the Commission will seek a rollover of unspent capital allocations.

**28. Page 68 of the Annual Report indicates that the Commission continued with enhancements of the MOCCA system.**

**a) Please outline the enhancements made.**

The enhancements arose out of new user requirements and requested modifications to existing functionalities. These are:

- Addition of new Assessment Panel Decision codes.
- Addition of automated workflows such as new tasks or email alerts activities to notify users of certain actions to take.
- Creation of new reports to gather information about related matters more effectively.
- Addition of fields on some forms to capture more information, e.g. Formal Power/Property Items Due Date, Demographics information, and Submission Date in Brief of Evidence.
- Addition of items in drop down list, e.g. new items in SIG Decisions
- Cosmetic changes/customizations such as increase of field sizes, renaming of listed items, reorganising field placements and default sorting of results in searches or reports.
- Visual notification of Identities/Organisations involving Protected or Highly Protected matters when accessing them.

**b) How have these enhancements assisted with the management of cases, complaints and assessments?**

These enhancements have been done in order to improve information capture, improve business flow and processes, complement changes to operational processes, improve usability of the system, and directly or indirectly facilitate decision-making and intelligence gathering.

**29. The Annual Report (p 68) refers to the ICAC's upgrade to computer forensics capabilities. Please update the Committee on the status of this upgrade.**

Towards the end of the 2011-2012 financial year, the Commission completed an upgrade of its electronic forensics capability. Key features of the upgrade included:

- Reviewing and revising the position description for the computer forensics specialist to better reflect the requirements of that position. The Commission has since recruited a suitable expert to the revised position, now titled *Electronic Evidence Specialist*. An additional position of *Forensic Technical Officer* was also established to provide support across both the Commission's electronic forensics and TI capability.
- Purchase of *NUIX* software application which provides a framework for processing, investigation, analysis, review and production of large quantities of collected electronic data in multiple formats.

The upgrade included purchase of complimentary computer hardware (server and storage devices).

- Purchase of *Abbyy Recognition Server* software which provides optical character recognition capability to enable text searching of hard copy documents which have been scanned to PDF format.
- Purchase of *Cellebrite* mobile telephone collection and analysis technology.

**Attachment A**

**Report of suspected corrupt conduct under s. 11 ICAC Act**

The notification form and any other related documents can be sent to the ICAC by:

- mail
- hand delivery, or
- courier.

Correspondence addressed to:

The Commissioner  
Independent Commission Against Corruption  
GPO Box 500  
SYDNEY NSW 2001  
Attention: Manager Assessments

Personal delivery:

Level 21  
133 Castlereagh Street,

SYDNEY NSW 2000

The notification form and relevant documents can be sent by email. However care should be taken to ensure that the documents are correctly addressed, are not copied to persons who are not entitled to the information and cannot be accessed by unauthorised persons. The notification form can be emailed to:

icac@icac.nsw.gov.au

**As the duty to report suspected corrupt conduct resides with an agency's principal officer and cannot be delegated, there needs to be a covering letter accompanying this form, signed by the principal officer.**

Any queries can be directed to the Manager Assessments on (02) 8281 5786.

COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION  
ANSWERS TO QUESTIONS ON NOTICE

**1. Agency**

1.1	Name:	Your ref number:
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**2. Contact officer**

2.1	Name:	
2.2	Position title:	
2.3	Address:	
2.4	Telephone:	E-mail address:

**3. Details of each person against whom the allegation/s has been made**

3.1	Does this notification contain allegations of corrupt conduct against more than one person? <input type="checkbox"/> Yes <input type="checkbox"/> No	
3.1a	If yes, how many? <i>(Please copy this page for each person)</i>	
3.2	Family name:	
3.3	Given names:	
3.4	Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	Date of birth:                      Employee no:
3.6	Home address:	
3.7	Home phone:	
3.8	Position title at time allegation made:	
3.9	Employment status with agency at the time the allegation was made (tick all applicable): <input type="checkbox"/> Permanent <input type="checkbox"/> Part-time <input type="checkbox"/> Casual <input type="checkbox"/> Contractor <input type="checkbox"/> Other (state)	
3.10	Work address at the time of the alleged incident:	
3.11	Is the person/s aware that corrupt conduct allegations have been made against them? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown If yes, please complete sections 3.12	

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3.12	Who informed the person the subject of the allegation/s?: <input type="checkbox"/> Your agency (name of person): <input type="checkbox"/> Another agency (state which): <input type="checkbox"/> Other (describe): <input type="checkbox"/> Unknown Date informed, if known:
3.13	Have prior corrupt conduct allegations been made against the employee? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
3.14	If yes, when was the most recent? <input type="checkbox"/> Within 2yrs <input type="checkbox"/> 2-5yrs <input type="checkbox"/> More than 5yrs ago
3.15	What was the result or finding of the investigation in regard to the <b>prior allegation/s</b> ?
3.16	What action has been taken or is proposed by the agency in respect of the subject employee while the <b>current allegation</b> is being investigated and until final decisions are made? <input type="checkbox"/> No action (state the current reason) <input type="checkbox"/> Increased supervision (describe) <input type="checkbox"/> Restriction on current duties (specify) <input type="checkbox"/> Transferred to alternate duties (specify) <input type="checkbox"/> Suspended with pay <input type="checkbox"/> Suspended without pay <input type="checkbox"/> Not re-engaged <input type="checkbox"/> Not relevant as matter finalised

**4. Details of the allegations of corrupt conduct**

4.1	Date of alleged incident/s:
4.2	Location of alleged incident/s:
4.3	Detailed description of corrupt conduct. Attach relevant documentation where available:
4.4	Is the conduct a one-off event or part of a wider pattern or scheme? <input type="checkbox"/> One-off <input type="checkbox"/> wider pattern/scheme
4.5	When did your agency become aware of the allegations?
4.6	Contact details of the source of the allegations. If the matter is being treated as a public interest disclosure, please complete Section 5
4.7	Do the allegations involve money or resources? <input type="checkbox"/> Yes <input type="checkbox"/> No. If Yes, outline the approximate amount or value of the resources:

**5. Disclosures under the Public Interest Disclosures Act 1994 (the PID Act)**

Under s. 27 of the PID Act, the Commission may be required to notify the discloser of ICAC action. If you have any concerns about releasing contact details, please let us know.

5.1	Does this notification arise out of a public interest disclosure? <input type="checkbox"/> Yes <input type="checkbox"/> No
5.1a	If yes, how many persons are to be protected? <i>(Please copy this page for each person and provide details below).</i>
5.2	Family name:
5.3	Given names:
5.4	Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female
5.5	Home address:
5.6	Home phone:
5.7	Position title at time allegation made:
5.8	Employment status with agency at the time the allegation was made (tick all applicable): <input type="checkbox"/> Permanent <input type="checkbox"/> Part-time <input type="checkbox"/> Casual <input type="checkbox"/> Contractor <input type="checkbox"/> Other (state)
5.9	Work address at the time of the alleged incident:
5.10	Has support been offered/provided to the employee? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
5.11	If yes, what kind?
5.12	If no, why not?

**6. Interim action taken or proposed in respect of the corrupt conduct allegation(s)**

6.1	Have you informed another agency? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> Not applicable
6.1a	If yes, name/s
6.1b	When was that agency notified?
6.1c	Contact details of the person to whom it was reported (telephone, email and postal address)
6.1d	Does that agency intend to take, or has that agency taken, any action? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown If yes, detail that action taken:
6.2	Other than action outlined in 3.16, what action has your agency taken to date and why?
6.3	Other than action outlined in 3.16, what action is your agency proposing to take and why?



**PROSECUTION TIMESCALES  
FOR  
MATTERS CURRENT  
FROM  
1 JULY 2011 TO 31 DECEMBER 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
<b>CASSOWARY</b>							
Whitcher	14/12/05	14/12/07	730	4/8/09 & 13/8/09	13/9/09 & 11/9/09		On 28/6/12 the Commission advised the DPP that it would take no further action in this matter – see page 112 of the 2011-12 annual report.
Whaanga	14/12/05	14/12/07	730				
Fraser	14/12/05	14/12/07	730				
Ratkovic	14/12/05	14/12/07	730				
Browning	14/12/05	14/12/07	730				
Gomez	14/12/05	14/12/07	730				
Mohammad	14/12/05	14/12/07	730				
Abboud	14/12/05	14/12/07	730				
Leon	14/12/05	14/12/07	730				
Noel	14/12/05	14/12/07	730				
Ritchie	14/12/05	14/12/07	730				
Kalland	14/12/05	14/12/07	730				
Burton	14/12/05	14/12/07	730				
Bacon	14/12/05	14/12/07	730				
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				

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<b>AMBROSIA</b>							
Williams	21/12/05	16/3/07	450			7/8/12	1971
More	21/12/05	16/3/07	450			17/9/12	2012
Younis	21/12/05	16/3/07	450			20/8/12	1984
Kayrouz	21/12/05	16/3/07	450			13/8/12	1977
Aboulhosn	21/12/05	16/3/07	450			18/12/12	2104
Sleiman	21/12/05	16/3/07	450			3/3/11	1448
Karam	21/12/05	16/3/07	450			26/6/12	1929
Bazouni	21/12/05	16/3/07	450			4/11/11	1694
Punz	21/12/05	16/3/07	450			4/11/11	1694
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			6/8/12	1970
Allem	21/12/05	18/9/07	636			13/4/12	1855
Megas	21/12/05	22/4/08	853			19/1/12	1367
Constantin	21/12/05	18/9/07	636			13/4/12	1669
Barrakat	21/12/05	17/3/08	817			27/4/12	1501
<b>GREENWAY</b>							
Murray	31/1/08	30/9/08	243	6/2/09	29/06/09	6/12/10	797
<b>MONTO D</b>							
Stanic	8/9/08	7/7/09	302	Nil	N/A	20/9/11	805
Szoboszlay	8/9/08	7/7/09	302	Nil	N/A	20/9/11	805
Kouraos	8/9/08	7/7/09	302	Nil	N/A	20/9/11	805
Palombo	8/9/08	7/7/09	302	Nil	N/A	20/9/11	805
<b>MONTO A</b>							
Hetman	25/9/08	14/10/09	384	Nil	N/A	23/3/12	891
Murdocca, D	25/9/08	14/10/09	384			23/3/12	891
Murdocca, S	25/9/08	14/10/09	384			23/3/12	891
Murdocca, P	25/9/08	14/10/09	384			23/3/12	891

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<b>ATLAS</b>							
Morgan (Ch 5)	8/10/08	17/7/09	282	20/5/11	N/A	27/3/12	See page 117 2011-12 annual report
Vellar (Ch 5)	8/10/08	17/7/09	282			27/3/12	
Younan (s.87)	8/10/08	13/7/09	278			----	
Carroll (s.87)	8/10/08	13/7/09	278			2/7/12	
<b>MONTO G/H/J &amp; MINERVA</b>							
Laidlaw	19/11/08	25/11/09	371	Nil	N/A	21/9/12	1031
Kotevski	19/11/08	25/11/09	371			21/9/12	1031
Hansen	19/11/08	25/11/09	371			21/9/12	1031
Araldi	19/11/08	25/11/09	371			21/9/12	1031
Hili	19/11/08	25/11/09	371			21/9/12	1031
Schliebs	19/11/08	25/11/09	371			21/9/12	1031
Severino	19/11/08	25/11/09	371			21/9/12	1031
Petrovski	19/11/08	25/11/09	371			21/9/12	1031
Affleck	19/11/08	25/11/09	371			21/9/12	1031
Penny	19/11/08	25/11/09	371			21/9/12	1031
Skinner	19/11/08	25/11/09	371			21/9/12	1031
Dulhunty	19/11/09	25/11/09	371			21/9/12	1031
<b>TAMBO</b>							
Pevec. G	9/9/09	8/2/10	152	Nil	N/A	23/9/11	592
Murdocca	9/9/09	11/2/10	155			2/4/12	780
Pevec. L	9/9/09	11/2/10	155			9/3/12	756

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<b>MIRNA</b> Sanhueza C. Taylor A Taylor Xuereb Guirgis	18/12/08 18/12/08 18/12/08 18/12/08 18/12/08	8/1/09 8/1/09 8/1/09 8/1/09 8/1/09	21 21 21 21 21	Nil	N/A	10/7/12 10/7/12 10/7/12 10/7/12 10/7/12	1248 1248 1248 1248 1248
<b>ARGYLE</b> Smith	4/11/09	12/10/10	342	12/1/11	5/9/11	5/10/11	358
<b>COLUMBA</b> Merchant Hyland Moosani Camilleri Alqudsi Shipway Raghavan Brandusoiu Wheeler	9/12/09 9/12/09 9/12/09 9/12/09 9/12/09 9/12/09 9/12/09 9/12/09 9/12/09 9/12/09	24/5/10 24/5/10 24/5/10 24/5/10 24/5/10 24/5/10 24/5/10 24/5/10 24/5/10 24/5/10	166 166 166 166 166 166 166 166 166 166			19/1/12 19/1/12 19/1/12 19/1/12 19/1/12 19/1/12 19/1/12 19/1/12 19/1/12 19/1/12	605 605 605 605 605 605 605 605 605 605
<b>CENTURION</b> Pyo	13/5/10	13/5/10	0	Nil	N/A	19/8/11	463
<b>CORINTH</b> Paluzzano	13/7/10	19/7/10	6	24/2/11 & 1/5/11	3/3/11 & 8/7/11	21/9/11	429

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<b>SEGOMO*</b>							
Hart	15/3/10	7/9/10	176	11/3/11 &	17/5/11 &	14/9/12	738
Paul	15/3/10	7/9/10	176	11/10/11	17/5/12	14/9/12	738
Kelly	15/3/10	7/9/10	176	"		14/9/12	738
Trinder	15/3/10	7/9/10	176	"			
Nankivell (*Dealt with by Crown Solicitor)	15/3/10	7/9/10	176	"			
<b>VARGAS</b>							
Kelly	1/9/10	19/11/10	79	10/2/11	13/9/11	12/6/12	
Dacombe	1/9/10	19/11/10	79			2/8/11	256
<b>SYRACUSE</b>							
D'Amore	7/12/10	10/3/11	93	29/4/11, 21/9/11& 24/12/12	8/7/11, 23/1/12 & 1/3/13		
<b>CHALLENGER</b>							
Higgs	21/12/10	21/12/10	0	8 &	27/9 to 17/10	18/7/11	209
Turner	21/12/10	21/12/10	0	20/9/11		18/7/11	209
<b>SIREN</b>							
Buckley	22/3/11	1/4/11	10	2/5/11 &	28/11/11 &	3/9/12	520
Funovski	22/3/11	1/4/11	10	10/11/11	5/12/11	23/5/12	418
Kane	22/3/11	1/4/11	10			19/10/12	567
Harvey	22/3/11	1/4/11	10				
Makucha	22/3/11	1/4/11	10				
<b>MAGNUS</b>							
Romano	20/4/11	12/9/11	145	14/10/11& 15/8/12	8/3/12 & 15/11/12	15/8/12	338
<b>DANBY</b>							
Chau	12/5/11	12/7/11	61	Nil	N/A	9/1/12	181
<b>CHURCHILL</b>							
Karkowski	22/6/11	8/7/11	16	Nil	N/A	11/1/12	187

COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION

ANSWERS TO QUESTIONS ON NOTICE

	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
<b>CHARITY</b> S Lazarus M Lazarus	31/8/11 31/8/11	20/1/12 20/1/12	<b>142</b> <b>142</b>	Nil	N/A		
<b>NAPIER</b> Kelly Watkins Costello	12/12/11 12/12/11 12/12/11	16/7/12 16/7/12 16/7/12	<b>217</b> <b>217</b> <b>217</b>	20/7/12, 6/8/12 & 18/12/12	17/8/12, 15/10/12 & 20/2/13		
<b>VESTA</b> Kelly Kazal	16/12/11 16/12/11	19/3/12 19/3/12	<b>94</b> <b>94</b>	21/5/12	25/5/12		
<b>BARCOO</b> Johnson	18/1/12	29/2/12	<b>42</b>	Nil	N/A	24/10/12	<b>238</b>
<b>BARROW</b> Au	14/6/12	9/10/12	<b>117</b>	10/12/12			
<b>CRUSADER</b> McCallum McLean	31/8/12 31/8/12	3/10/12 3/10/12					
<b>CITRUS</b> Demirilay Kantarzis	24/10/12 24/10/12	28/11/12 28/11/12					

**OUTSTANDING PROSECUTIONS SUMMARY REPORT**

**DATE OF REPORT: 14 MARCH 2013**

**SECTION 1: BRIEFS WITH DPP**

(\* Date of publication of investigation report)

MATTER	FINAL SUBM	DATE TO DPP (4 months from final submissions)	ICAC ADVISED OF DPP LAWYER (within 3 months from brief)	DPP CONFERENCE (4 weeks from brief)	DATE OF REQ	DETAILS	RESPONSE DATE	STATUS
<b>CITRUS</b> (*24/10/12) Demirilay Kantarzis	6/9/12	28/11/12	15/1/13	14/2/13				
<b>CRUSADER</b> (*30/8/12) McCallum McLean	23/7/12	3/10/12	10/10/12					
<b>BARROW</b> (*14/6/12) Au	3/5/12	21/9/12	10/10/12	10/12/12	10/12/12	1 x statement, bank records		Underway
<b>NAPIER</b> (*12/12/11) Kelly Watkins Costello	25/8/11	16/7/12	20/7/12	15/10/12	16/7/12 20/7/12 6/8/12 18/12/12	Transcripts, statements.	17/8/12 (transcripts) 15/10/12 (statements)  20/2/13	Only non critical matters outstanding. DPP to proceed to consider advice without these.

**OUTSTANDING PROSECUTIONS SUMMARY REPORT**

**SECTION 2: OUTCOMES**

(\* Date of publication of investigation report)

MATTER	DPP ADVICE DATE	OFFENCES ADVISED	DATE CANS SERVED (4 weeks from advice)	CURRENT STATUS
<b>SIREN</b> (*22/3/11) Harvey Makucha	9/2/13	Insufficient evidence “	N/A	Finalised “
<b>CHARITY</b> (*31/8/11) S Lazarus M Lazarus	22/2/13	42 x s300 (false instrument), 16 x s178BB (fraud) 7 x s.87 ICAC Act	5/3/13 5/3/13	For mention For mention
<b>BARCOO</b> (*18/1/12) Johnson	24/10/12	10 x s.178BA, 4 x s.178BB	20/11/12	PG to 2 x s.178BA & 2 x s.178BB. For sentence 16/5/13
<b>SYRACUSE</b> (*7/12/10) D'Amore	30/9/12 (interim)	N/A	N/A	Under further consideration by the DPP.
<b>MONTO GH/MINERVA</b> (*19/11/08) Laidlaw Araldi	21/9/12 21/9/12	s.249C s.87 ICAC act	8/2/13 8/2/13	For mention For mention
<b>SEGOMO</b> (*15/3/10) Hart Paul Kelly Trinder	Dealt with by Crown Solicitor 14/9/12 14/9/12 14/9/12 5/10/12	s.319, s.179 s.319 s.249B Awaiting outcome of Kelly matter.	9/12 9/12 9/12	For committal 4/4/13 For committal 12/4/13 For Mental Health Act hearing 29/4/13



REVIEW OF THE 2011-12 ANNUAL REPORT OF THE ICAC  
ANSWERS TO QUESTIONS ON NOTICE

MATTER	DPP ADVICE DATE	OFFENCES ADVISED	DATE CANS SERVED (4 weeks from advice)	CURRENT STATUS
<b>MAGNUS</b> (*20/4/11) Romano	15/8/12	Misconduct in public office, 6 x s.178BA, 1 x s.249B, 1 x s.125, & 23 x s.87 ICAC Act.	21/9/12	For mention
<b>MIRNA</b> (*16/12/08) Sanhueza	10/7/12	130 x s.249C, 4 x s.178BB, 1 x s.249B, 2 x s.474.17 Crim Code, 2 x s.300, 2 x s.87 ICAC Act.	31/1/13	For mention
C Taylor	10/7/12	130 x s.249C, 1 x s.178BB, 1 x s.249B, 1 x s.315	TBS (in UK)	For mention
A Taylor	10/7/12	1 x s.315 (hinder investigation)	TBS (in UK)	To be assessed for home detention
Gurguis	10/7/12	1 x s.249B	18/9/12	
Xuereb	10/7/12	1 x s.138, 2 x s.300, 3 x s.87 ICAC Act.	18/9/12	
<b>VARGAS</b> (*1/9/10) Kelly	12/6/12	2 x s.87	21/6/12	Adjourned (part heard)
<b>COLUMBA</b> (*9/12/09) Brandusoiu	19/1/12	1 x s.178BB, 1 x s.300	8/2/12	Part heard
<b>CORINTH</b> (*13/7/10) Paluzzano	21/9/11	Misconduct in public office, 2 x s.178BB, 2 x s.87	2/11/11	Sentenced 6/9/12 – 18 months imprisonment (to be served by way of home detention). Appeal upheld. Suspended sentence & 14 mth GBB.
<b>ARGYLE</b> (*4/11/09) Smith	5/10/11	1 x s.176A, 1x cl 3(2) SOC Act	28/10/11	For committal hearing 5/4/13 and 8/5/13
<b>MONTO B</b> (*8/9/08) W Kuipers	1/2/11	1 x s87	4/3/11	PG 11/10/12. For sentence.
<b>MONTO F</b> (*13/8/08) Blackstock	12/1/11	Misconduct public office, 6 x s178BB, 3 x s87(1)	16/3/11	Sentenced 16/2/12 to 4.5 years with NPP of 3.5 years. Appeal lodged. For CCA hearing 30/4/13

COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION

ANSWERS TO QUESTIONS ON NOTICE

MATTER	DPP ADVICE DATE	OFFENCES ADVISED	DATE CANS SERVED (4 weeks from advice)	CURRENT STATUS
<b>MONTO C</b> (*13/8/08) Hughes	3/9/10	5 x s.178BA, 8 x s.178BB, 1 x s.308C Crimes Act	17/3/11	Sentenced 17/2/12 to 3.5 years with NPP of 2.5 years. Appeal lodged. For hearing 14/5/13.
<b>BERNA</b> (*20/12/07) Tasich	30/7/09	1 x s.249B, 3 x s.87 ICAC Act	19/11/09	Acquitted of s.249B matter 21/11/11. Hung jury in trial for other matters. Listed for new trial 20/5/13.
<b>AMBROSIA</b> (*21/12/05) More Aboulhosn Megas Allem Constantin Kayrouz	17/9/12 18/12/12 19/1/12 13/4/12 13/4/12 13/8/12	5 x s.178BA, 6 x s.87 ICAC Act 10 x s.178BA, 1 x s.87 ICAC Act 1 x s.178BB, 2 x s.178BA, 12 x s.300 2 x s.178BA, 1 x s.178BB, 1 x s.87 ICAC Act 1 x s.87 ICAC Act s.178BA, 3 x s.300 (false instrument)	14/2/13 28/2/13 Unable to serve To be served 19/9/12 To be served	For mention For mention Seeking warrant Further material sought and provided. CANS now ready to issue. For mention. Further material sought and provided. CANS now ready to issue.

## Appendix Two – Answers to questions without notice (transcript of evidence)

This appendix contains a transcript of evidence taken at a public hearing held by the Committee on 21 June 2013. Page references cited in the commentary relate to the numbering of the original transcript, as found on the Committee's website.

**DAVID ANDREW IPP**, Commissioner, Independent Commission Against Corruption,

**SHARON LEIGH LODER**, Executive Director, Investigation Division, Independent Commission Against Corruption, and

**ROBERT WILLIAM WALDERSEE**, Executive Director, Corruption Prevention Division, Independent Commission Against Corruption, affirmed and examined, and

**THERESA JUNE HAMILTON**, Deputy Commissioner, Independent Commission Against Corruption,

**ROY WALDON**, Solicitor to the Commission and Executive Director, Legal Division, Independent Commission Against Corruption, and

**ANDREW KOUREAS**, Executive Director, Corporate Services Division, Independent Commission Against Corruption, sworn and examined:

**CHAIR:** I welcome the Commissioner of the Independent Commission Against Corruption and other senior executive staff for the purpose of giving evidence on matters relating to the Commission's annual report for 2011-12. I convey the thanks of the Committee for your appearance today. The Committee resolved this morning to ask witnesses to respond to any questions on notice within two weeks. If in the course of giving your evidence a question is taken on notice and you do not think you can respond within two weeks can you please indicate that to the Committee? Commissioner, would you like to make an opening statement before the commencement of questions?

**Mr IPP:** Thank you, Mr Chair, for this opportunity. I propose to give this Committee now a brief summary of the Commission's activities over the past year. For most divisions of the Commission this year has been dominated by Operations Indus, Jasper and Acacia. A significant amount of our resources has been tied up with the public inquiries in these operations. Preparations for these inquiries commenced more than a year ago. In the initial investigation phase of these operations the Commission received secondments of nine additional officers from other agencies. In the course of the investigation the Commission issued over 380 notices or summonses to produce documents, executed nine search warrants, used covert powers, conducted 159 compulsory examinations over 68 days, and took 124 witness statements.

As the investigation moved to the public inquiries phase, the Commission engaged two Senior Counsel and two junior counsel to assist in the three inquiries as well as a third Senior Counsel to provide advice on specialised particular issues as they arose. The public inquiry period for these operations ran over 85 hearing days, from 1 November 2012 to mid-May. The public inquiry phase involved taking evidence from over 160 witnesses, most of whom were

represented by counsel and solicitors. Significantly more than 200 lawyers were involved. The three operations generated over 8,500 pages of transcript; about 200 exhibits were tendered and these amounted in total to many thousands of pages, and thousands of documents were provided to people potentially affected.

The Commission intends to produce reports by the end of July for at least Operation Jarilo, which is the investigation concerning Mr Macdonald, Mr Medich and Mr Lucky Gattellari, and Operations Indus and Jasper. Operation Jasper ran over its estimated time period by some three weeks, into May, and this has meant that it will be difficult for the Commission to produce its report on Operation Acacia by the end of July. Should that occur, we intend to produce that report by the end of August. A corruption prevention report relating to these operations will also be produced in August. Officers of the Commission, including myself, are presently working intensely on the production of all these reports.

For the financial year ending June 2013, the Commission received a grant of \$3.2 million to finance the mining tenement inquiries and the construction of a new and larger hearing room. The Commission has been advised informally that for the financial year ending June 2014, it will receive a further grant of \$3.5 million to allow it to continue with current investigations into mining licences and other matters, and to ensure that significant pending investigations can still be undertaken. I will refer later to additional grants the Commission has received for the acquisition of IT equipment and for the possible relocation of the Commission's premises next year. I wish to express my gratitude for this crucial support. The stark fact is that Operations Jasper and Acacia could not have been undertaken without it. There is, of course, a significant risk of major restructuring and downsizing should future grants cease or be reduced. Be that as it may, there was a compelling need for the mining inquiries to be held.

Notwithstanding the considerable attention that Operations Indus, Jasper and Acacia demanded, the Commission has been able to maintain its overall output, and to a substantial extent its compliance with its internal standards on all of its other statutory activities, including the investigation of other potential instances of corrupt conduct. For the period 1 July 2012 to 31 May 2013, the Commission conducted 108 days of public inquiries for 6 operations. This compares to 60 days of public inquiries over the same period in the previous financial year. For the period 1 July 2012 to 31 May 2013, the Commission conducted 244 compulsory examinations as opposed to 124 conducted in the previous financial year. Six investigation reports were published between 1 July 2012 and 31 May 2013, and findings of corrupt conduct were made against 55 people.

There has been a substantial increase in the number of litigation matters being managed by the Commission. There were seven litigation matters current during the period 1 July 2012 to 31 May 2013. One of these is still current and two are subject to appeal with the Commission as respondent. We are awaiting judgment in these and in fact we were informed last evening that judgment in D'Amore's appeal is being given this morning at 11.15 a.m. I do not know the result of that. In two of the remaining four matters the Commission was successful and the other two were settled satisfactorily.

The overall number of matters reported to the Commission and received by the assessment section is relatively static. There is no marked increase or decrease. For the year so far it has received 2,825 complaints compared with 2,978 for the previous financial year. So far for this financial year the assessment section conducted inquiries in 194 matters as opposed to 226 in the last financial year. The section referred 103 matters to particular agencies for reports by them in one form or another. This compares with 134 in the previous financial year. The

assessment section has met all targets in the Commission's business plan and the figures I have given demonstrate that it is holding its own and maintaining its standards.

To date this year more than 65 preliminary investigations have been commenced and 22 matters escalated to full investigation. In the previous financial year the Commission undertook 73 new preliminary investigations and 19 matters were escalated to full investigations. In fact, over the past five years, the number of preliminary investigations undertaken by the Commission, on average almost 70 per year, has remained relatively stable. The seriousness of those matters, however, has increased. This feature notwithstanding, there has been an increase in the preliminary investigations completed within our timeliness standards from a five-year low of around 40 per cent to now more than 80 per cent. This in turn has resulted in a steady upward trend in the number of full investigations undertaken by the Commission. Added to this is the increased complexity of the investigations. These factors together are responsible for the significant pressure on the Commission's investigation resources. Timeliness for completion of full investigations has been affected by this.

In the 2013 financial year the Commission is tracking towards an average of more than 15 full investigations on hand at any point in time, representing a 50 per cent increase on the previous four-year average. This, in the light of all the circumstances, I would respectfully suggest, is a remarkable achievement. The Commission has focused on a number of initiatives to enhance its efficiency and quality of work. These initiatives have been outlined in our answers to questions 8, 9, 11 and 29 of the questions on notice. These achievements, we think, are significant.

The Commission's substantive review of its investigation procedures and rewrite of its operations manual is a large and important undertaking that will continue throughout 2014. Over the past number of years the corruption prevention division of the Commission has conducted extensive research on the corruption risks associated with procurement. In December 2011 the Commission released its fourth report on this subject. The corruption prevention division continues to deliver speaking engagements on this topic to public sector managers along with providing training in corruption prevention in procurement.

In February 2012, the Commission released its report entitled "Anticorruption safeguards and the NSW planning system". This report outlined the key anticorruption safeguards that should underpin our planning system. The report focused on the need to reduce complexity and provide certainty while at the same time ensuring transparency and allowing for meaningful community participation.

Since that time the Commission has prepared a submission to the Government's green paper on reforms to the New South Wales planning system. In August 2012 the Commission published a consultation paper examining the funding of non-government organisations in New South Wales. The consultation paper examined the corruption risks in these funding arrangements, and submissions were received from interested parties. Following analysis of the submissions, a position paper entitled, "Funding NGO delivery of human services in New South Wales: a period of transition", was released in December last year. This paper analysed the organisational control requirements for managing the decentralised funding of non-government organisations. It made 18 recommendations to Government.

In the 2012-13 financial year the corruption prevention division delivered 116 training workshops, an increase of 30 per cent on the previous year, and 79 speaking engagements, an increase of 50 per cent on the previous year. Through these programs the Commission has

directly reached over 5000 people, increasing their awareness and skills in preventing corruption.

The corporate services division has had an extremely busy year supporting the substantially increased activities of the Commission. Two major matters with which the corporate services division has been concerned this year and which are worthy of mention, are, firstly, construction of a new computer room including all necessary services and, secondly, development of a forensic system known as iBase, which includes data cleansing and importing of telephone call charges data into the iBase database. iBase is an intelligent database that enables users to conduct analysis to help identify patterns and trends. This saves the Commission a great deal of time, for example, in being able to quickly analyse thousands of call charge records from telcos.

The digital age continues to challenge the Commission's investigation capabilities. A major part of the procedures review now being undertaken by our investigation division will be focused on enhancing those systems and processes by which the Commission captures, manages, uses and analyses the increasingly vast quantities of evidentiary material—digital, virtual and real—with which it is required to deal. For the next financial year the Commission has received a grant of \$5.1 million to upgrade its IT equipment, and this will be of major assistance.

Corporate services has been very active in preparing the business case for office accommodation fit-out funding at either the existing or a new location. This has been necessary as our lease expires on 15 October 2014. The Commission has received an additional \$5.2 million for the fit-out. Preparation has to be undertaken at this stage in order to be ready if necessary to move to new premises at that date. Considerable work has been done on this project, including on the design and tender documentation. The Commission is presently awaiting approval from the Minister for Finance and Services to allow the relevant government agency to enter into commercial negotiations on our behalf with the desired landlord. The Commission anticipates that approval to proceed to negotiations for its preferred site by the end of this month. It plans to appoint by late August an external project manager to manage the fit-out and any relocation that may be required. The project manager is expected to invite and evaluate tenders, with the Commission appointing a contractor by mid-December this year.

Before concluding, I wish to return to operations Indus, Jasper and Acacia. These operations constitute one of the most important sets of investigations in the Commission's history. I wish publicly to commend those who are involved in those operations. They have been undertaken with professionalism and commitment. It would be remiss of me if I did not also commend the rest of the Commission who had to bear the extra load of maintaining the normal work of the Commission while these operations were proceeding. In the same vein, I wish sincerely to thank all political parties and, in particular, those in opposition for their unwavering and practical support in what, for some, would have been difficult circumstances. I conclude by saying that the Commission has had a pretty challenging time this year, but it is in good shape. I am happy to say that morale is high and its officers are working with energy and commitment.

**CHAIR:** Do you have any comments about the adequacy of the 2013-14 budget allocation to the Commission?

**Mr IPP:** Yes, we got what we received, thank you. We are very happy with it. No complaints.

**CHAIR:** Have you looked at the new Independent Broad-based Anti-corruption Commission [IBAC] legislation in Victoria?

**Mr IPP:** No—I have looked at it, yes. I have looked at it, thank you.

**CHAIR:** Any ideas from that that might be helpful in New South Wales?

**Mr IPP:** None that I would wish to adopt.

**CHAIR:** And the new South Australian legislation?

**Mr IPP:** If there was less than none, I would say that.

**CHAIR:** Any other areas for reform of the Independent Commission Against Corruption Act at the moment?

**Mr IPP:** Not at the moment, thank you. You are looking at a person perfectly content.

**CHAIR:** Commissioner, and other witnesses, what I propose to do is work anti-clockwise and each Committee member will have around seven minutes of questions and answers. When we exhaust that we will do another round.

**Reverend the Hon. FRED NILE:** Thank you very much, Commissioner and staff, for your attendance. In your report you made reference to the litigation where people have taken matters to court concerning the Commission. What impact is that having on the Commission? It must be affecting your budget as well those unexpected cases.

**Mr IPP:** It does affect our budget and it affects the degree of serenity that obtains in the Commission, but other than that, that is all.

**Reverend the Hon. FRED NILE:** One of the witnesses you had before the Commission threatened to go to the Supreme Court if there were findings of corruption. Do those threats have any impact on you as Commissioner, or your staff?

**Mr IPP:** No.

**Reverend the Hon. FRED NILE:** Is there a degree of intimidation with those threats?

**Mr IPP:** I am not intimidated by that. I do not think anybody else is in the Commission. We do our best. If we are proved to be wrong, we will be told so.

**Reverend the Hon. FRED NILE:** We met the Inspector earlier. I think he said he has had two meetings with you in the past two months. The memorandum of understanding referred to monthly meetings. I know you have been very busy, and that was one of the reasons he gave. Would you prefer to have more frequent meetings?

**Mr IPP:** Well, I do not know when we would have had the meetings, Reverend Nile. The Commission has been starting at 10 o'clock, running to 12.30, starting at 1.30, finishing sometimes at 5 o'clock, no tea breaks. The morning is taken up before that with consultation

with counsel. After that, there is a review of the day's progress. Most lunchtimes I am working. There has simply not been time. I had to meet Mr Cooper during lunchtime, in any event. It has been very difficult. It is not through a lack of desire to meet, but I do not think that there was anything to discuss, in particular. The matters in which he was interested he has written to us about and we have responded. I do not think that the lack of regular meetings has affected the supervision that he has exercised.

**Reverend the Hon. FRED NILE:** He did say he has maintained contact through telephone conversations and so on.

**Mr IPP:** Yes, he has certainly done that. We get frequent letters from him, to which we reply as soon as possible.

**Reverend the Hon. FRED NILE:** Thank you.

**The Hon. NIALL BLAIR:** Looking at the prevention strategies, obviously there is an increased workload at the moment. Has that had an impact on the prevention strategies and the team conducting that?

**Mr IPP:** No, it has not, because Corruption Prevention Division, although involved in the inquiries, is not involved to the same extent as the other sections, and it has been able to maintain its usual workload and do whatever was planned for it.

**The Hon. NIALL BLAIR:** I note from the annual report that there was a target of two rural and regional outreach visits, which was met. Where were the two that were conducted?

**Mr IPP:** I will ask Dr Waldersee to deal with that, if I may.

**Dr WALDERSEE:** One was up in the Tweed area and the other was in the Albury area.

**The Hon. NIALL BLAIR:** How do you determine where to conduct those? Is that on an as-needs basis or something that is rotated from previous years?

**Dr WALDERSEE:** It rotates the five broad regions of the State. Sorry, 10 regions with two visits a year means we go around once every five years. We do not go back to exactly the same town but within the same region.

**The Hon. NIALL BLAIR:** Do you think two per year or to get around to each region every five years has proven to be adequate?

**Dr WALDERSEE:** I think so, given that we now do far more rural and regional training and we also go out and speak in the regions as well. If it was only those two visits, that is probably not enough, but there is quite a large number of visits to the regions.

**The Hon. NIALL BLAIR:** There was a target of 40 training sessions in the target for prevention, and the last report states that the Commission conducted 116.

**Dr WALDERSEE:** Yes.

**The Hon. NIALL BLAIR:** Do you know how many of those were conducted in those regional areas?



**Dr WALDERSEE:** It was about 30 per cent. One-third of those was in the regions, which, proportional to the number of public officials, is quite reasonable.

**The Hon. NIALL BLAIR:** Were they mainly targeted at local government and other agencies?

**Dr WALDERSEE:** The rural and regional outreach is all government agencies. It will have the regional officers plus the local government. Most of the training tends to be done with groups of councils or single councils, sometimes with State agencies that have a lot of regional offices, so it is a mix, but more often councils. We also do a lot of talks in the Aboriginal land councils as well. We went and talked to more than a third of the land councils in this period.

**The Hon. NIALL BLAIR:** I guess it is hard to measure the success of those, but is there a review and feedback process on each of those sessions?

**Dr WALDERSEE:** Every session has an evaluation by the people who have attended. Whether they then take that back and do something, that is always a problem.

**The Hon. NIALL BLAIR:** We see that on the other side of the stats.

**Dr WALDERSEE:** Yes. In respect of their ratings of whether it was seen as useful for what they do, they rated all the training quite highly. So, short of following them back into the workplace to see if they do something differently, I am not sure we can go much further.

**The Hon. NIALL BLAIR:** Obviously a number of regional councils had some issues around procurement and issues in relation to that. Has that been specifically addressed in some of those training sessions?

**Dr WALDERSEE:** To start with the question on notice, which was the effect of removing fees on the volume of training we did, our answer pointed out that at the same time that we removed fees we introduced procurement training, so it was hard to work out which effect was which, but procurement training is now 60 per cent of what we deliver. It has gone from being a new program a couple of years ago to being the predominant training we provide. The procurement issues are dealt with regionally as well as in the metropolitan areas.

**The Hon. NIALL BLAIR:** Do we know if there are any particular councils—again, I am focusing on the regional areas—that have not sent someone along to the training areas, or is it something that is hard to measure?

**Dr WALDERSEE:** That is something we have not worked out. It would be very hard.

**Ms TANIA MIHAILUK:** I have more a comment rather than a question, but similar to what Reverend the Hon. Fred Nile said, you, the Commissioner, and your team, through the media reports and some of the transcripts, have been subjected to threatening remarks. I was pleased to hear you say earlier that, despite this, there is high morale in your team. I commend you for that.

**Mr IPP:** Threatening remarks do not detract from morale, that I can assure.

**Mr NATHAN REES:** It may in fact improve it.

**Mr IPP:** That is right. Sounds to me as if we are doing our job then.

**Mr NATHAN REES:** Can I take the opportunity to personally congratulate you on the thoroughness and professionalism of the last 12 months and the three central investigations. I have been closer to it than I might want to be, but I have been impressed by the professionalism of your investigators and everyone I have dealt with.

**Mr IPP:** Thank you, Mr Rees. I really do appreciate that coming from you.

**Mr NATHAN REES:** That is kind of you. I make particular mention of whoever it is that organises putting your transcripts on the website so rapidly and whoever designed your website. I compare it with other websites that Government agencies and associated entities have put together—National Broadband Network springs to mind. The ease of navigation and the simplicity of it is to be commended.

**Mr IPP:** Thank you. I should mention that the person concerned is Nicole Thomas, who I think is here.

**Mr NATHAN REES:** Is that you?

**Ms THOMAS:** Yes.

**Mr NATHAN REES:** Well done. What do you see as reputational risks for the Independent Commission Against Corruption?

**Mr IPP:** If we make a mistake that is serious, that is the biggest risk, and the mistakes can take many forms. I have to say that I am acutely conscious of it and sometimes the decisions are very difficult. That is, the kind of decision that is particularly difficult is to decide whether or not to have a public inquiry. We have been criticised in the past for some decisions we have taken involving members of Parliament. I think that is inevitable. I can understand that there are legitimate views for and against, but a judgement call has to be made. Making the wrong judgement call is, of course, the biggest risk there.

Another risk is the way we treat the people who come to give evidence. We have very extensive powers, and abuse of powers would be a very serious thing for us and would really affect our reputation. So we are very concerned about that, because those powers are very important to us. I know that if we abuse them they might be taken away or limited in some way, so these are matters that we really do think about before we proceed. There is always the possibility that we make the wrong decision.

**Mr NATHAN REES:** Unrelated to that, there have been very clear differences in culture under different Commissioners. Before you mentioned the report you did into non-governmental organisations, which I have read—it was a good report. It strikes me that that would equally be a job for an Auditor-General. How do you make a decision as an organisation around what you decide to get involved in where it is not clear cut corruption but might be training or guidance or related matters?

**Mr IPP:** Frankly, we try to do as much as we can, depending on our resources. We do have meetings and, particularly, we go away for a couple of days to plan the year, and one of the topics in the session is what is the Corruption Prevention Division going to do, what investigations it is going to make. Ideas are then canvassed and time periods have to be allotted to that and decisions have to be made. Clearly in areas where something could be

done by another agency, and we have got plenty to do, we will not do it. In the case where it is something that could be done by us or by another agency and the other agency has not done it, generally if we think it is important enough we will do it.

**Mr NATHAN REES:** This question is motivated by public interest rather than a desire to help out the Government. In previous years when governments have had to manage decisions that have grey areas around probity, process and so on, there has been a number of occasions when Government Ministers have sought the advice of the Independent Commission Against Corruption in advance of or in tandem with a particular process around procurement, land release or whatever. On occasions the answer that has come back from the Independent Commission Against Corruption was that that was not your gig and that whoever requested the advice should go away and sort it out for themselves. Given that we train in procurement and, through you, offer other advisory services, what scope do you think exists for a more structured approach to that particular issue when governments and Ministers of the day seek advice from you simply because they do not know where else to go to satisfy themselves and the public as to the probity of a particular process that is envisaged? Does that make sense?

**Mr IPP:** Yes, it makes sense but it is very difficult. It has only happened to me once and it eventually led to me getting into trouble. It led directly to the application to disqualify me. Those circumstances were probably unique. I want to emphasise that this was not the case then, but I think there is a problem with that. That is, it could be a means of passing the buck. I think it is worth exploring. I certainly see the logic in it. If you go around telling people how they should behave when they come and ask you how they should behave you should not tell them to go away. It is a new idea and it should be explored.

**Mr RICHARD AMERY:** I compliment you on the significance of the current investigations that are coming to an end and awaiting a report. Listening to the public, particularly in my electorate, they have found it far more than amusing, but a significant amount of evidence has been published. I think the Independent Commission Against Corruption's reputation has only been enhanced by that investigation. I would like to raise a couple of points from the report. They relate to page 19, section 11, Referrals. I wish to ask a question about outcomes. The issue I raised last time referred to travel and page 141. I now refer to page 19 and section 11 referrals. Your report states that the majority of the 2,900 matters came from three sources and there are three dot points. The second refers to principals and officers of New South Wales public sector agencies—and I emphasise—Ministers who have a duty to report suspected corrupt conduct under section 11 and so on. I note some references in the report to training in the Parliament, procedures, what to look for and obligations. I also note that if a Minister were to be provided with evidence or if allegations were made in the media that relate to his operations he has an obligation to report that, even if it involves a parliamentary colleague, to you as the Commissioner or the Commission. Is that a correct interpretation?

**Mr IPP:** That is substantially correct.

**Mr RICHARD AMERY:** I am an Opposition whip and many members come to me with issues and asking how they fill in this or that form, and I try to guide them as much as I can. I must admit that no examples come to mind now. However, if there were something in the press or something were brought to me in confidence by someone—even involving one of my parliamentary colleagues—under section 11, I as a party leader or a Minister would be required to advise the Independent Commission Against Corruption, even if it ended a career, of the allegations without even having substantial evidence. Is that a correct interpretation?

**Mr IPP:** I must confess that it is not something I have examined carefully because it is not something that it has ever been necessary for me to examine.

**Mr RICHARD AMERY:** You can take the question on notice.

**Mr IPP:** I note that subsection 3A of section 11 states that "the Minister, who is under a duty under this section to report a matter, may report the matter either to the Commission or to the head of any agency responsible to the Minister". So there is an alternative.

**Mr RICHARD AMERY:** I wanted to clarify that because it is an obligation that is not fully understood.

**Mr IPP:** I draw your attention to section 11(2), which provides that a person to whom this section applies—and it would be the kind of person to whom you are referring; that is, a Minister or a person in your position—is under a duty to report to the Commission any matter that the person suspects on "reasonable grounds" to be true. That judgement is made by the person concerned.

**Mr RICHARD AMERY:** It is a judgement call.

**Mr IPP:** Yes. You may decide that there are no reasonable grounds to suspect this and you would be perfectly justified in not reporting it.

**Mr RICHARD AMERY:** I do not believe that that issue has been fully appreciated by people in leadership positions.

**Mr IPP:** It is a curious thing, but I note that before elections the number of reports increases exponentially.

**Mr RICHARD AMERY:** Surely that is coincidental. Page 37 includes a reference to investigation outcomes and so on. I think you referred in your opening comments to findings against 55 people concerning corruption. Is there a pie-chart indicating how many of those 55 ended up being convicted by a court? I will expand on that. The Inspector explained earlier that it is not the role of the Independent Commission Against Corruption to get a conviction or to put someone in jail but to investigate and make a finding. In your opening comments you used the term "mining tenement inquiries". I think there is a public expectation that something may happen down the track. The allegation made by senior counsel assisting the Independent Commission Against Corruption in those cases was of a criminal conspiracy. Again, it comes down to how the evidence is obtained. I know that sometimes the Office of the Director of Public Prosecutions says that it has no evidence because while it has been made public the evidence is not admissible in a criminal court and so on. When you have an allegation of a criminal nature, should the gathering of evidence be along the lines of a fraud squad investigation designed to get a conviction? Should that be an Independent Commission Against Corruption focus when the allegation is of a criminal nature? As far as your reputation is concerned, how many of these corruption findings actually result in someone being convicted in a court?

**Mr WALDON:** There is no pie chart that would indicate that. As you are aware, each of our reports contains findings of corrupt conduct. In those reports we are also required to make a statement under section 74A(2) of the Act whether we are of the opinion that the matter should be referred to the Director of Public Prosecutions for consideration of prosecution. Not everyone against whom a corrupt conduct finding is made will be referred to the Director of

Public Prosecutions. We may make a determination that there is not sufficient admissible evidence and it is a waste of our time and a waste of the Director of Public Prosecutions' time to forward a matter to it. You will see in each of our annual reports an appendix that sets out the prosecution matters for all outstanding matters. We also publish that information on our website. That is information that is published in relation to each report where there has been a recommendation for prosecution.

**Mr IPP:** In the schedule to the report you will find a statement dealing with what has happened to particular persons who have been referred to the Director of Public Prosecutions and whether there has been a conviction. Page 122 of the present report contains a reference to "status". For the middle individual under "status" you will see that he was sentenced to four months imprisonment on 7 February. That information is available in each of the reports. The point you raised lies very close to my heart. I think it is quite unfair to blame the Commission for failure to get convictions.

I hesitate to give particular examples, but if you get inquiries like the one we have just been doing, which has caused a great deal of publicity and so on, assume hypothetically that the information we obtained which led us to hold a public inquiry was such as to lead us to the view that we had no hope of getting a criminal conviction but that the corruption which we could prove on the evidence available to us was such that it was in the public interest to have an inquiry. We would have the inquiry even though we knew that we would not get a criminal conviction before we even started if we were of the view that on the evidence available to us the potential corruption was so important that it justified exposing it. That is one of the factors that we always take into account. As far as I am concerned, it is not an important factor.

Where we do think that there is a reasonable prospect of finding evidence of a criminal offence, at the same time we investigate for our purposes of a public inquiry we attempt to take statements to send to the Director of Public Prosecutions. Our theory in practice—it is not always followed—is to attempt to conduct a bilateral investigation. One is for our purposes and the other is for the court. The reason that is not followed always is that sometimes obtaining the evidence we need is all-consuming and we do not have the time to get the evidence for the courts. Once we finish our inquiry, the investigators or an investigator who was involved in the inquiry is deputised to get the evidence and is not required to investigate anything else until that work has been done and the material that we think could ground a criminal conviction is sent to the Director of Public Prosecutions. While I do not regard it as fundamentally important to the decision as to whether to have an inquiry, once we do have an inquiry we are looking at that all the time. Mr Amery, please forgive me if I say this, this is a serendipitous moment for me. The appeal of Ms D'Amore has been dismissed with costs.

**CHAIR:** Do you have a follow-up question? If you want to ask a supplementary on that topic you may ask it.

**Mr RICHARD AMERY:** My issue with the case of the former member for Drummoyne was—I am not a lawyer so I do not understand the legal terms—that a matter would proceed to a public hearing on a matter which—

**Mr IPP:** Yes, I understand—

**Mr RICHARD AMERY:** —and we have corresponded on this, and spoken about this in the media, and that was the issue that I was always concerned about; that we could find a lot of

issues where paper clips and pens have gone astray but they are not public hearing matters but they still may be offences under some Act.

**Mr IPP:** I do understand that, and thank you for that. When I said that views can differ I had you particularly in mind. I certainly respect those views. I would like to say something about that, if I may. Is there time?

**CHAIR:** Yes.

**Mr IPP:** I would like to explain the decision that I made in that and similar cases. It is often very difficult to decide whether to have a public inquiry in those cases. But I always remember the judge who ended up going to jail for lying about whether he was going at 75 miles an hour or 60 miles an hour—

**Mr RICHARD AMERY:** Yes, Einfeld.

**Mr IPP:** Yes. It has occurred to me and I have always felt that it was quite appropriate for that to occur. But the same standards that apply to those who apply the law should be applied to those persons who make the law and it is parliamentarians who make the law. It is then very difficult to say that we think that a person has lied to Parliament to get money and that we can say "Forget about it", even though it is only \$10. I understand very well that there are views to the contrary, and I respect that, and I do not say that this was an easy decision. I have welcomed this opportunity to explain publicly my approach generally to matters of this kind.

**Mr RICHARD AMERY:** I do not want to get involved in a debate over the issue of an entitlement that is now out of date. It is an issue for another time.

**Mr IPP:** This is not intended in any way as a criticism of anybody's view. I just think that it is important that it is made publicly known what is the Commission's attitude—certainly while I am Commissioner—on issues of this kind, understanding that there is a contrary view.

**Mr RICHARD AMERY:** We agree to disagree.

**The Hon. LYNDA VOLTZ:** My question is to the financial officer. In regard to the financial statement on page 14 of the report, in the 2010-11 financial overview revenue was included as a separate item to government contributions. In this year's report they appear to have been amalgamated.

**Mr KOUREAS:** The New South Wales Treasurer has changed the format of the financial statements to include the revenue. It is an accounting policy change.

**The Hon. LYNDA VOLTZ:** They have required that in relation to any revenue you obtain, and government contributions are now shown as a single item rather than showing the contribution separate from revenue you receive?

**Mr KOUREAS:** I am sorry; I do not follow your question.

**The Hon. LYNDA VOLTZ:** Two separate items have now been combined. Is that right? The 2010-11 report has revenue \$526,000, government contributions \$20 million. This year all that is shown are expenses at \$23,817,000 and revenue at \$23,187,000.

**CHAIR:** Mr Koureas, do you have a copy of the 2010-11 report?

**Mr KOUREAS:** No, I have the 2011-12 report.

**The Hon. LYNDA VOLTZ:** I will provide my copy to Mr Koureas. The 2010-11 report on page 13 had headings of expenses, revenue which was \$526,000.

**Mr KOUREAS:** That provides a general overview, a highly summarised version of the accounts.

**The Hon. LYNDA VOLTZ:** Are you referring to 2010-11 or the 2011-12?

**Mr KOUREAS:** The 2010-11 just broke up the Treasurer's Advance of \$1.2 million. Basically the Government contributions are \$20 million compared to the previous year of \$18 million. It is the same format for 2011-12.

**The Hon. LYNDA VOLTZ:** Table 4 in 2010-11, operating result, is not the same format.

**Mr KOUREAS:** Yes, that is what I meant before when I referred to the changing accounting policy. The reporting format changed in 2011-12.

**The Hon. LYNDA VOLTZ:** Treasury has required you to do it in that format and not break it down?

**Mr KOUREAS:** Yes, it is across all agencies.

**The Hon. LYNDA VOLTZ:** This year's annual report on page 14 contains an actuarial review of long service leave and your liabilities have increased by \$1 million. Does that \$1 million relate to that actuarial review of the long service liabilities?

**Mr KOUREAS:** The actuarial liability from recreation is about \$540,000. That is conducted by NSW Treasury in early July every year and has to be incorporated into the accounts.

**The Hon. LYNDA VOLTZ:** Is that long service leave?

**Mr KOUREAS:** Yes.

**The Hon. LYNDA VOLTZ:** Is it about half a million dollars?

**Mr KOUREAS:** Yes, it was at that time during 2011-12.

**The Hon. LYNDA VOLTZ:** That was included because it had not previously been included?

**Mr KOUREAS:** No, NSW Treasury conducts an evaluation of the liability of the Commission, based on known staffing resources. In its actuarial estimates the liability of the Commission was understated so it has increased it by \$540,000. We have to incorporate that in the annual accounts.

**The Hon. LYNDA VOLTZ:** Does the \$1 million include the \$500,000, the \$0.385 million—

**Mr KOUREAS:** That would include that, yes.

**The Hon. LYNDA VOLTZ:** In relation to workers compensation claims shown on page 138 of the report there have been three provisional liabilities all of which related to journeys to and from

work. Is that correct? The number of workers compensation claims for provisional liability is three, all of which relate to journeys to and from work.

**Mr KOUREAS:** If that is in the annual report, but I am not familiar with that.

**The Hon. LYNDA VOLTZ:** Would those kinds of claim be excluded under the current legislation that has changed in relation to occupational health and safety?

**Mr KOUREAS:** Yes.

**The Hon. LYNDA VOLTZ:** Commissioner, I am pleased that the Commission's equity for women has increased from one in the executive level to two. The Commission now has two out of six, which is good.

**Mr IPP:** Is it two out of six?

**The Hon. LYNDA VOLTZ:** I hope it is, that is what the figures show. It is now 33 per cent.

**Mr IPP:** The chief of our assessment section is a woman. She has moved away to a job with a much higher salary. She was poached from us so I could tell you that if we had had this hearing last month it would be three out of seven. I would say that if you take the average of seniority it is high—the Deputy Commissioner and the chief of our investigations division—and I think we are doing very well in that.

**The Hon. LYNDA VOLTZ:** I think you are doing well. There is still a high proportion of women banded at the lower levels, but I assume that in some part relates to the permanent part-time nature of some of the women working in your office. For example, in the 50 to 75 range there are about 13 women and three men. I assume part of that is because women work permanent part-time in your organisation to accommodate them.

**Mr IPP:** I think that is right.

**Ms HAMILTON:** Yes, quite a few are working permanent part-time.

**The Hon. LYNDA VOLTZ:** Trainees are listed, but you have no training positions. Do you ever have training positions, or is that just a requirement that it be listed? I note that there is still only one Aboriginal and Torres Strait Islander working in the organisation. It would occur to me that a training position may be a way to increase that to meet your targets.

**Mr IPP:** I do not know the answer to that question.

**The Hon. LYNDA VOLTZ:** Theresa was nodding, so I assume so.

**Ms HAMILTON:** I was nodding saying, "I do not know the answer to that question".

**Mr IPP:** But it seems like a good idea and that will also be investigated.

**Mr THOMAS GEORGE :** I note that consultancy fees, advertising and publicity have increased from 2011 to 2012. Are you required to do more advertising because of the extra working you have been doing? What about the consultancy fees?

**Mr KOUREAS:** I think the consultancy fees relate to the preparation of a business case for information and communication technology. We had to develop technical specifications and



strategy to implement it and that entailed a whole review of the Commission's existing computer systems, information systems et cetera. That is what the main expenditure related to.

**Mr THOMAS GEORGE:** What about advertising and publicity?

**Mr KOUREAS:** I am not familiar with advertising.

**Mr IPP:** We do not do much advertising. That must be the notices of inquiries and so on.

**Mr ANDREW GEE:** There is quite a comprehensive regime of statutory investigative powers available to the Commission. Are you satisfied with the way in which that regime currently operates, especially in light of your recent work?

**Mr IPP:** I cannot think of anything that we would want, not that I have applied my mind to it. But what we have is pretty useful. I do not know if any of my colleagues here have anything in mind, but I cannot tell you of any change that I would seek.

**Mr ANDREW GEE:** What is the state of the working relationship between the Commission and the Office of the Director of Public Prosecutions? Is it a good relationship? Is there room for improvement? Are you satisfied with the way those two offices work together?

**Mr IPP:** I think it is probably the best that it has ever been. That does not mean to say that I do not get furious sometimes when they refuse to prosecute.

**Mr NATHAN REES:** When were those occasions?

**Mr IPP:** The big improvement has been in the reduction of waiting time on the part of the Director of Public Prosecutions. We do not have to wait so long for the Director of Public Prosecutions to tell us what he is going to do and there has been a big improvement in that. That helps.

**Reverend the Hon. FRED NILE:** Following up on your remark about the Office of the Director of Public Prosecutions refusing to prosecute, is there a mechanism whereby you can go back to them?

**Mr IPP:** There is.

**Reverend the Hon. FRED NILE:** So you can say that you want to insist that there should be a prosecution as a result of all the work you have done?

**Mr IPP:** We cannot insist. The DPP is entirely independent but if they come back with a decision that we do not like we write and ask them to review it. Sometimes they do, I think. I cannot remember any instance when they came to a different view. Has there been one? No, we try but we do not succeed.

**Reverend the Hon. FRED NILE:** I know often they will not give reasons. Do they give you reasons?

**Mr IPP:** We ask for reasons. They give reasons often; we do not always agree with their reasons. It is an uneasy relationship but it is better than it has ever been.

**Reverend the Hon. FRED NILE:** Should there be some protocol worked out?

**Mr IPP:** There is.

**Reverend the Hon. FRED NILE:** A protocol where you go to the Attorney General or something.

**Mr IPP:** No. We work with each other. Mr Temby was acting head of the Director of Public Prosecutions for a few months. He and I met and worked out a new memorandum of understanding. The new Director of Public Prosecutions has abided by that to the letter so I have no complaints. I mean the complaints are only that I think in some cases they should prosecute, they think they should not, and they win.

**Reverend the Hon. FRED NILE:** The public perception is that you have done all the work and there is no result. That seems to reflect back on you rather than on the Director of Public Prosecutions.

**Mr IPP:** That is something we have to wear. It is really a false understanding of what our job really is. I do not blame the Director of Public Prosecutions for that.

**Reverend the Hon. FRED NILE:** It raises a question—I think we have discussed before—of should there be a prosecution development within the Independent Commission Against Corruption?

**Mr IPP:** I have thought about that very carefully. As imperfect as our relationship is, and as imperfect as the results are, I think it would be worse if we did it ourselves. I think that it is inimical to justice to have the investigator prosecute.

**Reverend the Hon. FRED NILE:** There was a reference in an earlier question about other bodies being developed in the various States dealing with corruption. Do you maintain some relationship with similar groups?

**Mr IPP:** We write to each other. We have a conference in November every couple of years at which we all get together. They are very good conferences. The Deputy Commissioner is in charge of them, she will tell you how good they are.

**Reverend the Hon. FRED NILE:** Is that the social side of the Independent Commission Against Corruption?

**Mr IPP:** No, they are very good conferences.

**Ms HAMILTON:** It is a very well respected anti-corruption conference. IBAC and the other State bodies do contribute—they're partner agencies. They come and give presentations on what they have been doing and we give presentations. Over 500 people normally attend. It is a very good way to keep up with what those other agencies are doing.

**Mr THOMAS GEORGE:** That is the APSAC conference?

**Ms HAMILTON:** Yes.

**Reverend the Hon. FRED NILE:** This committee has been very effective in getting amendments through the Parliament to assist you in your operations. Are there any other areas that are still troubling you?

**Mr IPP:** I am afraid not. No, I am perfectly satisfied. I cannot think of anything that we want.

**CHAIR:** I take this opportunity to welcome, to what I will call the public gallery behind the Commissioner, members of the Independent Broad-based Anti-corruption Commission Committee of the Parliament of Victoria.

**The Hon. NIALL BLAIR:** Commissioner, you mentioned earlier that complaints or referrals quite often peak or increase before elections. How do we deal with people who may use the Commission's name in vain—for example, people coming out in the local media saying that they have reported someone to the Commission when that may or may not have happened? The Commission is not in a place to confirm or deny whether someone has been reported. How is that dealt with? Is it dealt with by the Commission?

**Mr IPP:** No, it is not. We prefer to make no comment at all on these matters. I do not think that it is appropriate for us to do so. It might be quite unfair on the individual who is being complained about. There are a lot of false statements made about that, but in time they disappear into the wind and I think the system just sorts itself out.

**The Hon. NIALL BLAIR:** A recent media report showed a photo of officers executing a search warrant wearing ICAC vests. Is that a new initiative to identify the officers in that sense?

**Mr IPP:** If it was a surprise to you, I can only tell you it was a surprise to me. I do not know. I think for their security it is a good idea. It does not happen very often. It is the first time I have ever seen it. Most searches are conducted without the media being there. The Independent Commission Against Corruption had done nothing to have the media there.

**Mr NATHAN REES:** I have two things to ask about. The first is an observation following on from the comments of the Hon. Lynda Voltz. The Treasury guidelines around how you itemise revenue are a guide to an organisation such as yours which investigates transparency and probity. My suggestion, for what it is worth, is that you disaggregate those revenue sources. If Treasury has a problem with that then frankly it is too bad. Secondly, if the Independent Commission Against Corruption policy is that there is no media comment on what may or may not be being investigated, what do your media people do?

**Mr IPP:** They report that the Independent Commission Against Corruption will not admit or deny.

**Mr NATHAN REES:** How good is that? I am serious. What do they do if there is no comment policy?

**Mr IPP:** They do not anything; they know. We really try and help the media. We try and work with the media.

**Mr NATHAN REES:** That is what I am getting at.

**Mr IPP:** We give them very good facilities. We give them a special room. We give them immediate communication to their base. We try and keep them informed about everything that is going on but we will not comment on investigations.

**Ms HAMILTON:** Could I just say in fairness to the media manager, the main work that they do occurs during public inquiries. The media manager attends every day of a public inquiry. There are requests for access to exhibits, transcripts and other information by the media. The media

manager has to manage all of that. It is true when a matter is still confidential there is little that the media manager can do except to say that we will not comment. But there are often other issues where it is appropriate to comment and the media manager has to prepare a draft response or a media release. So the media manager is kept very busy, particularly when public inquiries are going on.

**Mr NATHAN REES:** Let me be more specific in my question. I do not expect you to comment on specifics but is the media used to facilitate investigations? I will go to my point directly. The assertion that gets swirled around the city is that the Independent Commission Against Corruption will deliberately release parts of an investigation to a journalist and that precipitates a range of phone calls that are being intercepted. That is the rumour. I am not commenting on the credibility of that rumour.

**Mr IPP:** Can I answer that?

**Mr NATHAN REES:** Yes.

**Mr IPP:** Absolute rubbish. That has never happened while I have been there, and it will never happen.

**Mr NATHAN REES:** It may well be a useful device, I do not know. I am just trying to clarify it.

**Mr IPP:** We are meticulous in treating the media in exactly the same way so that every newspaper, journal and television channel is given exactly the same information.

**Mr NATHAN REES:** I was simply seeking to clarify whether the media role is a product of part of an investigation

**Mr IPP:** I understand. We do not use the media. The media is not an investigatory arm of the Commission.

**Mr RICHARD AMERY:** Last time we spoke I ran out of time on a couple of other matters. Last year I raised the issue about overseas travel and I understand that you may have changed the practice for the next annual report—the one that ends this year. If I was a member of the public who put down my bestselling novel to pick up this book to read on the way to work I would see at page 114 that Deputy Commissioner Theresa Hamilton spent six days inclusive in Hong Kong for a grand total of \$894.18—and we know that is not the case—and Bronwyn Baker spent five days inclusive in the United States for less than \$3,000. I have raised this in subsequent deliberative meetings of this Committee—I may have even mentioned it in the House but I cannot recall—if there are other contributors to the travel should they not also be included in the annual report and if a person paid for his or her expenses should that not also be mentioned? This is a public document. I think the way those figures are provided is insufficient to explain five and six days inclusive spent overseas. We have had this discussion at the Committee level but I am not aware if the format is going to change for the next annual report.

**Ms HAMILTON:** We do report to the Premier's department. For example, in the case of Hong Kong conference obviously they paid for my travel and expenses. There were just some incidental expenses for an additional day. That is reported to the Premier. I personally would have no problem at all with that being reported in the annual report. I am sure we will take that under consideration.

**Mr IPP:** There is very little overseas travel. I am against it.

**Mr RICHARD AMERY:** Looking at the annual report as a member of the public perhaps if there was an asterisk with a notation "total cost provided for by the Premier's department travel" or something like that—

**Ms HAMILTON:** Not by the Premier's department; by the Hong Kong ICAC. But we do report it to the Premier's department and get permission to travel on the basis that it is mainly being funded by that organisation. There would be no problem at all with putting in this report that that organisation paid X for the conference.

**Mr RICHARD AMERY:** I turn now to a couple of matters that have been raised since then. I detect a little undercurrent as to some disquiet with some processes with the Office of the Director of Public Prosecutions.

**Mr IPP:** There is no disquiet. It is just that if you get two lawyers you get three opinions. There is disagreement on some issues.

**Mr RICHARD AMERY:** Reverend the Hon. Fred Nile raised the issue—and there is probably frustration from your point of view—of the independence of the Office of the Director of Public Prosecutions. But in reading this report, and looking at not only the members of Parliament who have been adversely named but also a lot of other people, you have suggested that there were certain breaches under certain Acts—not only the Independent Commission Against Corruption Act but also other criminal Acts. It goes to the Office of the Director of Public Prosecutions and it can be years before they come back and say they will prosecute or they will not prosecute. I know there is some old saying about justice delayed or something but that does appear to be an unacceptable situation. If the Independent Commission Against Corruption in 2009 or 2010 has made a recommendation and it goes the Office of the Director of Public Prosecutions, surely there must be some process to say, "We do not see we have enough evidence here to prosecute somebody" and then make some statement. I do not think this waiting years for something which has left the public memory for a start is fair to the person who has probably been adversely named for a decision one way or the other.

**Mr IPP:** I agree with you entirely but, as I said, that used to be the case. There has been a great improvement.

**Mr RICHARD AMERY:** I saw something about that.

**Ms HAMILTON:** There are currently only three matters with the Director of Public Prosecutions and they all went over last year. So it is still not the speed of light but it is certainly not the case anymore that matters are sitting there for years. All of the old matters have been finalised, and there are only three relatively new matters now with the DPP. So the system of working through and revising the MOU seems to have had an effect and we will keep that going.

**The Hon. LYNDA VOLTZ:** I do not know if this is an appropriate question but when you refer matters to the DPP you obviously provide a brief on the findings of the Commission. Do you include all the information that has been released in the public domain, although sometimes you take statements that are not released to the public and are held in camera or in private? Is that also released to the Director of Public Prosecutions?

**Mr IPP:** All the evidence that is admissible in the criminal court that is relevant is sent to the Director of Public Prosecutions. We do not send the Director of Public Prosecutions material that he cannot use.

**The Hon. LYNDA VOLTZ:** So hearsay would be out.

**Mr IPP:** Yes. And that is part of the memorandum of understanding. That was always their excuse or valid reason. I actually sympathise with them. I think they were right when they said they would get all this paper from us and they would have to search through it to see what is admissible or not. We have stopped that and we only send to the Director of Public Prosecutions what we think is admissible in a criminal court. We undertake the culling ourselves now.

**The Hon. LYNDA VOLTZ:** So what the public has heard in the public arena is not necessarily what the DPP is receiving because some of the information that is released into the public arena is inadmissible in court because of the nature of hearsay evidence.

**Mr IPP:** Not only hearsay but—

**The Hon. LYNDA VOLTZ:** Well, the evidentiary nature of proof as well.

**Mr IPP:** Yes. Nearly every witness who gives evidence in a hearing takes advantage of section 38 of the Independent Commission Against Corruption Act, which is to the effect that nothing that the witness says can be used against him or her. So while we can use it, and it is very good evidence, the DPP cannot use it. I think that is a point I would like to make. The fact that we make findings on evidence that is not admissible in a criminal court does not mean that it is not good evidence. It is probably the best evidence you can get; it is people incriminating themselves out of their own mouths. You cannot get better than that but you cannot use that against them.

**Mr RICHARD AMERY:** As a former policeman I think that is quite reasonable.

**The Hon. LYNDA VOLTZ:** I must have misunderstood section 38 because I thought people use that because they were worried about a propensity for the person they are making the allegation against to sue and it protected them from that kind of liability.

**Mr IPP:** No, it has nothing to do with that. It has to do with using the evidence they give against them personally in another court. It cannot be done. While it is good evidence on which you can make findings, soundly based, it is not evidence which the Director of Public Prosecutions can use.

**The Hon. LYNDA VOLTZ:** We used to get this in military police a lot, and I am sure Mr Amery had the same in police. Often when we had done the investigation we had done it a certain way but when the commanding officers of units had done it in their own way, the prosecutor used to often wonder at the nature of the way they had taken evidence as opposed to a police organisation. I guess people who have been trained in the police method—

**Mr IPP:** It is very similar to that.

**The Hon. LYNDA VOLTZ:** —of taking evidence have a certain view. You have two people who have been approved for the interpreting allowance in Cantonese and in Polish. You do have a high number of other languages, but are those people in particular used for interpreting? Are people referred to those people with special language skills when they ring up to make complaints or take evidence? I am interested that you have some languages but there appear to be about three or four that are identified in a report.

**Mr IPP:** I think those are for giving evidence in the hearing room. When we are taking evidence and the person cannot speak English we will get an interpreter, whatever the language is.

**The Hon. LYNDA VOLTZ:** So it is always when you are investigating you use outside interpreters?

**Mr IPP:** Where necessary, yes.

**Mr ANDREW GEE:** I have a follow-up question to those of Mr Blair. I took it from your answers to him that there is no formal mechanism in the Commission to deal with frivolous or vexatious complaints?

**Mr IPP:** Except throw them in the waste paper basket.

**Mr ANDREW GEE:** In your view is that the only mechanism that is warranted?

**Mr IPP:** Yes. I think there are some other agencies which penalise people who make false complaints. I would not want that. People should feel free to make whatever complaint. We can wear those frivolous complaints.

**CHAIR:** To follow-up Ms Voltz's questions, does it follow from your evidence that you do not brief the DPP with inadmissible evidence?

**Mr IPP:** We try not to.

**CHAIR:** Does that mean that vast slabs of transcript of the public hearings where witnesses have taken advantage of section 38 are not briefed to the Director of Public Prosecutions?

**Mr IPP:** Yes. We do not send transcripts. The transcripts are publicly available.

**CHAIR:** Do you have any dealings with Transparency International?

**Mr IPP:** No.

**CHAIR:** Would you like to make any general observations about the level of corruption in public office in New South Wales compared with comparable jurisdictions overseas?

**Mr IPP:** I do not think it is nearly as bad as people think. There are some bad eggs, but generally I think people in public office in New South Wales are dedicated, committed people with integrity. But there are always some who are not but they are in a small minority. That is my opinion.

**Reverend the Hon. FRED NILE:** Following up on the matters referred to the Director of Public Prosecutions and no action is taken, I note in your report that you give some explanations. I wonder if you could include a summary in your report where you say "We referred 99 cases; the Director of Public Prosecutions only acted on 20 or 30", so it can highlight to us the work you are doing and the lack of success from the Director of Public Prosecutions' end.

**Mr IPP:** I do not know if that would be advisable because that would involve reporting on expressions of opinion about the credibility of witnesses. Where we have already expressed views in the report, the Director of Public Prosecutions may take a different view. It would reflect on the reputation of those witnesses if we say we thought the witness was good and the Director of Public Prosecutions said he did not think that the witness was honest. That

would not be appropriate to mention. But the part of our memorandum of understanding that is important to us is that where the Director of Public Prosecutions refuses to prosecute because the witness is not cooperative, that is something that we ask him to say publicly, and we will say it publicly, because in very many cases the reason for the Director of Public Prosecutions refusing to prosecute is that a witness on whom we have relied and who we have got into the hearing room on a summons and used our powers to get evidence, that witness will refuse to give a statement to the Director of Public Prosecutions and then the Director of Public Prosecutions will not prosecute. That is his policy. I am not saying that that is a good or bad policy. That is his policy. We can do nothing about that.

It is not 100 per cent followed but that is his general policy. Sometimes you get a witness who has a really bad experience in the witness box and then says, "I'm never going into the witness box again"; if that witness's evidence is crucial to the proof of a crime and they will not cooperate with the Director of Public Prosecutions, the Director of Public Prosecutions generally—not always—takes the view that he will not prosecute. But we then say that, but that is the reason we like to put that out into the public; otherwise people do not understand why we can make a finding but the Director of Public Prosecutions refuses to prosecute.

**Reverend the Hon. FRED NILE:** With the new building for the Independent Commission Against Corruption, is it possible to have private access or private entry for witnesses? We have seen the American style of harassment of witnesses.

**Mr IPP:** I would really like private access to the Commissioner, but I cannot get it.

**Reverend the Hon. FRED NILE:** Or both. You can have underground car park access—

**Mr IPP:** We have underground car park access where we are. That did not prevent the media from descending on Mr Lucky Gattellari on the lowest, fifth, floor in the basement and photographing him. That is something we can do nothing about. The kind of building that we will go into is not custom built. If we had our own custom built building we could, but once you go into leased premises you cannot do it.

**The Hon. NIALL BLAIR:** I have a question about—I do not know if this is the right word—closure for people who may have been reported or referred, closure in the sense that if someone is reported and the ICAC does an investigation and finds that they do not need to go any further, closure for that person to know that there is no longer an investigation or they can move on.

**Mr IPP:** That is a completely valid point. We do not have a formal means of doing this and it is often awkward because there are sometimes other agencies investigating and they do not want us to let them know, but generally we do our best to inform that person. I personally do not think it is fair to keep that person in suspense and we do our best to let that person know that whereas we have started investigating or we have done investigations and they know about that, because they have been part of the investigations, we will find some way of letting them know. It might not happen immediately because sometimes we have to wait for other agencies to finish their investigations but there will come a time when we will let them know in some way or another. We do not have a formal procedure for this, as I said, but we do try to let them know.

**The Hon. NIALL BLAIR:** I understand the complexity of this issue, but relating that back to my earlier question where someone may have claimed that they have reported something that is



used, for a better example, there is a claim in the media that they have reported me to the Commission. Is there any possibility that I can get closure to say yes or no, that has occurred or we have looked at it and it is not happening? I know it is a difficult one.

**Mr IPP:** It does not happen very often that someone says they have reported someone to ICAC when they have not. Again, I think that the person to whom this happens is in a very unfortunate position and I personally will do my best to make sure that that person knows the truth. But we do not have a formal system for doing this. It is difficult because if we do say that and new evidence comes up, then what?

**The Hon. NIALL BLAIR:** I do not know the answer.

**Mr IPP:** We play it by ear, I am afraid. That is not very satisfactory, I know, but all I can say is that I am acutely conscious of this and try to ensure that fairness is done where we can do it safely.

**Mr RICHARD AMERY:** In relation to referrals from Parliament, I understand there was a referral from Parliament—I think it may be the current one that you are just winding up—supported by all sides of Parliament, but when one side of Parliament requests the referral of a member or former member to the Independent Commission Against Corruption, what would be your comment as to whether that should be supported by all? I mean at the end of the day, if a serious allegation was made in the Parliament, what would be your comment as to whether that sort of request could be blocked by the Parliament and, if it were blocked by the Parliament, would that initiate your own powers under section 20 of the Act, I think it is, to initiate an inquiry into the matter that appeared to be getting blocked for political reasons?

**Mr IPP:** I do not think anybody can block an inquiry. If there is a particular individual in Parliament who wants to refer a matter to the Commission, he or she is open to do it. They can do it; it does not need the Parliament to do it. But if both Houses of Parliament refer someone—

**Mr RICHARD AMERY:** There must be an investigation.

**Mr IPP:** There must be an investigation. If an individual refers, it is in our discretion whether to investigate. The real significance of a referral by both Houses of Parliament is that we have no choice; we have to investigate.

**Mr RICHARD AMERY:** That is the point I was making, that if there was a raging debate about a referral to the Independent Commission Against Corruption, because there is a request that comes with more significance, it comes by resolution of the Parliament, would the Independent Commission Against Corruption be alerted by the fact that somehow, for political reasons, this was being stopped?

**Mr IPP:** Mr Amery, I just do not see how it could be stopped. I mean if you wanted to have somebody investigated and you put it up in Parliament and you did not get the majority, you would be on the phone immediately to say, "Look, these so and so's have not agreed, but please investigate this", and off we would go.

**Mr RICHARD AMERY:** But if I did not make the call, you have some powers to initiate an inquiry under the Act.

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ANSWERS TO QUESTIONS WITHOUT NOTICE (TRANSCRIPT OF EVIDENCE)

**Mr IPP:** We have our own. We have done it. It is something we do do occasionally, especially if we read something in the press that we do not know about.

**CHAIR:** Before closing the public hearing, as there are no further questions and no questions on notice, Commissioner, on behalf of the Committee I thank you for your attendance today and for giving evidence.

**Mr IPP:** Thank you.

## Appendix Three – Extracts from Minutes

### **Minutes of Proceedings of the Committee on the Independent Commission Against Corruption (no. 11)**

1:33pm, Thursday, 15 November 2012  
Room 1254, Parliament House

#### **Members Present**

Mr Speakman, Mr Amery, Mr Blair, Mr Coure, Ms Mihailuk, Mr Owen, Mr Rees, Ms Voltz

#### **Apologies**

Mr Gee, Mr George, Revd Nile

#### **1. Confirmation of minutes**

Resolved, on the motion of Mr Coure, that the minutes of the deliberative meeting of 19 July 2012 be confirmed.

#### **2. Forward planning - reviews of the ICAC's and ICAC Inspector's annual and other reports for 2011-12**

The Committee noted the indicative timeline for the conduct of the annual report reviews and the completion of the reports. Discussion ensued.

3. \*\*\*

4. \*\*\*

The committee adjourned at 1.39pm until a date to be determined.

### **Minutes of Proceedings of the Committee on the Independent Commission Against Corruption (no. 12)**

1:30pm, Thursday, 30 May 2013  
Room 1254, Parliament House

#### **Members Present**

Mr Speakman, Mr Amery, Mr Blair, Mr Coure, Mr Gee, Mr George, Revd Nile, Ms Mihailuk, Mr Owen, Mr Rees, Ms Voltz

#### **1. Correspondence**

The Committee noted the incoming correspondence from:

- ICAC Inspector, with answers to questions on notice, dated 21 March 2013
- ICAC, with answers to questions on notice, dated 28 March 2013
- \*\*\*

Resolved, on the motion of Mr Owen, seconded Revd Nile, that the Committee publish answers to questions on notice from the ICAC and ICAC Inspector.

**2. Confirmation of minutes**

Resolved, on the motion of Mr Coure, seconded Mr Blair, that the minutes of the deliberative meeting of 15 November 2012 be confirmed.

**3. Forward planning - reviews of the ICAC's and ICAC Inspector's annual reports for 2011-12**

The Committee noted that Mr Harvey Cooper AM, Inspector of the ICAC, and the Hon David Ipp AO QC, Commissioner of the ICAC, accompanied by senior executive staff would be appearing as witnesses at the public hearing to be held on Friday 21 June 2013.\*\*\*

**4. \*\*\***

**5. \*\*\***

The committee adjourned at 1.37pm until 9.50am on 21 June 2013.

**Minutes of Proceedings of the Committee on the Independent Commission Against Corruption (no. 13)**

9:50am, Friday, 21 June 2013

Macquarie Room, Parliament House

**Members Present**

Mr Speakman, Mr Amery, Mr Blair, Mr Coure, Mr Gee, Mr George, Revd Nile, Ms Mihailuk, Mr Owen, Mr Rees, Ms Voltz

*Staff in attendance:* Rachel Simpson, Dora Oravec, Jenny Whight, Elspeth Dyer

**1. Apology**

An apology was received from Mr Owen.

**2. Deliberative meeting**

**a) Confirmation of minutes**

Resolved, on the motion of Mr Coure, seconded Mr Gee, that the minutes of the deliberative meeting of 30 May 2013 be confirmed.

**b) \*\*\***

**c) Media orders**

Resolved, on the motion of Mr Blair, seconded Mr Coure, that the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 21 June 2013 in accordance with the NSW Legislative Assembly's guidelines for coverage of proceedings for parliamentary committees administered by the Legislative Assembly.

**d) Publication orders**

Resolved, on the motion of Mr Amery, seconded Mr Gee, that the corrected transcript of public evidence given today be authorised for publication and uploaded on the Committee's website.

**e) Answers to questions on notice**

Resolved, on the motion of Mr Gee, seconded Mr Amery, that witnesses be requested to return answers to questions on taken on notice and supplementary

questions within 2 weeks of the date on which the questions are forwarded to the witness.

**3. Public hearing**

The press and public were admitted.

The Chair opened the public hearing at 10.14am and after welcoming the witnesses made a brief opening statement.

Mr Harvey Cooper AM, Inspector, Office of the Inspector of the Independent Commission Against Corruption, sworn and examined.

Ms Seema Srivastava, Executive Officer, Office of the Inspector of the Independent Commission Against Corruption, affirmed and examined.

The Inspector made a brief opening statement. The Chair commenced questioning the witnesses, followed by other members of the Committee. Evidence concluded, the witnesses withdrew.

The Committee took an adjournment at 10.45am and resumed the public hearing at 10.56am.

The Hon David Ipp AO QC, Commissioner, Independent Commission Against Corruption, Ms Sharon Loder, Executive Director, Investigation Division, Independent Commission Against Corruption and Dr Robert Waldersee, Executive Director, Corruption Prevention Division, Independent Commission Against Corruption, affirmed and examined. Ms Theresa Hamilton, Deputy Commissioner, Independent Commission Against Corruption, Mr Roy Waldon, Solicitor to the Commission and Executive Director, Legal Division, Independent Commission Against Corruption, and Mr Andrew Koureas, Executive Director, Corporate Services Division, Independent Commission Against Corruption, sworn and examined.

The Commissioner made an opening statement. The Chair commenced questioning the witnesses, followed by other members of the Committee. Evidence concluded, the witnesses and the public withdrew.

The public hearing concluded at 12:25pm.

**4. \*\*\***

The Committee adjourned at 12:34pm until a date and time to be determined.

**Minutes of Proceedings of the Committee on the Independent Commission Against Corruption (no. 15)**

1.33 pm, Wednesday 23 October 2013

Room 1153, Parliament House

**Members Present**

Mr Amery, Mr Blair, Mr Coure, Mr Gee, Ms Mihailuk, Revd Nile, Mr Perrottet, Mr Rees, Ms Voltz.

*Staff in attendance:* Bjarne Nordin, Dora Oravec, Jenny Whight.

**1. Apologies**

Apologies were received from Mr George and Mr Owen.

**2. Confirmation of Minutes**

Resolved, on the motion of Mr Coure, seconded Mr Blair: That the minutes of the deliberative meetings of 21 June 2013 and 18 September 2013 be confirmed.

**3. \*\*\***

**4. \*\*\***

**5. Review of the Independent Commission Against Corruption's 2011-2012 Annual Report**

**5.1 Consideration of the Chair's draft report**

The Chair spoke to the draft report, previously circulated.

Resolved, on the motion of Revd Nile, seconded by Ms Mihailuk: That the draft report be the report of the Committee, signed by the Chair and presented to the House.

Resolved, on the motion of Ms Mihailuk, seconded by Mr Coure: That the Chair and secretariat be permitted to correct stylistic, typographical and grammatical errors.

Resolved, on the motion of Ms Mihailuk, seconded by Mr Coure: That, once tabled, the report be posted on the Committee's website.

**6. \*\*\***

**7. Next meeting**

The Committee adjourned at 1.56 pm until a date and time to be determined.