

ROYAL COMMISSION
INTO THE
NEW SOUTH WALES POLICE SERVICE

FINAL REPORT

VOLUME I: CORRUPTION

Commissioner: The Hon Justice JRT Wood

May 1997

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ROYAL COMMISSION INTO THE NSW POLICE SERVICE

15th May 1997

The Hon RJ Carr MP
Premier of New South Wales
Governor Macquarie Tower
1 Farrar Place
SYDNEY NSW 2000

My Dear Premier

Pursuant to Letters Patent issued to me by the Government of the State of New South Wales, I now have the honour to present to you the Final Report of my inquiry into the New South Wales Police Service, in relation to all terms save those contained in paragraphs (d), (d1) to (d3) and (g) to (j) inclusive of the consolidated terms of reference (the Paedophile terms).

Yours sincerely

The Hon Justice JRT Wood
Royal Commissioner

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EXPLANATORY NOTES

The amalgamation of the New South Wales Police Force (operations) and the New South Wales Police Department (policy and administrative support) into a single entity known as the New South Wales Police Service, commenced in June 1987. This was formalised by the *Police Service Act 1990* (NSW) which came into effect on 1 July 1990. Throughout this Report, the organisation is generally referred to as 'the Service' or 'the Police Service'.

All legislation referred to is NSW legislation unless otherwise indicated.

The Commission was assisted by a number of consultants who prepared research papers on matters of relevance, in particular Dr Janet Chan, Dr David Dixon, Mr Mark Finnane and Mr Chris Cunneen.

The employee associations for sworn officers of the NSW Police Service are the Police Association of New South Wales, for non-commissioned officers, and the Commissioned Police Officers' Association for commissioned officers. Throughout this Report they will be referred to as 'the Associations' or 'the Police Associations'. A reference to 'the Police Association' (singular) is a reference to the Police Association of New South Wales.

ABBREVIATIONS USED IN THIS REPORT

Abbreviations are for NSW organisations unless otherwise stated.

ABCI	Australian Bureau of Criminal Intelligence
ACLO	Aboriginal Community Liaison Officer
AFP	Australian Federal Police
AIC	Australian Institute of Criminology
ALRC	Australian Law Reform Commission
ASIO	Australian Security Intelligence Organisation
BCI	Bureau of Criminal Intelligence
CAN	Court Attendance Notice
CAPS	Career Advancement Planning System
CARE	Centre for Applied Research and Education
CAU	Customer Assistance Unit (UK)
CCPC	Commission to Combat Police Corruption (New York)
CCRB	Civilian Complaint Review Board (New York)
CIB	Criminal Investigation Bureau
CIU	Crime Intelligence Unit
CIS	Complaints Information System
CJC	Criminal Justice Commission (Queensland)
COPS	Computer Operated Policing System
CPEA	Child Protection Enforcement Agency
CPOA	Commissioned Police Officers' Association of NSW
CPS	Crown Prosecution Service (UK)
DEA	Drug Enforcement Agency
DEET	Department of Employment, Education and Training (Commonwealth)
DLEB	Drug Law Enforcement Bureau
DPP	Director of Public Prosecutions
DPP (Cth)	Director of Public Prosecutions (Commonwealth)
EEO	Equal Employment Opportunity
ERISP	Electronically recorded interview between a suspect and police
FCAN	Field Court Attendance Notice
FEA	Fraud Enforcement Agency
FTO	Field Training Officer
GREAT	Government and Related Employees Appeal Tribunal

HECS	Higher Education Contribution Scheme
HOD	Hurt on Duty
HRAC	Human Resources Advisory Committee
HRM	Human Resources Management
HSC	Higher School Certificate
IA	Internal Affairs Branch or Office, NSW Police Service
ICAC	Independent Commission Against Corruption
IPETAC	Interim Police Education and Training Advisory Council
IPSU	Internal Police Security Unit
IR Act	<i>Industrial Relations Act 1996</i>
IT	Information Technology
LD	listening device
LRO	Legal Representation Office
JTF	Commonwealth-NSW Joint Task Force on Drug Trafficking
MACPA	Ministerial Advisory Committee on the Police Academy
MCPE	Mandatory Continuing Police Education
MMP	Methadone Maintenance Program
NCA	National Crime Authority
NPRU	National Police Research Unit
NSEP	Needle & Syringe Exchange Program
NSWCC	New South Wales Crime Commission
NUCS	National Uniform Crime Statistics Program
NWMCS	North West Major Crime Squad
NYPD	New York Police Department (New York)
ODPP	Office of the Director of Public Prosecutions
OMD	Official Misconduct Division, Criminal Justice Commission, (Queensland)
OPM	Office of Public Management
OPR	Office of Professional Responsibility
ORC	Operations Review Committee, Independent Commission Against Corruption
PACE Act	Police and Criminal Evidence Act (UK)
PAD	Prohibited Amusement Device
PAL	Police Assistance Line
PARC	Police Academy Review Committee
PBC	Police Boys' Clubs
PC	personal computer
PCBC	Police Citizens' Boys Club
PCCM	Police Complaints Case Management System

PCYC	Police Citizens' Youth Clubs (1985-1995), and Police & Community Youth Clubs (1995 to present)
PEAC	Police Education Advisory Council
PEDO	Patrol Education Development Officer
PIB	Professional Integrity Branch
PIC	Police Integrity Commission
PJC	Parliamentary Joint Committee
PRAM Act	<i>Police Regulation (Allegations of Misconduct) Act 1978</i>
PREP	Police Recruit Education Program
PSAC	Police Superannuation Advisory Committee
PSRG	Protective Security Response Group
PSSSE	Police Service Senior Executive Service
RCPS	Royal Commission into the New South Wales Police Service
RCIADIC	Royal Commission into Aboriginal Deaths in Custody
RCIDT	Royal Commission of Inquiry into Drug Trafficking
RCIU	Royal Commission Implementation Unit
RCRU	Royal Commission Response Unit
RCT	Royal Commission Transcript (Commissioner Wood)
RCT(U)	Royal Commission Transcript (Commissioner Urquhart)
SA PCA	South Australian Police Complaints Authority
SCAT	State Commander's Action Team
SCORPIO	Sub-Committee on Response Policing in all Operations
SEG	State Executive Group
SIG	Special Investigative Group
SOG	Special Operations Group
SOP	Standard Operating Procedures
SP	starting price
SPO	Student Police Officer
SPG	Strategic Planning Group
SWOS	Special Weapons Operations Squad
TAFE	Technical and Further Education
TER	Tertiary Entrance Rank
TI	telephone interception
TI Act	<i>Telecommunications (Interception) Act 1979 (Cth)</i>
TIMS	Task Force Investigation Management System
TRG	Tactical Response Group
TSU	Technical Surveillance Unit

GLOSSARY

The expressions listed below describe corrupt and/or criminal practices and other colloquialisms referred to in evidence received by the Royal Commission and in this Report.

A graders	expression used by police to describe the perceived elite members of the Service - usually referring to senior detectives in the specialist squads and task forces. (More often used by a person who considers that he or she is already a member of that group).
barbeque set	clique of senior and/or corrupt police in the 1980s who regularly socialised together.
blooding or 'to blood'	in general, the breaking in of police to the realities of policing following graduation from the Academy; in the context of corruption, the breaking in of police to corrupt practices by including them in an activity which may compromise them.
book up (drugs)	the police process of recording drugs seized during raids.
brick-up	see load up
buy-bust	form of police operation in which an undercover officer buys drugs and then arrests the dealer.
buy money	funds used by police to perform an undercover drug purchase.
Christmas Club	term given to a group of JTF detectives involved in the theft and distribution among themselves of a large sum of money.
cockatoo	a lookout
a 'cook'	the chemical process involved in the manufacture of amphetamine.
cut	the division of a quantity of a drug into smaller quantities often with the addition of another cheaper substance in order to increase the overall quantity.
deemed supply	common expression used for the offence under s. 29 <i>Drug Misuse and Trafficking Act 1985</i> whereby the possession by a person of a certain amount of a prohibited drug(s) is 'deemed' to be for supply unless the person can prove otherwise.
dive-bombing	surprise/random visits by a commander/supervisor to stations, operations or surveillance posts.
dog	an officer who reports other officers or breaks the code of silence.
goods or things in custody	common term for the offence under s. 527C <i>Crimes Act 1990</i> relating to goods or money found during a search, or in the possession of an individual, which are suspected of being stolen or

otherwise unlawfully obtained.

green-lighting	when police permit criminals to conduct robberies or drug dealing, for example, in return for money and/or information. The term is best known to describe the way corrupt police in the 1980s are alleged to have allowed certain criminals to conduct a series of armed robberies.
gutting	in the context of 'gutting a brief' it means to remove documents from or otherwise weaken a brief so that prosecution will be unsuccessful or charges reduced.
holding the line	sticking to a version of events
letter of comfort/assistance	a letter provided by a police officer to be used during sentencing hearings in support of a convicted criminal who has purportedly assisted the police in some way. For example, an officer may provide a letter of comfort for a criminal informant who has provided information which has led to the convictions of other individuals.
load up	where police charge an individual with a crime or crimes the person did not commit - usually by false evidence as to the finding of drugs, a weapon or other items in the possession of an accused, or as to admissions by that person.
note book confession or 'do a notebook'	a form of 'verbal' (see below) in which a record is made in a police note book of a 'confession' which did not in fact occur.
payback (complaint)	a complaint made by another officer against an officer who has himself made a complaint or arrested a civilian. A significant aspect of these complaints is that they come after their target has been identified or suspected of being an internal witness.
pulling (a brief)	withdrawing/losing a brief to prevent prosecution
rat	same as dog
rebirthing (of cars)	the transformation of a vehicle by use of parts taken from other vehicles so that the original will not be recognised.
roll-over	a witness who, after initially maintaining an exculpatory version of events common to other witnesses, provided evidence and/or admissions incriminating him or herself and/or other persons in corrupt or illegal activity.
running interference	to actively and purposively hamper an investigation or prosecution by for example, misinformation, avoidance, delay, or deliberate error.
'salting' of exhibits	interfering with exhibits usually to assist the prosecution
scrumdown	a police term for the practice of getting together to ensure police statements and/or evidence are consistent. The practice can be

used innocently or corruptly; the latter to ensure that the evidence and statements consistently support a corrupt purpose. For example, a scrumdown may occur prior to an IA investigation to ensure that all police support each other and maintain a common story about the events in question.

shakedown	extortion; in relation to police refers to the extortion, through abuse of police powers, of money from, for example, licensed premises, unlicensed premises, drug dealers.
sharps	needles, as in hypodermic needles for drug injection
shooting-gallery	a place where a drug user can go to buy a syringe kit and rent a room for a short period of time to inject drugs.
show money	similar to 'buy money'; money shown by police to demonstrate bona fides preparatory to an undercover drug purchase.
show raids	a sham raid which is carried out for the purpose of indicating police activity when in fact the target has been given prior warning or protection from police action.
sly-grogging	selling alcohol without a liquor licence
sponsor	a senior officer who is a mentor, referee and/or advocate for a more junior officer.
spotters' fees	commissions paid to police by private businesses for introducing business to them, particularly funeral and tow truck businesses.
sting	undercover operation
the laugh	the term given to a system of corrupt payments, during the 1980s and early 1990s, between Kings Cross detectives and local criminals for protection from prosecution, primarily shared by sergeants.
trifecta	the colloquial term given by police to a series of three minor charges, for example, - offensive language/behaviour, resist arrest, and assault police. This practice has been used by police to legitimise arrests of individuals against whom there is no legitimate charge, or by way of payback or harassment.
'turn' a witness	the same as to 'roll' a witness; convincing a witness to assist a law enforcement agency in its inquiries including the giving of evidence against others.
used fit	a used needle and syringe
verbal	false evidence given by police that a suspect had confessed or made inculpatory remarks at the time of arrest or during an interview.
whale in the bay	a coded message used to warn colleagues of an internal investigation.

whippy

money found during the execution of a warrant which is retained and divided among police.

whistleblower

term given to an individual who reports misconduct or corruption of another member or members within the same organisation. In the context of policing the term used has until recently been 'internal informer'. This has been replaced by the term 'internal witness'.

CHAPTER 1

INTRODUCTION

A. THE SCOPE OF THE INQUIRY

1.1 On 13 May 1994,¹ by Letters Patent, the Hon Justice James Wood,² was authorised and required to investigate the several matters identified in paragraphs (a) to (e) of the terms of reference,³ relating in substance to:

- the existence, or otherwise, of systemic or entrenched corruption within the New South Wales Police Service (the Service);
- the activities of the Professional Responsibility Command;
- the system of promotions in the Service;
- the impartiality, or otherwise, of the Service in relation to the investigation and prosecution of criminal activities including, but not limited to, paedophile activity;⁴ and
- the efficacy of the internal informers policy of the Service.

The Letters Patent required Commissioner Wood to report by 30 June 1996. This reporting date was later extended until 30 June 1997.⁵

1.2 By further Letters Patent issued on 21 December 1994, the scope of the inquiry was expanded to include the matters referred to in paragraphs (d1) to (d3) of the terms of reference,⁶ relating in substance to:

- the protection of paedophiles and pederasts from criminal investigation or prosecution by act or omission of any members of the Police Service;
- the protection of paedophiles or pederasts from criminal investigation or prosecution by the conduct of any public official;
- the adequacy of investigations of paedophiles or pederasts undertaken by the Police Service; and
- the extent to which investigations and prosecutions, including failed or attempted prosecutions of paedophiles or pederasts had been adversely affected by the procedures of or the relationships between the Police Service and other public authorities.

¹ Following debate in the Legislative Assembly on 11/5/94 in which the Independent Member for the South Coast, Mr John Hatton, moved that a Royal Commission be established. He used a number of case histories to support his motion and called for investigators from outside NSW to conduct the necessary investigations. The motion was opposed by the Government of the day but, as the Government did not at the time command a majority in the Assembly, the motion was passed when the other Independent members of the Assembly voted with the Opposition. The debate lasted nearly nine hours.

² Justice of the Supreme Court of New South Wales.

³ See Volume III, Appendix 4 of this Report - Terms of Reference to Commissioner Wood (Consolidated).

⁴ The investigation of the alleged protection of paedophiles had been entrusted to the ICAC shortly before the establishment of the Royal Commission. The Acting Commissioner of the ICAC and the Royal Commissioner proposed arrangements to 'avoid wasteful and detrimental duplication of resources' but these arrangements were questioned in the Legislative Assembly and, following debate on 1 and 2/12/94, it was decided by resolution of both Houses of Parliament, that the Royal Commission was the appropriate body to conduct these investigations.

⁵ By Letters Patent issued on 16 May 1995 the date for delivery of the Commissioner's final report was extended to 31 December 1996. By further Letters Patent issued on 21 February 1996, the date was extended to 31 March 1997. By further Letters Patent issued on 30 October 1996, the date for delivery of the Commissioner's final report was extended to 30 June 1997.

⁶ See Volume III, Appendix 4 of this Report - Terms of Reference to Commissioner Wood (Consolidated).

1.3 By further Letters Patent issued on 23 October 1996, the scope of the inquiry in relation to the paedophile term of reference was again enlarged to include the matters referred to in paragraphs (g), (h), (i) and (j),⁷ relating in substance to:

- the sufficiency of existing laws prohibiting paedophilia, pederasty and related crimes of sexual abuse;
- the appropriateness of the penalties currently prescribed for such forms of conduct;
- the sufficiency of the monitoring and screening processes of Government departments and agencies to protect children in their care, or under their supervision, from sexual abuse; and
- the sufficiency of the investigatory processes and procedures of the Service, and of the criminal trial process, to effectively deal with allegations of such forms of conduct.

B. THE FIRST INTERIM REPORT - FEBRUARY 1996

1.4 Between July 1994 and December 1995, inquiries were conducted and evidence received at public sittings of the Royal Commission, in relation to the possible existence of a state of entrenched or systemic corruption within the Service, and in relation to the adequacy of the existing system for the investigation of complaints of serious misconduct and of corruption, on the part of serving police.

1.5 That existing system comprised a mixture of internal investigation, and external investigation and oversight, entrusted to three agencies:

- the Office of Professional Responsibility (OPR), an internal Police Service command with responsibility to conduct inquiries into complaints of misconduct and corruption, with authority to initiate anti-corruption measures, and with authority to conciliate those complaints, both internal and external, which were suitable for conciliation;⁸
- the Independent Commission Against Corruption (ICAC)**Error! Bookmark not defined.**, a statutory Commission with general jurisdiction to inquire into and report on public sector corruption, constituting 'corrupt conduct'⁹ within the meaning of its charter, and including that referable to the Service;¹⁰
- the Office of the Ombudsman, a statutory office similarly having general jurisdiction to examine and report on complaints made in respect of public sector agencies, and with specific responsibility to oversee the management by the Service of its complaints procedures and of its provision of services to the public.¹¹

1.6 In February 1996, the Royal Commission delivered its First Interim Report in which it recorded its conclusions that:

- the existing investigative framework had been shown to be seriously inadequate, and to be in need of substantial reform; and that
- a state of systemic or entrenched corruption had provisionally been shown to exist.

The reasons for those conclusions, and for the reform recommendations offered were analysed in some depth.

1.7 Save so far as is necessary, that analysis will not be repeated in this Final Report, since:

⁷ *ibid.*

⁸ RCPS, *First Interim Report*, February 1996, paras. 1.11 - 1.26.

⁹ See *Independent Commission Against Corruption Act 1988*, ss. 7-9.

¹⁰ RCPS, *First Interim Report*, February 1996, paras. 1.37 - 1.50.

¹¹ *ibid.*, paras. 1.27 - 1.36.

- the First Interim Report has been implemented by legislation which created a permanent body, the Police Integrity Commission (PIC), with primary responsibility to investigate or to co-ordinate the investigation of serious police misconduct;¹²
- the further investigations carried out, and the evidence received since the issue of that Report, do not disclose any different situation from that which was there described; and
- no circumstance has arisen requiring any modification of the specific recommendations made in the First Interim Report, so far as they have been implemented.¹³

C. INQUIRIES SINCE THE FIRST INTERIM REPORT

1.8 Since 1 January 1996, further investigations have been conducted and evidence received in relation to each of the terms of reference. These further proceedings have been concerned with:

- completing the examination of the specific corruption inquiries mentioned in the First Interim Report;
- examining fresh areas involving possible serious misconduct, criminality and corruption, affecting other areas of the Service, principally within the Sydney metropolitan district;
- further examining the performance of the Professional Responsibility Command in relation to certain internal inquiries;
- examining the efficacy of the Internal Informers Program;
- examining matters relating to the structure, management and procedures of the Service that might have contributed to the development of systemic or entrenched corruption, or hindered efforts to combat such corruption;
- reviewing certain investigations or prosecutions of persons suspected of the unlawful sexual abuse of children; the existence or otherwise of networks of sexual abusers of that kind, the possible protection of such offenders, and neglect or breach of official duty in relation thereto; and
- reviewing and assessing the adequacy of inter-agency relationships, practices and procedures concerning the protection of children from unlawful sexual abuse, and allied issues relating to the management and rehabilitation of both offenders and victims, within this area of criminality.

1.9 Pursuant to Letters Patent issued on 21 February 1996, the Hon Judge Paul Urquhart QC was appointed Royal Commissioner¹⁴ to inquire into, and report to Justice Wood, on such aspects of the above mentioned terms of reference, as Commissioner Wood referred to him.¹⁵ The evidence and exhibits tendered before him, and the reports prepared in relation to those inquiries, have been taken into account for the purposes of this Final Report. On 11 July 1996, Commissioner Urquhart was appointed Commissioner of the Police Integrity Commission, but he has continued to hold office as an additional Royal Commissioner, conducting inquiries upon referral.

D. THE SECOND INTERIM REPORT - NOVEMBER 1996

1.10 By November 1996, the public inquiries of the Royal Commission had not only confirmed the provisional findings of the First Interim Report, but had revealed fundamental problems which could

¹² *Police Integrity Commission Act 1996*, s. 13.

¹³ For a summary of the recommendations, see RCPS, *First Interim Report*, February 1996, pp. 110-13.

¹⁴ In exercise of the power conferred under the *Royal Commissions Act 1923*, s. 5.

¹⁵ See Volume III, Appendix 5 of this Report - Terms of Reference to Commissioner Urquhart (Consolidated).

not be corrected by a mere patching up of the existing system. The view was reached that further delay in the reform process would be counterproductive in that:

- the existence of a serious problem was obvious, and accepted by the Service;
- there was a desire and momentum for reform that should not be lost;
- there was an urgent need to remove officers still in the Service who had been the subject of well-founded allegations of corruption, and to reorganise senior command ranks so as to place the best qualified officers in positions where they could join the fight against corruption, and overcome the ineffective management and supervision of the past;
- a new Police Commissioner had been appointed who had established an agenda for reform that would be frustrated by existing statutory constraints upon his office; and
- unless legislation was introduced in the then current Parliamentary session, reform could have been delayed by up to six months.

1.11 As a consequence, the Royal Commission presented to the Premier a Second Interim Report (entitled the Immediate Measures Report) in which a series of interim measures was developed to:

- empower the new Police Commissioner to take effective command of Service staffing, particularly in relation to the assessment and selection of an effective management and command team,¹⁶ but also in relation to removing from the Service, without unfair loss of accrued benefits, those officers in whom he no longer had confidence;¹⁷
- permit lateral entry into the Service of both sworn and unsworn staff;¹⁸
- place greater focus on the patrol as the centre of policing, with a view to enhancing delivery of service and promoting community policing;¹⁹
- endorse proposals for targeted integrity testing²⁰ and to permit random drug and alcohol testing,²¹ in each case, so as to underline to members of the Service that the reform process was under way; and to
- otherwise send a clear message that the Service would no longer have a place for members who were not prepared to be conscientious or professional, or to live up to the high standards of integrity required of a police officer.²²

1.12 Although the transfer of responsibility in relation to matters of staffing led to the recommended abolition of the Police Board in its present form because of the limited functions left to it, the Second Interim Report made it clear that the Commission wished to develop other strategies to ensure that the Police Commissioner remained fully accountable, and to ensure that the community had an effective contribution to make in relation to policy and performance by way of consultative committees and the like.²³ These strategies are developed later in this report.²⁴

1.13 Of the measures outlined in the Second Interim Report, only one aspect attracted sustained and vigorous opposition, principally from the Police Association of NSW. This related to the appeal procedures recommended in relation to the exercise by the Police Commissioner of his power to dismiss sworn staff for loss of confidence. The relevant section of the legislation was enacted in the

¹⁶ RCPS, *Second Interim Report*, November 1996, Recommendation 2, p. 19.

¹⁷ *ibid*, Recommendation 5(a), p. 19.

¹⁸ *ibid*, Recommendation 3, p. 19.

¹⁹ *ibid*, para. 2.2, p. 2.

²⁰ *ibid*, paras. 12.1 - 12.7, pp. 14-15.

²¹ *ibid*, Recommendation 10, p. 20.

²² *ibid*, para. 4.4, p. 4.

²³ *ibid*, paras. 11.1 - 11.4, pp. 13-14.

²⁴ See Volume II, Chapter 5 of this Report.

form recommended by the Commission, subject to the expectation that the sufficiency and fairness of the appeal process would be reviewed in the Final Report. This became the subject of a separate set of round table discussions presided over by Justice Wood, dealing with management and disciplinary matters generally. As a result of these developments, recommendations for the long term have been considered and are dealt with later in this Report.²⁵

E. SERVICE REFORM DURING THE ROYAL COMMISSION

1.14 Notwithstanding the disturbing nature of the further evidence received before the First Interim Report and subsequent to it, there has been considerable activity during 1996 and 1997 on the path to reform of the Service. Some significant legislative change has occurred, and other important steps have been taken to establish a mechanism for reform and to develop new strategies and policies.

LEGISLATION

1.15 Consequent upon the First Interim Report:

- the *Police Integrity Commission Act 1996* was passed into law, and the PIC investigative powers effectively commenced on 1 January 1997; and
- s. 181B was introduced into the *Police Service Act 1990* conferring a power for dismissal of officers from the Service, based on evidence gathered by the Royal Commission.

1.16 Consequent upon the Second Interim Report, the *Police Service Act 1990* was amended in several respects to:

- introduce a provision enhancing the power of the Commissioner of Police to dismiss an officer in whom he no longer has confidence;²⁶
- introduce drug and alcohol testing of serving police;²⁷
- require members of the Police Service to provide financial and integrity statements;²⁸
- protect against reprisal those officers who make 'protected allegations' about other officers;²⁹
- authorise integrity testing;³⁰ and to
- transfer from the Police Board to the Commissioner of Police the authority to make appointments, and to assume greater managerial responsibility for staffing matters.³¹

CONTROL OVER REFORM PROCESS

1.17 A Royal Commission Implementation Unit, headed by Assistant Commissioner Jeff Jarratt (now Deputy Commissioner), was formed in February 1996 to co-ordinate the implementation of reform within the Service. This Unit operated in conjunction with a Police Board sub-committee established following consultation between the Government and the Royal Commission. This committee was chaired by Dr Peter Crawford, a consultant to the Royal Commission on transformational change and management issues. Its other members were Mr Les Tree, Acting Director-General of the Ministry for Police, and Assistant Commissioner Jarratt. The Unit was

²⁵ See Volume II, Chapter 4 of this Report, paras. 4.89 - 4.144.

²⁶ Now enacted as *Police Service Act 1990*, s. 181D.

²⁷ *ibid.*, s. 211A.

²⁸ *ibid.*, s. 97.

²⁹ *ibid.*, s. 206.

³⁰ *ibid.*, s. 207A.

³¹ *ibid.*, s. 64. The Police Board was abolished following recommendations from the RCPS which were enacted in the *Police Legislation Further Amendment Act 1996*, s. 34; the Act came into force on 1/1/97.

assisted by action groups, drawn from a cross-section of members of the Service which presented submissions for reform to the Royal Commission and participated in the round table discussions. The drive for reform from within the Service was further advanced by:

- the release by Commissioner Peter Ryan, in November 1996, of a blueprint for reform;³² and
- the establishment in March 1997 of an Internal Reform Committee, chaired by Dr Peter Crawford, and including Deputy Commissioner Jarratt and Assistant Commissioner Christine Nixon. Professor Stewart Rees, Professor of Sociology at Sydney University, and Deputy Commissioner Beverley Lawson will join the Committee when required.

INTEGRITY ISSUES

1.18 Various matters have been attended to, or are currently under development, concerning integrity issues. They include:

- the development of internal procedures for the exercise by the Police Commissioner of the power to dismiss police for loss of confidence;
- the restructure of the Professional Responsibility Command of the Service, recently renamed the Office of Internal Affairs, to include the following:
 - an Investigations Unit which focuses on proactive investigations of corruption and misconduct;
 - an Integrity Testing Unit which is responsible for the co-ordination of targeted integrity testing;
 - an Intelligence and Review Unit which records and analyses intelligence, prepares profiles for Commissioner's Confidence proceedings, reviews disciplinary procedures to ensure Service-wide consistency, and administers the Complaints Information System (CIS);
 - a Policy, Research and Education Unit;
 - a PIC Response Unit; and
 - an enhanced surveillance and technical capacity;
- the preparation and circulation of a Code of Conduct and Ethics among members of the Service;
- the development of procedures to address specific integrity issues mentioned in the Interim Reports, such as:
 - the preparation by the Professional Responsibility Command of a planning manual for the prevention of corruption;
 - the creation of Professional Standards Councils for patrols and the introduction of a program for an evaluation of their effectiveness;
 - the introduction of hand-held recorders following their trial in North Region;
- the development of a revised external Informant Management Plan;
- the establishment of a new Internal Witness Support Unit and program;

³² P. J. Ryan, *Reform of the NSW Police Service - Phase 1*, 19/11/96, RCPS Exhibit 2820/1.

- the departure from the Service of a substantial number of police many of whom have admitted their misconduct, or been the subject of adverse evidence, either by way of resignation or dismissal from the Service. This has occurred either pursuant to the amnesty offered in December 1995, or by way of dismissal pursuant to s. 181B of the *Police Service Act* (based on Royal Commission evidence), or pursuant to s. 181D of the *Police Service Act* or by way of non-renewal or cancellation of Senior Executive Service contracts, or by way of voluntary resignation;³³
- the introduction of a drug and alcohol policy, together with drug and alcohol testing; and
- the restructuring and strengthening of the Internal Audit Section.

EMPLOYMENT ISSUES

1.19 Changes effected in this area, or currently under development include:

- the appointment of a new Commissioner of Police, Mr Peter Ryan, who was formerly Chief Constable of Norfolk, U.K. and National Director of Police Training at Bramshill Police Staff College, U.K. He was sworn in on 30 August 1996 to fill the vacancy left by the resignation of Commissioner Tony Lauer;
- the chain of command to the Commissioner has been altered to provide for two deputies holding rank as Deputy Commissioner (Specialist Operations) and Deputy Commissioner (Field Operations), who, together with the Executive Director, Management Services (expected to be a civilian) and the Executive Director, Human Resources and Development, form the first level of management below the Commissioner in the new Service structure. Apart from the Executive Director, Management Services, these offices have now been filled;
- the appointment on 4 February 1997 of 18 officers holding rank of superintendent and above, to carry out the key management and regional command positions of the Service within a flatter and more efficient structure;
- the establishment of assessment centres to evaluate staff for promotions and retention or transfer to command positions; these centres have now carried out an evaluation of staff seeking positions as patrol commanders;³⁴
- the development of competencies to be used by the assessment centres when evaluating staff for Patrol Commander positions;
- the revision and flattening of job streams in the Service Statements of Duties and Accountabilities;³⁵
- the piloting of a Constable's Performance Management Scheme;
- the introduction of term employment for all non-executive commissioned officers;³⁶
- the establishment of the Integrity Review Committee to assess and report on all outstanding promotions;
- the updating of the Service Policy on Sex-Based Harassment;
- the development of a Healthy Lifestyle Policy³⁷ with the aims of providing:

³³ See Volume I, Chapter 4 of this Report, paras. 4.223 - 4.227.

³⁴ About 300 further officers have been invited to attend the Assessment Centres prior to the appointment of commanders in June 1997: NSW Police Service, *Reform Report*, February 1997, RCPS Exhibit 2952, p.12. The results of these assessments are discussed in Volume II, Chapter 1, paras. 1.2 - 1.3.

³⁵ Each stream currently has three levels; operative, supervisor and manager. Competencies for each stream are being developed.

³⁶ See *Police Service Act 1990*, s. 72A(1).

- comprehensive lifestyle education in all mainstream courses conducted at the Police Academy;
- biennial physical and health assessment, and advice to all officers on a confidential and supportive basis;
- the development of a Drug and Alcohol Policy in consultation with the three employee associations.³⁸

STRUCTURAL ISSUES

1.20 Initiatives in this regard which have either been taken or are in the course of development include:

- commencement of an evaluation of resource configurations to service demand;
- endorsement of the concept of a Police Assistance Line (PAL);
- development of a business planning system to enable patrol managers and area co-ordinators to prepare bids for staffing, equipment and financial resourcing;
- trials in the programs for the:
 - transfer of prosecutions from Police Prosecutors to the Office of the Director of Public Prosecutions (ODPP);³⁹
 - transfer of direct responsibility for the handling of complaints, on a managerial or remedial basis, to patrol commanders initially under the Management of Complaints and Police Behaviour by Patrol Commanders Program;⁴⁰ now called the Employee Management Scheme;
- revision of training programs to include an ethics component;⁴¹
- the development and introduction of new instructions concerning the execution of search warrants, including the use of video and audio taping;⁴²
- development of a restructure of the criminal investigation function of the crime agencies and of best practice guidelines for criminal investigations at patrols;
- development of a new Police Complaints Case Management System;
- the issue of fresh guidelines for matters such as the exercise of police discretions, and harm minimisation in drug law enforcement;

³⁷ NSW Police Service, Healthy Lifestyles Policy, March 1997, RCPS Exhibit 5999/51.

³⁸ The two Police Associations representing commissioned and non-commissioned police officers and the Public Service Association representing administrative officers.

³⁹ These trials were conducted in the Local Courts sitting at Campbelltown and Dubbo.

⁴⁰ This was initially undertaken in two pilot programs, one managed from Headquarters involving seven selected patrols and the other established entirely within Southern Region with disciplinary powers delegated to the Region Commander. The program has now been reduced to one pilot scheme involving 15 patrols and is managed from Headquarters by a specialist team.

⁴¹ The programs in which this is to be included comprise:

- Detectives Education Program;
- Police Recruit Education Program;
- Organisation and Management Studies;
- Systems Inspection Program;
- Safe Custody Program;
- Ethnic and Aboriginal Community Liaison Officers Programs;
- Management of Major Investigations Course;
- Constable Development Program.

In addition, Graduate Certificates in Professional Development and Education and Professional Leadership are now available to police at the Australian Catholic University;

- the establishment from 1 January 1996 of the Child Protection Enforcement Agency (CPEA);
- the formation of a Commissioner's Accountability Panel;⁴³ and
- review of the Service's Communications Operations.

SURVEILLANCE BRANCH

1.21 As the result of the Royal Commission investigations into serious malpractice within the former Physical Surveillance Branch:

- that branch has been reconstituted as the Surveillance Branch within the Special Services Group;
- new operatives have been recruited to replace all former staff; and
- a comprehensive review of operational physical surveillance has been initiated to ensure the integrity of any evidence gathered and the introduction of best practice.

SPECIAL BRANCH

1.22 In March 1997 following evidence seriously discrediting certain practices of the Special Branch, and questioning the value of its work, the Branch was disbanded. Its replacement by the proposed Protective Security Response Group has been placed on hold pending release of this Report.

CONTINUING THE REFORM PROCESS

1.23 Although these initiatives are commendable, as is the motivation behind them, the Service cannot be complacent that their development is the solution to all existing problems. Much more is needed by way of implementation, monitoring and modification. As is discussed in more detail later in this Report,⁴⁴ it is critical that the reform of the Service be:

- driven by a committee with the authority and capacity to achieve results;
- assisted by substantial external expertise;
- introduced in a controlled and progressive way in accordance with suitable priorities, so as to avoid being bogged down by an attempt to achieve too much too quickly;
- transparent, explained to, and involve the Service as a whole; and
- supported by both the Police Association of NSW and the Commissioned Police Officers' Association (the Police Associations).

F. INQUIRY INTO THE PAEDOPHILE SEGMENT OF THE TERMS OF REFERENCE

1.24 There will be a separate report on the paedophile segment which will be delivered to Government by 30 June 1997. Some of the matters with which that Report will deal include the following:

⁴² NSW Police Service, *Policing Issues and Practice Journal*, vol. 5, no. 1, January 1997, p. 21.

⁴³ One patrol commander and his management team have already been removed from their command as a result of an appearance before the Panel.

⁴⁴ See Volume II of this Report.

- the adequacy of investigations and prosecutions of people accused or suspected of the unlawful sexual abuse of children;
- the existence of networks of such offenders;
- corruption, protection and extortion on the part of police concerning suspected offenders;
- the existence of practices involving churches, government and non-government schools and other organisations or institutions concerned with the care and/or education of children that may have led to the cover up of the activities of offenders in this area;
- the extent to which relevant government agencies have failed properly to screen their employees, and to co-ordinate their responsibilities with the Service and with other agencies;
- the adequacy of the structures within the Service, at the time of the reference, for the policing of this form of criminal activity together with issues of staffing, training, resources and the sufficiency of the priority given it by this Service;
- the rehabilitation and management of offenders;
- the availability of structures to assist victims in this area;
- problems associated with the policing of child pornography and the use of it by offenders to groom their victims particularly by use of the Internet; and
- problems associated with criminal investigation and trial process including matters of evidence, practice and procedure, and the sufficiency of any protection provided for victims in that process.

1.25 A very disturbing picture of neglect, indifference and concealment has emerged during the investigation extending to almost every aspect of the preventative, investigative and prosecution process. Serious deficiencies in the existing structures and procedures for the protection of children by those agencies and institutions responsible for their care have been highlighted, along with an appalling lack of co-ordination of effort or commitment. There was an equally disturbing picture of the breadth and nature of the criminal activity involved. These matters will be dealt with in detail in the separate Report concerning this segment.

G. REFORM DURING THE PAEDOPHILE SEGMENT OF THE ROYAL COMMISSION

1.26 Since the hearings began there has been a degree of success in overcoming some of the problems identified. That process commenced once it became apparent that:

- the entire system was flawed;
- serious offenders had escaped justice;
- the capacity to investigate and prosecute this form of criminal activity was sadly lacking;
- the relevant agencies were not working together; and
- many churches, educational bodies and other government and non-government organisations had adopted practices which were better designed to protect themselves and offenders, than to expose the latter.

1.27 Some of the significant developments which have already occurred in relation to the paedophile segment, and which will be examined in greater detail in the separate Report,⁴⁵ include:

- the creation of the Child Protection Enforcement Agency (CPEA), committed to ‘working with others for the care and protection of children from sexual exploitation and abuse’⁴⁶ with objectives to:
 - proactively target offenders engaged in serious child sexual abuse;
 - professionally investigate and prosecute serial child sexual offences and offences involving child exploitation (prostitution and pornography);
 - minimise victim trauma;
 - provide advice regarding the strategic direction for preventing and responding to child sexual offences; and
 - continually improve the policing of child sexual offences;
- the endorsement by Government of the Joint Investigative Teams to deal, in particular, with familial sexual abuse;
- the acceptance by the Service of the need to give greater priority to this area of criminality, and for the adoption of measures to make it a more attractive area in which to serve than previously;
- the acceptance by the Service and other government agencies including the government departments of Community Services, Health, School Education and Juvenile Justice that existing procedures and protocols for the protection of children from unlawful sexual abuse were seriously flawed, resulting in a series of meetings, and co-operation between these agencies for the production and release in February 1997 of the Inter-Agency Guidelines on Child Protection Intervention. These guidelines have been endorsed by all Ministers with child protection responsibilities.⁴⁷
- the acceptance, by the several agencies and organisations having particular involvement in the protection of children from sexual abuse, of the need to establish greater access to information concerning known paedophile offenders, and of the need to adopt practices and procedures whereby children will not be placed at risk of sexual abuse; and
- the acceptance by government departments, (particularly School Education), churches, religious organisations and other similar bodies of the need to adopt revised protocols for the management of allegations of sexual abuse against children, and of the need to abandon those practices which have led to such allegations being concealed, and the offenders being protected or moved elsewhere within those institutions.⁴⁸

1.28 The development of all these initiatives during the term of the Royal Commission was encouraged, since each was obvious, and it was inappropriate that their implementation should be stalled or delayed while the Commission completed its inquiries and prepared its separate Report. Save so far as it is mentioned in this introduction, or arises incidentally in relation to corruption issues, the paedophile segment will not be further mentioned in this Report.

H. INCIDENTAL REFORMS DURING THE ROYAL COMMISSION

⁴⁵ See Volume IV of this Report to be presented on or before 30 June 1997.

⁴⁶ Child Protection Enforcement Agency, Mission Statement, as at 31/1/97, RCPS Exhibit 5999/35.

⁴⁷ NSW Child Protection Council, Interagency Guidelines for Child Protection Intervention, RCPS Exhibit 2897.

⁴⁸ To be detailed in Volume IV of this Report.

1.29 Reform has also been under way in relation to various activities, the policing of which has been shown by this Royal Commission to attract a high risk of corruption. While much of this reform is tentative, or incomplete, it has the potential to alter substantially the environment in which corruption grows.

LIQUOR LICENSING

1.30 As a result of the Royal Commission revelations concerning the acceptance by police of payments from the owners and managers of licensed premises in Kings Cross⁴⁹ the Director of Liquor and Gaming in September 1995 initiated a significant inquiry into such premises.⁵⁰

1.31 A Task Force was formed which, during a six-month period of covert operations, recorded 386 offences and 172 breaches in 52 licensed premises. Some prosecutions have already taken place and others are to follow during 1997. Some premises have effectively been closed, and some persons have been excluded from holding a licence or being associated with licensed premises.⁵¹

1.32 Following upon these investigations, the Department of Gaming and Racing undertook a review of licensing laws which identified numerous deficiencies that were hindering enforcement of the law. These deficiencies were rectified by way of amendments to the *Liquor and Registered Clubs Act*.⁵² Amongst other things, the amendments strengthened the enforcement capabilities of the Director of Liquor and Gaming and the police.⁵³

1.33 An important change in the area of liquor licensing occurred as the result of a Memorandum of Understanding between the Service and Department of Gaming and Racing, signed on 5 December 1996, which increased the administrative involvement of the Department in the processing of licence applications, yet preserved for police the primary compliance and investigative role.⁵⁴

GAMING AND RACING

1.34 The Royal Commission hearings in relation to gaming and betting,⁵⁵ re-affirmed the finding of the earlier ICAC inquiry,⁵⁶ that the current *Gaming and Betting Act 1912* was outdated and ineffective, and provided obvious opportunities for police corruption.

1.35 Legislation to implement the recommendations of the Gaming & Betting Act Task Force would facilitate law enforcement in this area and constitute an anti-corruption strategy.

COMMERCIAL AND PRIVATE INQUIRY AGENTS

1.36 Royal Commission investigations and hearings have also mirrored the experience of the previous ICAC inquiry⁵⁷ into the relationship between police and commercial and private inquiry agents, which found problems in relation to:

⁴⁹ See Volume I, Chapters 4 & 5 of this Report, paras. 4.30 - 4.37, 4.148 - 4.151, 5.2 - 5.9 & 5.21.

⁵⁰ Department of Gaming and Racing, *Annual Report, 1995-96*, p. 4.

⁵¹ *ibid.*, p. 29.

⁵² These amendments were passed in Parliament in June 1996, and commenced on 1 October 1996.

⁵³ Department of Gaming and Racing, *Annual Report, 1995-96*, p. 29.

⁵⁴ An initial investigation of the applicant and the subject premises is to be carried out by the local patrol commander who will then forward details to the Licensing Enforcement Agency.

⁵⁵ See Volume I, Chapter 4 of this Report, paras. 4.152 - 4.181.

⁵⁶ ICAC hearings into the Gaming Squad were conducted in March, June and September of 1993, the results of these hearings being found in Chapters 18 to 21 of the *Report of the Investigation into the Relationship between Police and Criminals, February 1994*. At p. 183 of that report the ICAC criticised the current *Gaming and Betting Act 1912*, as 'technical, difficult to interpret and difficult to enforce', but found that 'the difficulties faced by the squad [did] not justify the conduct revealed by the investigation'. In 1993 the Gaming and Betting Task Force examined the Act, and acknowledged that it is an outdated and frustrating piece of legislation. In 1995 the Task Force made recommendations to repeal the Act and replace it with a fresh Act, Gaming and Betting Laws Task Force, *Review of NSW Gaming and Betting Laws Report April 1995*, RCPS Exhibit 5675, p. 4.

- the improper release of confidential information by police to such agents;
- secondary employment and conflicts of interest where police and ex-police (or their close relatives) became involved in this field of commercial activity; and
- the relationships which exist between such agents and criminals.

1.37 There have been several reviews of the Commercial and Private Inquiry industry. Prior to the Royal Commission, but following the ICAC inquiry, the then Department of Consumer Affairs carried out one such review. A proposal was thereafter developed to introduce new legislation aimed at raising the integrity standards for entry to the industry, regulating licensed agents more closely and discouraging corrupt conduct. The Commission understands that the proposal has been withdrawn. It is appropriate that this matter be revisited, particularly in the light of the past experience of police dismissed from the Service turning to this field of activity.

1.38 A recent Industrial Relations Commission review of the transport and delivery of cash and other valuables industry, while not specifically addressing the Commercial and Private Inquiry Agents Industry, recommended a reduced monitoring role for the police in the vetting of Security Industry Licences, and much tougher criminal checks on security guards. While such measures would increase integrity standards, thereby reducing corruption, the Commission stresses the importance of critical and honest vetting.⁵⁸

PROSTITUTION

1.39 In light of Royal Commission evidence showing a clear nexus between police corruption and the operation of brothels,⁵⁹ the NSW Attorney General in June 1995 announced a reform of prostitution laws in NSW⁶⁰ to remove the basis for an application under the *Disorderly Houses Act* to close a brothel which was not otherwise disorderly.⁶¹

1.40 In permitting well-run brothels to operate, a potential opportunity for corrupt conduct on the part of police was closed off.⁶²

DRUGS - NEEDLE EXCHANGES AND SHOOTING GALLERIES

1.41 The corrupting influence of the trade in narcotics has been emphasised at almost every stage of the Royal Commission inquiries, and although it has not been accompanied by any legislative initiative, some informal changes in policing practice have been adopted which reflect a sensible approach to minimising harm.⁶³

1.42 Most of the shooting galleries⁶⁴ identified in the evidence have been effectively closed down, either through arrest of the operators or termination of leases by building owners. Arrangements do exist for the exchange of syringes and needles, and counselling and other assistance is available for drug users through the Kirketon Road Centre in Kings Cross. Intravenous drug users are finding it

⁵⁷ ICAC, *Report on the Unauthorised Release of Government Information*, 1992; NSW Department of Consumer Affairs, *Review of Private Investigation Industry - Final Report*, June 1994.

⁵⁸ NSW Industrial Relations Commission, *Report into the Transport and Delivery of Cash and other valuables Industry*, 28 February 1997, p191.

⁵⁹ See Volume I, Chapters 4 & 5 of this Report, paras. 4.142, 4.148 - 151 & 5.81.

⁶⁰ The reform was by way of the *Disorderly Houses Amendment Bill 1995*, which contained amendments to the: *Disorderly Houses Act 1943*; *Summary Offences Act 1988*; *Crimes Act 1900*; *Land and Environment Court Act 1979*.

⁶¹ In *Sibuse v Shaw* (1988) 13 NSWLR 98, the Criminal Court of Appeal ruled that a brothel is a disorderly house regardless of whether it is disorderly in the usual sense of the word.

⁶² The Bill was assented to on 22/11/95 following considerable debate in both Houses on the moral and religious issues surrounding prostitution; the State Opposition did not oppose the amendments.

⁶³ See Volume II, Chapter 2 of this Report, paras. 2.16 - 2.27.

⁶⁴ See Glossary.

increasingly difficult to find discreet and safe places to inject, but there can be no authorisation of shooting galleries without amendment to the *Drug Misuse and Trafficking Act 1985*.⁶⁵

1.43 A co-ordinated effort by government, police and health professionals is required to properly implement the harm minimisation program that they have all espoused. A progressive but careful move towards dealing with personal use of narcotics primarily as a medical problem, would also have considerable potential to reduce the opportunities for police corruption and the conflict faced by police officers forced to deal with intravenous drug users as both law breakers and people in need of help.⁶⁶

TOW TRUCK CONTRACTING

1.44 The Service has issued new Commissioner's Instructions⁶⁷ in relation to tow truck contractors. In the past, all tow truck operators in a particular area were eligible to register with the Service which then used their services on a rotational basis. This system has now been changed to a tender system whereby the Service puts its requirements out to tender and contracts with one or more tow truck operators. This system is intended to provide greater uniformity in the way in which the Service deals with tow truck operators,⁶⁸ and to remove the opportunity for corruption arising through the payment of spotters' fees. It is a welcome initiative.

I. COMPLETION OF INQUIRIES BY THE ROYAL COMMISSION

1.45 The Royal Commission has completed those inquiries which it considers necessary to deliver this Final Report having now received:

- oral evidence from a large number of witnesses⁶⁹ including serving and former police, civilians, and persons convicted of crime;
- a substantial body of physical evidence obtained from witnesses, external agencies or authorities, or comprising the product of physical or electronic surveillance, or in the form of analyses prepared by Commission staff;⁷⁰
- a substantial volume of submissions⁷¹ both oral and written;
- the views by the parties at round table discussions, presided over by a Commissioner.

1.46 In the course of the evidence received by the Royal Commission, admissions were made by a number of serving police of participation in corrupt practices or serious misconduct. In some cases, that included disclosure made in conjunction with an application under the amnesty offered in November 1995.⁷² In other cases, the admissions were volunteered following rollover⁷³ to the Royal Commission. In yet other cases, they emerged during the course of their examination in answer to a summons to give evidence.

1.47 In respect of other members of the Service, evidence was called suggestive of their involvement in corrupt practices or serious misconduct, but denied by them.

⁶⁵ See Volume II, Chapter 2 of this Report, paras. 2.10 - 2.33.

⁶⁶ Such an approach has a good deal of community support and was recommended in many submissions received by the Royal Commission. The NSW Police Service *Annual Report, 1995-96*, Sydney, p. 47, also endorses the harm minimisation strategy. See also, for example: Victoria, Premier's Drug Advisory Council, (Penington report) *Drugs and our Community*, March 1996, p. vii; Redfern Legal Centre, *Drug Law Reform Project - Harm Reduction Model*, 2nd Edition, 1996. See Volume II, Chapter 2 for further examination of this topic.

⁶⁷ Commissioner's Instruction 112.

⁶⁸ See Volume II, Chapter 1 of this Report, para. 1.44.

⁶⁹ See Volume III, Appendix 12 of this Report - Witness List.

⁷⁰ Approximately 4000 Exhibits were tendered.

⁷¹ See Volume III, Appendix 17 of this Report - List of Submissions.

⁷² A conditional amnesty was offered to corrupt police officers on 29/11/95. The amnesty, which lasted until February 1996, had bipartisan political approval as well as the support of the Police Commissioner. The amnesty did not apply to heinous criminal activity. See Volume III, Appendix 13 of this Report - Amnesty.

⁷³ See Glossary.

1.48 It is not generally the purpose of this Final Report to bring in specific findings of corruption or serious misconduct against any individual, whether or not they made admissions in that regard. Rather the purpose is to examine the issues on a systemic basis, relying only on that evidence which is incontrovertible. This approach is taken for the following reasons:

- the terms of reference call for an overall assessment in relation to the existence of systemic or entrenched corruption, the adequacy of the Internal Informers Policy,⁷⁴ and the performance of the Professional Responsibility Command, as distinct from inquiry into the criminality of specific members of the Service, or into specific incidents of criminality;
- there is little use, and a measure of unfairness, in bringing in specific findings requiring determination of issues of credit and disputed facts in circumstances where members of the Service concerned were required to give evidence and to produce documents under coercive power, and in circumstances where such material could not be used against them in criminal proceedings;
- the ability of the Royal Commission to engage in the wide inquiry required would have been severely curtailed had it been necessary to examine specific cases, to the extent necessary to bring in conclusions in conformity with the standard required of the criminal law or in conformity with that recognised in *Briginshaw v Briginshaw*;⁷⁵
- findings by the Royal Commission of criminality would not stand as convictions for the purposes of the criminal law, and would be of no relevance to any prosecutions commenced as a consequence of its investigations;
- in the absence of a specific statutory power to make such findings, there is real doubt as to the jurisdiction of the Commission to do so.⁷⁶

1.49 In those cases where evidence has been collected in respect of members of the Service which is admissible at law in a criminal trial, and which is *prima facie* suggestive of criminality, briefs have been prepared and disseminated to the Director of Public Prosecutions (NSW or Commonwealth respectively) for consideration and decision by those offices as to whether prosecutions should be initiated. Similarly, in cases where the evidence falls short of supporting a criminal prosecution, but would support disciplinary proceedings, that material has been disseminated to the Police Service.

1.50 Where evidence or intelligence has been gathered suggestive of criminality or misconduct by serving or former members of the Australian Federal Police (AFP) as occurred in relation to the Commonwealth-New South Wales Joint Task Force on Drug Trafficking (JTF),⁷⁷ that material has been disseminated both to the AFP, and to the Harrison Inquiry.⁷⁸

1.51 Additionally, where evidence of criminality has been gathered in relation to persons outside the Service, or the AFP, the same approach has been taken, in that:

- save where there has been an incontrovertible admission of criminality, no finding to that effect is made;
- for other cases, the evidence gathered has been disseminated to the relevant Director of Public Prosecutions for a decision as to whether to initiate a prosecution.

⁷⁴ Now named the Internal Witness Support Program. See Volume II, Chapter 6 of this Report.

⁷⁵ (1938) 60 CLR 336.

⁷⁶ See eg. *Ross v Costigan* (1982) 59 FLR 184; and *Eatts v Dawson* (1990) 21 FCR 166.

⁷⁷ An initiative of Commonwealth and State authorities to address the problem of high-level drug trafficking.

⁷⁸ The Inquiry into Allegations of Corruption within the Australian Federal Police is being conducted by Ian Harrison SC at the request of the Commonwealth Attorney-General.

1.52 In those cases where evidence has emerged from financial analysis, or otherwise, suggestive of the receipt of monies or property as the result of criminal activity or involving evasion of income tax, the relevant information has been disseminated to the Australian Taxation Office and/or the NSW Crime Commission.

1.53 Certain significant matters have been identified by the Royal Commission as appropriate for investigation of possible corruption or serious misconduct, but due to lack of time, they have either not been investigated by it or have been only partially investigated. They will not be identified in this Final Report for reasons of operational security. The material assembled, and the available intelligence in relation to those matters has, however, been disseminated to the PIC.

1.54 Other matters came to the notice of the Royal Commission during its term, by way of complaint made to it, which were assessed as unsuitable for investigation by it, either because they:

- were merely repetitive of other matters which had been sufficiently studied;
- were more appropriate for investigation by the Service or the Ombudsman as isolated acts of criminality or misconduct; or
- lacked credibility or an identified informant, or presented insufficient avenue for inquiry; or
- were too old.

Where appropriate, those matters and any available intelligence or evidence were formally disseminated to the Ombudsman or to the Police Service.⁷⁹

1.55 In the case of those matters involving the alleged sexual abuse of children, which were unassociated with corruption or protection involving neglect of duty on the part of the Service, or on the part of any public official, and which were not otherwise relevant to the terms of reference, relevant information has been disseminated to the CPEA. This has occurred for two reasons:

- the Royal Commission has been careful to remain within its terms of reference and not assume a general criminal investigative role; and
- the CPEA is better placed to investigate these matters by utilising its expertise in accordance with traditional criminal investigative procedures.

J. HAND OVER TO THE POLICE INTEGRITY COMMISSION

1.56 A strategy was developed in late 1996 to permit a smooth and efficient transfer of responsibility for the investigation of corruption and serious misconduct within the Service, to the PIC. That strategy has allowed a transition team to assemble relevant material and commence preliminary inquiries without prejudicing the work required of the Royal Commission investigative teams for this Final Report. The need for a separate transition team, to facilitate the transfer to the PIC was brought about by the continuing flow of information to the Royal Commission, some relating to earlier areas of interest, and some relating to new areas of interest. A skeleton Royal Commission staff has continued this work since 1 January 1997 when the PIC assumed primary responsibility for the investigation of corruption within the Service.

1.57 A number of Royal Commission staff have now been recruited by the PIC and they have taken with them to that agency the experience and knowledge gained while working for the Royal Commission, as well as the intelligence accumulated in relation to persons likely to be of interest. Their familiarity with the procedures, operations, holdings, and information technology systems of the Royal Commission, which have each been transferred to the PIC, is likely to be invaluable to it.

⁷⁹ *Royal Commission (Police Service) Act 1994*, s. 30(4)(c).

K. TELEPHONE INTERCEPTION CAPACITY

1.58 From the outset the Royal Commission had sought the power to intercept telephone conversations because:

- it is a power possessed by the ICAC and by the Service, the agencies otherwise entrusted with responsibility to investigate police corruption. It is also a power given to the NSW Crime Commission;
- it is an invaluable aid in detecting corruption, particularly that of an ongoing kind, in an environment where groups of persons suspected of corrupt practices are aware that they are under investigation and are likely to communicate with each other to frustrate or prevent their exposure;
- it is a valuable security measure, so far as it provides an opportunity to intercept planned interference with Commission operations, or threats to the safety of witnesses and Royal Commission staff; and
- it provides the best evidence of corruption, being much more persuasive and reliable than the word of a corrupt colleague or accomplice.

1.59 Notwithstanding strong representations to the former Federal Government both by the Royal Commission, New South Wales Governments past and present, and other law enforcement agencies, the request for a telephone intercept capacity was refused in September 1994. Upon change of the Federal Government in March 1996, the matter was revived at the instance of the NSW Government. However, it was not addressed in time to be of any utility and the Royal Commission was left without a telephone interception capacity.

1.60 The absence of that capacity seriously impaired the operational effectiveness of the Royal Commission. Had it been directly available, there is little doubt that other areas of corrupt activity could have been penetrated and existing operations taken much further. The proposal by the former Federal Government for a State reference to the National Crime Authority (NCA), to act in conjunction with the Royal Commission allowing use of the telephone interception power of the former was curious, so far as it acknowledged the validity of the request for such power. This proposal was rejected as unsuitable, because:

- at best, it was a legal device the use of which may not have been lawful, particularly having regard to recent decisions concerning the need for a good deal of specificity in any reference granted to the NCA;⁸⁰
- the NCA had on staff a number of former members of the NSW Police Service, one of whom was identified as being under adverse notice, and it had close operational connections with the Service; and
- it was considered inappropriate for a Royal Commission to delegate or share control of its inquiry with any other agency.

1.61 Although the former Federal Government amended the relevant legislation⁸¹ so as to allow the Royal Commission access to the product of telephone interception lawfully conducted by other law enforcement agencies, this was at best a poor compromise. Dissemination depended on the co-operation of those agencies, and in particular on their assessment as to relevance, in circumstances where they were not well placed to determine the potential significance to the Royal

⁸⁰ See eg. *A1 and A2 v NCA and others*, Federal Court, Melbourne, unreported 26/6/96, and Ruling No. 9 of Vincent J in *R v Elliott & Ors*, Victorian Supreme Court, 6/5/96.

⁸¹ *Royal Commission into the NSW Police Service (Access to Information) Act 1994* (Cth).

Commission of intercepts held by them. Nevertheless, the Royal Commission is appreciative of the co-operation of the ICAC, the NCA and AFP, and most particularly of the New South Wales Crime Commission, in facilitating access to past and current interceptions carried out by those agencies. Some of that material was particularly valuable, and it only underlined the significance of the opportunity denied to the Royal Commission by its lack of a suitable interception capacity. Similarly assistance was generated by amendment to the *Telecommunications (Interception) Act 1979* (Cth)⁸² which extended its application to bribery and corruption involving, *inter alia*, NSW police officers, in the class of offences amenable to TI warrants.

1.62 It is understood that the request of the NSW Government of 12 June 1996 for a telephone intercept capacity to be granted to the PIC has only very recently received favourable consideration. Unless legislation is passed at Commonwealth level to grant that capacity, the PIC will neither be able to apply for warrants, nor to receive relevant product from other agencies including TI materials already disseminated to this Royal Commission. The Royal Commission expresses its deep concern over the delay in dealing with this request, and strongly recommends that the PIC be granted appropriate powers to permit it to apply for TI warrants and receive TI product as soon as possible.

L. FINAL REPORT

1.63 This Final Report needs to be read in conjunction with the First and Second Interim Reports, the content of which will not be repeated save so far as may be necessary to qualify or deal with matters that were raised as issues for the Final Report.

1.64 The results of the inquiry of the Royal Commission into corruption are contained within this volume. Specifically this volume deals with:

- the definition of corruption;
- the particular features of policing which make it vulnerable to corruption and the consequences of corruption;
- a selective history of matters concerning the NSW Police Service relevant to this inquiry;
- the nature and extent of the corruption found by the Royal Commission; and
- the reasons why corruption emerged and was not exposed.

1.65 In Volume II, matters concerning the necessary reform of the Police Service, including an examination of the remaining terms of reference, save for the paedophile term, are addressed. They are examined together since each has an immediate association with the emergence of corruption and with the prevention of its re-emergence. The general purpose of these recommendations is to establish a platform for enduring change within the Service.

1.66 Volume III of this Report describes the structure and methodology of the Royal Commission. It also contains an index and various appendices, along with acknowledgments of those whose contribution, assistance and co-operation made this Inquiry and Report possible.

⁸² *Telecommunications (Interception) Act 1979* (Cth), s. 5D(2)(viii).

CHAPTER 2

POLICING AND CORRUPTION

A. CORRUPTION DEFINED

2.1 Definitions of 'systemic and entrenched corruption' were provided in the Commission's First Interim Report.⁸³ No reason has emerged for departing from the substance of those definitions save to make it clear that the definition of 'corruption' includes the *mala fide* exercise of police powers. Corruption has accordingly been taken to comprise deliberate unlawful conduct (whether by act or omission) on the part of a member of the Police Service, utilising his or her position, whether on or off duty, and the exercise of police powers in bad faith. It includes participation by a member of the Police Service in any arrangement or course of conduct, as an incident of which that member, or any other member:

- is expected or encouraged to neglect his or her duty, or to be improperly influenced in the exercise of his or her functions;
- fabricates or plants evidence; gives false evidence; or applies trickery, excessive force or threats or other improper tactics to procure a confession or conviction; or improperly interferes with or subverts the prosecution process;
- conceals any form of misconduct by another member of the Police Service, or assists that member to escape internal or criminal investigation; or
- engages himself or herself as a principal or accessory in serious criminal behaviour.

In each case, the relevant conduct is considered to be corrupt, whether motivated by an expectation of financial or personal benefit or not, and whether successful or not.

2.2 Without being exhaustive, this approach embraces well-known forms of corruption such as the receipt of bribes; green-lighting,⁸⁴ franchising, protecting or running interference for organised crime; releasing confidential information and warning of pending police activity; 'gutting' or 'pulling' prosecutions;⁸⁵ providing favours in respect of bail or sentencing; extortion; stealing and recycling drugs, money and property obtained during the course of otherwise legitimate police operations; various forms of direct participation in serious criminal activity the commission of which is facilitated by virtue of the office held; and the deliberate misuse of office to procure an advantage or disadvantage in matters of promotion, discipline, transfer and the like, through patronage, friendship or personal prejudice.

2.3 In addition to these activities which directly hinder the suppression and prosecution of crime, the good order of the Service and the creation of an environment of honesty, integrity and impartiality, the approach taken by the Commission embraces those forms of conduct sometimes referred to as 'noble cause corruption', but which are better categorised as 'process corruption'. This is the kind of corruption whereby unnecessary physical force is applied, police powers are abused, evidence is fabricated or tampered with, or confessions are obtained by improper means. It is often directed at those members of the community who are least likely or least able to complain, and is

⁸³ RCPS, *First Interim Report*, February 1996, pp. 32-33.

⁸⁴ See Glossary.

⁸⁵ See Glossary.

justified by police on the basis of procuring the conviction of persons suspected of criminal or anti-social conduct, or in order to exercise control over sections of the community.

2.4 In determining whether corruption is of an 'entrenched' or 'systemic' kind, the Commission has taken the view that a purposive meaning should be applied to these terms:

- 'entrenched' corruption should be equated to the presence of corruption of such a nature and to such an extent, that it is firmly established within the Police Service and capable of being defended by its adherents or of resisting efforts for its eradication;⁸⁶
- 'systemic' corruption is taken to be the form of corruption which has become accepted as part of the way of life or ethos of the Police Service, and which a significant proportion of its membership either pursues or tolerates at some stage of their police careers.⁸⁷

B. POLICING AND CORRUPTION

2.5 A number of factors impact upon the emergence of corruption within police services. These factors, and an awareness of certain myths in relation to policing, need to be taken into account when developing strategies for the prevention, or more realistically the minimisation and control of corruption.

INDIVIDUAL POLICE DEVIANCE

2.6 The 'rotten apple' theory of police deviance by which corruption has been understood in terms of individual moral failure has been long discounted.⁸⁸ The narrow perspective of corruption offered by the rotten apple theory has been criticised as a defensive approach which denies the social determinants of corruption and the reality that organisations can be corrupt:

Consequently it would seem that acceptance by police managers and political elites, of a rotten apple concept of police corruption, is a defensive, face-saving exercise. The solution is simply seen as removing "bent" officers without a need to evaluate organisational procedures. It is, in essence, a means of "papering over the cracks" without admitting that there is a fundamental problem of major significance.⁸⁹

2.7 The Knapp Commission, reporting on police corruption in New York in 1972, concluded that the New York City Police Department's (NYPD) reliance on the rotten apple theory had functioned as an obstacle to meaningful reform:

According to this theory, which bordered on official Department doctrine, any policeman found to be corrupt must promptly be denounced as a rotten apple in an otherwise clean barrel. It must never be admitted that his individual corruption may be symptomatic of underlying disease ... A high command unwilling to acknowledge that the problem of corruption is extensive cannot very well argue that drastic changes are necessary to deal with the problem.⁹⁰

2.8 Justice E. A. Lusher similarly argued in his 1981 report on police administration in NSW, that the narrow perspective of corruption offered by the rotten apple theory should be firmly rejected by managers in the development of anti-corruption strategies.⁹¹

2.9 In truth the rotten apple theory has always involved a distorted image of policing which has aided the interests of police services in resisting any suspicion of organisational deviance. The power

⁸⁶ RCPS, *First Interim Report*, February 1996, p. 33.

⁸⁷ *ibid.*

⁸⁸ T. Prenzler, A. Harrison & A. Ede, 'The Royal Commission into the NSW Police Service: Implications for Reform', *Current Affairs Bulletin*, April/May 1996, p. 5.

⁸⁹ K. Bryett & A. Harrison, *Policing in the Community*, Butterworths, Sydney, 1993, p. 74.

⁹⁰ *The Knapp Commission Report on Police Corruption*, (W. Knapp, Commissioner), New York, 1972, pp. 6-7.

⁹¹ *Report of the Commission to Inquire into New South Wales Police Administration*, (E. A. Lusher, Commissioner), Sydney, 1981, RCPS Exhibit 2790A/3 p. 631.

of the police,⁹² and of the media,⁹³ in constructing mythology of this kind for their own separate interests, should not be underestimated. It was not overlooked by members of the Criminal Investigation Branch (CIB) in NSW, who were astute enough to build up a working relationship with some well-placed journalists.⁹⁴

2.10 It is inevitable within any organisation of the size of the NSW Police Service, that some persons will be recruited who lack the personal integrity or strength of character required for the job, or who for any one of a number of reasons will slip into criminal or corrupt conduct. It is, however, inappropriate and potentially dangerous for a police service to rush to its own defence once a pocket of corruption emerges, on the basis that it was the product of individual deviance, or was merely 'opportunistic', and could not have been prevented, even by best practice.

2.11 It may well fall into that category. However, it may also be the tip of a much deeper problem which will escape detection if dismissed, routinely or instinctively, by reference to theories of individual police deviance.

2.12 So far as the NSW Police Service is concerned the findings of this Royal Commission must dispel, for all time, any explanation based upon individual deviance or opportunistic corruption. The problem to be addressed is much more fundamental, and although acts of individual deviance occur as a result of it, the approach required is one that:

- calls for measures to screen out potential recruits likely to be unsuited to the job, including those with any prior history of dishonesty, personality disorder or inappropriate relationships;
- provides practical training and guidance on a Service-wide basis in matters of ethics, along with a clear code of conduct and constant reinforcement of the importance of ethical policing;
- puts into effect meaningful supervision and support mechanisms;
- ensures that any allegation of corruption is investigated not just as an individual complaint, but also by way of search for the reason the misconduct emerged, the existence of any similar incident or pattern of misconduct, and any system or supervisory failure which may have facilitated the event which came to notice; and
- demands that the Service itself be ethical, honest and impartial in its dealings with its staff, its Minister and the public.

THE NATURE OF THE JOB

2.13 The powers entrusted to police to carry arms, to use coercive force in the proper course of their duties (and, in extreme circumstances, to take lives), to inquire into personal affairs and to eavesdrop (pursuant to a warrant) on private conversations, to deprive citizens of their liberty, to enter and search their premises, to seize and hold their property, and to initiate proceedings that will require them to defend themselves before the courts, are very substantial powers - possessed by no other class of employee. Conversely with the significance of their impact, they are most commonly exercised by the younger and less experienced officers working at street level, rather than by commanders having the benefit of age and experience.

⁹² M. Findlay, 'Acting on information received - Mythmaking and police corruption', *Journal of Studies in Justice*, vol. 1, no. 1, December 1987, p. 28.

⁹³ R. Reiner, *The Politics of the Police*, 2nd Edition, Harvester Wheatsheaf, 1992, p. 196.

⁹⁴ A. R. Lauer, RCT, 18/11/96, p. 34441.

2.14 Notwithstanding the responsibilities of the office to which these powers attach, it has been argued that policing and corruption go hand in hand.⁹⁵ The job is said to be corrupting in that police officers may:

- find themselves continually faced with temptation and opportunity for graft or favours;
- through exposure to horrific accident and crime scenes and to the worst aspects of society, become hardened to violence and criminal behaviour in all its forms;
- through the establishment of informant relationships develop friendships and shared values with the criminal element;
- become acutely aware of the substantial difference between their take home pay and the financial opportunities available through crime;
- feel isolated when faced with resistance, lack of co-operation or outward anger from the public when carrying out routine work, such as duties in traffic law enforcement;
- find, in the areas of greatest vulnerability (prostitution, gaming, liquor licensing, drugs, and pornography) that the crime is either victimless or one for which there is a high demand by users, so that there are unlikely to be too many complaints about police inaction;
- find that they are rarely recognised or rewarded for ethical behaviour, but are quickly punished for disciplinary infractions;
- feel compelled to cut corners if they are to control the streets, or lock up those who they know are guilty of crime; and
- become cynical and distrustful of the judiciary and of the broader community when they appear to pay insufficient regard to the dangers and difficulties of the job and fail to extend gratitude for the work of police in solving crime, in peacekeeping, and in times of civil disaster.

2.15 Each of these factors is very real, and the opportunity for police to engage in corrupt behaviour is only enhanced by the fact that:

- much police work is unsupervised and discretionary;
- the risk of detection and punishment is often seen to be low;
- senior police, who should be in a position to stamp out corrupt practices, are often known to be compromised by their own unethical behaviour while junior officers;
- there is often an imperative to deny corruption either because of close political association with the Service, or because it is expedient to avoid scandal;
- recruitment has in the past favoured young, impressionable and poorly educated males,⁹⁶ who have little experience of work or the diversity of society, and who quickly respond to a machismo environment and invitation to join a 'brotherhood';⁹⁷ and
- police are regularly confronted with law and order campaigns calling for an aggressive and result-oriented style of policing that does not cater for due process, and favours both rough justice and the fabrication of evidence.⁹⁸

⁹⁵ See for example, V. Henry, 'Police corruption: Tradition and evolution' in K. Bryett & C. Lewis (eds), *Un-peeling Tradition: Contemporary Policing*, Centre for Australian Public Sector Management, Brisbane, 1994, pp. 160-79.

⁹⁶ 85.9% of sworn officers are male and 60.2% are under the age of 35 - as reported in the NSW Police Service, *Annual Report, 1995-96*, pp. 109 & 112.

⁹⁷ *Report of a Commission of Inquiry Pursuant to Orders in Council*, (G. E. Fitzgerald, Commissioner), Brisbane, 1989, p. 211.

⁹⁸ T. Prenzler, A. Harrison & A. Ede, April/May 1996, op cit, pp. 4-13; R. Reiner, *The Politics of the Police*, 2nd Edition, Harvester Wheatsheaf, 1992; J. H. Skolnick & J. J. Fyfe, *Above the Law: Police and the Excessive Use of Force*, The Free Press, Macmillan Inc., New York, 1993, pp. 89-172.

2.16 Some support for the notion that the job is corrupting can be drawn from the experience that, even within other liberal democracies where graft is not a way of life and where corruption has always been publicly condemned in policing, it remains a continuing problem often on a cyclical basis, re-emerging after a major scandal and short-term reform.⁹⁹ This has particularly been the case in the United States where, for example, in relation to the NYPD:

- in 1894, the Lexow Committee found systematic police extortion of ‘disorderly houses’, systematic pay-offs by gambling establishments to police officers, pay-offs by organised confidence games, and regular extortion of money from small businesses, builders and others over whom the police had some regulatory authority;¹⁰⁰
- 17 years later, an inquiry headed by Mr Henry Curran again found a system of organised pay-offs from gambling and brothel operations; and hostility by the NYPD to civilian complaints;¹⁰¹
- in 1932, Mr Samuel Seabury, Counsel to a committee appointed by the State Legislature, found that the NYPD was deeply involved in extorting large sums of money from speakeasies, bootleggers, and gamblers;¹⁰²
- in 1950, Mr Harry Gross, the head of a large gambling syndicate, was arrested and testified before a grand jury that he had paid \$1 million to police every year for protection, in addition to numerous personal gifts;¹⁰³
- in 1972, the Knapp Commission of Inquiry found that the NYPD was riddled with corruption, most of which was relatively minor with officers of all ranks taking free meals and small bribes to allow traffic offenders, prostitutes and others to escape the law, but some of which was quite well-organised, particularly that of officers involved in gambling ‘pads’. Activities such as the fabrication of evidence and perjury associated with drug law enforcement were also found;¹⁰⁴
- in 1994, the Mollen Commission of Inquiry found that despite post-Knapp reforms, a new form of organised corruption had emerged confined to small groups within precincts (‘crews’), involving their direct participation in criminal activities including stealing, robbery, drug dealing, extortion, and shakedowns¹⁰⁵ particularly by drug squad detectives.¹⁰⁶

2.17 While the nature of the job remains a powerful consideration for the emergence of corruption as is indicated by the similar cyclical experience observed in NSW the fact is:

- that very few if any police enter the job with corruption on their mind;
- not all or even a majority of police succumb to corruption; and
- not all police work occurs in the high-risk circumstances or environment mentioned earlier.

2.18 It is necessary to take these circumstances into account, and to adopt strategies for training, development and management that will minimise the potential for the job to corrupt and prevent re-emergence of the problem. No single strategy is sufficient in this regard. The kind of institutional approach and reform necessary to achieve these objectives are addressed in Volume II of this Report.

⁹⁹ V. Henry, 1994, op cit, pp. 160-79; T. Prenzler, A. Harrison & A. Ede, April/May 1996, op cit, p. 5.

¹⁰⁰ *The Knapp Commission Report on Police Corruption*, (W. Knapp, Commissioner), New York, 1972, pp. 61-2; V. Henry, 1994, op cit, p. 161.

¹⁰¹ *The Knapp Commission Report on Police Corruption*, (W. Knapp, Commissioner), New York, 1972, p. 62.

¹⁰² *ibid*, pp. 62-63.

¹⁰³ *ibid*, p. 64.

¹⁰⁴ *ibid*.

¹⁰⁵ See Glossary.

¹⁰⁶ *Commission Report: The City of New York Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department*, (M. Mollen, Commissioner), New York, 1994.

POLICE CULTURE

2.19 For many years it has been suggested that it is not uncommon for police to form a distinct occupational culture. In response to the demands of the job, police officers are seen to develop a set of values, norms, perspectives, and craft rules which mould their conduct and which are often unrelated to, and may even contradict, the formal written laws, regulations and guidelines regarding police practice. It has been suggested that this distinctive way of interpreting and responding to society - which accounts for the police officer's 'working personality'¹⁰⁷ - is characterised by the following traits:

- a sense of mission about police work;
- an orientation towards action;
- a cynical or pessimistic perspective about the social environment;
- an attitude of constant suspiciousness;
- an isolated social life coupled with a strong sense of solidarity with other police officers;
- a clear categorisation of the public between the rough and the respectable;
- a conservative stance in politics and morality;
- a machismo outlook that permits sexism and glorifies the abuse of alcohol and heterosexual indulgences;
- a prejudiced attitude towards minorities;¹⁰⁸ and
- a pragmatic view of police work which discourages innovation and experimentation.¹⁰⁹

2.20 These characteristics are sometimes understood as functional to the survival and sense of security of officers working under frequently dangerous, unpredictable and alienating conditions. As such, the 'group loyalty' aspect of police culture is not in itself negative, however, the associated 'siege mentality' and 'code of silence' have been often linked to the proliferation and concealment of police corruption. The Mollen Commission identified the main ways in which these aspects of police culture facilitate corruption:

First, they encourage corruption by setting a standard that nothing is more important than the unswerving loyalty of officers to one another - not even stopping the most serious forms of corruption. This emboldens corrupt cops and those susceptible to corruption. Second, these attitudes thwart efforts to control corruption. They lead officers to protect or cover up for others' crimes - even crimes of which they heartily disapprove.¹¹⁰

2.21 The strong sense of loyalty and the code of silence among police has frustrated many inquiries into police corruption, including those conducted by police services themselves. Nevertheless, the tendency in some accounts to use the concept of police culture as a primary tool for understanding police corruption is overly simplistic, having regard to:

- the fact that there is no single police culture, significant differences existing, for example, between the cultures relevant for uniformed beat police, detectives and senior command, and between different jurisdictions;

¹⁰⁷ J. Skolnick, *Justice Without Trial*, 3rd Edition, Macmillan College Publishing Co., New York, 1994, p. 41.

¹⁰⁸ eg. Aboriginal people, people of non-English speaking backgrounds, gays and lesbians, the aged, juveniles, and the intellectually or physically disabled.

¹⁰⁹ R. Reiner, *The Politics of the Police*, 2nd edition, Harvester Wheatsheaf, 1992, pp. 111-29.

¹¹⁰ *Commission Report: The City of New York Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department*, (M. Mollen, Commissioner), New York, 1994, pp. 51-52. See also J. Kleinig, 'Police Loyalties: A refuge for Scoundrels', paper supplied by the NSW Police Association, RCPS Exhibit 2321/13.

- the complexity of the relationship between cultural values and actions;
- the element of individual choice;
- the role of the individual member as an active and creative participant of that culture, it being inappropriate to regard each officer as a passive agent unable to contribute to change;
- the social, political, legal and organisational context of policing, in which the culture takes its place;
- the possibility of cultural change as well as resistance to change; and
- the fact that not every aspect of the culture is negative or supportive of corruption.¹¹¹

2.22 Theories which deterministically attribute police corruption to officers' induction into a police culture must be questioned because, as James and Warren suggest:

The danger exists ... that [the] utility [of the concept of police culture] as an explanatory and structuring device for understanding police behaviour has become distorted by its invocation as *the* cause of behaviour (or more typically, misbehaviour); such an application may serve to obscure other relevant factors and variations in police behaviour.¹¹²

2.23 Nevertheless the significance of the code of silence, which is an incontrovertible and universal product of police culture, cannot be understated. The code of silence and other negative aspects of police culture need to be vigorously addressed as part of the reform process. Strategies designed to bring about cultural change are outlined in Volume II of this Report.

POLITICS AND POLICING

Corrupt Relations with Politicians

2.24 Police corruption has sometimes become enmeshed in and encouraged by local politics. This was very much the experience in the United States up until the 1950s.¹¹³ It also emerged in the Fitzgerald Commission of Inquiry in Queensland in 1987, where the findings extended beyond the corruption of the Licensing Branch which effectively protected vice, gaming and licensing interests, to the political system of that State.¹¹⁴

2.25 It has been alleged, although it remains unproven, that at earlier times similar political influences were in play in NSW, with some senior police and politicians sharing the spoils of protection, and setting an agenda under which certain laws were not enforced.¹¹⁵

¹¹¹ J. Chan, *Changing Police Culture: Policing in a Multicultural Society*, Cambridge University Press, 1997, pp. 65-67; S. James & I. Warren, 'Police culture' in J. Bessant, K. Carrington & S. Cook (eds), *Cultures of Crime and Violence: The Australian Experience*, A special edition of the Journal of Australian Studies, no. 43, LaTrobe University Press, 1995; R. Reiner, *The Politics of the Police*, 2nd Edition, Harvester Wheatsheaf, 1992, p. 109.

¹¹² S. James & I. Warren, 1995, op cit, p. 11.

¹¹³ T. Prenzler, A. Harrison & A. Ede, April/May 1996, op cit, p. 5.

¹¹⁴ *Report of a Commission of Inquiry Pursuant to Orders in Council*, (G. E. Fitzgerald, Commissioner), Brisbane, 1989.

¹¹⁵ Public statements by a former Police Commissioner tended to lend some truth to this, as did the reputed open meetings and the channels of communication between senior police, crime figures and politicians noted at this time. In a media interview regarding his philosophy on casinos and SP bookmakers, Police Commissioner Mervyn Wood once declared that: 'A Commissioner can decide whether his philosophy is going to be live-and-let-live or whether he is going to be a hard man. I think the people of Sydney believe in live-and-let-live' (quoted in D. Hickie, *The Prince and the Premier*, Angus and Robertson Publishers, 1985, p. 313). In December 1977, Wood also clashed with the Premier Neville Wran who had informed Parliament that he had ordered police to immediately close down illegal casinos operating in Sydney. Wood said he did not plan to close casinos immediately because the loss of jobs to 300 employees would bring unnecessary hardship at Christmas and would be 'inhumane' (D. Hickie, 1985, op cit, p. 315). Various accounts of liaisons between police, crime figures and politicians have been provided in exposés by investigative journalists, including: D. Hickie, *The Prince and the Premier*, Angus & Robertson, Sydney, 1985; E. Whitton, *Can of Worms: A Citizen's Reference Book to Crime and the Administration of Justice*, Fairfax, Sydney, 1986; E. Whitton, *Can of Worms II: A Citizen's Reference Book to Crime and the Administration of Justice*, Fairfax, Sydney, Revised Edition, 1987, and in evidence led before the Royal Commission (See Volume I, Chapter 3, of this Report).

2.26 Events such as the establishment of the ICAC, tend to suggest that whatever corrupt relationships may have existed in the past between police and politicians, they have not been a significant factor in more recent times. Certainly no current relationships of this kind came to light in the investigations of this Royal Commission, and such complaints or allegations as were made in this regard were soon found to be of the 'conspiracy theory' genus, or to be unfounded.

2.27 Notwithstanding, the danger of such relationships, and the need for vigilance against their re-emergence cannot be understated since:

- they represent a most significant betrayal of public trust, and hence have the potential to seriously undermine public confidence in the Service and the political system;
- they can allow the appointment of a 'tame' Commissioner, and the installation of the corrupt into key positions within the Service;
- they have the potential to seriously undermine any anti-corruption strategies developed, whether internal or external;
- the direction and the efficacy of the Service in selected fields of law enforcement, can be captured by the corrupt; and
- the existence of any such arrangement is very difficult to detect and prove, if for no other reason than that the government of the day is usually able to determine whether any public inquiry or Royal Commission should be established to investigate the Service.

The Political Agenda

2.28 In a quite distinct fashion, the potential for corruption can be affected by the agenda of the government of the day in relation to the enforcement or maintenance of laws that lack substantial public support. The police do not make the laws, but they can be left in real difficulties where:

- they are expected to enforce laws which are, at best, only partially enforceable; and
- there are contradictory movements within the decriminalisation/regulation spectrum as has occurred with public order offences.

So far as an uncertain or wide discretion is left, or unpopular laws are preserved, a window for abuse and for corrupt practices inevitably opens.

2.29 Thus it is a generally accepted conclusion that police corruption is a likely social cost of the legislative creation and maintenance of victimless crimes.¹¹⁶ The prohibition of substances and services for which there is significant public demand has been said to place police officers upon an 'invitational edge of corruption'.¹¹⁷ The view sometimes advanced that corruption is responsible for illegal activities, for example, that an illegal drug trade exists in Kings Cross because of police corruption, is, however, too simplistic. The existence of such a trade provides a good opportunity for corruption, but it is not the cause of it. On the other hand, once individual police or groups of police are exposed to and become involved in corrupt practices in such an area of policing, they are likely to succumb in other areas and in other rotations within the service.

2.30 In the case of laws that are, in practical terms, at best only partially enforceable, corruption can become, at the same time, an attractive proposition for some police, and conversely a

¹¹⁶ M. Finnane, *Police and Government: Histories of Policing in Australia*, Oxford University Press, Melbourne, 1994, p. 176; *Report of a Commission of Inquiry Pursuant to Orders in Council*, (G. E. Fitzgerald, Commissioner), Brisbane, 1989, pp. 186-7; *Report of the Commission to Inquire into New South Wales Police Administration*, (E. A. Lusher, Commissioner), Sydney, 1981, p. 634; N. Morris & G. Hawkins, *The Honest Politician's Guide to Crime Control*, University of Chicago Press, Chicago, 1970, pp. 108-9; M. Punch, 'Developing scandal: Police deviance in Amsterdam', *Urban Life*, vol. 11, no. 2, July 1982, pp. 209-30.

¹¹⁷ P. Manning & L. J. Redlinger, 'Invitational edges of corruption: Some consequences of narcotic law enforcement', in P. K. Manning & J. van Maanen (eds), *Policing: A View from the Street*, Goodyear Publishing Company Inc., Santa Monica, 1978, p. 147.

mechanism by which other police attempt the impossible. The results are rarely other than destructive, as is indicated by the experience in NSW in the enforcement of the laws prohibiting off-course bookmaking.

2.31 When, in response to political pressure, police were forced to attempt a crack-down on this activity, they did so by attacking the communication and broadcast of betting information and by targetting the hotels and premises from which SP runners and bookmakers operated. The results were:

- the development of illegal systems of communications; the syndication of operations; the development of a complex illicit telephone network; the deployment of commission agents, cockatoos,¹¹⁸ standover men and enforcers to collect on credit bets; and the eventual demise of the small, independent operators, as power became concentrated in a relatively small group of influential organised crime figures;
- along the way corruption of police, as well as that of telephone technicians, became substantial and organised;
- moreover, functional links with organised crime were established, and the illicit funds collected were used to bankroll activities in other areas of gaming, vice and narcotics, where there was similar consumer demand;
- the increasing sophistication of the operators, and the public demand for their services was such that suppression by law enforcement became impossible, and regulation only marginally less achievable. Yet legalisation of the activity was impossible because of the identity of those who had captured the market; and
- the only solution was that of legalisation and the introduction of government-run or licensed competition with the illegal market via the Totalizator Agency Board and systems such as Pub TAB.¹¹⁹

2.32 Within this context, where suppression of prohibited services or substances is effectively impossible, yet politicians or governments insist on maintaining the law and on its enforcement, the police priority is to get the best control it can over the activity. Its function becomes one not of enforcement of the law, but regulation of the illegal activity.¹²⁰ Corruption almost inevitably emerges in that process and becomes a means by which police can influence or control who is involved, where it occurs, and how it is done. This point is made not to encourage or condone corruption, but to underscore the role that the political process has in creating the environment in which it occurs.

PROCESS CORRUPTION

2.33 Process corruption is one of the most obvious, pervasive and challenging forms of police corruption, which:

- has its roots in community and political demands for law and order;
- is seen by many police to be in a quite different league from the forms of corruption which attract personal gain;
- is subject to the confusion which exists over the definition of 'good policing'; and

¹¹⁸ See Glossary.

¹¹⁹ D. Dixon, 'Illegal betting in Britain and Australia: Contrasts in control strategies and cultures', in J. McMillen (Edition), *Gambling Cultures: Studies in History and Interpretation*, Routledge, London, 1996, pp. 86-100. The history of gaming in illegal casinos, which had its nadir in the 1960s and 1970s, is similar. In each field, the best that the TAB and the legal casino can do is to compete with the illegal SP operators and casinos that continue to ply their trade, and to provide a source for corruption.

¹²⁰ W. F. Whyte, *Street Corner Society: The Social Structure of an Italian Slum*, University of Chicago Press, 1943, p. 138.

- is compounded by ambiguities within the legal and regulatory environment in which police work, and by senior police and members of the judiciary apparently condoning it.

2.34 An excellent illustration of this last point has been the reaction to the decision in *Williams v the Queen*¹²¹ which, rejecting the English development of the common law, declared the detention by police of a suspect for the purpose of investigation, to be unlawful. Police practice was, however, little affected in NSW, and interviews of suspects continued between arrest and appearance before a justice:

- under the fiction that the suspect had not been arrested but was present at the station ‘voluntarily’, ‘to assist with inquiries’;
- by the stratagem of effecting arrests at times when magistrates were not immediately available; or
- in the expectation that if a confession was obtained it would result in a guilty plea, or (particularly in the case of serious crime) not be rejected in the exercise of the discretion to exclude unlawfully obtained evidence.¹²²

2.35 The law as expressed in *Williams* is clear enough, yet police practice has remained indifferent to it. Even though unlawful, process corruption accords with long-standing practice, has been condoned by senior ranks and only infrequently leads to the exclusion of evidence.

2.36 In other more obvious areas, such as verballing and planting evidence, and the use of threats or improper persuasion to procure confessions, the conduct has been less obviously condoned, yet was not seen by operational detectives to have constituted ‘bad policing’. Again they have been confronted with:

- long-standing practices which appeared to have the imprimatur of senior command;
- the view that crime control has been strangled by due process, an impression reinforced by statements by some officers and public commentators, or by their own experience of failed prosecutions in which they had been left to explain the outcome to incredulous and angry victims of crime; and
- political campaigns in which law and order was loudly proclaimed, and in which commissioners of police or local commanders were called upon to produce satisfactory crime clear-up statistics, or explain their inability to do so.

2.37 In such circumstances the ends can easily come to justify the means and clear the road to process corruption without too much concern or shame.¹²³ Those officers who do make the effort to think the matter through are often able to make a distinction between acceptable and non-acceptable deviance. For them, corruption of this kind can still become a means of crime control rather than an end in itself, and so far as they promote this philosophy among junior police it can have a significant ideological effect upon the Service.

2.38 Process corruption may result from an exercise of partiality in criminal investigations and/or prosecutions.¹²⁴ Partial investigations and prosecutions involve the abuse of police powers resulting

¹²¹ (1986) 161 CLR 278.

¹²² *Bunning v Cross* (1978) 141 CLR 54.

¹²³ M. Zander, ‘Ethics and crime investigation by the police’, *Policing*, vol. 10, no. 1, Spring 1994, pp. 39-47.

¹²⁴ A partial investigation and prosecution could include:

- shifting investigative priorities or deflecting them in a desired direction;
- the fabrication of evidence;
- the failure to provide relevant evidence or to contact witnesses;
- the failure to follow-up leads;
- delay;

from the ability of officers to exercise discretion. The existence of a lack of impartiality among police is potentially attributable to many factors which, without attempting to be exhaustive, include:

- attitudes to particular crimes which police themselves may commit, or personally condone, for example, drug taking, domestic violence, or driving while drunk;
- financial gain in return for protection given to drug dealers and others;
- the desire to obtain convictions, or information, regardless of the legality of the means used, or their consequences;
- the existence of personal attitudes based on race, gender, sexuality, religion, and/or socio-economic status;
- the desire to protect a fellow officer at the expense of a member of the public;
- the desire to protect friends or family suspected of an offence; and
- undue respect for, or concern as to the consequence of charging people who are particularly well placed socially or politically.

2.39 An unbiased, impartial approach to the exercise of police powers is important. If the community perceives that the Service is partial in the discharge of its duties, it will not be trusted. Moreover if process corruption is motivated by prejudice, the effectiveness of the court system is diminished.

2.40 Fundamental change is required to bring about a definition of 'good policing' that is understood and accepted by the rank and file, is based upon sound ethical standards and impartiality, and excludes matters such as process corruption. A useful beginning has been made by the Service with the replacement of the vaguely defined and uninformative Statement of Values by a broad and enforceable Code of Conduct and Ethics, designed to underpin the ethical and professional standards required of the Service.

2.41 Police must be:

- provided with the powers and the authorities they need to carry out the job entrusted to them, subject to suitable safeguards to accommodate the competing interests involved;¹²⁵ and
- adequately instructed as to the use of their powers within a context that promotes impartiality, teaches legal values and principles, and reinforces the understanding that the law applies to police and that they hold an office which attracts special responsibilities rather than exemptions.

2.42 Other reforms proposed in Volume II of this Report, including improved recruitment procedures, strengthened supervision and management practices, and the development of stronger ties with communities through enhanced methods of consultation, will also limit the potential for partiality in policing and associated process corruption.

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- the leaking of information;
 - the provision of a poor quality brief;
 - the provision of the brief very late;
 - the fabrication of evidence;
 - inappropriate charges being laid;
 - improper granting of bail;
 - the failure to ensure attendance of witnesses;
 - the failure of the officer to give correct or relevant evidence.

cf. ICAC, *A High Risk Area - The Management of Criminal Investigations*, Discussion Paper, October 1993, pp. 21-23.

¹²⁵ This could, for example, be provided by legislation similar to the United Kingdom *Police and Criminal Evidence Act* (1984), or that enacted in other Australian jurisdictions, including the *Crimes Act 1914* (Cth) Part 1C and the *Crimes Act 1958* (Vic) ss. 464-464ZJ.

THE POLICING ENVIRONMENT

2.43 The environment in which a police service operates can have a significant effect on the nature and extent of the corruption that emerges. To a considerable degree this environment is set within the legislation by which the service is governed, but it is also, to a degree, capable of being set by the service itself, as well as by the size, nature and mores of the community which it is expected to police. Little can be done about the latter, but some of the remaining factors, particularly those that are within the control of the service, can be mentioned.

Regulation or Control

2.44 One matter which is at least partly in the hands of a service is its choice to adopt or reject a policy of regulation of activities such as gaming, vice and drugs, in which a monopoly is permitted to fall into the hands of a chosen few, in return for an undertaking or expectation that they will keep such activities within acceptable limits. As has been found by the Royal Commission, this is an almost certain recipe for disaster. Inevitably it fosters the message that protection can be secured and that it is dangerous to question it, leading in turn to:

- the compromise of individual integrity of those police who would wish to enforce the law;
- manipulation of the police by those allowed to operate, to have action taken against other criminals to preserve their monopoly;
- suspicion that a double standard exists and that senior police are party to corrupt relationships that may well extend beyond the service to higher circles within the government or judiciary; and
- a general reluctance to report misconduct.

Service Openness

2.45 The readiness of a service to admit error, to acknowledge corruption where it exists and to redress it, is another important environmental circumstance.

2.46 If senior command is seen to be anxious to maintain a lid on the exposure of corruption, to place the protection of service reputation and morale ahead of redressing the problem, then this will soon be followed by a collapse of integrity.¹²⁶ It reinforces a defensive 'them and us' mentality which will readily be embraced by the rest of the service. Moreover, a clear message is sent to the ranks that public statements about professionalism and integrity are purely rhetoric.¹²⁷ Within such an environment, the risk and fear of exposure is reduced, and those who are so minded can more comfortably drift into corrupt practices.

Ability to Change

2.47 Similarly, the ability of a service to bring about change, and to overcome resistance from within, is an important part of the environment. This is an area where policing has faced great difficulty due to matters such as:

- its innate conservatism;
- its lack of modern management experience;

¹²⁶ *Commission Report: The City of New York Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department*, (M. Mollen, Commissioner), New York, 1994, p. 3.

¹²⁷ *ibid.*

- the entrenched interests of middle management; and
- the ability of the corrupt to group together and undermine its reform.¹²⁸

Support of Officers and Integrity

2.48 A service that adopts as its role model the 'metro cop' or hard officer knowledgeable in the ways of the criminal, who maintains control through fear, dubious investigative techniques and a network of criminal informants, and who is prepared to cross the line into theft and protection, is far more likely to have a corruption problem than the service that promotes officers of unquestioned integrity and professional values.

2.49 The desire of police for recognition in respect of a job well done and of demonstrated integrity, and their distaste for the outdated, punitive disciplinary model (which is often more focused on minor breaches of departmental regulations than on serious misconduct), were well demonstrated in a survey conducted by the National Police Research Unit (NPRU) in 1996.¹²⁹ The responses revealed a clear need for:

- clarification of the rules about ethical behaviour, and practical guidance as to their application;
- training in ethics which is relevant to the day-to-day job;
- support for, and recognition of, ethical behaviour;
- the end to a double standard in which senior officers are seen to ignore their own unethical behaviour, and are likely to be treated differently if suspected of it; and
- strategies to prevent punishment or ostracism of officers who bring unethical behaviour to light.¹³⁰

2.50 The findings have a sound basis in the literature which supports the promotion of programs of 'positive discipline' that stress and reward integrity.¹³¹ Any service which ignores this almost universal human trait, and displaces the remedial or managerial approach towards maintaining good order, discipline, and integrity in favour of a harsh punitive model, risks:

- losing the support and respect of its members;
- discouraging the disclosure of wrongdoing; and
- encouraging belief in the existence of the 'them and us' approach, both within the service and in relation to the broader community.

Maintenance of Staff Morale

2.51 Similarly, a service which is seen to do what it can to maintain high morale, to encourage personal and career development, to avoid boredom, frustration, stress and cynicism, to develop meaningful understanding and practical guidance in relation to ethical and integrity issues, and to emphasise its role of service, is far less likely to have a serious corruption problem than a service which ignores these factors.¹³²

¹²⁸ B. Etter, 'Mastering innovation and change in police agencies' in B. Etter & M. Palmer (eds), *Police Leadership in Australasia*, The Federation Press, Annandale, NSW, 1995, pp. 278-309.

¹²⁹ NPRU, *Practical Ethics in the Police Service*, Ethics and Policing Study 3, Report Series No. 125.3, NPRU, 1996.

¹³⁰ *ibid*, pp. 48-51.

¹³¹ M. Punch, *Conduct Unbecoming: The Social Construction of Police Deviance and Control*, Tavistock, London, 1985, p. 196.

¹³² *Commission Report: The City of New York Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department*, (M. Mollen, Commissioner), New York, 1994, pp. 60-65; NPRU, *Practical Ethics in the Police Service*, Ethics and Policing Study 3, Report Series No. 125.3, Adelaide, 1996.

2.52 Without real support in these areas, it is hardly surprising if members drift into corrupt practices, lack the pride and professionalism to maintain individual standards and lack sufficient concern or interest in the job to discourage and report misconduct by fellow officers.

Risk Minimisation

2.53 A service which does not adopt risk minimisation strategies, whether they be in the form of informant management plans, rotation of duties, careful recruit selection, appropriate training and in-service development, close supervision, command accountability, avoidance of 'favouritism', an effective internal investigations command, support of internal witnesses and of those exposed to the most stressful tasks, and the like, is bound to encounter a serious problem of corruption.¹³³

2.54 An obvious example of a management strategy that has not taken this into account has been the practice of 'bleeding'¹³⁴ new recruits in high-risk areas,¹³⁵ particularly where that has occurred in the context of 'dumping grounds' into which the misfits, malcontents or less disciplined officers have been transferred.¹³⁶ In such an environment, it is inevitable that new police will be tested for their preparedness to succumb to temptation, encouraged to become part of a 'trusted' group and to adopt a perverted pride in the unsavoury practices of their 'tutors'.

2.55 Similarly, in the absence of accountability on the part of commanders and supervisors for failure to identify and deal with corrupt practices, and of an appreciation that corruption control is a service-wide problem rather than a problem of the internal affairs command, the development of serious corruption is almost inevitable. It is the local supervisors and commanders who are best placed to understand the patrol or district for which they are responsible, to assess the nature and level of criminality operational police under their command are likely to encounter, to assess and monitor their work practices and to respond to any tell-tale signs of corruption. Typically in those services where a problem exists, it has not been identified as a matter for the service as a whole, nor has the performance of supervisors and commanders been the subject of critical assessment and review.

Composition of the Service

2.56 Care needs to be taken not to embrace too readily the propositions, sometimes advanced, that increasing the proportion of women police or varying the racial mix of the service will overcome corruption.

2.57 This Royal Commission and similar inquiries¹³⁷ have found relatively few women police involved in corrupt practices. Where it has emerged it has largely related to process corruption, or 'secondary corruption' involving protection of other officers from internal investigations. Several reasons have been advanced for this, including the suggestions that women are:

- innately less susceptible to corruption;

¹³³ *Commission Report: The City of New York Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department*, (M. Mollen, Commissioner), New York, 1994, pp. 2-3.

¹³⁴ See Glossary.

¹³⁵ In NSW, for example, the Demonstration and Training Patrols for probationary constables included the inner-city stations of the City of Sydney, Kings Cross and Redfern.

¹³⁶ *Commission Report: The City of New York Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department*, (M. Mollen, Commissioner), New York, 1994, pp. 60-62, 123.

¹³⁷ *Report of a Commission of Inquiry Pursuant to Orders in Council*, (G. E. Fitzgerald, Commissioner), Brisbane, 1989; *Commission Report: The City of New York Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department*, (M. Mollen, Commissioner), New York, 1994. In addition, the Christopher Commission found that women officers were involved in excessive use of force at rates substantially lower than male officers; *Report of the Independent Commission on the Los Angeles Police Department*, (W. Christopher, Commissioner), Los Angeles, 1991, pp. 83-84.

- excluded from corrupt practices by their male colleagues who refuse to admit them into their tight-knit social groups, or to fully recognise them as operational police; and
- under-represented in those areas of policing, particularly detective work, where the corruption potential is highest.

2.58 There is often an assumption that increasing the number of women police will lead to a general raising of ethical standards in policing because women are less likely than their male colleagues to engage in corruption or tolerate such behaviour.¹³⁸ It has been suggested that the presence of women will break down the negative, machismo aspects of the culture and lead to 'kinder and gentler' policing.¹³⁹ However, little research has been conducted on the assumptions which underpin this view,¹⁴⁰ and there is a danger of generalisation, or of drawing too much from the low reporting rate of corruption among women police.

2.59 The results of the little research which has been conducted on this topic are inconclusive. In 1992, the NPRU conducted a survey which sought attitudes toward breaches of ethics among Australian police officers and recruits.¹⁴¹ The study found that women (recruits and constables) appeared to have higher personal ethical standards and viewed the 'typical officer' and departmental instructor as being less scrupulous.¹⁴² It was suggested that, as members of an 'out group', women may retain their own perspectives on ethical issues.¹⁴³ These findings are consistent with those of several North American studies which have reported that women officers, on average, express higher ethical standards than males and resist the negative influences of the male-dominated police culture.¹⁴⁴

2.60 Contrary to these findings, however, a recent report by the Queensland Criminal Justice Commission (CJC) found no consistent gender differences in officers' perceptions of the seriousness of various types of misconduct, or in the stated willingness of officers to report the wrongdoing of fellow officers.¹⁴⁵ The results of this study suggest that women officers are no less resistant than men to the influences of the police culture, since women officers at the ranks of constable and senior constable were found to be as reluctant as their male counterparts to report fellow officers for misconduct.¹⁴⁶ The CJC concluded that: 'an influx of women into policing will not, in itself, result in a significant weakening of the existing police culture'.¹⁴⁷

2.61 Nevertheless, there are other valid reasons for increasing the representation of women and minority groups by widening the recruit basis for the Service, which will be outlined in Volume II of this Report.¹⁴⁸

Higher Education

2.62 The notion that improved educational standards can affect the ethical behaviour of police officers has been advanced by some official inquiries.¹⁴⁹ There is, however, research evidence which indicates that the effect of higher education has little long-term impact and can be dissipated once

¹³⁸ CJC, 'Gender and ethics in policing', *Research Paper Series*, vol. 3, no. 3, October 1996.

¹³⁹ cf. J. Kleinig, *The Ethics of Policing*, Cambridge University Press, New York, 1996, p. 275; J. H. Skolnick & J. J. Fyfe, *Above the Law: Police and the Excessive Use of Force*, The Free Press, Macmillan Inc., New York, 1993, p. 137.

¹⁴⁰ CJC, 'Gender and ethics in policing', *Research Paper Series*, vol. 3, no. 3, October 1996, p. 1.

¹⁴¹ NPRU, *Perceptions of Ethical Dilemmas*, Ethics and Policing Study 1, Report Series No. 125.1, Adelaide, 1995.

¹⁴² *ibid*, pp. 19 & 21.

¹⁴³ *ibid*, p. 19.

¹⁴⁴ See CJC, 'Gender and ethics in policing', *Research Paper Series*, vol. 3, no. 3, October 1996, p. 2.

¹⁴⁵ *ibid*, pp. 2-5.

¹⁴⁶ *ibid*, p. 5.

¹⁴⁷ *ibid*, p. 7.

¹⁴⁸ See Volume II, Chapter 3 of this Report, Composition of the Service, paras. 3.73 - 3.78.

¹⁴⁹ See, for example, *Report of a Commission of Inquiry Pursuant to Orders in Council*, (G. E. Fitzgerald, Commissioner), Brisbane, 1989, p. 250; *Commission Report: The City of New York Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department*, (M. Mollen, Commissioner), New York, 1994, p. 123.

officers are exposed to more experienced officers and to police work.¹⁵⁰ It was suggested that the impact of the police role negated the effects of even a liberal arts education, in that the more educated officers began to think and act like other officers once exposed to the real world of police work.

2.63 One such study in relation to Queensland Police Service recruits suggested that the university education program which was introduced in response to the Fitzgerald recommendations had a minor effect on attitudes, but that subsequent exposure to the police academy and the job of policing had a more substantial and deliberalising effect.¹⁵¹

2.64 Whether the effects of the socialisation process will diminish as the proportion of police within the Service with higher pre-service educational qualifications grows, is yet to be evaluated.¹⁵²

2.65 The research does not suggest that the notion of tertiary education for police should be dismissed. There are obvious benefits in creating a police service which is more representative, better informed about the community and its values, and better fitted for training, particularly in the use of modern technology and advanced investigative skills:

What education *can* do, if it cannot change people's attitudes, is (to be terribly trite) broaden people's horizons ... If education has any value, for police or anyone else, it is that it *exposes them* to new ideas, new information, and to new values.¹⁵³

Conditions of Service

2.66 The argument that police turn to corruption because they are poorly paid for a difficult and often unrewarding job¹⁵⁴ cannot be accepted. Nor does the solution lie in increased pay, or in an improvement in the conditions of employment. Each notion miscalculates the professionalism that most police bring to the job, the reasons that first attracted them to policing, and the fact that the vast majority of police are not corrupt.

2.67 Such arguments also rest upon the erroneous assumption that police corruption is motivated largely by greed. The factors which motivate officers to engage in corruption are varied. The Mollen Commission, for example, suggested that whilst money was an important motivating factor for some, the involvement of police in corruption may be based on many other factors, including the desire to:

- exercise power over their environment;
- vent frustration and hostility over their inability to stem the tide of crime around them;
- experience excitement and thrills;
- prove their mettle to other officers and gain their acceptance; and

¹⁵⁰ Weiner concluded, on the basis of survey research, that: 'it is questionable whether or not education will have a significant effect on police attitudes.' (N. L. Weiner, 'The effect of education on police attitudes', *Journal of Criminal Justice*, vol. 2, 1974, p. 324.)

¹⁵¹ G. Christie, S. Petrie, & P. Timms, 'The effect of police education, training and socialisation on conservative attitudes', *Australian and New Zealand Journal of Criminology*, vol. 29, no. 3, 1996, p. 299. The authors concluded that: in spite of the fact that police academy recruit training programs have improved, and various criminal justice/police studies programs have been developed in tertiary institutions, the socialisation of police officers often begins with the newly trained recruit receiving advice from experienced officers to 'forget that academy stuff' (P. Cioccarelli, 'Police Education Training', *National Police Research Unit Review*, vol. 5, 1995, p. 33). The debate regarding the efficacy of tertiary-based police education and training remains open'. (G. Christie, S. Petrie, & P. Timms, 'The effect of police education, training and socialisation on conservative attitudes', *Australian and New Zealand Journal of Criminology*, vol. 29, no. 3, 1996, pp. 301-02).

¹⁵² In 1979, there were fewer than 10 NSW police officers with tertiary qualifications and even in 1997 there are less than 1800.

¹⁵³ N. L. Weiner, 1974, op cit, p. 325 (emphasis in original).

¹⁵⁴ See, for example, R. P. McAuley, 'The impact of management practices on corruption', *Police Studies*, vol. 12, no. 4, Winter 1989, p. 171; M. E. Sparke, 'Security and integrity in a drug squad', *The Australian Police Journal*, vol. 36, no. 2, April 1982, p.129.

- to administer their own brand of street justice because they believe the criminal justice system administers none.¹⁵⁵

2.68 It is not denied that police deserve improved terms and conditions of service, including pay. Any such improvements should, however, reflect matters such as advances in training, education, work practices and work load. They should not be thought of, or justified, as an inducement for foregoing corruption, nor as a price for embracing the standards of professionalism that have been found by this Commission to be lacking.

C. THE CONSEQUENCES OF CORRUPTION

2.69 The point need not be laboured, but the consequences of corruption are devastating for a police service as a whole, and for its individual members. They are similarly devastating for the community which police are expected to serve.

2.70 So far as the Service is concerned, the presence of corruption, particularly of a systemic or entrenched kind, means that:

- the security and viability of operations directed at organised crime are threatened by the risk of leaks and compromise, thereby lessening its worth as a law enforcement body;
- the personal safety of informants, undercover officers and dedicated police cannot be guaranteed;
- the trust of the various sections of the community and of government is weakened;
- the reputation of the Service as a protector of the community is diminished;
- the Service is less likely to attract the most able and suitable recruits, or to retain the officers of integrity and skill that it needs;
- the more able and dedicated officers are less likely to seek promotional transfers to areas known to be high risk, thereby entrenching the problem in those commands;
- the Service risks repetitive scandal and increasing external intervention into its affairs;
- the Service is less likely to receive assistance from the community, whether in the form of crime reporting and intelligence, or in the form of assistance of individual officers in need;
- the Service is unlikely to receive a favourable hearing in relation to requests for budget increases, expansion of its resources or improved terms and conditions of service;
- the Service is likely to be denied co-operation on the part of other law enforcement agencies in relation to sharing of intelligence and participation in joint operations;
- the overall confidence of the judiciary, and of jurors, is likely to be diminished, thereby risking the success of prosecutions that were, in fact, based upon sound, honest investigations;
- the innocent may be convicted of crimes which they did not commit, and the guilty may escape justice;
- once officers have succumbed to corruption they are potentially compromised for all time, and become not only vulnerable to blackmail or pressure from other police to ignore their misconduct, but also practised in the art of deception and cover-up; and

¹⁵⁵ *Commission Report: The City of New York Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department*, (M. Mollen, Commissioner), New York, 1994, p. 21.

- the corrupt who often are the more cunning and forceful members of the Service are likely to gather in powerful cliques, to then use their influence to hijack the promotional opportunities of the more honest, and to resist any attempts at reform.

2.71 So far as individual police are concerned, each of the matters which affect the Service is likely to be passed down to them, thereby:

- diminishing their own reputation within the community, and their job commitment and satisfaction;
- exposing them to personal risk, when operations on which they have been working are compromised, either when corrupt police hold back information or when they come into contact with a criminal who has been stood over, or cheated once too often by a corrupt officer;
- making more likely the pressing of false complaints that they acted corruptly or unlawfully in the course of their duties, in which case they are likely to be exposed to the stress of internal investigation, the defence of criminal or disciplinary proceedings, and the almost inevitable medical discharge which accompanies these proceedings, whether cleared or not;
- leaving them in a situation where they cannot place full confidence in their fellow officers, or expect too much by way of assistance from the public when in need;
- encouraging some to bow to what is seen to be the inevitable by resorting to similarly corrupt practices, and encouraging others to turn a blind eye rather than risk the consequences of being known as a whistleblower;
- leaving all without a real sense of mission or commitment;
- frustrating promotional opportunity and reducing the prospect of pay rises;
- promoting a 'them and us' defensive mentality which is likely to only worsen their relations with the public;
- inviting disbelief and even more determined efforts to conceal malpractice when legitimate prosecutions fail because of community distrust;
- leaving them with a feeling of disempowerment in establishing a working environment in which they can have pride and confidence; and
- straining or even destroying their relationships with family and friends.

2.72 For the public, a corrupt service is unacceptable, by reason of:

- its inability to combat crime, particularly that of an organised kind;
- the lack of mutual confidence and trust which are essential to a healthy, law-abiding community;
- the diversion of productive effort and financial resources into dealing with periodic scandals; and
- its deleterious effect on the workings of the criminal justice system.

2.73 The depth of concern entertained as to these matters was well demonstrated by the extent of the media coverage given to the evidence led in this Royal Commission, by the strength of the community reaction, by the united political will to deal with the problems that emerged and by the volume of the submissions received from all sections of the community and the Service.

D. CONCLUSION

2.74 As theories of criminal and deviant behaviour generally have developed over time, so, too, have theories regarding police misconduct and corruption. Whilst the 'rotten apple' theory of individual pathology has been rejected, theories which deterministically attribute police wrongdoing to officers' induction into a police culture have also been seriously questioned. Similarly, uncritical acceptance by a service that any corruption which has emerged was 'opportunistic' in nature have proved unduly optimistic.

2.75 What needs to be recognised where corruption is found is that:

- more than one factor is likely to have been in play;
- resort to the 'rotten apple' theory, the 'police culture', the 'nature of the job' or to 'opportunity' as the explanation for the behaviour is too simplistic and risks:
 - obscuring the relevant causes;
 - overlooking the role of individuals as active and creative participants both in the circumstances which allowed the misconduct to occur, and as agents of change;
 - surrendering the problem as inevitable and abandoning remedial opportunities; and that
- the consequences for the Service, in terms of its reputation and operational effectiveness, are profound as indeed they are for the individual officer.

2.76 To understand police misconduct, and to develop strategies for its minimisation, the causes of wrongdoing need to be seen along a continuum of factors associated with:

- the integrity, training and personal ethics of the individual officer;
- the attitudes encountered within the Service;
- the structure and nature of the work environment;
- the vision, management and commitment of the Service; and
- the historical, socio-political and legal context of policing.

2.77 The existence of a strong Internal Affairs command, and of an external oversight agency such as the PIC are but a safety net through which a few officers will inevitably slip. It is far preferable that the Service adopt a culture and management style, as well as a professionalism, which:

- discourages resort to corrupt practices; and
- permits individual police of integrity to feel confident in standing up to those whose honesty they distrust, or whose work practices they disrespect.

2.78 Too often it appears to have been assumed within the NSW Police Service that once a policy or plan for reform has been formulated, its successful implementation will follow as a matter of course. The reality is that no reform can be achieved within a police service of any size without a clearly planned strategy that embraces commitment, communication, monitoring, evaluation and reinforcement.

2.79 Strategies are needed at each level if cyclical re-emergence of corruption is to be avoided. It is for this reason that the Royal Commission has not confined itself to narrow recommendations that might be seen as reactive to incidents of corruption. Rather, the conclusion has been reached that more far-reaching reform is required that might eliminate, or at least discourage, its continued presence and its re-emergence in those areas where it has already been met.

CHAPTER 3

A SELECTIVE HISTORY OF THE NSW POLICE SERVICE PRIOR TO THE ROYAL COMMISSION

3.1 In this chapter, the Commission identifies, from an historical perspective, some of the critical events and developments within policing in NSW, extending back to colonial days. Such a history is necessarily selective and is without independent verification. It is not offered as an explanation for the development of the corruption found by this Royal Commission. Rather, it sets the scene for the various inquiries which have been conducted into police corruption, and notes some of the significant legislative changes and policy developments.

3.2 In 1994 the NSW Police Service submitted a Quality Award Application in which it stated:

By 1981, the NSW Police Force was in severe difficulty. Allegations of corruption were rife, management poor and dysfunctional systems prevented police from providing quality service to the people of New South Wales. Police credibility was increasingly questioned as public perception at that time was one of:

- Police implicated in corrupt activities with organised crime identities;
- illegal methods to gather evidence; and
- a Police Force alienated from the community.

In 1981, the Lusher Commission of Inquiry "revealed significant fundamental difficulties which pervaded or affected the areas into which the Inquiry was directed. The contemporary position follows many decades of either unawareness or indifference to developments necessitating change, or an inability to grapple successfully with them on the part of successive government and police administrations. The fundamental difficulties which were revealed in the police administration, required solutions which were a significant departure from traditional practices".

... It was apparent that a major overhaul of the Force was needed.¹⁵⁶

The Application continued by stating that such overhaul had been achieved in the form of the Lusher Commission of Inquiry and the appointment of Mr John Avery as Commissioner in 1984.

3.3 During the first few days of evidence to this Commission, senior police were called to give their perceptions of the current level of corruption within the Service. Commissioner Lauer, whose assessment was largely mirrored by that of several other senior officers said:

In today's Police Service, institutionalised corruption does not exist within that meaning. That is not to say, as I have said, that officers will not from time to time fail in their duty and act corruptly.¹⁵⁷

This was because:

The systems in place in 1980-81 that permitted that finding from Justice Lusher, which I agree with, no longer exist today.¹⁵⁸

He added that changes such as regionalisation had made it difficult to replicate the conditions operative at the time of the Lusher inquiry.¹⁵⁹

¹⁵⁶ NSW Police Service, Australian Quality Award Application, 1994, p. 1, RCPS Exhibit 5999/8. This application was made to the Australian Quality Award Foundation. The Police Service was not placed in the awards.

¹⁵⁷ A. R. Lauer, RCT, 6/12/94, p. 142.

¹⁵⁸ A. R. Lauer, RCT, 6/12/94, p. 143.

¹⁵⁹ A. R. Lauer, RCT, 6/12/94, p. 143.

3.4 The Commission has since found a very different state of affairs to have existed.

A. SOME MILESTONES

3.5 Some milestones can be identified in the development of the Service, including the periodic corruption scandals that have emerged and the opportunities presented to resist its entrenchment, which might help to place this Royal Commission and its recommendations into context.¹⁶⁰

1788 TO 1861

3.6 The maintenance of law and order in the early days of the colony, fell initially to the Marines of the First Fleet, and the convicts of the Night Watch.¹⁶¹ The irregular nature of policing in the years that followed was marked by the disparate nature of the groups deployed:

- to some extent a military presence was established through the Marines, and the volunteers who manned the Military Mounted Police and the Border Police. These groups are said to have brought a somewhat combative approach to the maintenance of law and order, particularly in rural areas, and to have set the Service on its way to a militaristic approach and structure;
- within the Sydney settlement policing was heavily dependent on convict watchmen and constables who were not free of suspicion of extortion, or of the granting of favours to friends and associates; and
- responsibility for policing in Sydney Cove was entrusted to the 'Rowboat Guard', a group of free settlers who were expected to keep an eye out for smugglers, escaped convicts, and others involved in offences on the waterways.¹⁶²

3.7 The first attempt at reform was the establishment of a body of full-time constables, the Sydney Police scheme, which commenced in 1811; but it was not until 1833 with the passing of the *Sydney Police Act 1833*, that policing began to develop along structured lines, with the recruitment of experienced former London policemen. Notwithstanding, the first Commander, Henry Wilson, relinquished office in 1840 following complaints of impropriety, a fate which befell his three successors each of whom was removed for misbehaviour.¹⁶³

3.8 The discovery of gold in the 1850s made it difficult to retain police in Sydney, and overseas recruits were contracted for short terms of service. They were regarded by the incumbents in a somewhat disparaging light, even though many remained and rose to high ranks.¹⁶⁴

3.9 The kind of divisions which arose at this time were repeated, in other ways, at various times in the history of the Service, and did not escape public attention. Examples include antagonism, at times amounting to outright hostility, between:

- the mounted police and the foot police in the early part of the 20th century;¹⁶⁵
- the Catholics and the Masons¹⁶⁶ during an extended period, it being widely rumoured that such groups rotated control of the Service, if not the office of Commissioner; and

¹⁶⁰ This chapter is supplemented by the chronology contained in Volume III, Appendix 25 of this Report. It is derived almost wholly from the sources cited and has not been the subject of independent check, or of evidentiary inquiry by the Commission, save to the extent that evidence received by the Commission is footnoted.

¹⁶¹ See, eg. B. Swanton, *The Police of Sydney 1788-1862*, AIC, Canberra, 1984, pp. 9-10.

¹⁶² The Rowboat Guard were the precursor to the Water Police. 'Law and Order in Early Sydney', *NSW Police News*, January 1988, p. 13.

¹⁶³ William August Miles, Captain Joseph Innes and Captain Edward Day.

¹⁶⁴ These recruits were variously referred to as 'the Bangalore Men' and 'the Israelites'. B. Swanton & G. Hannigan (eds), *Police Source Book 2*, AIC, 1985, pp. 380-82.

¹⁶⁵ *ibid*, p. 384.

- detectives (particularly those attached to the CIB) and the rest of the Service.

1862 to 1959

3.10 The Police Force proper was established by the *Police Regulation Act 1862* when the various 'police bodies' in place were unified under the command of an Inspector-General subject to ministerial control.¹⁶⁷ The Criminal Investigation Branch (CIB) was formed in 1879,¹⁶⁸ to reflect the Force's role in this area of activity, in addition to its historic function in the maintenance of peace and good order.

3.11 The first official inquiry into the conduct of police in NSW came in 1867 when Commissioners were appointed to examine the conduct of magistrates and police in the Braidwood District, including the extent to which bushrangers had been shielded or assisted by police connivance or inactivity.¹⁶⁹ The Commissioners identified several instances of misconduct and inefficiency on the part of certain members of the police and noted that:

such misconduct is not solely confined to that portion of the Force which has come under our more especial notice.¹⁷⁰

They reported that this situation could not have existed if the Superintendent of Police had exercised 'strict and proper control over his men'.¹⁷¹ The Inquiry concluded that:

improper intimacy and familiarity have existed between members of the Police Force and certain connections of the bushrangers.¹⁷²

3.12 In evidence to a Royal Commission on Chinese gambling in 1891 it was alleged that police were being paid to keep their eyes shut, and were afraid to take action because they believed that the wealthy and influential people who owned the gambling houses would use their influence to have them removed from the Force.¹⁷³ However, the report found that such claims were unable to be substantiated and were based on mere suspicion or on second hand allegations. Allegations of bribery were considered by the Commission to be 'extremely improbable'.¹⁷⁴

3.13 It is likely that in the 19th century, although turnover was high and drunkenness was the cause of many dismissals, the unspecialised nature of the force, with the exception of the detective branch, inhibited corruption.¹⁷⁵

3.14 The police mandate to keep the peace during this period involved the occasional surveillance of troublesome political figures and groups. During World War I the activities of police were increasingly directed towards the opposition to the war and the inflammatory debate over conscription. Police actively liaised with the military and Counter Espionage Bureau, and for some time regularly attended the Domain to take notes of 'seditious' speeches.¹⁷⁶

3.15 During those years a number of charges were laid utilising such legislation as the *War Precautions Act 1914* (Cth) and later, the *Unlawful Associations Act 1916* (Cth). In 1916 twelve

¹⁶⁶ The *Colonial Police Act 1850* prohibited any member of the Police Force from belonging to any political or secret society other than the Society of Freemasons. See discussion of Masonic vs. Catholic bias re Commissioner Merv Wood's appointment, *SMH*, 6/6/79, p. 7. See also P. Dickie, *The Road to Fitzgerald*, University of Queensland Press, 1988, p. 4; *Report of a Commission of Inquiry Pursuant to Orders in Council*, (G. E. Fitzgerald, Commissioner), Brisbane, 1989, p. 30.

¹⁶⁷ R. Walker, 'The New South Wales Police Force, 1862-1900', *Journal of Australian Studies*, no. 15, November 1984, p. 25.

¹⁶⁸ NSW Police Force, *CIB Centenary 1879-1979*, RCPS Exhibit 2790BC/12.

¹⁶⁹ Report of the Commissioners, *State of Crime in the Braidwood District*, 30 July 1867, RCPS Exhibit 2790A/9.

¹⁷⁰ *ibid.*

¹⁷¹ *ibid.*

¹⁷² *ibid.*

¹⁷³ *Royal Commission on Alleged Chinese Gambling and Immorality and Charges of Bribery Against Members of the Police Force*, (W. P. Manning, President), 1892, p. 22.

¹⁷⁴ *ibid.*, p. 24.

¹⁷⁵ R. Walker, 'The New South Wales Police Force, 1862-1900', *Journal of Australian Studies*, no. 15, November 1984, p. 38.

¹⁷⁶ K. Seggie, *The Role of the Police Force in New South Wales and its Relation to the Government 1900-39*, thesis submitted for the degree of Doctor of Philosophy, Macquarie University, December 1988, p. 138.

members of the left wing group the Industrial Workers of the World were arrested and convicted on various charges relating to arson and sedition. The case attracted much publicity and allegations were made of police verballing, planting evidence, bribery and manipulation of informants.

3.16 In the years that followed the trial, an appeal, an inquiry under the Police Act, and finally a Royal Commission reviewed the evidence against the accused and the actions of police.

- Justice Street's inquiry in 1918 found that while the serious allegations of corruption made against police were not proved, the behaviour of several officers was worthy of censure;¹⁷⁷ and
- the Royal Commission of 1920 reviewing the convictions, found many to have been not 'right and just' due largely to the reliance on the uncorroborated evidence of police informants.¹⁷⁸

3.17 Changes to police offences laws in 1908 enabled police to have more direct control over the management of prostitution and gambling, and opened up opportunities for corruption.¹⁷⁹

3.18 The 1920s brought the Razor Gang wars which fought for control of the cocaine and vice trades. In 1929 the consorting powers were revived to meet this challenge.¹⁸⁰ Although this enabled police to crush the Razor Gangs,¹⁸¹ the special powers conferred later came to be an instrument for corruption and for the establishment of improper relationships.

3.19 The NSW *Vagrancy Act 1835* had previously made it an offence to be found in the company of 'reputed thieves or persons who have no visible means of support'.¹⁸² The fact that NSW was still a penal colony at the time meant that this was an easily committed offence resulting in blanket discretion for the police to arrest and question.¹⁸³ Notebook entries were made for each sighting of an individual with persons known to have one or more convictions for indictable offences. After several such entries a charge for consorting might be preferred. This was a power ripe for abuse, and police acknowledged that its main purpose was to use the threat of prosecution as a lever to extract information.¹⁸⁴

3.20 Although there were a number of changes to the law,¹⁸⁵ including the 1929 amendment, the consorting laws were a significant weapon for police, at least until 1979.

¹⁷⁷ *Inquiry Under the Police Inquiry Act, 1918: Report of Mr Justice Street, the Commissioner Appointed by the Act*, Government Printer, Sydney, 1918.

¹⁷⁸ *Royal Commission of Inquiry into the Matter of the Trial and Conviction and Sentences Imposed on Charles Reeve and Others*, (Hon N. K. Ewing, Commissioner), 11 August 1920, Sydney. The Commissioner, Judge Ewing, referred to several instances where he believed officers had been mistaken in what they heard or in their recollection.

¹⁷⁹ The *Police Offences (Amendment) Act 1908* made brothel keeping a summary offence and instituted the offences of soliciting, male living on a prostitute's earnings and being a landlord or proprietor suffering the conduct of prostitution on the premises. (J. Allen, 'Policing since 1880: Some questions of sex' in M. Finnane (ed) *Policing in Australia: Historical Perspectives*, NSW University Press, 1987, p. 188). The first comprehensive summary offence legislation came with the *Police Offences Act 1901*. Various NSW Vagrancy Acts also prohibited vagrancy, consorting, public drunkenness and indecent or obscene behaviour. The Askin Government repealed the *Police Offences Act*, and introduced the *Summary Offences Act 1970* in its place as part of a law and order campaign and in direct response to the anti-Vietnam War demonstrations of that era; D. Brown, D. Farrier & D. Weisbrot, *Brown, Farrier, Neal & Weisbrot's Criminal Laws*, vol. 2, 2nd edn, The Federation Press, Sydney, 1996, pp. 914-15.

The *Police Offences (Amendment) Act 1908* made brothel keeping a summary offence and instituted the offences of soliciting, male living on a prostitute's earnings and being a landlord or proprietor suffering the conduct of prostitution on the premises. (J. Allen, 1987, op cit, p. 188).

¹⁸⁰ The *Vagrancy (Amendment) Act 1929*.

¹⁸¹ NSW Police Force, *Centenary Brochure NSW Police Force 1862-1962*, Government Printer, Sydney, 1962, p. 60.

¹⁸² D. Brown, D. Farrier & D. Weisbrot, 1996, op cit, p. 934.

¹⁸³ *ibid.*

¹⁸⁴ *ibid.*, p. 936.

¹⁸⁵ The 1835 Act was repealed and replaced by the *Colonial Police Act 1850*, no. 38. The 1970 *Summary Offences Act* contained two consorting offences in ss. 24 and 25. This was repealed in 1979 and a new s. 546A was added to the *NSW Crimes Act 1900*. This section provides that any person who habitually consorts with persons who have been convicted of indictable offences shall be liable upon conviction to imprisonment for six months, or to a fine of 40 penalty units. A package of other Acts dealing with public order offences such as the *Offences in Public Places Act*, *Prostitution Act* and *Intoxicated Persons Act* was introduced. A new *Summary Offences Act* was brought in by the Greiner Government in 1988, containing only a single new provision dealing with police powers but re-criminalising offensive language, further restricting soliciting for the purposes of prostitution and increasing the penalties for most offences. (D. Brown, D. Farrier & D. Weisbrot, 1996, op cit, pp. 916-17.)

3.21 During the 1930s opportunities for police corruption came from the emergence of large scale Starting Price (SP) betting, illegal gaming, vice, sly grog and black markets.

3.22 Allegations of impropriety by police in their attempts to secure arrests and convictions for street betting and starting price betting led to the appointment of a Royal Commission headed by Justice Markell in 1936. The Commission:

- found the allegations of ‘framing’ persons for offences, giving false evidence, wrongly inducing accused to plead guilty and wrongly entering private premises to be substantially justified;¹⁸⁶ and
- commented adversely on the use of paid police agents whose evidence was described as being entirely untrustworthy.¹⁸⁷

3.23 The Police Association of New South Wales (the Police Association) was formed in 1920 and soon became involved in attempting to secure reform of the promotion and disciplinary systems of the Service. Although the *Police Regulation (Appeals) Act 1923* established a Disciplinary Appeals Board constituted by a judge of the District Court and two assessors, the promotion process remained largely in the control of the Inspector-General.¹⁸⁸

3.24 By the late 1920s and early 1930s there was clear dissatisfaction with the working of the disciplinary and promotions systems.¹⁸⁹ Prior to the 1930s, members of the NSW Police Service were promoted after passing qualifying examinations.¹⁹⁰ Following negotiations with the NSW Police Association, the Service introduced a promotion system based on seniority, the purpose of which was to avoid charges of favouritism. By specifying periods of time to be served at each rank, this system regulated the rate at which members progressed through the ranks.¹⁹¹

3.25 Commissioner William John MacKay, however, introduced a promotions list which was perceived by the Police Associations to favour the promotion of some while those officers with ‘no friends at court’ were cast aside.¹⁹² The perception that promotions effected under ‘special qualifications’ caused injustices, and was open to favouritism, caused the Associations in 1941 to lobby for a return to the seniority system.¹⁹³

3.26 According to one history of the Police Association, the establishment by the Premier of an Advisory Police Board in 1933 to investigate and review salaries, conditions and risks of employment for the force which had no access to the arbitration system did not prove a success.¹⁹⁴

3.27 At the 1934 conference, the President of the Police Association outlined the dissatisfaction of the members with the failures of both the Disciplinary Appeal and Advisory Police Boards to achieve members’ aims, and criticised the promotions process which ‘has become so slow that it is discouraging to the ambitions of any man who is anxious to proceed in the service’.¹⁹⁵

¹⁸⁶ *Royal Commission of Inquiry into Allegations against the Police in connection with the suppression of Illicit Betting*, (H. F. Markell, Commissioner), 1/12/36. ‘It has been my sad duty to find several members of the police (including two senior officers) guilty of charges made under the Commission and to comment adversely on the conduct of others’, p. 116.

¹⁸⁷ *Royal Commission of Inquiry into Allegations against the Police in connection with the suppression of Illicit Betting*, (H. F. Markell, Commissioner), 1/12/36.

¹⁸⁸ The majority of promotions were made on the recommendation of District Officers and not by direct application from the officer. K. Seggie, 1988, op cit, pp. 197-200.

¹⁸⁹ The 1929 Annual Conference received a proposed motion that a Magisterial Inquiry be set up to replace the Departmental system together with the jurisdiction of the Appeals Board. This motion was not taken. *ibid*, p. 200.

¹⁹⁰ NSW Parliament, Report of Select Committee on Police Promotion System, February 1991, RCPS Exhibit 5568, p. 42-44.

¹⁹¹ 1975 saw the introduction of a panel interview where eligible police were placed on a priority list. In 1977, the graded list became a points system with points awarded for service, examination results, tertiary courses and interviews. *ibid*, pp. 43-45.

¹⁹² S. Brien, *Serving the Force: 75 Years of the Police Association of New South Wales 1921-96*, Focus Publishing Pty Ltd, Sydney, 1996, p. 79.

¹⁹³ S. MacCormaic, ‘The Formative Years’, *NSW Police News*, January 1988, p. 29.

¹⁹⁴ S. Brien, 1996, op cit, pp. 52 & 58.

¹⁹⁵ *ibid*, p. 59.

3.28 During these years many of the Association's objectives appear to have increasingly run counter to those of the Commissioner MacKay. On such issues as superannuation, discipline and promotions the Commissioner would not be moved and he was angered by the Association bringing its concerns to the press and the politicians.¹⁹⁶

3.29 The deteriorating relationship between Commissioner MacKay and the Association came to a head with the publishing of an article in the Union paper in 1942. As a result of the article the Commissioner paraded 17 members of the executive, demanding individual reports of their personal opinions on the article. They all replied in writing that they had a right to form their own judgments, and objected to their actions as unionists being questioned under the guise of Police Rules.¹⁹⁷ The Commissioner caused them all to be transferred to country areas, thereby 'dismantling' the executive. The incident caused an outcry which was defused when the Premier, Sir William McKell, took over the police portfolio and rescinded the transfers. These were not, however, the first or last 'penalty transfers' for those who questioned Service policy.

3.30 The industrial environment of policing in NSW has remained one which is characterised by the strong presence of police unionism. The Police Association and the Commissioned Police Officers Association have each played an important role in the development of conditions of employment of police, and in the definition of their powers and responsibilities.

3.31 Despite his run-ins with the Police Association, Commissioner MacKay changed the organisation to one which was more structured and compartmentalised, a change which endured until the Avery era (1984-91).¹⁹⁸ The CIB was enhanced with an increase in detective numbers and a division of responsibilities according to the targets of police work such as vice, pillage, homicide and arson.¹⁹⁹ Consequences of this specialisation included:

- the emergence, by the 1960s, of police leaders who had detailed knowledge of only one area of police work;
- the development of a high degree of corporate identity within the CIB and the establishment of a substantial power block that was to forcefully resist change in the future; and
- in some cases, the formation of close relationships with crime figures, through long-term association.

Each was to have a powerful influence on the increased development of corruption.

3.32 An additional factor of considerable significance during this period was the system for recruitment and training of new police, which was:

- exceedingly narrow in its selection criteria, for a long time placing physical size over all else and requiring an absolute minimum in educational qualifications; and
- very basic in the skills taught.

3.33 In the period immediately preceding World War II the Force drew its membership from the police cadets, or other adult recruits aged 21 or over.²⁰⁰ Youths of 15 and under 18 were accepted for cadet training which involved:

¹⁹⁶ *ibid*, p. 71.

¹⁹⁷ *ibid*, p. 80.

¹⁹⁸ B. Swanton & G. Hannigan (eds), 1985, *op cit*, p. 387.

¹⁹⁹ NSW Police Force, *Centenary Brochure NSW Police Force 1862-1962*, Government Printer, Sydney, 1962, pp. 45-46.

²⁰⁰ *Report of the Commission to Inquire into New South Wales Police Administration*, (E. A. Lusher, Commissioner), Sydney, 1981, RCPS Exhibit 2790A/3, p. 351.

- attendance at the Redfern Police Depot each morning to undergo one or two hours of training;²⁰¹ followed by
- travel to a city branch or section for the rest of the day to acquire experience on the job.

3.34 At the age of 21, cadets and other recruits were required to undertake training at the Police Depot for three months, on a residential basis. Recruits were then assigned to city stations for their probationary period, but were required to return to the Depot for lectures twice a week.²⁰² Full admission to the Service followed successful completion of an examination after six to nine months of probationary service.

3.35 During the war years there was no recruitment of police, and the only newly sworn officers were those cadets who had reached the age of 21.²⁰³ Immediately after the war recruit training was recommenced on a residential basis at the RAAF camp at Penrith.²⁰⁴ In 1953 the training program was transferred to the Police Training Centre at Redfern and became non-residential.²⁰⁵

3.36 During this period the training of recruits was heavily police oriented, being:

- concentrated on drills and basic skills;
- free of external academic content;
- heavily militaristic and in keeping with the command and control model in vogue; and
- unrelated to social or community awareness.

The product of such training was inevitably a somewhat narrowly focused officer, moulded to the traditions and culture of the Service.

3.37 In 1941 the Prosecuting Branch was formed by Commissioner MacKay.²⁰⁶ It was originally attached to the CIB but in 1965 it was established as a separate section. The close association and identity of interest between those who appear as witnesses and prosecutors in the Police Court (now known as the Local Court), particularly when the prosecutors were working out of the CIB, has been a cause for concern, both in relation to:

- the objectivity of the advice given and the manner in which prosecutions are run; and
- the disclosure or reporting of any police misconduct that emerges in the course of a prosecution.²⁰⁷

²⁰¹ This comprised mainly law, shorthand & physical training.

²⁰² NSW Police Force, *Centenary Brochure NSW Police Force 1862-1962*, Government Printer, Sydney, 1962, p. 73.

²⁰³ They received no further training. *Commission to Inquire into New South Wales Police Administration*, (E. A. Lusher, Commissioner), Sydney, 1981, p. 352.

²⁰⁴ Initial training was for two weeks' duration and secondary training occupied a six-week period after nine months' service. The training was job related, consisting of Law, Procedures, Report Writing, Arithmetic, Pistol Shooting and Drill.

²⁰⁵ The forerunner of the NSW Police Academy was formed in 1953 as the NSW Police Training Centre. The Centre was located at the Old Redfern Depot at Bourke Street. Gradually a number of other premises were used for various types of training. After an initial training period trainees completed 10 months' service then returned to the Training Centre for a further six weeks' study. The system changed to 10 weeks' initial training and six weeks' secondary training through the 1970s. From January 1978, the Police Cadet Corps was progressively phased out and replaced by the Junior Trainee Scheme. School leavers who had completed high school and were aged under 18 years and nine months were able to apply to join the Force as junior trainees. They were given a four-week induction and orientation course at Redfern prior to being assigned for field training at a Police Station, Branch or Section. In 1981 Justice Lusher recommended sweeping changes to the organisation and nature of police training. In May 1984, recruit training was transferred from Redfern to the new Police Academy at Goulburn. (Detail taken from paper on Academy, K. Moroney, Statement to RCPS, 26/08/94, RCPS Exhibit 26; NSW Police Force, *Centenary Brochure NSW Police Force 1862-1962*, Government Printer, Sydney, 1962, pp. 72-75).

²⁰⁶ *Commission to Inquire into New South Wales Police Administration*, (E. A. Lusher, Commissioner), Sydney, 1981, p. 238.

²⁰⁷ This is a topic addressed in Volume II, Chapter 3 (Police Prosecutors) of this Report, and it has been the subject of a recent pilot plan to replace police prosecutors with staff from the Office of the Director of Public Prosecutions. DPP Summary Prosecutions Pilot Project, RCPS Exhibit 2460/12.

3.38 During World War II Sydney's illicit economy boomed. The demand in areas controlled by organised crime such as sly grog, prostitution and gambling as well as blackmarket goods was boosted by full employment and overtime as well as the influx of well-paid American military personnel. A decade of growth in these industries created a ready environment for corruption to flower. This was not helped by the reduction in recruiting which had occurred during the Depression and its suspension for the duration of the war.²⁰⁸ The police force which emerged from the war years, to deal with a new generation of criminals, was both seriously compromised and understrength.²⁰⁹

3.39 The improved economic conditions following the war fostered the rise of professional, organised criminals, some of whom came to have a profitable working relationship with sections of the Force.²¹⁰ One of the main targets became the sly grog trade. Evidence of police corruption in this field emerged during the 1954 Maxwell Liquor Royal Commission, extending to high levels.²¹¹ Even counsel for the Police Force admitted that:

it is quite possible, indeed it may well be probable that certain members of the Vice Squad have succumbed to the bribes offered them [and that] a certain amount of corruption may have existed.²¹²

3.40 At the same time another Royal Commission was held to inquire into the alleged police bashing of Mr David Studley-Ruxton.²¹³ Although these two inquiries exposed the potential abuse of police power in interrogations, the existence of police corruption in the licensing area and the practice of police unity in the face of internal investigation, the consequences of both Commissions were negligible.

3.41 This era was one in which there was considerable pressure to repress criticism of the Service, and to contain public disclosure of matters of potential embarrassment, including the falsification of crime figures evidenced by the notorious 'Paddy's Book' practice,²¹⁴ that was not disclosed until the Arantz case.²¹⁵

1960 TO 1979

3.42 There seems to have been a perception within the Service and outside of it, during the 1960s and 1970s, that corruption was rife.²¹⁶ The booming drug trade²¹⁷ and the spread of so-called victimless crime, in the fields of gaming, SP betting and vice provided a fertile field for corruption. Pay-offs to police from gaming and vice interests were an open secret, but never seriously targeted, notwithstanding the irony that the Liberal Party led by Premier Robert Askin won the 1965 election on one of Australia's first law and order campaigns. The reputation of the Service was also damaged by the manner in which police sought to control the anti-Vietnam war protest marches, and by the outbreak of gangland warfare which resulted in a number of shootings in Sydney streets in the late 1960s.

²⁰⁸ B. Swanton & G. Hannigan (eds), 1985, op cit, p. 388.

²⁰⁹ A. McCoy, *Drug Traffic Narcotics and Organised Crime in Australia*, Harper & Row, Sydney, 1980, pp. 160-67.

²¹⁰ *ibid*, pp. 28-29.

²¹¹ *Royal Commission on Liquor Laws in New South Wales*, (A. V. Maxwell, Commissioner), 1954, pp. 93-99. This inquiry made findings re specific police, and was critical of police testimonials (acceptance of money on retirement collected from publicans etc.), lack of leadership and investigational ingenuity on behalf of inspectors and metropolitan superintendents. It noted that evidence was given about financial affairs to mislead the Commission, but no evidence that those officers obtained financial benefit from the administration or lack of it of the Liquor Act. Members of lesser ranks were found corrupt.

²¹² *Royal Commission on Liquor Laws in New South Wales*, (A. V. Maxwell, Commissioner), 1954, p. 97.

²¹³ *Royal Commission of Inquiry into certain matters relating to David Edward Studley-Ruxton*, (Dovey, Commissioner), 1954.

²¹⁴ The Crime book recorded official crime and the Paddy's book recorded crime that was not going to be recognised. Crime statistics were based on the Crime book which gave a false figure of the existence of crime and the clear up rate. (A. Lauer, RCT, 18/11/96, pp. 34428-29).

²¹⁵ In 1971, a Detective Sergeant in the NSW Police Service, Philip Arantz, released to the Sydney Morning Herald accurate crime statistics for the State for the year 1971. These figures contrasted with those previously supplied by Commissioner Norman Allan, and tabled in Parliament by the Premier, Sir Robert Askin. His figures disclosed a much higher crime rate and a considerably lower clean-up rate than previously claimed by the Government. He was promptly conveyed by the Service to a psychiatric hospital and later dismissed.

²¹⁶ M. L. Beck, RCT, 13/11/96, p. 34292; G. Schuberg, RCT, 2/2/95, p. 1385; N. Taylor, RCT, 7/12/94, pp. 248-9; Police Board of NSW, *Annual Report, 1984-85*, RCPS Exhibit 2904/76, p. 6.

²¹⁷ Parliament of NSW, *Report of the New South Wales Committee of Inquiry into the Legal Provision of Heroin and Other Possible Methods of Diminishing Crime Associated with the Supply and Use of Heroin*, February 1981, p. 8; R. Shepherd, RCT, 12/11/96, pp. 34164-65.

3.43 An opportunity for lifting the lid off corruption within the gaming and vice industry was presented, but lost, with the case of a Chinese restaurant owner, Mr Ng Biu Kuen, who had reported the presence of senior police in an illegal casino in Dixon Street. He claimed that he was assaulted by police, and later loaded with opium by way of a pay-back. Although his conviction was overturned on appeal, and two officers were departmentally charged in respect of the search of his premises, Commissioner Allan and the Premier successfully resisted requests for a Royal Commission into the affair, including the alleged association between senior police and gaming interests.

3.44 There were other scandals at the time suggestive of serious abuses of police detention and interrogation power which were not fully investigated. These included:

- the hospitalisation of Mr William Stanevics with serious injuries sustained during his detention at Sydney Central Police Station in 1965; and
- the assault by police of Mr Geoffrey Rixon in 1968 which resulted in a successful civil action by the victim.

Calls for judicial inquiries into these cases²¹⁸ were resisted, as was the attempt by the Leader of the Opposition in 1971 to establish a Select Committee to inquire into 'all aspects of police administration'.²¹⁹

3.45 During Mr Norman Allan's service as Commissioner (1962-72), numerous police were dismissed and disciplined and many more resigned to avoid charges, but according to the standard police and political propaganda of the day they were simply the few 'rotten apples' in an otherwise clean force.²²⁰ Mr Allan's time as Commissioner was marked by several incidents including his handling of the Walter Mellish siege, and his report to Government that there was no illegal gaming in Broken Hill, despite the clearest evidence and common knowledge that the contrary was the case.

3.46 Commissioner Allan was himself forced to retire early when the Government withdrew support for him after Detective Sergeant Phillip Arantz disclosed, in 1971, that the Service was enhancing the crime rates by highlighting only those cases which had been 'cleared up'.²²¹ The Police Force responded to the Arantz disclosures by arranging for him to be scheduled in a mental hospital, and later by dismissing him. It was not until 1989 that the wrong done to him was partially rectified by the Greiner Government with a Special Act of Parliament which deemed that he was retired from the Service without rank or pension rather than dismissed.²²²

3.47 In 1971, sex worker Ms Shirley Brifman named 34 NSW and Queensland police who were allegedly engaged in a variety of activities ranging from bribery to protection and robbery. Her interviews containing these allegations were tabled in Parliament.²²³ Ms Brifman was later found dead. Commissioner Hanson, who replaced Mr Allan as Commissioner in 1972, was alleged to have allowed the officers named in the Brifman allegations to leave the Service 'Hurt On Duty',²²⁴ and the investigations into the allegations were never fully resolved.

3.48 In the early 1970s, concerns about the management of licensed premises and the poker machine industry extended to the possible involvement of criminal elements in NSW clubs. The Moffitt Royal Commission examined whether the Government, and the police who had conducted a special inquiry and reported into the allegations, had covered up the true situation and also whether

²¹⁸ NSW Parliamentary Debates, 16 November 1965, p. 1964; NSW Parliamentary Debates, 7 October 1970, pp. 6448-49.

²¹⁹ This was in response to the Arantz affair. NSW Parliament, *Hansard*, 8/12/71, p. 4091.

²²⁰ 111 police had been dismissed from the force during the three years to the end of 1971 - 86 after court proceedings and 25 as a result of departmental charges and 360 resigned. *National Times*, 5-10 March 1973.

²²¹ P. Arantz, *A Collusion of Powers*, Philip Arantz, Australia, 1993.

²²² *Police Regulation (Reinstatement) Act 1989*. This became law on 20 November 1989.

²²³ Queensland Parliament, *Hansard*, 13/10/71, p. 1052.

²²⁴ See M. W. Schloeffel, RCT, 13/11/96, p. 24399.

the Bally Corporation posed a risk to Australia through the infiltration of American organised crime.²²⁵ Predictably, the Service, now under the leadership of Commissioner Frederick Hanson, responded very defensively to the Commission's report.²²⁶ This was symptomatic of an entrenched police mentality that would not accept public criticism.

3.49 Justice Athol Moffitt found insufficient evidence of a cover-up by police in their investigations, but criticised several members of the Special Investigation Team for their failure to carry out a proper investigation:

- officers McNeill, Knight and Ballard were criticised for compiling reports which masked the true position on organised crime in relation to Bally;²²⁷
- the inquiries conducted were found to be ineffective²²⁸, and marked by disinterest, lack of ability and over-friendliness with those investigated;²²⁹ and
- the reports presented were found to be inconsistent.²³⁰

3.50 The Crime Intelligence Unit (CIU) was formed as a result of the Moffitt inquiry, but otherwise little action was taken of a significant remedial kind, despite the clear signs of the presence of police corruption and organised crime, of sufficient concern to cause Justice Moffitt to publish in 1985 his clear warning 'A Quarter to Midnight'.²³¹

3.51 In 1975 allegations surfaced to the effect that arresting police had conspired to steal large sums of money and a quantity of illicit drugs from Mr Mark Kruse and Mr Steven McGill, and to pervert the course of justice by enabling them to escape prosecution. It was also alleged that a solicitor, and possibly a magistrate, became part of a conspiracy in which false passports were obtained to enable these men to abscond and leave Australia while on bail. Again these allegations were not investigated to finality.

3.52 Also at this time, an officer who had been convicted of heroin importation claimed publicly that there was corruption in 'the highest echelons of police forces' and commented that 'organised crime and highly placed policemen are often the same people'.²³²

3.53 Following the return of the Labor Party to Government in 1976, there was something of a sea change arising from its readiness to address civil liberties in relation to policing, seen, for example, in:

- its intervention in relation to the policing of obscenity laws;
- its concern over the Tunttable Falls police raid;²³³ and
- the repeal of the *Summary Offences Act 1970* in 1979.

3.54 An internal undercover operation was instituted in 1977 to investigate allegations that police, at almost every level of the Force, had been involved in organised crime and its protection.²³⁴ It was alleged that:

²²⁵ *Allegations of Organised Crime in Clubs*, (A. Moffitt, Commissioner), NSW, August 1974, RCPS Exhibit 2790A/8.

²²⁶ *Daily Telegraph*, 19/9/74, p. 20.

²²⁷ *Allegations of Organised Crime in Clubs*, (A. Moffitt, Commissioner), August 1974, RCPS Exhibit 2790A/8, p. 40.

²²⁸ *ibid*, p. 89-90.

²²⁹ *ibid*, p. 91.

²³⁰ *ibid*, p. 90.

²³¹ A. Moffitt, *A Quarter to Midnight, The Australian Crisis: Organised Crime and the Decline of the Institutions of State*, Angus & Robertson, Australia, 1985.

²³² John Wesley Egan - reported in A. Keenan, 'Entrepreneurs', *SMH*, 24/9/85.

²³³ NSW Parliamentary Debates, 1 September 1976, p. 414-15, Premier Wran asked for a report from Commissioner Hanson to explain why he had not been consulted about the raid. *SMH*, 17/8/76, pp. 1 & 3; *SMH*, 31/8/76, p. 3. A raid was conducted by 60 police, some armed, on Tunttable Falls, near Lismore. Forty-two people were arrested on drug charges, mostly for possession or use of marijuana.

²³⁴ R. Kilburn, RCT, 12/11/96, p. 34155.

- up to \$14 million a year had been paid to police and politicians to protect illegal gambling and other criminal activities;
- organised crime was extensively conducted with the co-operation, protection and direct assistance of certain NSW police; and that
- certain CIB officers were heavily involved in organising a variety of crimes, including drug trafficking, prostitution and armed hold ups.

3.55 In the course of this investigation, officers of the Crime Intelligence Unit (CIU) engaged in the illegal telephone tapping of a number of police, crime figures and prominent citizens. CIU offices were raided for recovery of the tapes and transcripts of these telephone taps.²³⁵ The investigations which had begun into the allegations of serious corruption and police associations with organised crime, subsequently ground to a halt.

3.56 During the 1970s Griffith, in the State's south-west, gained considerable notoriety as a centre for the growing and distribution of marijuana. Mr Donald Bruce Mackay, an active anti-drug campaigner in the district, disappeared on 15 July 1977. A police investigation failed to reveal his whereabouts or to identify any person responsible for his assumed death.

3.57 His disappearance was one of the events leading to the establishment in October 1979 of the Woodward Royal Commission into Drug Trafficking, which concluded that:

- Mr Mackay's disappearance was 'probably effected by or on behalf of [a Griffith based drug] organisation of persons because he represented a threat to their illicit activities',²³⁶
- 'there was reason to suspect that some police officers stationed in the Griffith district were not trustworthy';²³⁷ and that
- there was justification for a belief that there was an organisation in existence, involved with the growing of marijuana, which was receiving benevolent treatment from certain members of the local police force.²³⁸

3.58 The matter was not finally resolved until April 1986 when a Special Commission of Inquiry was tasked to investigate the adequacy and propriety of the NSW Police investigation into Mr Mackay's death.²³⁹ That Inquiry:

- criticised the conduct of the investigation;
- found the police procedures in filing and recording information to have been inadequate; and
- concluded that there was a lack of proper liaison between the NSW Police and Victoria Police and within the NSW Police Force itself.²⁴⁰

3.59 In March 1978, the National Times published a photograph of Dr Nick Paltos and Chief Stipendiary Magistrate Murray Farquhar together at the races at Randwick. Earlier in July 1977, Mr

²³⁵ R. Kilburn, RCT, 12/11/96, p. 34155.

²³⁶ *Royal Commission into Drug Trafficking*, (P. M. Woodward, Commissioner), October 1979, RCPS Exhibit 2790A/5, p. 197.

²³⁷ In particular the Commission was of the opinion that Detective Sergeant Ellis was involved in 'covering up' for Mr Antonio Sergi, either as an active participant in a conspiracy to cultivate cannabis or in order to aid and abet Mr Sergi in his involvement in that crime. Further it was stated that evidence revealed that the behaviour of Detective Sergeant Ellis and Detectives Borthwick and Robins left much to be desired. *Royal Commission into Drug Trafficking*, (P. M. Woodward, Commissioner), October 1979, RCPS Exhibit 2890A/5, pp. 39 & 1940.

²³⁸ *ibid.*, p. 1940.

²³⁹ *Special Commission of Inquiry into the Police Investigation of the Death of Donald Bruce Mackay*, (J. F. Nagle, Commissioner), November 1986.

²⁴⁰ *ibid.*, pp. 40 & 291.

Gianfranco Tizzoni had given evidence to the Victorian Police in 1983 to the effect that James Frederick Bazley had been involved in a conspiracy to murder Mackay with three other people including himself. This information had not been conveyed to the NSW police. Bazley was found guilty of Mackay's murder on 16 April 1986 and sentenced to life imprisonment.

Paltos and Mr Farquhar had also attended Randwick together, but on that occasion in company with the well-known criminal Mr George Freeman.²⁴¹

3.60 In 1979, further allegations arose concerning Mr Farquhar, to the effect that he, a solicitor Mr Morgan Ryan, and Police Commissioner Mervyn Wood, had conspired to pervert the course of justice in relation to the sentencing of two drug offenders, Mr Roy Cessna and Mr Timothy Milner. The latter had been charged with possession of 137kg of cannabis. Both were dealt with summarily, allegedly by agreement between the parties, although over the opposition of some members of the Police Prosecutions Branch.

3.61 On 11 June 1979, Police Commissioner Lees directed an investigation into the Cessna Milner affair.²⁴² The report of that inquiry exonerated all involved from any wrongdoing. Following the production of certain material in Parliament in March 1985, the existence of which had been raised during the Age Tapes Royal Commission, a task force was formed by the Service to reinvestigate the affair. This investigation recommended that consideration be given to laying charges of conspiracy to pervert the course of justice. Charges were preferred after this investigation, but ultimately withdrawn.²⁴³

3.62 Prior to 1980, the Premier almost invariably held the portfolio of Police Minister, but from May 1980 the portfolios were separated. Thereafter began an era in which successive police ministers became closely involved in the running of the Service, at times finding themselves in a situation of confrontation with the Commissioner.

3.63 In 1979 the Commonwealth-NSW Joint Task Force into Drug Trafficking (the JTF) involving both NSW and Australian Federal Police was established to target high-level drug dealing. Although the JTF obtained many arrests and convictions before being wound up in 1988, evidence led at this Royal Commission has revealed that:

- many of its members were involved during this period in seriously corrupt practices;
- connections between corrupt officers were formed which continued well after the conclusion of the Task Force;²⁴⁴ and that
- it was quite unable to stem the trade in narcotics.

3.64 The main power base in the Force in this period was undoubtedly the CIB and its various squads,²⁴⁵ elements of which were regarded as seriously corrupt.²⁴⁶ Transfers to and from the CIB could take place overnight in the 'interests of the Service'.²⁴⁷ Those from the squads were recognised as having shortcut systems for achieving results such as 'police verbals' and 'loads' (planting of evidence).²⁴⁸ Moreover, investigations were seen by other police to become unpredictable if the CIB, which had the power to move in on any investigation, took them over.²⁴⁹

²⁴¹ Freeman was booked by the Consorting Squad and asked to leave. Farquhar and Paltos both claimed to the 1983 Street Inquiry that Farquhar had obtained the ticket for Paltos who had given it to Freeman, but Street CJ found that there was a strong basis for inferring that Farquhar had obtained the ticket for Freeman. *Royal Commission of Inquiry into Certain Committal Proceedings against K. E. Humphreys*, (L. Street, Commissioner) July 1983, RCPS Exhibit 2790A/11, p. 142.

Dr Paltos was later convicted of conspiracy to import 7.2 tonnes of Lebanese cannabis, valued at \$40 million, with Grahame George ('Croc') Palmer. On 7 March 1986 he pleaded guilty and was sentenced to 20 years' imprisonment. In 1992 he was convicted of a further offence involving a conspiracy to pervert the course of justice which was hatched while serving the sentence for the earlier offence. Co-offender was Roger Rogerson. For this offence he was sentenced to one year and nine months. *R v Rogerson, Paltos* (1992) 65 A Crim R 530 at 532.

²⁴² R. C. Shepherd, RCT, 12/11/96, p. 34170.

²⁴³ Commissioner Merv Wood was charged with perversion of the course of justice, but an order was made for a permanent stay of proceedings on 27/2/91.

²⁴⁴ See Volume I, Chapter 4 of this Report.

²⁴⁵ L. D. Kellock, RCT, 12/11/96, p. 34207.

²⁴⁶ K. R. Brown, RCT, 11/11/96, p. 34131.

²⁴⁷ L. D. Kellock, RCT, 12/11/96, pp. 34207-08.

²⁴⁸ L. D. Kellock, RCT, 12/11/96, p. 34211.

²⁴⁹ Detectives were often concerned as to what would happen to a brief in such cases, as the CIB was somewhat of a 'law unto itself'. R. Shepherd, RCT, 12/11/96, 34177; M. Schloeffel, Statement to RCPS, RCPS Exhibit 2806C.

3.65 The Darlinghurst/Kings Cross area emerged as an area for significant concern, being the area where the Vice Squad, Consorting Squad, No. 21 Special Squads,²⁵⁰ and Darlinghurst Station were located.²⁵¹ The significance of this area for the recruitment of police into corrupt practices is explored later.²⁵²

3.66 At this time a perception emerged within the Technical Services Unit (TSU) of the Police Service²⁵³ that corrupt use was being made of its information,²⁵⁴ and that it was being used by elements within the Force to assist organised crime figures to eliminate their opposition. The contribution of this unit to the fight against corruption was limited by its concern that:

- it not be seen as an arm of Internal Affairs, with the consequence that material which implicated police in corrupt activities was not passed on;²⁵⁵ and that
- information obtained from its intercepts was being leaked to criminals.²⁵⁶

3.67 The 1970s and 1980s were a period in which:

- a 'barbecue set'²⁵⁷ comprised mainly of senior CIB officers, considered to have close links to illegal gaming, became powerful in the organisation;²⁵⁸
- corrupt police wined and dined members of the Police Association, had strong influences with the media and were skilled at using those connections;²⁵⁹
- strong ties were established that enabled police so minded to maintain a degree of influence within the Service after leaving it²⁶⁰ which was used to foster corrupt relationships with criminals, and to gain access to confidential information;²⁶¹ and
- police did not expect any form of aggressive investigation of internal complaints.

3.68 Any exception to this, and in particular the use of any form of electronic surveillance to capture evidence, was openly resented, and the subject of protest that it was unfair.²⁶² This was an attitude that still persisted in the early days of the Royal Commission. Strong protests were made in relation to the use of a listening device and video to obtain evidence to charge an officer with soliciting a bribe from a motorist.²⁶³

3.69 In Mr Avery's view the 'high water mark' for corruption was the involvement of police in gaming and betting.²⁶⁴ Mr Lauer also recognised that there may have been some institutionalised corruption because of the way the gaming and vice laws were enforced.²⁶⁵ Mr Avery said that 21

²⁵⁰ This was originally known as No. 21 Division, the name was changed to No. 21 Special Squad and in 1979 to No. 21 Mobile Division See NSW Police Force, *CIB Centenary, 1879-1979*, RCPS Exhibit 2790BC/12, p. 34.

²⁵¹ L. D. Kellock, RCT, 12/11/96, p. 34209.

²⁵² See Volume I, Chapter 5 of this Report, paras. 5.2 - 5.9, 5.21 & 5.31.

²⁵³ This unit was responsible for conducting telephone intercepts. Its principal functions were:

- to develop the police television system for the transmission from Central Police Station of particulars of recently arrested persons;
- to deal with all matters involving investigations in which radio or electronics were a key factor; and
- to service the radar speed detection equipment.

Royal Commission of Inquiry into Alleged Telephone Interceptions, (D. Stewart, Commissioner), April 1986, p. 83.

²⁵⁴ K. R. Brown, RCT, 11/11/96, p. 34128.

²⁵⁵ R. Kilburn, RCT, 12/11/96, p. 34150.

²⁵⁶ R. Kilburn, RCT, 12/11/96, pp. 34151-52.

²⁵⁷ See Glossary.

²⁵⁸ K. R. Brown, RCT, 11/11/96, p. 34143; M. L. Beck, RCT, 13/11/96, pp. 34272-74; D. L. Locke, RCT(U), 7/5/96, p. 2187, 8/5/96, p. 2229.

²⁵⁹ R. C. Shepherd, RCT, 12/11/96, p. 34182.

²⁶⁰ M. Schloeffel, RCT, 13/11/96, p. 34322.

²⁶¹ Particularly by those officers who took up work as private inquiry agents.

²⁶² For such an illustration, see L. D. Kellock, RCT, 12/11/96, pp. 34200-02.

²⁶³ Senior Constable John Calavassy was charged with offering a bribe on the basis of video and audio evidence. He was convicted on 26/10/94. The Blacktown Branch of the Police Association complained that he had been charged rather than summonsed and charged 'solely on the basis of video evidence.'

²⁶⁴ J. K. Avery, RCT, 5/12/94, p. 37.

²⁶⁵ A. R. Lauer, RCT, 6/12/94, p. 129.

Division had acquired a reputation of doing nothing, but this changed with the appointment of Mr Merv Beck at the end of the 1970s.²⁶⁶ Mr Beck's experiences in enforcing the gaming laws bore out the assessment of these two witnesses. He gave evidence of:

- receiving threats;
- being advised by a senior officer to leave certain places alone;²⁶⁷
- the making of allegations of mistreatment in order to tie up the legal process; and of
- the circulation of photographs of his team among those who ran the gaming houses, enabling these police to be identified by their targets.²⁶⁸

3.70 Mr Lauer conceded that there was a distinct possibility that relationships developed in the CIB permitted conduct such as 'green-lighting'.²⁶⁹ He also accepted that the length of time spent achieving any significant rank may have contributed to corruption in as much as it allowed poor management practices to develop, which in turn permitted corruption to take hold.²⁷⁰ Senior commanders generally achieved senior positions on the eve of their retirement, when their interest in reform or rocking the boat was minimal, and overshadowed by their interest in the maximisation of pension benefits.²⁷¹

3.71 It would appear that there were three main factors that allowed corruption to flourish in this period:

- corrupt police were able to select and encourage junior police, who showed a willingness to participate in corrupt activities, to join up with them and then follow them through the ranks. While this meant initially that corrupt police tended to be concentrated in the CIB, on its devolution they took the problem, and their associations to the regions or the specialist squads that remained;
- corrupt or inept management ensured that there was nowhere an officer could safely go with a complaint about improper/criminal behaviour. Those in Internal Affairs were unable to protect whistleblowers and it was said that reporting corruption effectively meant the end of an officer's career;²⁷² and
- there was an unwillingness or inability to target the corrupt police who had well-established links to senior police.

3.72 The reluctance or inability on the part of management to face up to the problems which emerged in this period allowed such behaviour to continue unchecked. It also gave the appearance of tacit approval by senior officers to what was often perceived as 'noble cause' corruption, and as informal control of crime through allowing preferred and powerful criminals a licence or 'green light', in return for the elimination of their competitors, the avoidance of worse criminality, and the provision of information.

1980 TO 1995

3.73 The picture that has been consistently presented before this Royal Commission is that the period prior to the Lusher Inquiry in 1980-81 constituted the 'bad old days' when there was corruption, scandal, and a number of ineffective inquiries; yet the period after the Lusher report, in conjunction

²⁶⁶ J. K. Avery, RCT, 5/12/94, p. 38.

²⁶⁷ M. L. Beck, RCT, 13/11/96, pp. 34260-61.

²⁶⁸ M. L. Beck, RCT, 13/11/96, pp. 34275-76.

²⁶⁹ See Glossary; and A. R. Lauer, RCT, 7/12/94, p. 205.

²⁷⁰ A. R. Lauer, RCT, 7/12/94, pp. 205-06.

²⁷¹ A. R. Lauer, RCT, 7/12/94, pp. 205-06.

²⁷² R. C. Shepherd, RCT, 12/11/96, pp. 34173-74.

with the Avery reforms, following the appointment of the latter as Police Commissioner in 1984, was one when considerable reform was achieved.²⁷³

3.74 It is true that the 1980s were a period of change for the NSW Police Service. Mr Avery's time as Commissioner²⁷⁴ also coincided with:

- the establishment of a number of other agencies, such as the Police Board,²⁷⁵ the ICAC²⁷⁶ and the DPP;²⁷⁷
- the conduct of a number of inquiries, for example, the Blackburn Royal Commission,²⁷⁸ which produced imperatives for change; and
- the implementation of a number of the reforms recommended in the Lusher Report.

3.75 The apparent inability of the Service to reform itself set the scene for the Commission given to Justice Lusher in November 1979.²⁷⁹ His terms of reference were to inquire into the administration of the Service, including:

- its structure, organisation and management policies;
- the rules and policies governing recruitment, appointments, promotions, seniority, classification, training and development; and
- the structure of the relationship between the Police Service and the Government.²⁸⁰

3.76 The major findings of this Report delivered in April 1981, included the following:

- there were no management procedures directed towards the possibilities of corruption;²⁸¹
- long-established patterns of hierarchy within the Force had stifled its capacity for innovation and responsiveness;²⁸²
- there was a lack of planning, ineffective supervision and control, an authoritarian and outdated style, a lack of consistency in managers as a result of transfers, a lack of appropriate skills as a consequence of promotion by seniority, a lack of clear roles and accountability, an absence of financial awareness, limited auditing and inspection, a lack of definition of roles of police officers and public servants and a general laxity in the Service's approach to administration;
- there was also a lack of explicit objectives, a lack of delegation of authority, problems with the structure of senior executives, and a confusion of the roles and lines of responsibility; and
- the existence of the corruption acknowledged pointed to serious management deficiencies revealing the absence of procedures in place to deal with it, and advocacy of the 'rotten apple' theory of corruption which led the Internal Affairs Branch to pursue the individual in

²⁷³ M. E. Lazarus, RCT, 4/11/96, p. 33874; Commissioner Wood, RCT, 5/6/95, p. 8466. The 1984-85 Police Board Annual Report noted that the 1960s and 1970s were periods in which 'corruption flourished'.

²⁷⁴ Police Board of NSW, *Annual Report*, 1984-5, RCPS Exhibit 2904/76, p. 6.
From August 1984 to March 1991.

²⁷⁵ *Police Board (Promotions) Amendment Act*, 1983, no. 80, began operating 16/1/84.

²⁷⁶ *Independent Commission Against Corruption Act*, 1988, no. 35, assented 6/7/88, commenced 13/3/89.

²⁷⁷ *Director of Public Prosecutions Act*, 1986, no. 207, assented 23/12/86.

²⁷⁸ *Royal Commission into the Arrest, Charging and Withdrawal of Charges against Harold James Blackburn and Matters associated therewith*, (J. Lee, Commissioner), 1990, RCPS Exhibit 2790A/2.

²⁷⁹ Lusher stated that 'The contemporary position follows many decades of either an awareness of or indifference to developments necessitating change, or an inability to grapple successfully with them on the part of successive government and police administration'. *Commission to Inquire into New South Wales Police Administration*, (E. A. Lusher, Commissioner), Sydney, 1981, p. 1.

²⁸⁰ *Commission to Inquire into New South Wales Police Administration*, (E. A. Lusher, Commissioner), Sydney, 1981.

²⁸¹ *ibid*, p. 640.

²⁸² *ibid*, pp. 59 & 63.

an adversarial context, rather than by assessing the complaint as a 'symptom' of wider institutionalised corruption.

3.77 The changes that followed included:

- the introduction of anti-corruption measures,²⁸³
- attempts to change the police culture,²⁸⁴ and to promote integrity;
- regionalisation, devolution of authority, and a flattening of the command hierarchy;
- the adoption of community-based policing as the principal operating strategy;
- the merger of the Police Force and Police Department in 1987 to create a single Police Service;
- the establishment of a Police Board responsible for promotions on the basis of merit, career development and training;
- a restructuring of training and recruitment;²⁸⁵ and
- the extension of the powers of the Ombudsman to oversight complaints against police.²⁸⁶

3.78 In 1981, the CIU which had been established in response to the Moffitt Report, was enlarged. It was detached from the Criminal Investigation Branch (CIB), made an autonomous body, and renamed the Bureau of Crime Intelligence (BCI).²⁸⁷ An Organised Crime Squad was formed within the BCI to enhance its investigative status and capacity. On 1 December 1982, the Observation Squad of 25 CIB detectives was detached from the CIB and amalgamated with the surveillance arm of the BCI,²⁸⁸ a move that was not altogether welcome. Several officers of the surveillance arm regarded attachment of the Observation Squad to the BCI as risking infiltration by untrustworthy members of the Force and, as a consequence, reducing its effectiveness against organised criminals.²⁸⁹

3.79 The formation of the Police Board in 1984 effected a significant change to a system in which the Police Commissioner had been the sole source of advice to the Government on policing since the 1860s, and opened the way for a new voice to be heard in relation to police administration and education.

²⁸³ Established through strengthening of the IAB and IPSU and increases in penalties applicable to departmental offences. J. K. Avery, RCT, 5/12/94, p. 43; J. K. Avery, RCT, 6/12/94, p. 105.

²⁸⁴ J. K. Avery, RCT, 5/12/94, p. 59.

²⁸⁵ Recommendations for training included:

- establishment of a residential Academy should be considered;
- improved selection of training staff;
- longer training;
- changes to course material - contextual understanding for role of police in society and more focus on dangers of corrupt activity;
- more progressive educative methods;
- Academy to be under the control of a council to report to the Police Board. (pp. 406-09)

Recommendations for recruitment included:

- relating standards to a statement of the nature of the job;
- criteria should recognise the full range of police activities;
- reduce minimum height and weight restrictions;
- remove restrictions on female entry;
- Police Board to determine entry criteria;
- minimum education requirement should be raised to an HSC aggregate ranking of above 30%;
- provision for lateral entry. (pp. 346-49)

²⁸⁶ See the *PRAM Act* and amendments made in 1983. Such external oversight was new and had been resisted by the police. These provisions are now contained in Part 8A of the *Police Service Act 1990*.

²⁸⁷ *Royal Commission of Inquiry into Alleged Telephone Interceptions*, (D. Stewart, Commissioner), April 1986 RCPS Exhibit 2775, p. 85.

²⁸⁸ *ibid*, p. 93.

²⁸⁹ *ibid*, footnote 80 of report.

3.80 The major restructuring of the Service, however, took effect in 1987 with the establishment of four police regions,²⁹⁰ along with the progressive devolution of centralised police agencies and squads to decentralised, geographically based 'patrols'. The regions were to be 'microcosms' of the whole organisation, sharing all functions equally.²⁹¹ The most dramatic change was the dismantling of the CIB and the move of detectives to the four Regional Crime Squads and new patrols.²⁹² It was expected that breaking up the power bases within the CIB squads would bring to an end the widely acknowledged corruption that had previously flourished. In retrospect, all that was achieved was a spreading of the corrupt elements through other parts of the Service and State.²⁹³ The change itself met with strong resistance.²⁹⁴

3.81 In effecting these changes, Commissioner Avery recognised that corruption was a serious issue for the Police Service and required a comprehensive response. It was his plan to:

- educate members to be ethical and to imbue them with a sense of responsibility and accountability to the community they served;
- address 'institutionalised corruption' by dealing with it as a management issue;
- encourage management responsibility through regionalisation, and to
- re-engineer the promotion system to ensure that ethical police officers held the senior positions.²⁹⁵

3.82 The Lusher Inquiry highlighted problems with this seniority-based promotion system, particularly noting that:

- most Commissioned Officers did not attain that status until they were at least 50 years of age, leaving them little time to serve in the more senior ranking jobs,²⁹⁶ and denying younger and more able members access to more senior job opportunities;
- seniority based selection was not based on the promotion of the most able candidate, but the most senior;²⁹⁷ and
- speculation over the purchase of examination papers and congestion on the priority list had affected morale.²⁹⁸

3.83 As a consequence, recommendations were made for the introduction of a merit-based promotion system²⁹⁹ which the Service gradually introduced during the period 1984-88 using selection committees nominating appointees based on merit.³⁰⁰

3.84 Although the move to a merit-based promotion was designed to facilitate the appointment of the best person for the job,³⁰¹ and to take into account integrity,³⁰² a number of difficulties persisted especially in regard to:

²⁹⁰ A Fifth region was also created comprising specialised agencies such as the Solicitor to the Service, Strategy and Review, Professional Responsibility, Education and Training, Human Resources, Corporate Services, Finance, Special Agencies, and Operations Support which consisted of the SIG, the Federation of PCYCs, the Task Force Group, the Tactical Service Groups, and the Joint Technical Services Group

²⁹¹ J. T. Jarratt, RCT, 13/12/94, p. 538.

²⁹² NSW Police Service, Australian Quality Award Application, 1994, RCPS Exhibit 5999/8.

²⁹³ eg. M. Schloeffel, RCT, 13/11/96, p. 34294.

²⁹⁴ Commissioner Avery reported receiving death threats in connection with this change.

²⁹⁵ J. K. Avery, RCT, 5/12/94, pp. 91-92.

²⁹⁶ NSW Parliament, Report of Select Committee on Police Promotion System, February 1991, RCPS Exhibit 5568, p. 1. *Commission to Inquire into New South Wales Police Administration*, (E. A. Lusher, Commissioner), Sydney, 1981, p. 470.

²⁹⁷ *ibid*, p. 468.

²⁹⁸ NSW Parliament, Report of Select Committee on Police Promotion System, February 1991, RCPS Exhibit 5568, p. 5.

²⁹⁹ The promotion system is now largely based on merit with promotion for Constables still, in part, based on seniority. Officers at this rank are required to serve one year at each of four incremental levels in addition to fulfilling competency and performance requirements in order to be promoted to Senior Constable.²⁹⁹ Only after attaining the rank of Senior Constable, are officers eligible to apply for promotional positions at the rank of Sergeant. Police Service of New South Wales Non-Commissioned Police Officers' Enterprise Agreement, registered 2 December 1994, RCPS Exhibit 2465/2, cl. 17.7, p. 18.

³⁰⁰ *Commission to Inquire into New South Wales Police Administration*, (E. A. Lusher, Commissioner), Sydney, 1981, p. 555.

- the length of the procedure which often resulted in vacancies existing for six months or more;³⁰³ and
- discontent in relation to suggestions of 'favouritism'³⁰⁴ and problems with the assessment of an officer's 'integrity'.³⁰⁵

3.85 In 1990 the Police Service Act was passed to consolidate the changes which had taken place. The change of name from the New South Wales Police Force to the New South Wales Police Service was one that signalled the adoption of a different concept of policing, and a commitment to a notion that the police role was one of service to a community, rather than a function of government in the control of crime and disorder.³⁰⁶

3.86 Further changes to the Service were introduced under Commissioner Lauer between 1991 and 1996, including the introduction of:

- the Corruption Prevention Plan;
- the Internal Informers Policy;
- the Complaints Information System (CIS);
- the Customer Assistance Unit; and the restructuring of
- Professional Responsibility Command.³⁰⁷

3.87 Despite these developments, the 1980s saw a repetition of the scandals that had marked the preceding two decades. For example, this era began on a less than propitious note when, in 1982, the Police Tribunal found that former Deputy Commissioner Bill Allen had brought discredit on the force by:

- obtaining free airline tickets to the US and accepting free accommodation;
- associating with alleged criminal figures;
- paying \$2,500 to Sergeant Warren Molloy, a licensing sergeant based in Kings Cross and Darlinghurst; and by
- receiving visits at Police Headquarters from a major crime figure.³⁰⁸

In April 1982, he was allowed to retire from the Force at the reduced rank of Sergeant First Class.

3.88 There also appeared to have been something of an 'open door' at least in the early 1980s, for crime figures to gain access to senior police at the old CIB building in the Remington Centre, Liverpool Street, and at Police Headquarters in College Street.³⁰⁹

3.89 The name of former Detective Sergeant Roger Rogerson came to public prominence during this era following the incident on 27 June 1981, when a drug dealer, Mr Warren Lanfranchi, was shot dead by him at Dangar Place Chippendale. There was a finding by the Coroner that Rogerson had

³⁰¹ *ibid*, p. 468.

³⁰² Police Board of NSW, Submission to RCPS, RCPS Exhibit 2459/6, p. 60.

³⁰³ NSW Parliament, Report of Select Committee on Police Promotion System, February 1991, RCPS Exhibit 5568, p. 9.

³⁰⁴ NSW Police Board, *Police Board of NSW - An Evaluation*, 15/5/96, RCPS Exhibit 5368/6, p. 22.

³⁰⁵ NSW Police Service, *Report for the Workforce 2000 Project*, prepared by the Triulzi Group, RCPS Exhibit 2821, October 1996, p. 22.

³⁰⁶ J. K. Avery, *Police Force or Service?*, Butterworths, 1992, p. 47.

³⁰⁷ N. O. Taylor, Statement to RCPS, RCPS Exhibit 20, pp. 17-18.

³⁰⁸ R. C. Shepherd, RCT, 12/11/96, p. 34217.

³⁰⁹ L. McPherson, RCT, 8/11/95, pp. 16308-09; R. C. Shepherd, RCT, 12/11/96, p. 34217.

shot Mr Lanfranchi 'whilst endeavouring to effect an arrest', the jury having declined to find that the shot was fired in self defence.³¹⁰

3.90 It has since been alleged that this was the time at which a trade-off was established with Mr Arthur Stanley (Neddy) Smith for him to receive a 'green light' to perform armed robberies.³¹¹ During 1986-88, there were in fact a number of such robberies, and it was these that Neddy Smith said were 'green lighted' and involved police.³¹² They became the subject of the ICAC Milloo Inquiry in 1993.

3.91 In 1981-83 allegations arose of corrupt involvement on the part of members of the NSW Police and the AFP, in marijuana crops at Bungendore. Operation Seville³¹³ began in October 1980 when an informant approached the AFP and indicated his willingness to pass on information about marijuana growing.³¹⁴ The informant then became involved in a 'controlled' plantation at Bungendore. For a number of years there were many rumours about police corruption in relation to this matter.³¹⁵

3.92 On 6 June 1984, Detective Sergeant Mick Drury of the Drug Squad was shot at his home. This sparked off a series of events:

- a police investigation was initiated into the shooting by a Task Force comprising detectives drawn mainly from the Homicide, Drug and Breaking Squads, under the command of Superintendent Angus McDonald.³¹⁶ It was largely inconclusive, but generated a host of allegations, and counter allegations, concerning the reasons behind the shooting, attempts to bribe police in relation to a pending drug prosecution in Victoria, and the possible protection of police involved both in that matter and in the shooting;
- charges were brought against Mr Rogerson, on the advice of the Crown Advocate for attempting to bribe Mr Drury to change his evidence in the drugs case. Mr Rogerson was found not guilty by the jury when that matter came to trial in June 1985;
- investigations were reopened later that month by Internal Affairs detectives, and paved the way for the institution of departmental charges against Mr Rogerson, *inter alia*, for impairing the efficiency of the force, and improperly associating with known criminals;
- later, with the input of the Omega Task Force, criminal charges were brought against Mr Rogerson for conspiring to pervert the course of justice, arising out of attempts to cover up his dealings with Mr Maurice Nowytager,³¹⁷ and the deposit of monies into bank accounts under a false name;
- each of these proceedings were successful, resulting in Mr Rogerson's dismissal from the force in July 1986, and his conviction in March 1990 for conspiracy;³¹⁸
- the Task Force Omega re-investigation of the Drury shooting, led to Mr Rogerson being charged with conspiracy to murder, but that charge was dismissed when it came to trial in October 1989;
- an internal inquiry was instituted into the original police investigation of the Drury shooting, and it was in turn followed by an external inquiry conducted by Mr Howard Purnell QC in the

³¹⁰ The Coroner found that Lanfranchi died of the effects of a gunshot wound to the chest inflicted on him by Rogerson 'whilst endeavouring to effect an arrest'. See RCPS Exhibit 2905C.

³¹¹ A. Smith, ICAC Milloo, Transcript, 5/5/93, p. 3980; ICAC, *Investigation into the Relationship Between Police and Criminals*, First Report, February 1994, p. 179.

³¹² These robberies included: Fielders Bakery Robbery, 20/10/76; South Sydney Juniors Robbery, 20/7/86; Waverley Bus Depot Robbery, 21/5/87; Woolwich Pier 28/7/88; and Cockatoo Island, July 1987, *ibid*.

³¹³ The name given to the operation by NSW Police.

³¹⁴ NCA, *Annual Report*, 1988-89, pp. 25-30.

³¹⁵ Subsequent NCA investigations found no evidence of improper protection by police, but the rumours persist.

³¹⁶ Report dated 22/8/94, cited in *Inquiry into the investigation by the New South Wales Police Force of the circumstances surrounding the shooting of Detective Senior Constable MP Drury on 6.6.1984*, (H. Purnell), 26/3/90, RCPS Exhibit 2905C/1.

³¹⁷ Alleged drug dealer with criminal associations.

³¹⁸ Although that conviction was quashed in the CCA in December 1990, it was restored by the High Court one year later.

wake of Mr Rogerson's acquittal in 1985.³¹⁹ Each was somewhat damning of the original investigation, although no criminal or disciplinary proceedings were recommended or instituted; and

- Task Force Omega 2 was formed to take up various references involving suspect NSW police and allegations of serious criminality.

3.93 In 1984, Mr Stephen Bazley, a former associate of the head of the 'Mr Asia' drug syndicate, publicly alleged that several NSW police were heavily involved in drug trafficking and stand-over rackets.³²⁰ It was revealed that these allegations had been passed by the AFP to NSW Police 15 months earlier. The Police Service was subsequently criticised by the Ombudsman for its failure to promptly investigate the Bazley allegations and for the ineffective nature of such investigation as was made.³²¹

3.94 1984 marked the beginning of the gangland wars in which several people associated with the drug trade and organised crime were killed or the subject of serious attacks.³²² The gangland murders were investigated first by the Murder Task Force and later by the Kappa Task Force, which was formed in response to the murder of underworld figure Mr Barry McCann in 1987. None were resolved by those inquiries.³²³

3.95 Two Commonwealth/State Royal Commissions during the 1980s, presided over by Justice Donald Stewart, confirmed that corruption within the Service was continuing.

3.96 The first was the Royal Commission of Inquiry into Drug Trafficking which commenced in June 1981 and reported in February 1983.³²⁴ It heard evidence of many corrupt police practices including stealing of drugs and money from offenders and suspected drug traffickers, planting drugs on suspected persons, falsifying evidence in return for money or some other advantage and taking money for supply of confidential information.³²⁵

3.97 It reported that:

- the corruption revealed by earlier inquiries was obviously still present, despite:
 - declarations often made by senior police officers and politicians of all persuasions that "all is well". Such declarations are quite inaccurate and fly in the face of overwhelming evidence to the contrary;³²⁶ and
- a 'Crimes Commission' could achieve more in the fight against organised crime than a traditional law enforcement agency.³²⁷

3.98 The second inquiry was the Royal Commission Into Alleged Telephone Interceptions (the 'Age Tapes' Royal Commission) which in 1985 found that members of the NSW Police Service had been

³¹⁹ *Inquiry into the investigation by the New South Wales Police Force of the circumstances surrounding the shooting of Detective Senior Constable MP Drury on 6.6.1984*, (H. Purnell), 26/3/90, RCPS Exhibit 2905C/1.

³²⁰ 'An Informer's Tale', ABC, Four Corners, 29/9/84; *SMH*, 1/10/84, p. 2.

³²¹ On 12/6/87 the Ombudsman's Report into the delay of NSW police in investigating the Bazley allegations criticised the Service but found all matters not sustained. It found the investigation to be 'neither swift nor effective but was rather dilatory and ineffective', p. 27.

NSW Ombudsman, *Final Report - Complaint by Mr Simon Davies about the Conduct of Police*, 12/6/87.

³²² Persons killed or the subject of attack, allegedly as incidents in the gangland wars, included: 18/4/84 Terrence Ball; 8/11/84 Daniel Michael Chubb; 16/2/85 Michael John Sayers; 3/4/85 Victor John Camilleri; 12/4/85 Thomas Christopher Domican; 23/4/85 Anthony Eustace Anderson; 9/5/85 Christopher Dale Flannery; 9/1/86 Joseph Magro; 6/8/87 Barry John Croft; 27/12/87 Barry Raymond McCann; 20/5/91 Roy Thurgar.

³²³ There was also a reference to the NCA in 1985, *NCA, Report of Drug/Murder Task Force*, RCPS Exhibit 2787C. The more recent Snowy Task Force led to Neddy Smith being charged with a number of these murders, and proceedings are currently before the courts in relation to the murders of Lewton Shu, Sally-Anne Huckstepp and Harvey Jones, in respect of which he has been committed for trial.

³²⁴ *Royal Commission of Inquiry into Drug Trafficking*, (D. Stewart, Commissioner), February 1983, RCPS Exhibit 2790A/1, p. 81.

³²⁵ *ibid*, p. 564-65. This evidence related to both Commonwealth and NSW police and to former Narcotics Bureau officers.

³²⁶ *ibid*, p. 570.

³²⁷ *ibid*, p. 771.

illegally intercepting telephone calls for almost 20 years.³²⁸ After an initial closing of ranks, several members of the New South Wales TSU and the Victorian BCI were given indemnities against prosecution in return for giving evidence to this Royal Commission.³²⁹

3.99 It emerged in this second Royal Commission that:

- because of concerns held by the TSU in investigating corruption within the NSW Police Force it had found it necessary to leave documents with the BCI in Victoria for safekeeping;³³⁰ and
- because of the security concerns of both the agencies, their liaison was maintained on an informal basis, and without official sanction.³³¹

3.100 The role and practices of police investigators and prosecutors in NSW came under further scrutiny during:

- inquiries into the convictions of the Ananda Marga sect members in 1985,³³² and into the arrest and charging of former police officer Harry Blackburn in 1989;³³³
- inquiries into the activities of police special squads such as the Tactical Response Group (TRG) and Special Weapons Operations Team (SWOT),³³⁴ arising out of the fatal shooting of Mr David Gundy in 1989,³³⁵ and the later shooting of Mr Darren Brennan in 1990;³³⁶
- investigations into the Angus Rigg incident³³⁷ and the murder of Mr Roy Thurgar in 1991; and
- the State-Commonwealth Royal Commission between 1987 and 1991, into Aboriginal deaths in custody,³³⁸ which was heavily critical of police.

3.101 The case of Detective Sergeant Kimbal Cook emerged during this period as a classic example of the poor treatment of internal informers by the Police Service.³³⁹ His evidence to the ICAC in 1993 was a catalyst for the formation of a policy on internal informants.

3.102 In 1986, the Select Committee of the (NSW) Legislative Assembly upon Prostitution heard evidence that the focus of police corruption in this area of activity, had changed from individual street prostitutes paying police to avoid arrest, to brothel managers paying protection money.³⁴⁰ Although no brothel manager or owner was prepared to state on the record that he or she was paying police, or to name any corrupt officer, the Committee came to the opinion that 'police corruption has been a facet of brothel protection for a considerable number of years'.

3.103 It recommended that:

³²⁸ *Royal Commission of Inquiry into Alleged Telephone Interceptions*, (D. Stewart, Commissioner), April 1986.

³²⁹ See evidence of K. R. Brown, RCT, 11/11/96, p. 34136; R. C. Shepherd, RCT, 12/11/96, p. 34169.

³³⁰ *Royal Commission of Inquiry into Alleged Telephone Intercepts*, (D. Stewart, Commissioner), April 1986, p. 179.

³³¹ *ibid.*

³³² *Report of the Inquiry held under s. 475 of the Crimes Act 1900 into the convictions of Timothy Edward Anderson, Paul Shawn Alister and Ross Anthony Dunn on 1/8/79* (J. R. T. Wood), May 1985, RCPS Exhibit 2790A/10.

³³³ *Royal Commission into the Arrest, Charging and Withdrawal of Charges against Harold James Blackburn and Matters associated therewith*, (J. Lee, Commissioner), June 1990, RCPS Exhibit 2790'A"/2.

³³⁴ NSW Ombudsman, *Report on the failure of the Commissioner of Police to take satisfactory action in relation to previous recommendations of the Ombudsman concerning a review of the Special Weapons and Operations Squad procedures and instructions*, April 1990.

³³⁵ *Royal Commission into Aboriginal Deaths in Custody: Report of the Inquiry into the Death of David John Gundy*, (J. H. Wootten, Commissioner), Canberra, February 1991.

³³⁶ *Report of the Police Tribunal of New South Wales Into Certain Matters Relating to Discipline in the Police Force*, ('Brennan TRG Inquiry'), (J. H. Staunton, President), Sydney 1991, RCPS Exhibit 2748.

³³⁷ NSW Ombudsman, *Inquiry into the circumstances surrounding the injuries suffered by Angus Rigg in police custody and into the subsequent police investigations*, 1993.

³³⁸ *Royal Commission into Aboriginal Deaths in Custody, National Report*, (E. Johnston, Commissioner), 1991.

³³⁹ See Volume II, Chapter 6.

³⁴⁰ NSW Parliament, *Select Committee of the Legislative Assembly upon Prostitution*, April 1986, p. 226.

- the Commissioner of Police treat evidence of police corruption regarding prostitution as an indication of the need for organisational reform; and
- the Police Board review ways in which the potential for corruption in the Vice Squad and local stations operating in areas where prostitution is concentrated could be decreased.³⁴¹

3.104 In 1988, the IPSU initiated Task Force Flintstone, to investigate the role of civilians and police allegedly involved in the conversion of stolen motor vehicles and their subsequent disposal in NSW, Victoria and Queensland. The final report was submitted on 4 May 1990. As a result of the operation a detective sergeant from the Motor Squad was dismissed from the Service following a conviction for attempt to pervert the course of justice and neglect of duty as a public officer.³⁴²

3.105 A long-standing conflict with the Service involving Mr Edgar Azzopardi, an avid anti-corruption campaigner, came to a conclusion in this period.³⁴³ His involvement with police began in 1969 when he was in a car accident with then Constable Christopher Jones. He was charged by Mr Jones with negligent driving, and was convicted but successfully appealed. He later made a series of allegations relating to the administration of the Parramatta Police Citizens Boys Club (PCBC) and the actions of Mr Jones while acting as its secretary. There were several Internal Affairs inquiries which found no evidence of illegal activity.³⁴⁴ Reports from the Ombudsman in 1982, and the Auditor General in 1983, however provided some confirmation for his allegations, and as the result of evidence obtained by Mr Azzopardi, Mr Jones was convicted and imprisoned in 1985 for tampering with PCBC raffles.³⁴⁵ A number of other police officers connected with various PCBCs were also dismissed and charged in relation to other offences.³⁴⁶

3.106 During 1990, Mr Azzopardi made a complaint in relation to police harassment following an investigation into a minor car accident in January 1990 involving his son. It had been reported to police at Mount Druitt station. A number of harassing telephone calls were made and traced back to this station. These calls and other complaints of police harassment were investigated and found to be substantiated by the ICAC.³⁴⁷

3.107 Other opportunities which arose for unearthing corruption during this period were:

- Operations Casper, Casper 2, Seca and Asset between 1987 and 1990 which were targetted at possible corrupt relationships between police and gaming interests, and organised crime elements;
- the December 1992 Task Force to identify the scale, nature and trend of corruption within the Service.³⁴⁸ Although a review of almost 7,000 files was undertaken, the analysis and report were quite inconclusive and did not lead to any action;³⁴⁹
- Probe Buckshot, conducted by the ABCI, which was as an amalgam of a number of other investigations³⁵⁰ that indicated links between police and criminals in relation to the

³⁴¹ *ibid*, p. 228.

³⁴² See U. J. Blanco, RCT, 12/7/95, p. 10134-35. Also J. Fife Yeomans, 'Detective Convicted on Car Charges', *SMH*, 18/12/91; *R v Hilder* (1992), unreported, NSW District Court, Kinchington J, 20/3/92; *R v Hilder* (1992), unreported, NSW District Court, Herron J, 30/3/92; *R v Hilder* (1992), unreported, NSW District Court, Shadbort J, 21/5/92.

³⁴³ ICAC, *Report on investigation into harassing telephone calls made to Edgar Azzopardi*, December 1990.

³⁴⁴ Mr Azzopardi complained that the police had failed to investigate allegations of breaches of the Lotteries and Art Unions Act and Regulations in respect of several Art Unions conducted by the Parramatta PCBC in 1978, 1979, and 1980. The alleged breaches involved discrepancies in the reports of income and expenditure submitted by Constable Jones who was the Secretary/Supervisor of the Club, and promoter of the Art Unions.

³⁴⁵ ICAC, *Report on Investigation into Harassing Telephone Calls made to Edgar Azzopardi*, December 1990, p. 13.

³⁴⁶ *ibid*.

³⁴⁷ *ibid*, pp. 19-22 & 26.

³⁴⁸ NSW Police Service, *Complaints against NSW Police: Scale, nature and trends 1987-91* RCPS Exhibit 5999/92.

³⁴⁹ The task force undertook a review of all serious complaints against police between 1987 and 1991 involving an analysis of 6,855 files held by the IAB and PIB. The results showed that while general complaints had increased, the number of complaints alleging corruption had fallen dramatically (p. 26). The report was unable to explain this but speculated that this may have resulted from changes in organisational practice such as demonstrated opposition to corruption, proactive PIB investigations, greater accountability, ongoing education, and the establishment of the ICAC.

importation of heroin. Numerous former and current NSW police officers came to notice during the course of the probe. It was an attempt to gain a picture of a criminal organisation which had both the active support of, or included former and serving police officers; and

- Operation Raindrop, conducted by NSW police from August 1985, examined the allegations of a prison informant as to the existence of alleged corrupt dealings between himself and a number of police. There was much controversy about the investigation and subsequent prosecutions, as well as serious criticism of police conduct in relation to them.³⁵¹

3.108 In 1993 the ICAC conducted an inquiry (Milloo) into the relationship between police and criminals.³⁵² Police activities which came under particular attention included:

- the alleged 'green lighting' of armed robberies;
- the operations of the Gaming Squad;
- allegations that some prosecutions were 'fixed';
- associations between certain police and criminals; and
- various related subjects such as the handling of police complaints.

3.109 No prosecutions in relation to the 'green lighting' allegations followed. Some prosecutions were commenced, relating to, for example, perjury, conspiracy to pervert the course of justice, as were certain disciplinary proceedings. The Milloo inquiry resulted in the disbanding of the Gaming Squad in December 1993, the adoption of a new Informants Management Plan for the Service in March 1994,³⁵³ and the adoption of the Internal Informers Policy in 1994. In 1996, also as a result of Milloo, a new case management system was introduced.³⁵⁴

3.110 In November 1994, Task Force Snowy was formed to reinvestigate the gangland murders.

3.111 Although the period under review preceding the Royal Commission was one of considerable change within the Service, it was also one in which:

- corruption continued to flourish and as later discussed in this Report,³⁵⁵ took on some new and even more evil faces; and
- a false sense of security was engendered.

3.112 A significant lesson to be learned from this era is that changes which are merely structural are not enough. More is required to gain the attention of the Service, and to recruit the active participation of those who can actually do something about its problems.

B. OVERSIGHT OF THE SERVICE

EXTERNAL AGENCIES

³⁵⁰ The investigations involved were: Stinger (NSWPol), Hobby (SDCC), Nucleus (AFP), Chaff (NSWPol), Flintstone (NSWPol), Casper/C2 (NSWPol), Seca (NSWPol), and Asset (SDCC).

³⁵¹ ICAC, *Report on investigation into the use of informers*, vol. 2, January 1993, p. 357. The only two officers convicted were later freed on appeal. On 17/2/92 the CCA quashed the convictions of these officers and ordered verdicts of acquittal to be entered, ICAC, p. 364. All other officers charged were acquitted at trial.

³⁵² ICAC, *Report on Investigation into the Relationship between Police and Criminals*, First Report, February 1994, Second Report, April 1994.

³⁵³ ICAC, 'Implementation of Recommendations from the ICAC investigation into the relationship between police and criminals', February 1997, p. 2.

³⁵⁴ *ibid.*

³⁵⁵ See Volume I, Chapters 4, 5 & 6 of this Report.

3.113 Apart from occasional public inquiries and Royal Commissions, in more recent years the Police Service has been subject to outside scrutiny, so far as the investigation of corruption and misconduct is concerned, by two standing external agencies:

- since 1978³⁵⁶ the Office of the Ombudsman has had jurisdiction to oversight the investigation of complaints about police, with progressively extended powers³⁵⁷ which now permit direct investigation, reinvestigation and conciliation of complaints. It has, during that period, investigated and formally reported to Government on various complaints of misconduct brought by members of the public, and on matters relevant to corruption and misconduct, including the complaints system,³⁵⁸ internal investigations,³⁵⁹ the use of confidential information,³⁶⁰ the operations of the Special Weapons and Operations Squad³⁶¹ and the handling of complaints against police concerning tow truck rackets.³⁶² It has delivered an annual report covering its operations, including those relevant to the Service, in which ongoing problems in these areas have been brought to notice. Additionally, it has dealt directly with the Service in relation to internal investigations into complaints with which it has not been satisfied; and
- since 1988 the ICAC has had jurisdiction to investigate and report on allegations or complaints relating to corrupt conduct, *inter alia*, involving members of the Service.³⁶³ It has similarly investigated and reported to Government on various matters constituting official corruption within its charter, including the raid on the office of Mr Frank Hakim,³⁶⁴ harassment of Mr Edgar Azzopardi,³⁶⁵ police and truck repairers,³⁶⁶ the operations of the Police Air Wing,³⁶⁷ Sutherland licensing police³⁶⁸ and the relationship between police and criminals.³⁶⁹ It has also reported on strategies or procedures designed to prevent corruption within the Service, such as the use of informers³⁷⁰ and police and confidential information.³⁷¹ As with the Ombudsman, it has delivered an Annual Report, in which matters of concern relating to the Service have been discussed.

3.114 Each of these external agencies has had a substantial capacity to affect the operations of the Service, and to require it to adopt a more positive and healthy response to corruption and misconduct within its ranks. Undoubtedly their investigations and reports have had a significant effect on the Service, and contributed to reforms such as the adoption of:

- the Internal Informers Policy;
- the Informant Management Plan 1994;
- guidelines relating to access to confidential information;
- case management systems for criminal investigation; and
- the policy for secondary employment of police officers.

³⁵⁶ *Police Regulation (Allegations of Misconduct) Act* 1978.

³⁵⁷ *Police Regulation (Allegations of Misconduct) Amendment Act* 1983, no. 191; *Police Service Act* 1990.

³⁵⁸ eg. NSW Ombudsman, *Report on the first three years of the New Police Complaints System*, August 1987; NSW Ombudsman, *NSW Police Complaints System*, December 1995.

³⁵⁹ NSW Ombudsman, *Police Internal Investigations: Poor Quality Police Investigations into Complaints of Police Misconduct*, January 1995.

³⁶⁰ NSW Ombudsman, *Improper access and use of Confidential Information by Police*, April 1994.

³⁶¹ NSW Ombudsman, *Report of the Failure of the Commissioner of Police to take satisfactory actions in relation to previous recommendations of the Ombudsman concerning a review of the Special Weapons and Operations Squad procedures and instructions*, April 1990; NSW Ombudsman, *Inadequate training and procedures of the Special Weapons Operations Unit*, May 1989.

³⁶² NSW Ombudsman, *Report on the limitations re: handling complaints against police - Tow Truck Racket*, August 1982.

³⁶³ *CAC Act* 1988, s. 10.

³⁶⁴ ICAC, *Investigation relating to the raid on Frank Hakim's office*, December 1989.

³⁶⁵ ICAC, *Investigation into Harassing Telephone Calls made to Edgar Azzopardi*, December 1990.

³⁶⁶ ICAC, *Investigation into Police and Truck Repairers*, May 1991.

³⁶⁷ ICAC, *Report on the Charter of Aircraft by the Police Air Wing*, October 1996.

³⁶⁸ ICAC, *Investigation into Sutherland Licensing Police*, February 1991.

³⁶⁹ ICAC, *Investigation into the Relationship between Police and Criminals*, February 1994, April 1994.

³⁷⁰ ICAC, *Investigation into the Use of Informers*, January 1993.

³⁷¹ ICAC, *Investigation into Matters relating to Police and Confidential Information*, June 1994.

3.115 However, their existence and participation in the oversight of the Service, along with the other areas for which they have statutory responsibility, has not prevented corruption from continuing, nor brought about the substantial changes needed to break the cycle of corruption.

THE JUDICIAL PROCESS

3.116 The period since 1970 has been marked by considerable concern within the Defence Bar of New South Wales³⁷² as to the regularity with which their clients claimed to have been the subject of fabricated evidence, in the form of:

- 'notebook confessions';
- unsigned records of interview;
- assaults;
- 'loading' (planting of weapons, drugs and money); and
- police perjury to 'improve the evidence'.

3.117 In the main, the courts were sceptical of these claims, although in the light of the evidence received by this Royal Commission it is now evident that there was much of substance in them, and that many persons were convicted on the basis of tainted evidence. This was a significant factor in the persistence of such practice. Corrupt police were able to trade on the notion of the 'thin blue line' and urge that they had no motive falsely to implicate anyone or to do other than their honest duty. As experienced witnesses they were invariably impressive under cross examination.

3.118 It was not until 1986 that the balance began to be redressed through several decisions, particularly of the High Court, which were designed to ensure that the quality of evidence upon which convictions were based was somewhat better.³⁷³ There was no discernible shift in judgment based upon any general acceptance of the concerns of the Defence Bar, or upon an assessment that members of the New South Wales Police Service were inherently not to be trusted.³⁷⁴ However, the overall effect of the greater involvement of the High Court in criminal appeals and of a more intense scrutiny of procedural and evidentiary matters, has been to:

³⁷² See paper of Marcus Einfeld QC (as he then was) presented to the 7th National Conference of Labor Lawyers, 2-4 August 1985, eg. p. 23; C. Porter, QC, 'Conviction of the Innocent', The College of Law Continuing Legal Education, Seminar Papers, 97/12, 1/3/97, p. 5.

³⁷³ In recent decisions the High Court has sought to strengthen traditional liberties, enforce safeguards for suspects in police custody and give a broader meaning to the principle that an accused person has a right to a 'fair' trial. (A. Palmer, 'Confessions in the High Court', *ALJ*, vol. 18, no. 5, October 1993, p. 203).

The following cases served to render the interrogation process more visible and subject to scrutiny:

In *Williams v R* (1986) 161 CLR 278, the High Court restated the common law position that 'it is unlawful for a police officer having the custody of an arrested person to delay taking him before a justice in order to investigate that person's complicity in a criminal offence'. (Per Mason and Brennan JJ at 295).

In *McKinney & Judge v R* (1991) 171 CLR 468 the High Court held that whenever police evidence of a confessional statement allegedly made by an accused while in police custody is disputed and its making is not reliably corroborated, the judge should, as a rule of practice, warn the jury of the danger of convicting on the basis of that evidence alone. A caution should be given to the jury in cases where the prosecution case rests upon an unsigned record of interview and there is a need for judicial warnings on the difficulties facing an accused attempting to dispute alleged confessional evidence in situations where other means of corroboration are not available to the accused.

In *Pollard v R* (1992) 176 CLR 177, the High Court found that the trial judge should have used his discretion to exclude confessional evidence on the grounds *inter alia* that no adequate warning had been given and that, despite the existence of recording equipment, no effort was made by police to record the initial interview with the accused.

In *R v Clough* (1992) 28 NSWLR 396 the High Court held that a special warning was required in the case of confessions said to have been made to a prison informer.

In *Domican v R* (1992) 173 CLR 555 the High Court held that where evidence as to identification represents any significant part of the proof of guilt of an offence, the judge must warn the jury as to the dangers of convicting on such evidence where its reliability is disputed. The jury must be instructed as to the factors which affect the consideration of the identification evidence in the circumstances of the particular case. The jury's attention should be drawn to any weaknesses in identification evidence.

In *Black v R* (1993) 118 ALR 209 the High Court allowed the appellant's appeal where the trial judge had failed to instruct the jury adequately with respect to the deficiencies of the police evidence of the interview.

In *Foster v R* (1993) 113 ALR 1 the High Court held that the accused's confessional statement should have been excluded on the basis that the appellant's arrest was unlawful and that the statement was signed while he was unlawfully held in custody.

³⁷⁴ Indeed this possibility was expressly rejected in *McKinney v The Queen* (1991) 171 CLR 486 at 478.

- discourage corrupt investigative practices;
- force police services generally to place greater reliance on physical evidence; and
- encourage the introduction of electronic recording of interviews with suspects.

C. CONCLUSION

3.119 The Service, and the organisational environment of policing have changed since 1960 in many ways, which were well motivated, even if not successful. For example:

- under Commissioner Avery, the definition of the role and function of the Service altered from law enforcement and peace keeping to one of service to the community although community policing has not yet been meaningfully implemented;³⁷⁵
- the extent of accountability and external monitoring via the Ombudsman, the ICAC and a multitude of public inquiries has placed the Service under unprecedented but essential scrutiny and provided more effective mechanisms for addressing complaints and allegations than those previously existing;³⁷⁶
- the social composition of the Service has altered with increasing emphasis on higher educational standards for recruitment, less emphasis on physical requirements, the integration of women, and the creation of new expectations of training and professional development;
- change has occurred in the process by which officers rise to command positions, promotion by seniority having been replaced by merit-based promotion in which integrity became, at least in principle although not necessarily in practice, a significant factor;
- the opponents of corruption within the political arena, and within the media, have had relatively greater success in bringing allegations to the point of public inquiry, and this has been accompanied by a greater police organisational focus on corruption issues, and on integrity;³⁷⁷
- the process of regionalisation, from 1987 produced a somewhat flatter organisational structure, and attempted to move control of the Service from a large centralised hierarchy to a more autonomous and decentralised regional structure, and to break up the power base within the CIB;
- the devolution of some internal investigation responsibilities to the Regional Commanders, which was designed to increase their responsibility and accountability, was correct in principle, but faltered through lack of resources and retention of central control; and
- attempts have been made since 1990, although not yet realised, to move away from an internal investigative approach that over-emphasised its punitive side in favour of lifting the overall professional standards within the Service.³⁷⁸

3.120 What is now clear is that:

³⁷⁵ J. Avery, *Police Force or Service?*, Butterworths, 1992, pp. 34 & 40.

³⁷⁶ Previously redress was confined to resort to legal remedies in the case of assault, and complaints to either the Commissioner, political representatives or the media. The complaint resolution procedure no longer remains entirely within the control of the Service, a development which has now been significantly advanced by the creation of the Police Integrity Commission.

³⁷⁷ See the development of a practical role for the Internal Security Unit announced in the 1984 Annual Report of the Service, and the more open acknowledgment of the existence of 'some corruption' within the Service in the 1985 Annual Report, and the creation of the Office of Professional Responsibility in 1989.

³⁷⁸ NSW Police Service, *Annual Report, 1990-91*, p. 32.

- the approach of the Service to corruption on an individualised basis, governed by the ‘rotten apple theory’ criticised by Justice Lusher,³⁷⁹ has been, and will remain, inappropriate for a Service as large as the New South Wales Police Service;
- the past rhetoric, plans and structural change have not by themselves been enough to reverse, or even contain, the problem; and
- the public exposure of corruption by this Royal Commission and the formulation of policy recommendations, will also achieve little unless very great attention is given to the processes of implementation, and to the means by which fundamental change can be achieved in the culture of the Service and in its operational style, and sustained.

3.121 The caution of Judge Mollen in relation to any new found commitment for reform following an intensive public inquiry such as the present, must not go unheeded:

The challenge we face is to maintain that commitment long after this Commissioner departs and the glare of public scrutiny subsides. We believe that the Department cannot maintain that commitment alone. If history proves anything, it is that when the glare of scrutiny shines on the Department, it can and will successfully police itself. But history also proves that left to its own devices the Department will backslide, and its commitment to integrity will erode³⁸⁰

3.122 As the experience in NSW and New York graphically demonstrates the cycle of external public inquiries, generated in times of crisis or political clamour, can never be a long-term solution. At best, there will be momentary embarrassment which the past demonstrates can be ridden out with minimal impact on previous practices and procedures. This Royal Commission sees the solution in:

- a sustained joint effort involving a fundamental change in the approach of the Service itself to corruption, and the existence of a permanent independent body, overseeing the Service and maintaining, as its specific focus, police corruption; and in
- a determined restructure of the Service and of its management, in which corruption risks are identified and minimised, and all members from senior command to the most junior constable are empowered and given the confidence to reject corruption.

³⁷⁹ *Commission to Inquire into New South Wales Police Administration*, (E. A. Lusher, Commissioner), Sydney, 1981, Chapter 22 ‘Corruption’.

³⁸⁰ *The City of New York Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department*, (M. Mollen, Commissioner), New York, 1994, p. 6.

CHAPTER 4

NSW POLICE SERVICE - CORRUPTION FOUND BY THE ROYAL COMMISSION

4.1 The Royal Commission conducted extensive investigations in respect of the very many complaints received by it, as well as proactive inquiries into areas where it suspected that corruption might exist. Not all of the inquiries were productive or led to public hearings. Some are ongoing and will be continued by the PIC. Not all of the complaints were taken up, and not all of the inquiries were completed. The view was taken that having regard to the constraints of time, snapshots should be taken in order to answer:

- the primary question referred to the Royal Commission - whether or not systemic or entrenched corruption existed within the Service; and
- the subsidiary questions referred to it concerning the activities of the Professional Responsibility Command and the efficacy of the Internal Informers policy of the Service.

4.2 This chapter brings together, in a relatively summary way, the results of the completed investigations, so far as they relate to those questions, and notes those contemporary reports and studies which tend to reinforce the findings of the Royal Commission.

A. ROYAL COMMISSION INQUIRIES

4.3 Although the various inquiries led to the presentation of evidence in separate segments, they are summarised for convenience in relation to the following topics:

- process corruption;
- gratuities and improper associations;
- substance abuse;
- fraudulent practices;
- assaults and abuse of police powers;
- prosecutions - compromise or favourable treatment;
- theft and extortion;
- protection of the drug trade;
- protection of club and vice operators;
- protection of gaming and betting interests;
- drug trafficking;
- interference with internal investigations, and the code of silence; and
- other circumstances suggestive of corruption.

4.4 The only conclusion open on the evidence called in respect of these separate topics is that a state of systemic and entrenched corruption existed within the Service. It follows that the assessment

by senior commanders at the commencement of the public hearings represented a serious underestimate of the nature and extent of corruption then present. The public refusal of the Police Association, and others, to acknowledge the possibility of serious corruption within the Service also lacked foundation.³⁸¹

1. PROCESS CORRUPTION

4.5 In almost every segment of the evidence called, the issue of process corruption reared its head, comprising variously:

- perjury;
- planting of evidence;
- verbals in the form of unsigned records of interview and note book confessions;
- denial of basic rights in respect of matters such as the use of a caution, or detention for the purpose of interview;
- assaults and pressure to induce confessions;
- gilding the evidence to present a better case;
- posing as a solicitor to advise suspects to co-operate with police;
- tampering with the product of electronic interception to remove any matter that might prove embarrassing;
- unofficial and unauthorised practices such as putting suspected street drug dealers onto a train and 'banning' them from an area; and
- 'taxing' of criminals who are seen to be beyond the law.

4.6 In many cases the technique was subtle, for example, attributing conversation to an accused which was only mildly compromising or of little relevance unless linked with another fact as part of a circumstantial case. In other instances it was crude and very direct. Sometimes it involved nothing more than the exercise of power for the sake of it.

4.7 Process corruption is a difficult matter for police in view of:

- the pressures upon them to solve crime and to lock up criminals;
- their frustration with the justice system and the consequent perceived need to even the odds; and
- their belief that they are doing only what is expected of them in securing the conviction and punishment of those whom they are certain have committed serious offences.

4.8 Notwithstanding the greatly reduced seriousness with which this type of corruption, deemed necessary by some³⁸² to 'do the job', is seen, when compared with those forms of conduct that

³⁸¹ The Parliamentary vote for the Commission was described as a 'tragedy' by the then Premier, Mr John Fahey (as reported in M. Jones, 'Fahey Anger over Inquiry', *Telegraph Mirror*, 12/5/94, p. 1) and the Royal Commission was said by the former Premier, Mr Nick Greiner to be 'an exercise in self-indulgence which would waste wads of money' (as quoted in L. Morris, 'Premier acts to defuse crisis', *Sydney Morning Herald*, 14/5/94, p. 2). The Secretary of the Police Association, Mr Lloyd Taylor, said the Commission was 'a devastating smack at the integrity of the force ... [which would be] an expensive exercise into allegations we've all heard before' (as reported in M. Jones, 'Fahey Anger over Inquiry', *Telegraph Mirror*, 12/5/94, p. 2). The Association's Deputy President is reported to have advised an Association meeting that it could not support the Royal Commission (as reported in S. Harvey, 'Inquiry no use: union', *Sydney Morning Herald*, 14/5/94, p. 6). The Police Commissioner, Mr Tony Lauer, described suggestions of entrenched corruption as 'figments of the political imagination' (as reported in P. Totaro and L. Morris, 'Lauer scorns Hatton claims', *Sydney Morning Herald*, 14/5/94, p. 1).

³⁸² eg. WS14, RCT, 8/3/96, pp. 21321, 21278; WS11, RCT, 11/6/96, pp. 26710-13.

personally enrich an officer, process corruption remains a serious perversion of the office of constable. In practice it commonly becomes linked with extortion, theft and other forms of corruption. In very many of the cases seen by the Royal Commission, some of which are noted below, this feature is present, and exposes the hypocrisy of the tag of 'noble cause corruption' sometimes given to this activity.

4.9 Although the Royal Commission does not suggest that there is an inevitable slide from process corruption to more traditional forms of dishonesty, or that experienced and thinking police cannot see a dividing line between the two, there are serious problems in its encouragement, insofar as it:

- leaves an officer potentially compromised for all time;
- teaches the ease with which a deception and cover-up can be maintained;
- leads to lack of confidence on the part of the community in the criminal justice system;
- becomes accepted as a rite of passage, a form of thrill seeking, or a means of releasing sociopathic tendencies; or
- is seen as an easy alternative to skilled detective work.

Some of the more notable incidents or descriptions of this form of corruption found by the Royal Commission follow.

Scrumdowns³⁸³

4.10 Early in its public hearings, the Royal Commission came to hear of 'scrumdowns' in which police would meet together to 'refresh' each other's memories, and to ensure that 'there were no pitfalls' in the prosecution, even if this involved giving evidence which was not truthful.³⁸⁴

4.11 Former Detective Sergeant Neville Scullion explained that on the first occasion he was required to give evidence, another officer prepared a statement for him that contained matters of which he had no knowledge. Yet as requested, he gave evidence of them.³⁸⁵ Manipulation of evidence he acknowledged as something he learned on the job from others in the same way that 'an apprentice learns a trade'.³⁸⁶ Sometimes it was for expediency (to remove the need for calling a civilian witness),³⁸⁷ and sometimes it arose out of frustration with the difficulty in securing a conviction.³⁸⁸ He also said that inducements were regularly given to a suspect before the interview and denied later, and that any officer who gave a suspect a caution was considered 'a fool'.³⁸⁹ Both the interviewing officer and the corroborating officer were expected to be consistent in their evidence if questioned on these matters.

4.12 Although denying direct involvement in any scrumdowns during his service with the Armed Hold Up Squad, former Detective Sergeant John Swan confirmed that the unit had a substantial reputation for this practice, and that he had an 'understanding' of junior officers being informed by senior officers of the version of events that would be given in their statements, with the expectation that this would be reflected in the evidence.³⁹⁰

Verbals

³⁸³ See Glossary.

³⁸⁴ D. G. Demol, RCT, 4/7/95, pp. 9683-84.

³⁸⁵ N. J. Scullion, RCT, 6/7/95, p. 9888.

³⁸⁶ N. J. Scullion, RCT, 6/7/95, p. 9893.

³⁸⁷ N. J. Scullion, RCT, 6/7/95, p. 9892.

³⁸⁸ N. J. Scullion, RCT, 6/7/95, pp. 9891-92.

³⁸⁹ N. J. Scullion, RCT, 6/7/95, pp. 9900-01.

³⁹⁰ J. G. Swan, RCT, 5/7/95, pp. 9785-86.

4.13 Although the evidence was replete with examples of verbals, what was of interest was the subtlety with which at times they were deployed. JTF12 agreed in examination that verbals for which he was responsible rarely took the form of an unequivocal acknowledgment of guilt.³⁹¹ Rather, in one case he described, a conversation was fabricated to present an appearance of regularity about an operation in which the officer in charge had warned that nothing 'untoward'³⁹² was to occur, in itself a somewhat damning indictment of the official attitude towards the usual process.

4.14 This witness referred to another matter where a suspect had refused to be interviewed in relation to a sexual assault by a person in authority. Again, the conversation fabricated was not in the form of an inculpatory statement by the suspect. Rather, it included a comment attributed to the suspect which the detective believed would have the effect of causing anybody who heard the comment to 'take further objection to the guy'.³⁹³

Waterloo Raid

4.15 In November 1994, police attached to three different patrols³⁹⁴ attended a Waterloo residence, for the purpose of executing a warrant to search for drugs. A violent and noisy entry was made and, although no narcotics were found, one person was arrested and later committed for trial on the basis of police evidence concerning the alleged use by him of a rifle in an attempt to prevent the police from gaining entry to the premises.³⁹⁵

4.16 The Royal Commission obtained evidence from three police who had been called in to assist the Major Crime Squad detectives.³⁹⁶ Individually each acknowledged that he had:

- lied on oath at the committal concerning aspects of the search;
- signed a statement prepared for him by another officer which he knew to be false; and
- knowingly joined in an arrangement to present false material to the court.

4.17 Two of these police admitted that they gave false evidence at the committal to the effect that they had searched for a bag of drugs allegedly thrown from the unit. They said that in truth no search had been conducted.³⁹⁷ The evidence of one of them gave some insight as to the dangers of confused loyalty:

Witness: There's a great deal of friendship, love even, in the Police Force of each other and I suppose to betray that is something that most officers would never like to do ...

Q: So that spills over and carries you into supporting each other even though you know that that might lead you to give false evidence?

Witness: Yes ...³⁹⁸

Operation Bing

4.18 This was a 1985 JTF operation in which a powerful case had been assembled against a ring of heroin importers and distributors, based on extensive electronic and physical surveillance, as well as long-term activity by a police undercover operative who had travelled with the couriers to Thailand. There was evidence before the Royal Commission that at the final point of the operation where police were entering to search premises and effect arrests, an instruction was given to cease the monitoring

³⁹¹ JTF12, RCT, 26/9/95, p. 13600.

³⁹² JTF12, RCT, 26/9/95, p. 13606.

³⁹³ JTF12, RCT, 26/9/95, p. 13610.

³⁹⁴ Major Crime Squad South-West, Marrickville station, Redfern station.

³⁹⁵ Following the hearings before the Royal Commission, the Director of Public Prosecutions determined to take no further action in the trial and the matter was no-billed.

³⁹⁶ PS, RCT(U), 29/5/96, pp. 3458-61; JC, RCT(U), 29/5/96, pp. 3519-20; DD, RCT(U), 31/5/96, pp. 3741-42.

³⁹⁷ PS, RCT(U), 28/5/96, pp. 3414-15, 29/5/96, p. 3428; DD, RCT(U), 31/5/96, pp. 3735 & 3738.

and recording of a listening device which had earlier been installed.³⁹⁹ The purpose of the instruction was presumably to avoid embarrassment in the event of anything untoward occurring in the search or initial contact with the suspects that might not accord with the evidence later presented in court. The evidence before the Royal Commission was that this instruction was not obeyed.

4.19 As events turned out, according to three members of that Task Force, the entry was forcible, accompanied by a good deal of noise and bad language, and possibly involved the assault of one offender.⁴⁰⁰ Moreover, certain conversations later attributed to one of the accused did not occur.⁴⁰¹ To overcome the problem presented by the unintended recording of these events, the relevant section of the audio tape was deleted and associated logs were altered.⁴⁰²

4.20 When the entirety of the listening device (LD) tapes was made available to the defence for expert examination during the course of the trial, deliberate attempts were made (successfully) to delay that expert so that the critical tape escaped his testing.⁴⁰³

4.21 Additionally, two of the detectives involved acknowledged giving untrue evidence in relation to their dealings with one accused in an effort to ensure the admissibility of incriminating admissions, specifically in asserting that he was allowed to read the search warrant, was given a caution⁴⁰⁴ and was informed of the existence and identity of the undercover operative only after his interview was concluded.⁴⁰⁵

Operation Post

4.22 JTF4 was a long-term target of the JTF. In December 1984, he was confronted by Task Force members in a lane in Alexandria. Although he attempted to escape by jumping a fence, he was quickly apprehended. Statements were prepared by the JTF staff who had been in the lane, and backed up by 'admissions' attributed to JTF4 in a subsequent record of interview, to the effect that in making his attempt to escape he stabbed one officer in the arm. Evidence in relation to this alleged assault was led at a trial which concluded when JT4 entered a plea of guilty to a lesser count than that originally charged. The officer who was allegedly wounded made a claim for, and received, victims compensation.

4.23 Following inquiries made by the Royal Commission, three of the JTF staff who had been in the lane⁴⁰⁶ admitted that the statements they had prepared in relation to the matter supporting the allegation of assault had been untrue; and that they were unable to corroborate the infliction of an injury on the fourth officer by JTF4.⁴⁰⁷ There was evidence given which suggested that the officer had slipped and cut his arm on the corrugated iron fence while trying to climb it.⁴⁰⁸

4.24 Disturbingly, one officer⁴⁰⁹ who held very senior rank within the AFP at the time he appeared before the Royal Commission, gave evidence of being instructed to take a knife, on which blood of the alleged 'victim' was smeared, back to the scene where it was subsequently 'found' and presented as the weapon used by JTF4.⁴¹⁰

³⁹⁸ DD, RCT(U), 31/5/96, pp. 3743.

³⁹⁹ JTF16, Statutory Declaration in relation to Operation Bing, 2/11/95, RCPS Exhibit 875B.

⁴⁰⁰ JTF7, RCT, 9/11/95, pp. 16383-84; JTF16, Statutory Declaration in relation to Operation Bing, 2/11/95, RCPS Exhibit 875B; T. D. Haken, Statutory Declaration in relation to Operation Bing, 2/11/95, RCPS Exhibit 874B.

⁴⁰¹ T. D. Haken, Statutory Declaration in relation to Operation Bing, 2/11/95, RCPS Exhibit 874B.

⁴⁰² JTF7, RCT, 9/11/95, pp. 16387-90.

⁴⁰³ JTF7, RCT, 9/11/95, p. 16391.

⁴⁰⁴ T. D. Haken, Statutory Declaration in relation to Operation Bing, 2/11/95, RCPS Exhibit 874B; JTF7, RCT, 9/11/95, p. 16385.

⁴⁰⁵ JTF7, RCT, 9/11/95, pp. 16397-99.

⁴⁰⁶ JTF9, RCT, 21/9/95, p. 13396; JTF14, RCT, 3/10/95, p. 13808; JTF15, RCT, 3/10/95, pp. 13837-38.

⁴⁰⁷ JTF9, RCT, 21/9/95, pp. 13396-97; JTF14, RCT, 3/10/95, pp. 13808-11; JTF15, RCT, 3/10/95, pp. 13837-39.

⁴⁰⁸ JTF14, RCT, 3/10/95, p. 13808; two reports provided by Professor Hilton, 22/9/95 & 20/9/95, RCPS Exhibit 686. Mr Haken gave evidence that the true cause of the injury had been discussed within the JTF shortly after the arrest and a decision had been made to falsely attribute the injury to JTF4. (T. D. Haken, RCT, 12/9/95, pp. 12745-46; JTF14, RCT, 3/10/95, p. 13801.)

⁴⁰⁹ JTF14.

⁴¹⁰ JTF14, RCT, 3/10/95, pp. 13801-04.

4.25 An officer who had been presented in the police brief as corroborating the interview in which JTF4 was alleged to have admitted to the assault, told the Royal Commission that this evidence had been untrue.⁴¹¹

4.26 JTF4 described how he pleaded guilty to the lesser count because, although he had not stabbed the officer nor made any admissions, he had 'time in custody in credit', and he did not want to 'take on' the might of the Task Force.⁴¹²

Operation Kiwi

4.27 This was another JTF operation in 1985, directed at three persons suspected of acting as couriers in relation to the importation of cocaine. While it was common ground that they had been recruited to collect and bring back some cocaine, the transaction had not proceeded, and they had returned from Tahiti empty handed. Six members of the JTF gave evidence of serious improprieties in relation to the interviews conducted at the Remington Centre in Sydney following their arrest.

4.28 In summary, the evidence of the six police or former police witnesses who acknowledged the existence of improper conduct⁴¹³ disclosed that:

- in relation to one accused, JTF18, a fabricated version of facts was put together concerning:
 - her purported willingness to return to the CIB for interview when she was, in fact, under arrest;
 - the giving of a caution when none was given;
 - the making of verbal admissions before a formal record of interview was conducted when there was no preliminary interview;
 - the absence of any threat or inducement when there were threats and pressure imposed upon her to participate in a formal record of interview;
- in relation to the second accused, JTF17, a fabricated version of facts was similarly put together concerning:
 - the willingness of her attendance at the CIB;
 - the identity of the officers who conducted the interview, the original interviewing officers having been replaced by a second interviewing party when the first group was unable to break her resistance;⁴¹⁴
 - the writing out of one officer from any dealings with the accused, although it was he who had taken her to the CIB;
- in relation to the third accused, verbal admissions were untruthfully attributed to him, and his eventual participation in a record of interview was secured only after he was shown the records of interview improperly procured from his co-accused.

4.29 This resulted in JTF17 and JTF18 being convicted and sentenced in relation to a conspiracy to import cocaine in circumstances where the only substantive evidence against them were admissions obtained in wholly unacceptable circumstances. The third accused was acquitted. This may have largely been the result of him having had the presence of mind to sign his record of

⁴¹¹ JTF16, RCT, 3/10/95, p. 13878.

⁴¹² JTF4, RCT, 13/9/95, p. 12839.

⁴¹³ T. D. Haken, RCT, 25/10/95, pp. 15461-76; JTF7, RCT, 20/10/95, pp. 15161-77; JTF16, RCT, 20/10/95, pp. 15150-61; JTF20, RCT, 23/10/95, pp. 15241-72; JTF21, RCT, 23/10/95, pp. 15273-80, 24/10/95, pp. 15282-328.

⁴¹⁴ The initial record of interview was destroyed.

interview with a false signature, providing some corroboration of his assertion that the interview was signed in circumstances of duress.

The Sugar Reef Restaurant Incident

4.30 A particularly disappointing example of process corruption was found in relation to a 1993 operation mounted by uniformed police at Kings Cross. One of the officers involved, who has now resigned from the Service, had earlier come forward as an example of the new breed of honest and capable police.⁴¹⁵ Despite very different versions given to the Licensing Court and Local Court, and provided to an Internal Affairs inquiry, three police involved in this affair ultimately admitted to having given false evidence, and to having acted contrary to their duty, in relation to charges brought against two persons, one for licensing breaches and the other for drug offences.

4.31 In summary, the evidence revealed that a former Kings Cross Sergeant and Beats Supervisor JM, and former Constable WH, devised a plan to visit the Sugar Reef Restaurant to effect an undercover drug buy.⁴¹⁶ While at the premises, Constable WH was assaulted. Both JM and WH conceded that later police attention which led to licensing breaches being reported was improperly motivated.⁴¹⁷ Licensing breaches were reported and the licensee was subsequently placed before the Licensing Court.

4.32 Although there may well have been some legitimate licensing breaches detected, WH and another officer, SR5, both acknowledged that aspects of their evidence in the Licensing Court were untrue.⁴¹⁸ SR5 explained that he had taken this course as he had heard rumours that he could not be trusted, and that he was a coward for not assisting WH during the drug operation when she was assaulted. He wished to save face to demonstrate his 'loyalty' to the Service.⁴¹⁹

4.33 SR5 realised that when he was asked to make his statement, having been told he was to corroborate the evidence WH had already given and of the content of that evidence, he was being asked to do something wrong.⁴²⁰ He was told that his Service notebook would be needed at court.⁴²¹ SR5 admitted destroying that notebook and obtaining a second notebook in which he recorded the 'events' concerning the Sugar Reef Restaurant. The notebook was produced to the Licensing Court.⁴²² He also admitted lying in his subsequent Internal Affairs interview when the matter was investigated.⁴²³

4.34 The proceedings in the Licensing Court were dismissed, but as a result of critical remarks made by the magistrate regarding the truthfulness of WH's evidence, an internal investigation was conducted. The Royal Commission maintained a separate inquiry because of certain other information available to it.

4.35 Additionally, WH and her supervising Sergeant JM admitted that in the course of the same evening as the operation on the Sugar Reef Restaurant, a suspected drug dealer was loaded with a quantity of cocaine.⁴²⁴ JM said that both he and WH had placed a quantity of drugs in the pockets of the suspect,⁴²⁵ however, WH claimed that JM was entirely responsible for this.⁴²⁶ JM also admitted

⁴¹⁵ RCT, 26/6/95, p. 9145.

⁴¹⁶ JM described 'working out' the undercover drug operation with WH. JM, RCT(U), 19/9/96, p. 7161. WH denied being involved in devising the plan with JM. RCT(U), 20/9/96, pp. 7295-96 & 7305.

⁴¹⁷ WH was told by investigating police that the breaches were to put pressure on the licensee to assist with their inquiries. JM, RCT(U), 19/9/96, pp. 7160-61, 7194; JM, RCT(U), 20/9/96, pp. 7243-44; WH, RCT(U), 25/9/96, pp. 7499-500.

⁴¹⁸ WH, RCT(U), 15/9/96, pp. 7504-05; SR5, RCT(U), 9/10/96, pp. 7931-32.

⁴¹⁹ SR5, RCT(U), 9/10/96, p. 7933.

⁴²⁰ SR5, RCT(U), 9/10/96, pp. 7927-33.

⁴²¹ SR5, RCT(U), 9/10/96, p. 7927.

⁴²² SR5, RCT(U), 9/10/96, pp. 7934-36.

⁴²³ SR5, RCT(U), 9/10/96, p. 7939.

⁴²⁴ JM, RCT(U), 19/9/96, pp. 7160, 7173-74, 7176 & 7179-81.

⁴²⁵ JM, RCT(U), 19/9/96, pp. 7160, 7173-74, 7177 & 7181; JM, RCT(U), 20/9/96, pp. 7238-40.

⁴²⁶ WH, RCT(U), 20/9/96, pp. 7320-22 & 7326-27.

that he had found the drugs during a search of the Mansions Hotel, and had kept them for the purpose of loading someone.⁴²⁷ Neither officer was involved in the search of the suspect which located the drugs.⁴²⁸ The police who completed the operation were unaware that the accused had been loaded.⁴²⁹

4.36 Although both JM and WH were involved in the arrest, neither officer subsequently gave evidence at the Local Court.⁴³⁰ Evidence was given by the remaining officers involved in the arrest and search and this led to his wrongful conviction. It was admitted by JM that this was a payoff for an alleged 'hard time' the suspect had given WH while she was returning to the Kings Cross Police Station from the Sugar Reef Restaurant.⁴³¹

4.37 Apart from the disappointing disclosure that an officer, endorsed by the Service as one of integrity, did not emerge as such, there are obvious concerns in relation to the readiness of the police involved to:

- respond by way of payoff when one of their number had been assaulted;
- draw others into such an operation, and to expect them to become party to a cover-up and perjury;
- sacrifice the integrity of other police not involved in the improper conduct who were left to 'find' the cocaine on the suspect after it had been planted on him; and
- keep drugs seized from other operations for later use in framing suspects or to bluff them into providing information.⁴³²

Kareela Cat Burglar

4.38 A notable example of this form of conduct was acknowledged by some of the police involved in the arrest and charging of a notorious cat burglar suspected of involvement in a large number of offences in the Sutherland/Kareela area in 1984. When arrested by local police, the suspect refused to identify himself. He alleged that he was assaulted in the Sutherland Police Station cells that night by two detectives from the Breaking Unit, Regional Crime Squad, South who called in to see if they knew him. He also said that, on the following day, when taken to the detectives' office, he was again assaulted, this time by a member of the Armed Holdup Unit and Breaking Unit, Regional Crime Squad, South who sprayed him in the face with chemical mace. It was in response to this action, he said, that his previous resistance to being identified or fingerprinted ceased. The record of interview subsequently prepared in his name (which was unsigned) was, on his account, drafted by the police concerned and did not represent any conversation with him.⁴³³

4.39 The version put forward by all police witnesses at the trial, and during a subsequent internal affairs inquiry, was to the effect that the suspect was only maced to overcome his resistance when he escaped from police and barricaded himself in an interview room.

4.40 Although five of the detectives involved maintained that position during the Royal Commission, three police including one detective from the Armed Holdup Squad gave evidence that this was not a true account, and that they had previously lied about the incident.⁴³⁴ The suspect was, in fact, convicted of a series of offences based largely on his record of interview, and sentenced to 17 years' gaol, with a non parole period of 11 years.

⁴²⁷ JM, RCT(U), 19/9/96, pp. 7176-77.

⁴²⁸ JM, RCT(U), 19/9/96, pp. 7182 & 7187.

⁴²⁹ WH, RCT(U), 20/9/96, p. 7323.

⁴³⁰ JM, RCT(U), 19/9/96, p. 7185.

⁴³¹ JM, RCT(U), 19/9/96, p. 7173.

⁴³² WH, RCT(U), 25/9/96, pp. 7479-82.

⁴³³ YM1, RCT, 24/6/96, pp. 27430-39.

⁴³⁴ YM2, RCT, 24/6/96, pp. 27511-26; YM3, RCT, 25/6/96, pp. 27590-611; YM4, RCT, 25/6/96, pp. 27635-58, 26/6/96, pp. 27661-86.

4.41 What was also of interest in relation to this matter was the circumstance that some of the detectives involved had received forewarning of the Royal Commission's interest in it, and had discussed the matter before being called as witnesses.⁴³⁵

North West Region Drug Squad

4.42 Nearly all the corrupt detectives from the North West Region⁴³⁶ who gave evidence admitted that they had also been guilty of process corruption for the usual reasons that:

- it had to be done to get convictions;⁴³⁷
- it was 'no great moment' to give someone known to be guilty a 'helping hand',⁴³⁸ particularly those who were flaunting their unlawful conduct,⁴³⁹
- the difficulty in satisfying the courts of possession in drug cases led police to become 'very frustrated' and to 'take an alternative' course;⁴⁴⁰
- it was essential to back up other police, no matter what the circumstances;⁴⁴¹ and
- it was necessary to make country trips worthwhile by securing an arrest by whatever means were needed.⁴⁴²

4.43 Several notable incidents were described where detectives from the Drug Squad had 'improved' the evidence against a suspect. They included:

- an incident where, according to the account given to the court, heroin was found in the pocket of a suspect dealer when it was, in fact, found in a cigarette packet in a stairwell from which he was seen to come and go, in order to facilitate proof of possession;⁴⁴³
- a similar incident where evidence was given of heroin being found in the pocket of an accused when, in fact, it had been recovered from the roadway after being thrown from a vehicle;⁴⁴⁴
- an incident involving a large number of police, where evidence had been given at trial that a suspect in an amphetamine manufacturing operation was stopped in a motor vehicle at the front gate to premises, where a 'cook'⁴⁴⁵ was under way when, in fact, he was arrested on a public road some kilometres away. The purpose was to show that he had a more positive link to the operation.⁴⁴⁶ Several detectives involved in this matter also admitted that fabricated evidence had been given in relation to the discovery of a bottle of acetaldehyde in his car.⁴⁴⁷ The notes of one officer concerning the evening's events were destroyed, and as she was not prepared to give a version of events that she did not believe, she was effectively written out of the brief.⁴⁴⁸

⁴³⁵ J. S. Davidson, RCT, 24/6/96, pp. 27488-95 & 27505-06.

⁴³⁶ eg. WS14, RCT, 13/3/96, p. 21615, 8/3/96, pp. 21278-80 & 21320, 12/3/96, p. 21515; WS15, RCT, 5/6/96, pp. 26457-60 & 26513-14; WS16, RCT, 5/6/96, pp. 26547-57; WS9, RCT, 14/3/96, pp. 21800-02, 18/6/96, p. 27145.

⁴³⁷ WS14, RCT, 8/3/96, p. 21278.

⁴³⁸ WS9, RCT, 14/3/96, p. 21801.

⁴³⁹ WS16, RCT, 5/6/96, p. 26557.

⁴⁴⁰ WS11, RCT, 11/6/96, p. 26710.

⁴⁴¹ WS15, RCT, 5/6/96, p. 26462.

⁴⁴² eg. WS9, RCT, 18/6/96, p. 27144.

⁴⁴³ WS11, RCT, 11/6/96, pp. 26705-06; WS15, RCT, 5/6/96, p. 26489; WS14, RCT, 11/3/96, pp. 21409-10.

⁴⁴⁴ WS11, RCT, 11/6/96, p. 26770.

⁴⁴⁵ See Glossary.

⁴⁴⁶ WS14, RCT, 11/3/96, pp. 21413-14; WS11, RCT, 26/2/96, pp. 20599-601 & 26686-89; WS15, RCT, 15/6/96, p. 26492; WS4, RCT, 6/6/96, pp. 26640-58.

⁴⁴⁷ WS14, RCT, 11/3/96, p. 21415.

⁴⁴⁸ WH, RCT, 12/6/96, p. 26878; V. P. Murtagh, RCT, pp. 26850-55; WS11, RCT, 11/6/96, p. 26700; WS15, RCT, 5/6/96, p. 26492. As a result of the evidence received by the Royal Commission the convictions of three persons for conspiracy to manufacture amphetamines were set aside in the Court of Criminal Appeal. *R v Selewski, Gudgeon and McBride*, 19/6/96, Court of Criminal Appeal.

- an incident in which a man suspected of drug dealing was persuaded to place his signature on a blank page of a notebook, after which details of an alleged conversation, including admissions, were inserted;⁴⁴⁹ and
- an incident in which three police said that evidence led at the trial of a suspect concerning the finding of drugs in a jar under a ceramic garden frog, and admissions attributed to her, was fabricated.⁴⁵⁰ This suspect gave evidence of attempts by an intermediary to arrange a deal with police to fix the prosecution,⁴⁵¹ and of an earlier direct approach by police to that effect.⁴⁵²

4.44 Another graphic example was provided in respect of the arrest and charging of a 20-year-old Bathurst man with the supply of heroin by officers attached to the North West Major Crime Squad (NWMCS) Drug Unit.⁴⁵³ Evidence was given by two officers to the Royal Commission, one a detective sergeant and the other a junior officer who had accompanied the other police to Bathurst, that the heroin was planted on the suspect and that he was verballed.⁴⁵⁴ The junior officer said that once it became clear that the suspect proposed to defend the charges, he had been advised that a statement would be needed covering aspects of the search of the premises.⁴⁵⁵ His statement and duty book were then compiled on the basis of the contents of other statements and falsely stated that he had been present at the search when, in fact, he had remained at the Bathurst Police Station all day. He was briefed on the layout of the house before giving evidence at the trial.⁴⁵⁶ At the time of this incident he had been a detective for about six months, and this was the first time he had been asked to give a false statement. He said that 'it appeared to be what would be a generally accepted thing in the crime squad'.⁴⁵⁷

4.45 The instances cited were by no means the only illustrations given of the practice of process corruption. It is clear that it has been long and widely practised within the Service, and that a blind eye has been turned to it by supervisors as a result of:

- the pressure to maintain acceptable crime clear-up rates, and to fight the burgeoning and almost irresistible drug trade;
- the spread to the Regions of practices that had been tuned to a form of art, by the former CIB, and given apparent official imprimatur; and
- the belief that there is a big difference between manipulating the evidence to carry out criminal law enforcement, and corrupt conduct that leads to personal enrichment.

2. GRATUITIES AND IMPROPER ASSOCIATIONS

4.46 There was abundant evidence of the ready availability of various forms of gratuities ranging from small amounts of money to free liquor, meals and sexual services on both a casual and regular basis, particularly among those police whose duties took them to the clubs and premises where they might have been expected to enforce vice, gaming, licensing and drug laws.⁴⁵⁸ Although in some

⁴⁴⁹ WS14, RCT, 12/3/96, p. 21535; WS9, RCT, 18/6/96, p. 27181, 14/3/96, p. 21799. The account of the detectives to the Royal Commission was corroborated by the accused, N. Tran, RCT, 19/6/96, pp. 27287-88.

⁴⁵⁰ WS9, RCT, 14/3/96, pp. 21800-02; WS14, RCT, 12/3/96, p. 21515; WS15, RCT, 5/6/96, pp. 26506-11. As a result of the Royal Commission evidence concerning this matter, the retrial of this person, who had served eight months of a sentence, was no-billed.

⁴⁵¹ See WR, RCT, 6/6/96, pp. 26614-23; WS14, RCT, 12/3/96, pp. 21517-18; MG, RCT, 22/2/96, p. 20474.

⁴⁵² MG, RCT, 22/2/96, pp. 20460-66.

⁴⁵³ The suspect, CD, maintained his innocence, but was convicted at trial and sentenced to two years' imprisonment. CD, RCT, 6/6/96, pp. 26605-06. The sentence comprised a minimum term of 18 months and an additional term of six months.

⁴⁵⁴ WS14, RCT, 8/3/96, p. 21317; WS15, RCT, 5/6/96, pp. 26456-65.

⁴⁵⁵ WS15, RCT, 5/6/96, p. 26458.

⁴⁵⁶ WS15, RCT, 5/6/96, pp. 26461-62.

⁴⁵⁷ WS15, RCT, 5/6/96, p. 26462.

⁴⁵⁸ N. J. Scullion, RCT, 6/7/95, p. 9896; S. Hardas, RCT, 20/6/95, pp. 8917-18 (police obtaining free drinks from unlicensed premises); S. M. Pentland, RCT, 31/7/95, p. 10392 (drinking by police at premises and failing to enforce licensing laws); D. G. Demol, RCT, 3/7/95, p. 9576 (first day on duty drinking at brothel with naked prostitutes); S. M. Pentland, RCT, 31/7/95, pp. 10404-06 (sponsorship of police sports team by inappropriate persons); MV6, RCT(U), 24/7/96, p. 6020 (local brothel sought to maintain good relations with police and provided free alcohol);

cases the provision of favours was relatively innocent and even the product of friendship, very often it was not:

- sometimes it was a result of tacit extortion or arrogant exercise of power directed at those who were powerless to resist;
- occasionally it provided a convenient method for 'bleeding' or testing, police newly arrived on the squad or patrol;
- often it was the price for ignoring unlawful activities; and
- even more often it was the basis for the formation of unhealthy relationships with criminals and those on the fringe of criminality that led to more serious forms of corruption.

4.47 In the scheme of things these practices tended to be overshadowed by the more dramatic revelations of the Royal Commission, and little point is served in any multiplication of examples. However, their significance should not be overlooked.⁴⁵⁹

4.48 The evidence concerning such practices largely centred on Kings Cross, but it also extended to those areas where historical evidence was given in relation to tow truck rackets, spotters' fees provided by funeral directors, commissions from private inquiry agents for confidential information, and the like.

4.49 One inappropriate practice that was described during the North West Region segment was that of police from Parramatta Station performing informal security services for the Parramatta Leagues Club in return for monies paid into a Social Fund that was shared at year end.⁴⁶⁰ A not dissimilar practice emerged in relation to the 'free meals' and payments made to detectives who attended the disco of the Marconi Club on Sunday nights.⁴⁶¹

4.50 A similarly inappropriate practice that emerged was that of detectives from the Licensed Dealers Unit (later the Property Unit) of the Major Crime Squad South, providing an escort service for employees of a loan office when they took pledged jewellery to auctions.⁴⁶² Although the owner of the business admitted to paying police for this service, and recorded such payments in his books,⁴⁶³ the police concerned denied any knowledge of a monetary return for the service which they admitted providing. One officer suggested it was a unique service provided to the loan office because the proprietor was elderly and had been badly shaken by a robbery some years earlier.⁴⁶⁴ Another said he understood it was the policy of the Licensed Dealers' Unit to provide escorts to loan offices generally although he had been involved in the provision of the service only to the named loan office.⁴⁶⁵ Of interest is that once the latter realised he was under surveillance he reported the matter to his superior. It appears that thereafter the practice ceased.⁴⁶⁶ Very serious suspicion persists concerning:

- the nature of the general relationship which existed between this loan office and members of the Licensed Dealers Unit and Property Unit; and
- the inconclusive and exceedingly superficial investigation conducted by Internal Affairs.

JJ, RCT(U), 13/8/96, p. 6317 (proprietor of Marrickville brothel - provided free alcohol and arranged for free sexual services to be provided to police); MV3, RCT(U), 26/7/96, pp. 6227-29 (Licensing Sergeant - stated it was common for the proprietors of licensed premises to provide free alcohol and meals to police); MV7, RCT(U), 13/8/96, pp. 6298-300 (former Licensing Sergeant - stated it was common for the proprietors of licensed establishments to provide free alcohol and meals and to make gifts of alcohol and small sums of cash to licensing police).

⁴⁵⁹ This is a matter that has been addressed in the recently issued Code of Conduct and Ethics, January 1997, RCPS Exhibit 2948.

⁴⁶⁰ RS, RCT, 22/2/96, p. 20530; WS8, RCT, 27/2/96, p. 20742; R. J. Reid, RCT, 28/2/96, p. 20838.

⁴⁶¹ C. Small, *NSW Police Service Task Force Medlar Report of Investigations into (1) Fairfield Patrol 1984-94 and (2) Professional Integrity Branch Investigations into Fairfield*, September 1996, RCPS Exhibit 5730B; WD3, RCT(U), 24/9/96, pp. 7341-3.

⁴⁶² Property pledged with a pawnbroker, in return for monies lent, if not redeemed within a stated period may be sold by the pawnbroker at auction as a means of recovering the monies due under the loan.

⁴⁶³ N. I. Davidson, RCT(U), 9/7/96, pp. 5695-96 & 5699-700.

⁴⁶⁴ T. J. Clayton, RCT(U), 11/7/96, p. 5235.

⁴⁶⁵ A. J. Sidgreaves, RCT(U), 11/7/96, pp. 5257-58.

⁴⁶⁶ T. J. Clayton, RCT(U), 11/7/96, p. 5237; A. J. Sidgreaves, RCT(U), 11/7/96, pp. 5260-62.

However, in the absence of admissions from the officers involved, this matter is of continuing relevance so far as this Report is concerned only in relation to the subsequent experience of the internal witness who brought these concerns to official notice.⁴⁶⁷

4.51 Evidence was given by a proprietor of a Marrickville brothel, a Marrickville detective, two Marrickville Licensing Sergeants, and the secretary of a local licensed club in the same suburb,⁴⁶⁸ respectively that:

- local brothels in Marrickville sought to maintain good relations with local police by providing free alcohol and sexual services to police;⁴⁶⁹
- it was common for officers engaged in licensing duties to receive free meals and alcohol from the proprietors of licensed premises as well as bottles of spirits, cases of beer, and small cash gifts;⁴⁷⁰
- police regularly ate at an ethnic club and received, without charge, meals to the value of \$150 - \$200, plus free alcohol;⁴⁷¹ and
- the Marrickville RSL provided free drinks for police in the club's boardroom.⁴⁷²

4.52 There were also instances described of rewards being secured for informants and then shared with their police handlers.⁴⁷³ The undesirability of this practice is obvious so far as it might encourage fraudulent claims, or encourage police and informants to turn to entrapment.

3. SUBSTANCE ABUSE

4.53 Early in the course of Commission inquiries into Kings Cross, it became apparent that there have been serious problems with drinking on duty within the New South Wales Police Service, particularly among detectives, but not confined to them. This is a serious problem for policing because of the:

- possibility that the judgment of police might be impaired in the execution of their duties;
- risk to service property and to the lives and property of others where alcohol-affected police use motor vehicles or weapons;
- formation of inappropriate social relationships where police become accustomed to drinking with those who operate on the other side of the law;
- provision of favours in return for free alcohol or entertainment; and
- encouragement it gives to the establishment of a group culture which emphasises solidarity and silence.

4.54 Perhaps not surprisingly, given the prevalence of drug use within the community, it also became apparent that some police were in the habit of using recreational drugs and, on some occasions, performance enhancing drugs such as steroids.

4.55 This proved to be an area where the Service had no clear policy or guidelines, and was uncertain whether to deal with such problems as disciplinary offences or as matters suitable for

⁴⁶⁷ See Volume II, Chapter 6 of this Report.

⁴⁶⁸ JJ, RCT(U), 13/8/96, p. 6317; MV6, RCT(U), 24/7/96, p. 6020; MV3, RCT(U), 26/1/96, pp. 6227-29; MV7, RCT(U), 13/8/96, pp. 6298-300; GA, RCT(U), 18/7/96, pp. 5660-62.

⁴⁶⁹ MV6, RCT(U), 24/7/96, p. 6020; JJ, RCT(U), 13/8/96, p. 6317.

⁴⁷⁰ MV3, RCT(U), 26/7/96, pp. 6227-29; MV7, RCT(U), 13/8/96, pp. 6298-300.

⁴⁷¹ GA, RCT(U), 18/7/96, pp. 5660-02.

⁴⁷² GA, RCT(U), 18/7/96, p. 5662.

⁴⁷³ WS9, RCT, 21/2/96, pp. 20342-44.

rehabilitation. It need hardly be said that there was no specific rehabilitation program, and even less in the way of incentive for an officer faced with a substance abuse problem to seek assistance. As a result of the hearings, a program for drug and alcohol testing was developed by the Service in conjunction with the Police Associations, and given legislative force following specific recommendations for its adoption in the Second Interim Report.⁴⁷⁴ Detail is still to be worked out, by way of regulations, to develop some rehabilitation and disciplinary options which might assist to save the careers of those whose problem is minor. This is dealt with in more detail in Volume II.⁴⁷⁵ In the meantime, it is sufficient to note some examples of the nature and extent of the problem unearthed by the Royal Commission.

Alcohol Abuse

4.56 The abuse of alcohol was graphically described by many of the detectives who assisted the Royal Commission, and was seen by some as part of their introduction into the brotherhood. One officer described his experience, in the first few days of his Service, of being taken drinking by his 'buddy' (training partner) to a brothel where he was introduced to the staff in somewhat familiar circumstances.⁴⁷⁶ He also described how he found drinking on duty at licensed and unlicensed premises to be standard practice.⁴⁷⁷ The ability to work while intoxicated, he said, was regarded as a positive attribute.⁴⁷⁸ On night shift he observed police bringing free alcohol back from local clubs.⁴⁷⁹ He said that if you were not part of a culture of drinking, '... nobody would accept you. You just wouldn't be spoken to'.⁴⁸⁰

4.57 His experiences were mirrored by the evidence of many other witnesses who described, for example:

- the long lunches taken by detectives;⁴⁸¹ and
- the practice of 'cook-ups'⁴⁸² which Detective Sergeant John Swan observed at many police stations during his duties with the Consorting Squad.⁴⁸³

4.58 A serious example of the problem of alcoholism, and the past failure of commanders to address tell-tale signs of a problem officer, was that of SP. During his first week at work he was taken to various licensed and unlicensed premises around Kings Cross where he saw and joined other police drinking during their shifts.⁴⁸⁴ He was told that this was to let him 'know the heads',⁴⁸⁵ but it soon became obvious to him that drinking on duty, and covering for police affected by alcohol while on duty, was an entrenched and expected practice.⁴⁸⁶

4.59 In 1989, SP was charged with drug offences in conjunction with Detective Sergeant Larry Churchill and suspended from duty. By the time of his discharge at committal in 1990 he was seriously in debt, gambling⁴⁸⁷ and drinking heavily,⁴⁸⁸ and suffering from stress. He was directed to return to duties without any attention being given to those matters other than the absurdly naive advice from a senior officer that this was like getting 'straight back on' after a fall from a horse.⁴⁸⁹

⁴⁷⁴ RCPS, *Second Interim Report*, November 1996, pp. 15-16, paras. 13.1 - 13.5.

⁴⁷⁵ See Volume II, Chapter 8 of this Report, Drug and Alcohol Testing, paras. 8.48 - 8.64.

⁴⁷⁶ D. G. Demol, RCT, 3/7/95, pp. 9576-77.

⁴⁷⁷ D. G. Demol, RCT, 3/7/95, pp. 9579 & 9589.

⁴⁷⁸ D. G. Demol, RCT, 3/7/95, p. 9579.

⁴⁷⁹ D. G. Demol, RCT, 3/7/95, p. 9579.

⁴⁸⁰ D. G. Demol, RCT, 3/7/95, p. 9580; T. D. Haken, RCT, 9/10/95, p. 14283.

⁴⁸¹ D. G. Demol, RCT, 3/7/95, p. 9580; D. L. Locke, RCT(U), 7/5/96, p. 2134; T. D. Haken, RCT, 24/8/95, p. 12107.

⁴⁸² Barbeques and alcohol consumption on night shift.

⁴⁸³ J. G. Swan, RCT, 6/7/95, p. 9851.

⁴⁸⁴ S. M. Pentland, RCT, 31/7/95, p. 10388.

⁴⁸⁵ S. M. Pentland, RCT, 31/7/95, p. 10389.

⁴⁸⁶ S. M. Pentland, RCT, 31/7/95, pp. 10389-91.

⁴⁸⁷ S. M. Pentland, RCT, 31/7/95, p. 10411.

⁴⁸⁸ S. M. Pentland, RCT, 1/8/95, pp. 10462-63.

⁴⁸⁹ S. M. Pentland, RCT, 31/7/95, p. 10381.

Before long, on his own admission, he crossed the line into corruption in the form of receiving payments from drug dealers,⁴⁹⁰ collecting a payment for a senior officer,⁴⁹¹ and participating in the theft of a portion of the proceeds of a safe break which were recovered from a Kings Cross Hotel after the offender had been arrested.⁴⁹²

4.60 Of concern in this case, and similarly in relation to several of his associates, the abuse of alcohol and other tell-tale signs of corrupt practices were not only obvious but totally unredressed, even to the point of being ignored in performance assessments and promotional applications.

4.61 Another illustration of indiscipline on the part of uniformed police was given by KN1, who admitted to a graphic history of alcohol abuse, opportunistic theft from the scene of break and enters, the sexual exploitation of a prostitute and of a prisoner in police cells, tow truck scams, insurance fraud, the 'flowering of facts', and the sale of handguns surrendered to police, while working as a uniformed constable at Fairfield and St Marys patrols and Penrith Court Security Unit.⁴⁹³

4.62 Two of his workmates corroborated aspects of his account, including heavy drinking at clubs and hotels by uniformed police while on duty.⁴⁹⁴ The more criminal aspects they denied, and in the absence of any further corroboration, no conclusion can be reached in relation to the involvement of specific officers in any of the matters recounted by KN1. There is, however, no reason to suppose that he invented his own criminality. As to the abuse of alcohol, one of the corroborating witnesses described it as 'part of the culture ... if you were not part of it you were left behind'.⁴⁹⁵

4.63 Material collected by the Police Service in Operation Medlar,⁴⁹⁶ the details of which cannot be revealed here due to its current status, tended to confirm the evidence of KN1 concerning police indiscipline and their inappropriate associations with certain clubs and licensed premises in the western suburbs. One officer, since resigned, who was called by the Royal Commission,⁴⁹⁷ confirmed the existence of an arrangement of the kind investigated in Medlar, whereby a well-known sporting club provided free meals and drinks to police, as well as cash to detectives, from Fairfield and Wetherill Park who attended the club disco on Sunday nights, their presence apparently being regarded as helpful in maintaining order.

4.64 Some obviously unsatisfactory relationships emerged in the course of the Royal Commission's examination of aspects of this inquiry, not the least of which was the admission by one detective that he and another detective had cashed a cheque for \$8,000 with a well-known drug dealer and brothel operator which was then dishonoured.⁴⁹⁸

4.65 Quite apart from the specific incidents of corruption acknowledged, several detectives from the North West Region similarly admitted to various forms of indiscipline, including heavy drinking and long lunches with well-known criminals, which were paid for by the latter.⁴⁹⁹

4.66 This was confirmed in evidence by Detective Senior Constable Deborah Locke who gave a history of:

- heavy drinking while she served as a member of the Gaming Squad surveillance unit between 1986 and 1988;⁵⁰⁰ and

⁴⁹⁰ S. M. Pentland, RCT, 31/7/95, pp. 10411-14.

⁴⁹¹ S. M. Pentland, RCT, 31/7/95, pp. 10431-36.

⁴⁹² S. M. Pentland, RCT, 31/7/95, pp. 10418-30.

⁴⁹³ KN1, RCT(U), 26/9/96, pp. 7550-51 (alcohol abuse), 7541-46, 7553 (thefts), 7547 (handguns), 7554 (exploitation of prostitute), 7558 (exploitation of prisoner in police cells), 7548-49 (tow truck scam), 7540 (insurance fraud), 7566-67 & 7573-74 (fabricating evidence).

⁴⁹⁴ L Davis, RCT(U), 26/9/96, pp. 7622-24; C M Izzard, RCT(U), 27/9/96, pp. 7647-48.

⁴⁹⁵ L. Davis, RCT(U), 26/9/96, p. 7623.

⁴⁹⁶ C. Small, *NSW Police Service Task Force Medlar Report of Investigations into (1) Fairfield Patrol 1984-94 and (2) Professional Integrity Branch Investigations into Fairfield*, September 1996, RCPS Exhibit 5730B.

⁴⁹⁷ WD3, RCT(U), 24/9/96, pp. 7341-44.

⁴⁹⁸ GW, RCT(U), 24/9/96, p. 7396.

- heavy drinking and long lunches involving police and well-known criminals (paid for by the latter) while she served as a detective at Parramatta district office.⁵⁰¹

Drug Abuse

4.67 Following some preliminary investigations by the Service into the personal use and supply of drugs by a police officer stationed at Bondi, the Royal Commission undertook a more detailed examination of the problem. Various officers and their associates were interviewed and some evidence was called, in the course of which:

- seven police⁵⁰² acknowledged their own recreational use and occasional supply of a variety of drugs, including marijuana, ecstasy, amphetamines, cocaine, and steroids;
- it became apparent that insufficient training had been given, at the Police Academy or elsewhere, as to what was expected of police in relation to their association with recreational drugs;⁵⁰³
- it emerged that police were attending, on a social basis, various inner city night clubs and dance parties where drugs were known to be openly and readily available,⁵⁰⁴ and providing security services (without secondary employment approval), at such premises;
- a degree of ambivalence and frustration emerged as to the role of police in enforcing drug laws which they saw being abused by their peers, and which they believed were lacking in community support;⁵⁰⁵ and
- Assistant Commissioner Geoffrey Schuberg gave evidence of the conflicting views within the Service concerning the appropriate response to officers involved in substance abuse,⁵⁰⁶ and the absence of any consistent or structured policy which had led to a great deal of confusion and dissatisfaction on the part of the witnesses who were called by the Royal Commission.⁵⁰⁷

4. FRAUDULENT PRACTICES

4.68 To a considerable extent, the evidence in this respect related to individual, opportunistic acts of impropriety, and as such are of lesser significance than the remaining matters addressed. However, in some cases the evidence suggested that the inappropriate practices had become well entrenched, and were tolerated by senior staff. Each form of conduct reflects an absence of personal probity and an acceptance of a double standard in that police would not be slow in charging private citizens who engaged in similar conduct. What has been lacking it seems is:

- an institutional recognition that travel, overtime and similar allowances are available only within strict conditions and are not perks of office that are ripe for the plucking;⁵⁰⁸ and
- clear and relevant guidelines that can be applied without difficulty.

⁴⁹⁹ R. Simmons, RCT, 22/2/96, pp. 20490-95 & 20529; WS14, RCT, 8/3/96, pp. 21243-44.

⁵⁰⁰ D. L. Locke, RCT(U), 7/5/96, pp. 2127-28.

⁵⁰¹ D. L. Locke, RCT(U), 7/5/96, pp. 2133-40, and see R. Simmons, RCT, 22/2/96, pp. 20483-88. The IPSU inquiry into Locke's complaint was woefully inadequate and an opportunity lost to test several officers suspected of serious corruption.

⁵⁰² BD4 & BD1, RCT, 29/1/96, pp. 19033-86; KM, BD1, BD8 & BD2, RCT, 30/1/96, pp. 19088-181; BD6 & BD7, RCT, 31/1/96, pp. 19183-224.

⁵⁰³ KM, RCT, 29/1/96, p. 19032; BD1, RCT, 29/1/96, p. 19067, 30/1/96, p. 19127; BD7, RCT, 31/1/96, pp. 19210-11.

⁵⁰⁴ BD1, RCT, 30/1/96, pp. 19124-25; BD4, RCT, 29/1/96, pp. 19039-40.

⁵⁰⁵ BD7, RCT, 31/1/96, pp. 19212-13 & 19217-18.

⁵⁰⁶ G. E. Schuberg, RCT, 31/1/96, p. 19253.

⁵⁰⁷ G. E. Schuberg, RCT, 31/1/96, pp. 19250-51.

⁵⁰⁸ A good example is provided by the false travel claims which three Tamworth detectives admitted to making, but sought to justify, in respect of a trial for which they were required as witnesses in Muswellbrook.

4.69 Equally, there needs to be an acceptance that matters such as secondary employment are subject to a strict regime to prevent police being placed in a position of conflict of interest, or becoming vulnerable to inappropriate associations.

4.70 Further, both serving police and the Police Associations need to recognise that sick leave and Hurt On Duty (HOD) entitlements are not intended as refuges for the corrupt or, in the latter case, as an easy way out of the Service with maximum financial benefits. The Royal Commission has absolutely no doubt that these provisions have been seriously abused in the past, and that a cultural belief has emerged which fails to see the dishonesty involved in a continued resort to such benefits.

4.71 The Royal Commission spent considerable time investigating the possibility of systemic abuse within the Physical Surveillance Branch (PSB) involving the falsification of duty books and surveillance logs, and of travel, overtime and meal claims, and the adoption of work practices that saw members of the Branch engaging in recreational pursuits at times when they were rostered on duty. Although there was an initial denial of any form of wrongdoing by almost every member of the Branch when questioned by the Professional Integrity Branch (PIB), and later by the Royal Commission (pursuant to S6 Notice), a number of such officers subsequently admitted that their earlier responses were untrue, and that irregular practices had been followed, and incorrect claims for allowances made.

4.72 In view of current proceedings in relation to some members of the Branch, it is inappropriate to delve into the matter in any great detail, or to take up individual cases. In summary, however:

- 28 members of the Branch took advantage of the amnesty and resigned from the Service; and
- a large number of members gave evidence of inappropriate practices having been followed by them, and of their understanding that such practices were long-standing and, according to their understanding, tacitly condoned.

4.73 Quite apart from any individual or group dishonesty disclosed, the inquiry was of some significance, by reason of:

- the circumstance that so far as observation logs and duty books contained 'filler' entries to substantiate overtime claims, or to conceal unauthorised absences from duty, the possibility arose that external investigators or courts relying on the logs would be misled;
- the absence of any clear policy or consensus within the Service as to the appropriate response to such practices, the managerial response which followed the internal investigation of transferring the commander, four team leaders and supervising sergeants out of the branch, being totally inappropriate;
- the lack of any real appreciation of the impropriety of what had occurred or of the criminality involved in the obtaining of a financial benefit by deception, or of the potential mischief it posed for the criminal justice process;
- the failure of the Service to make proper provision for the special demands and needs of those involved in physical surveillance, provision which might have negated the resort to the dubious or dishonest practices seen;
- the failure of supervisors and managers of the Branch to prevent such practices, and to maintain a detailed knowledge of the actual movements and work tasks of its members;
- the agreement of members of the Branch, when confronted with the internal inquiry at specially convened meetings, to stick together and to cover up any misconduct, and thereafter to meet again to exchange information on the Professional Integrity Branch interviews;

- the failure of the Comprehensive Audit to detect any of the irregularities that came to light; and
- the incidental disclosure by some members of unrelated acts of dishonesty on their part concerning, for example, motor vehicle accidents which had been the subject of false accident reports.

4.74 As a result of the matters discovered, the PSB has now been effectively reconstituted with a new commander and staff,⁵⁰⁹ and a strict set of procedures has been adopted⁵¹⁰ which are designed to prevent any recurrence, and to ensure close managerial supervision and accountability. The details need to remain confidential so as not to compromise the important work of this Branch, although it can be said that they appear to this Commission to be appropriate and sensible.

4.75 An unrelated, but similarly criminal form of dishonesty emerged in relation to the 'theft' and consequent fraudulent insurance claims arranged by a senior constable in respect of a number of motor vehicles owned by friends and associates. Although that officer had initially provided misleading information to the Royal Commission, he later admitted to his involvement in the practices in question, to the provision of a false statement in relation to a pending trial concerning a party allegedly involved in the 'theft' and rebirthing⁵¹¹ of stolen motor vehicles, and to encouraging another potential witness to also give false evidence at that trial.⁵¹²

4.76 Several other incidents were found involving the cover up of mishaps with motor vehicles, usually when they were being used for unauthorised purposes, or while the driver was drunk. In these cases, admissions were obtained during Royal Commission investigations to the effect that false information had been given in official Service reports, or in earlier internal investigations, which had returned not sustained findings. Illustrations included:

- a cover-up of an accident involving a 4WD police vehicle, driven by a detective from Tamworth while heavily intoxicated, which hit a boulder and rolled. In such instance:
 - the driver subsequently admitted that he submitted false reports, including an insurance claim suggesting that the accident was due to a tyre blowing out after it picked up a nail while he was on duty and following an alleged suspect; later destroyed the departmental file and lied to Internal Affairs and initially, to the Royal Commission;⁵¹³
 - a sergeant admitted that contrary to the accident investigation report filed by him, he had not subjected the driver to a breathalyser test, had assisted him to have his injuries treated by a private practitioner rather than take him to a public hospital, and had lied to Internal Affairs;⁵¹⁴
 - the internal investigation was less than thorough and, in particular, failed to take into account material circumstances known as to the state of the tyre, or evidence otherwise available concerning the sobriety of the driver;
- a cover-up of a motor vehicle accident involving a Fairfield detective who fled the scene because he was affected by alcohol, and untruthfully reported the vehicle as stolen. He persuaded other police and civilians to assist with this deception and successfully pursued an insurance claim. Despite his lies to an Internal Affairs inquiry, and initially to the Royal

⁵⁰⁹ All staff including management were removed after the Commission hearing.

⁵¹⁰ A. S. Jeffries, Statement in the matter of Management Reforms in the Physical Surveillance Branch, 11/12/96, RCPS Exhibit 2938C; Special Services Group, *Review of Surveillance Branch*, 3/2/97, RCPS Exhibit 2976C.

⁵¹¹ See Glossary.

⁵¹² GB, RCT, 28/2/96, pp. 20865-84.

⁵¹³ G. R. Shepherd, RCT(U), 23/4/96, pp. 1723-70.

⁵¹⁴ B. D. Rangott, RCT(U), 24/4/96, pp. 1927-59.

Commission investigators, he subsequently admitted the truth⁵¹⁵ and has since pleaded guilty to various offences concerning the incident.⁵¹⁶ The change of heart emerged only after another officer 'rolled over' to the Royal Commission. The attitude of this detective was instructive so far as he described the conduct of an officer giving evidence against a fellow officer to be 'disgusting' and to amount to a betrayal of trust; and

- several similar incidents involving the cover-up of embarrassing accidents involving Service vehicles were described, for example, within the Joint Task Force⁵¹⁷ and Major Crime Squad North-West segments.⁵¹⁸

5. ASSAULTS AND ABUSES OF POWER

4.77 The Royal Commission came across a number of incidents where private citizens were the subject of unlawful assaults and serious abuses of police powers. While individually unremarkable, and not such as to call for a Royal Commission, together they present a picture of a Service which:

- contained a number of ill-disciplined and aggressive members, lacking any real appreciation of the responsibilities of their office;
- placed little emphasis on ensuring their compliance with the law; and
- was quick to go on the defensive and was either reluctant or unable to address an underlying lack of professionalism and integrity.

Some cases which were the subject of Royal Commission investigation can be mentioned.

Operation Cornish

4.78 The broad nature of the Royal Commission inquiries in relation to Operation Cornish were outlined in the First Interim Report.⁵¹⁹ Since then, three officers involved in the public hearings have been convicted of assaults, two in relation to the baton bashing of young civilians who were taken by them to the Tenterfield city tip, and one in relation to the assault of a suspect in custody at Tenterfield Police Station. Several other matters investigated are currently pending in the courts, or waiting further assessment.

Kings Cross Assault

4.79 This relates to the baton bashing of several civilians at Kings Cross, following an altercation in Darlinghurst Road between a group of young men and several members of the Kings Cross Detectives' Office and other police colleagues in July 1990. Each group had been on an evening out, the police in company with their spouses and partners. Although the precise cause of the melee that broke out remains uncertain, it was established beyond doubt that after the young men were arrested they were taken by patrol wagon to Kings Cross Police Station where they were bashed with police batons while running a gauntlet into the cells, and then assaulted individually while being interviewed or processed.

4.80 The injuries inflicted were sufficiently obvious to attract the concern of the officer in charge of the Sydney Charge Room, leading to his insistence that one of the Kings Cross detectives attend the Police Centre to record them. This was done by way of a loose sheet occurrence entry that was left at the Sydney Charge Room after it had been completed.⁵²⁰ It was subsequently 'missing' from

⁵¹⁵ AH, RCT, 8/12/95, p. 17313.

⁵¹⁶ On 21/2/97 he was sentenced to a minimum term nine months 11 days to be served concurrently with a pre-existing sentence for the release of confidential information to a drug dealer. The sentence is being appealed by DPP on the grounds of inadequacy.

⁵¹⁷ T. D. Haken, RCT, 12/9/95, pp. 12729-30; JTF6, RCT, 27/9/95, pp. 13633-34; JTF8, RCT, 21/9/95, p. 13385.

⁵¹⁸ WS8, RCT, 28/2/96, p. 20789.

⁵¹⁹ RCPS, *First Interim Report*, February 1996, pp. 34-36.

⁵²⁰ P. A. Watson, RCT, 6/10/95, p. 14148.

material requested by the Royal Commission and no account for its disappearance could be given. The police statement prepared by the officer made no reference to the injuries that had been recorded nor of the fact that a record had been made at the charge station.⁵²¹

4.81 A number of the civilians involved were charged and pleaded guilty to a range of offences including those within the category popularly known as the 'trifecta' (assault, resist arrest and indecent language). One defended the various charges brought against him. He was convicted in the Local Court on the basis of the evidence of police witnesses, but the conviction was quashed on appeal to the District Court.⁵²² His complaint to the Office of the Ombudsman was referred to the Police Service, which initiated a line command investigation by staff stationed at Kings Cross.⁵²³

4.82 The Royal Commission took over the investigation, which resulted in it obtaining evidence from:

- three of the young men involved in the melee who confirmed the use of batons and the infliction of wanton violence at the hands of police at Kings Cross Police Station,⁵²⁴
- two police involved in the affair and in the subsequent prosecution, who also confirmed the assaults, admitted to the giving of false evidence (in concert) in the prosecution and subsequent appeal,⁵²⁵ and to sending away from the Local Court one civilian witness who had indicated that he was not prepared to stand by his initial statement because it was untrue.⁵²⁶ He was a witness who had been involved in the original melee, but had not been charged, after having been coerced into providing a statement exculpatory of police; and
- the two officers (one now dismissed from the Police Service following a conviction for an unrelated assault of a person who was in his custody) admitted that they were extremely angry at the time they committed the assaults at the police station.⁵²⁷ Anger and retribution were behind the incident.⁵²⁸

4.83 While other police giving evidence in this segment denied any involvement or knowledge of the actions admitted by these two officers, the use by police of batons at Kings Cross Police Station was confirmed by Detective Sergeant Trevor Haken, who was also present that evening.⁵²⁹

4.84 The incident was important so far as it revealed:

- the unnecessary and totally undisciplined resort to violence both by the detectives involved in the original incident and the uniformed police who later lent their assistance;
- the lack of any real supervision by senior staff at Kings Cross Police Station, particularly in allowing police who had been involved in the altercation, and who might reasonably have been suspected to be affected by alcohol and emotion, to have any further association with the young men; and
- the readiness of the police to conspire together to present false evidence.

⁵²¹ P. A. Watson, Statement in the matter of *Police v Brown*, 25/7/90, RCPS Exhibit 749.

⁵²² CB, RCT, 6/10/95, p. 14218.

⁵²³ CB, Letter of complaint, RCPS Exhibit 757/2; Referral by the Office of the Ombudsman 22/5/95, RCPS Exhibit 2995; D. Cluff, Briefing note 1/6/95, RCPS Exhibit 757/1.

⁵²⁴ JS, RCT, 5/10/95, pp. 14118-20, & 14123; MG, RCT, 6/10/95, pp. 14192-94; CB, RCT, 6/10/95, pp. 14215-19.

⁵²⁵ CL, RCT, 5/10/95, pp. 14021-23, 14027 & 14039-41; DL, RCT, 5/10/95, pp. 14072 & 14075.

⁵²⁶ J. Tully, RCT, 6/10/95, pp. 14174-76; MG, RCT, 6/10/95, pp. 14202-03; CL, RCT, 5/10/95, pp. 14033-34.

⁵²⁷ CL, RCT, 5/10/95, p. 14023; DL, RCT, 5/10/95, p. 14099.

⁵²⁸ CL, RCT, 5/10/95, pp. 14026 & 14054. This officer claimed that she had been upset with the young man she assaulted as she believed he had 'upset a perfectly lovely night'.

⁵²⁹ T. D. Haken, RCT, 22/8/95, pp. 11927-28. The activities and evidence of Detective Sergeant Haken are examined in more detail in Volume I, Chapter 5 of this Report.

4.85 It also revealed one officer's deep concern at his own anger and actions that night, and his disillusionment with policing as a career⁵³⁰ which he expressed in terms of his frustration with the system and lack of support provided by the Police Service.⁵³¹ One matter of concern which arises from this officer's evidence relates to the Police Welfare Branch. This officer had no faith in the Branch.⁵³² Despite recognising the best intentions of its members, he did not feel it was a service he would use.⁵³³ Although this was a personal opinion, it was one he believed was shared commonly among police,⁵³⁴ and it was one that the Royal Commission heard from other witnesses.

The West End Hotel Incident

4.86 This was an incident graphically captured by police video surveillance in which several off-duty police attending a farewell at the West End Hotel ejected an unidentified patron with considerable force from the hotel. While being dragged out he was visibly kned in the face and then kicked by two police officers, more than once in the head and upper body, while lying on the footpath. Police present included a detective inspector and at least one detective sergeant, neither of whom took any action to prevent the incident, nor to assist the victim who was left lying motionless on the pavement. While the precise reason for the altercation was unclear, and may well have been sparked off by offensive behaviour on the part of the civilian, there was no justification for the manner in which he was treated outside the hotel.

4.87 Inquiry into the incident was instructive so far as the evidence revealed that:

- news of the incident travelled quickly through police circles, following the disclosure of Internal Affairs interest in it,⁵³⁵
- one officer received threatening calls while she was giving evidence to the Royal Commission, telling her 'to stick to the story';⁵³⁶ and
- the immediate reaction to any questioning was to resort to barefaced lies, even when confronted with incontrovertible video evidence.

4.88 The matter was also significant so far as the first witness to acknowledge the untruth of her responses to a PIB interview, and to a notice from the Royal Commission, gave powerful evidence of the code of silence. She described the treatment she had seen given to other police following their assistance with internal inquiries, and the atmosphere of coldness and distance that arose, which she had not wanted to experience.⁵³⁷ She also said that when informing her detective inspector that she was required to attend a PIB interview she was told 'you know what you have to say to them, and you saw nothing'.⁵³⁸

Narrabri Incident

4.89 Two detectives at Narrabri admitted to the improper interrogation of two juveniles and the assault of one, in October 1994, and to attempts to cover this up during the initial Royal Commission investigations.⁵³⁹ In the course of this investigation, other occasions of misconduct and interference with internal inquiries were revealed, including:

⁵³⁰ DL, RCT, 5/10/95, p. 14079.

⁵³¹ DL, RCT, 5/10/95, pp. 14081-85.

⁵³² DL, RCT, 5/10/95, p. 14083.

⁵³³ DL, RCT, 5/10/95, pp. 14083 & 14109.

⁵³⁴ DL, RCT, 5/10/95, p. 14083.

⁵³⁵ A. J. Sidgreaves, RCT, 1/5/95, p. 6097.

⁵³⁶ K. M. Hook, RCT, 1/5/95, pp. 6436 & 6443.

⁵³⁷ K. M. Hook, RCT, 4/5/95, p. 6432.

⁵³⁸ K. M. Hook, RCT, 4/5/95, p. 6436.

⁵³⁹ AM, RCT(U), 26/3/96, pp. 697-720; JR, RCT(U), 27/3/96, pp. 796-832.

- an earlier and similar assault by one of the officers;⁵⁴⁰
- similar efforts to conceal the true circumstances of that incident,⁵⁴¹ and
- an admission by the Patrol Commander, now retired, to have driven police vehicles while intoxicated.⁵⁴²

Marrickville Incident

4.90 An aggravated incident in November 1992 involving a detective sergeant and a detective senior constable (both attached to Marrickville Detectives' Office) is noteworthy. Each officer admitted that after spending the earlier part of their shift drinking at various establishments with the local Licensing Sergeant,⁵⁴³ they received a call to attend a job. After returning to the Marrickville Police Station, they interviewed two young persons who had been arrested by uniformed police. Both young persons were assaulted.⁵⁴⁴ One had a metal wastepaper bin placed over his head which was repeatedly struck.⁵⁴⁵ Some hours later they were allowed to leave the police station. Several days later the two police officers went to a local high school and arrested one of them. He was taken back to the police station and assaulted again,⁵⁴⁶ apparently because the officer concerned thought that the offence for which the youth had been arrested was a 'dog act'.⁵⁴⁷ The young person was later acquitted.⁵⁴⁸

Other Incidents

4.91 During the course of their evidence in relation to other aspects of the Royal Commission, officer after officer admitted to having been involved in the assault of civilians, to have seen such conduct on the part of others, and to have been party to their cover-up. The number of complaints received by the Royal Commission, and routinely by the Service, of this kind, and the patterns established in respect of some officers tend to lend credence to the view that:

- many police have been prepared to behave with unnecessary aggression when faced with people they see as unruly or breaking the law, and
- the internal investigation of these complaints has been superficial, biased against the complainant and unsatisfactory.

6. PROSECUTIONS - COMPROMISE OR FAVOURABLE TREATMENT

4.92 Evidence was called of various ways in which police interfered with prosecutions, or provided favourable treatment to persons brought within the criminal justice system. This variously occurred:

- in return for bribes;
- by way of encouragement to trusted informants;
- as an act of friendship extended to criminals with whom an inappropriate social relationship had been established; and

⁵⁴⁰ JR, RCT(U), 27/3/96, pp. 809-11.

⁵⁴¹ JR, RCT(U), 27/3/96, pp. 809-11.

⁵⁴² W. F. Bull, RCT(U), 26/3/96, p. 787.

⁵⁴³ MV6, RCT(U), 24/7/96, p. 5962.

⁵⁴⁴ MV1, RCT(U), 18/7/96, p. 5626.

⁵⁴⁵ MV6, RCT(U), 24/7/96, p. 5964.

⁵⁴⁶ MV1, RCT(U), 18/7/96, pp. 5626-27.

⁵⁴⁷ MV1, RCT(U), 19/7/96, p. 5775.

⁵⁴⁸ MV6, RCT(U), 24/7/96, p. 5966.

- in 'recompense' for the theft by police of money or drugs recovered during the relevant inquiry, in the expectation that there would be no complaint, if those items were not booked up.

There was also a number of instances where police received money offered by criminal elements for assistance in briefs where no such assistance was actually given as the evidence that did exist was insufficient to warrant a charge, or to lead to a conviction.⁵⁴⁹

4.93 The practices found included:

- the watering down of the available criminality, either by way of a reduction in the quantity of drugs or monies recovered, or the selection of a lesser charge than the facts would have supported;
- support for bail applications, sometimes by withholding material facts;
- the 'loss' of physical evidence or witnesses;
- the creation of 'loopholes' in records of interview, or in testimony before the courts sufficient to generate a reasonable doubt; and
- the provision of letters of comfort,⁵⁵⁰ on sentencing, which the facts simply did not support.

4.94 Without making any findings as to the involvement of police prosecutors in these practices, the problem seemed confined, at least on any direct basis of complicity, to police concerned at the arrest, bail and brief preparation stages. In many instances, however, an astute and fair-minded prosecutor might well have been expected to entertain a suspicion that all was not above board, to the point of initiating an internal investigation.⁵⁵¹

4.95 Subject to necessary limits on disclosure in relation to matters the subject of ongoing inquiries or current proceedings, some illustrations of this form of corruption can be mentioned.

Operation North

4.96 This was an operation mounted by the JTF to assist the Drug Law Enforcement Bureau at Gosford which led to the arrest and conviction of a number of persons for serious drug trafficking offences. Evidence was given to the Royal Commission by three former detectives and one civilian⁵⁵² of the receipt of, and sharing in a bribe of \$20,000 to assist one of the accused with bail.

Shooting at Louis Bayeh's home

4.97 On the evening of 12 July 1993 gunshots were fired at the home of Mr Louis Bayeh, allegedly as the result of a dispute between two groups involved in criminal activity at Kings Cross. Detective Sergeant Trevor Haken and KX11 gave evidence to the effect that in return for an amount of money an arrangement was made for the early arrest of two suspects. The arrangement extended to an agreement whereby the suspects would not be verballed.⁵⁵³

⁵⁴⁹ T. D. Haken, RCT, 9/10/95, p. 14294, 22/8/95, pp. 11900 & 11961, 23/8/95, p. 12046.

⁵⁵⁰ A letter tendered in court, as part of the evidence relevant to the determination of sentence, outlining the assistance provided by the prisoner to the police with a view to reducing the sentence which might otherwise be imposed.

⁵⁵¹ T. D. Haken, RCT, 21/8/95, p. 11841.

⁵⁵² JTF1, RCT, 11/9/95, p. 12659, 19/9/95, pp. 13123-27; JTF6, RCT, 27/9/95, pp. 13666-68, 12/10/95, pp. 14617-18; JTF7, RCT, 18/9/95, p. 12993, 20/9/95, pp. 13246-56 & 13258-59; GDU8, RCT, 14/12/95, pp. 17709-12.

⁵⁵³ T. D. Haken, RCT, 24/8/95, p. 12087; KX11, RCT, 13/6/95, p. 8609.

4.98 Both Mr Haken and KX11 gave evidence that prior to conducting a record of interview the suspects were assisted in preparing a story which would frustrate investigation of the matter by other detectives working on the case.⁵⁵⁴

4.99 KX11 gave evidence that he passed a large sum of money to Mr Haken and the other officer involved in the interview in return for their assistance.⁵⁵⁵ Mr Haken and KX11 stated that they supplied false answers to the PIB when interviewed about the matter, and that they had met prior to Mr Haken's interview to discuss KX11's earlier interview.⁵⁵⁶

Assault at Eros Theatre

4.100 A former officer, SP, gave evidence concerning an assault he was investigating at the Eros Theatre, Goulburn Street Sydney, where the suspect was an ex-police officer.⁵⁵⁷ A senior officer became aware of the matter and informed him there would 'be a quid in it for us'. Ultimately, SP collected a sum of money from the suspect, which he said he later passed to the senior officer, receiving none himself. Ultimately the suspect was not charged because SP was unable to contact the victims of the assault.⁵⁵⁸

Assistance from Intermediaries and Others

4.101 One aspect on the periphery of this topic was partially investigated. It related to suspicions generated in the course of Royal Commission investigations, that certain intermediaries, legal practitioners, a former police officer working as a private investigator, and others were prepared to assist in negotiations with police to fix prosecutions, or to secure improper benefits. Needless to say, any such conduct strikes at the heart of the justice system, and cannot be tolerated. The difficulty in getting to the core of this kind of matter is twofold:

- it is possible that some of the intermediaries, particularly those associated with members of minority racial groups lacking any real command of the English language or knowledge of the Australian justice system, are simply dishonest and fraudulent entrepreneurs who misrepresent their influence and associations for financial gain, without any involvement or knowledge on the part of lawyers or police; and
- the proof of unethical or improper practices on the part of lawyers is very difficult, because of the difficulties in penetrating legal professional privilege, and in maintaining the kind of electronic surveillance required for affirmative proof.

4.102 In one instance, arising during early 1996, the partner of a person charged with drug offences made a complaint to the effect that an intermediary had held himself out as having contacts with corrupt police who could fix briefs. For that purpose, the intermediary encouraged him to change his legal representation to a particular solicitor who, so it was suggested, could assist in that corrupt purpose.⁵⁵⁹ In short summary, the inquiries of the Royal Commission did not reveal any corrupt relationship with police, but did:

- obtain a confession from the intermediary that on this, and on similar occasions, he had been party to a scam to relieve people of money on the pretence that he could procure favours from police,⁵⁶⁰ and

⁵⁵⁴ KX11, RCT, 13/6/95, p. 8612; T. D. Haken, RCT, 24/8/95, p. 12083; The Record of Interview with each suspect, dated 16/7/93, was tendered as RCPS Exhibits 253 & 254.

⁵⁵⁵ KX11, RCT, 13/6/95, pp. 8625-26; T. D. Haken, RCT, 24/8/95, pp. 12088 & 12095; The receipt of money was denied by the other officer.

⁵⁵⁶ KX11, RCT, 13/6/95, pp. 8621-22; T. D. Haken, RCT, 24/8/95, p. 12092.

⁵⁵⁷ S. M. Pentland, RCT, 31/7/95, p. 10432.

⁵⁵⁸ S. M. Pentland, RCT, 31/7/95, p. 10436.

⁵⁵⁹ V. Bedrosian, RCT(U), 1/4/96, pp. 1083-84.

⁵⁶⁰ V. Bedrosian, RCT(U), 1/4/96, pp. 1079-80.

- show that the solicitor concerned had issued a false receipt in respect of monies paid to him by the client following the intermediary's introduction, at a time when the likelihood of confiscation action by the NSW Crime Commission was imminent.⁵⁶¹

4.103 Some other instances came to light which were suggestive of the fact that less than honest opinions, both in the form of expert reports and character references, are from time to time supplied in aid of persons facing trial or sentence.⁵⁶² The Director of Public Prosecutions has responded to the evidence which emerged in the Royal Commission hearings, by introducing a procedure whereby copies of all documents to be tendered by the defence, are required to be lodged at least two working days before the hearing otherwise their admission is likely to be opposed.⁵⁶³ This should provide prosecutors with an opportunity to assess the integrity of material of this kind. However, it seems to this Commission that a professional duty should attach to legal representatives to personally satisfy themselves that proper care has been exercised before placing material of this kind before the court.

4.104 Similar observations apply to the well-established practice whereby winning TAB tickets can be acquired for a discount to launder the proceeds of criminal activity, or to provide 'evidence' in answer to charges of goods or things in custody. Evidence led before the Commission⁵⁶⁴ suggested the existence of a well-recognised market for these tickets, which the TAB should endeavour to close, at least in relation to significant wagers, for example by registration procedures capable of identifying those instances where the person presenting the winning ticket was not its buyer.

4.105 These kinds of cases give rise for particular concern by reason of:

- the harm caused to the reputation of the Police Service in the minds of members of minority groups who are encouraged by dishonest intermediaries and brokers, often their own countrymen, to believe that corruption is a feature of policing in Australia; and
- the possibility that some legal practitioners are turning a blind eye to attempts by their clients, either independently or in conjunction with this kind of intermediary, to engage in a perversion of the course of justice or, worse, are actively encouraging and assisting in that process.

4.106 This is not an unimportant consideration since any form of joint activity linking brokers or unethical legal practitioners to corrupt police impacts heavily on the extent to which corrupt approaches are likely to be reported to the Service, and on the extent to which those accused of criminality are likely to attempt to bribe police, or otherwise to interfere with the criminal justice system. A tolerance within the legal profession, or the community, is part of the process that eventually allows such practices to spawn, grow and become entrenched.

4.107 This segment also underlined the desirability of the Service having a mechanism to monitor and respond to all complaints by judicial officers made in the course of criminal trials concerning improper behaviour by police.

Criminal Informants

4.108 Another serious aspect of this form of conduct involves the use of informants from within the criminal milieu but outside the Informant Management Plan, particularly where they are spared

⁵⁶¹ T. A. W. Nyman, RCT(U), 12/4/96, pp. 1415-21.

⁵⁶² J. E. Montgomery, RCT, 1/8/95, pp. 10509-44; Reference in the name of John Edward Montgomery supplied to District Court relating to Bill Bayeh, 14/3/94, RCPS Exhibit 438; C. Kalls, RCT, 2/8/95, pp. 10655-61; Reference in the name of Con Kalls supplied to District Court relating to Bill Bayeh, RCPS Exhibit 447; R. Barakat, RCT, 2/8/95, pp. 10661-86; Reference in the name of Rod Barakat supplied to District Court relating to Bill Bayeh, 11/3/94, RCPS Exhibit 449.

⁵⁶³ DPP Management Bulletin, November/December 1996, RCPS Exhibit 3021.

⁵⁶⁴ M. A. Gray, RCT, 16/8/95, pp. 11646-47; BH2, RCT, 14/8/95, pp. 11435-38; Telephone Intercept, 8/11/90, RCPS Exhibit 520; BH2, RCT, 14/8/95, p. 11438; Telephone Intercept, 12/11/90, RCPS Exhibit 521; BH2, RCT, 15/8/95, pp. 11507-08; Telephone Intercept, 13/11/90, RCPS Exhibit 528.

prosecution for offences which they are known to have committed, or are given favourable treatment in relation to custodial arrangements or sentencing in return for giving evidence against others, without sufficient disclosure of their true position to senior officers, the DPP and the courts.

4.109 Admissions were obtained from some officers that they had placed false or misleading information concerning such witnesses before the courts.⁵⁶⁵ Additionally, in some cases they were unable to explain why some of these informants had not been prosecuted or the subject of further investigation in the light of information and evidence available concerning them.⁵⁶⁶ In one such instance police from the Major Crime Squad South sat on material available to them concerning a 'co-operating witness' even though they had him under electronic surveillance while committing an armed robbery.⁵⁶⁷

4.110 Close attention was given to this aspect in a number of Royal Commission inquiries because of the dangers associated with the use of uncorroborated evidence of persons having significant criminal records, particularly where they have an interest to serve. The use of such witnesses seemed to be very much in vogue until recent court decisions have curbed their 'utility' through the requirement for strong jury warnings.⁵⁶⁸

North West Region

4.111 Some of the Major Crime Squad North-West detectives also admitted to weakening prosecution cases, or assisting persons accused of serious crimes, in return for payments.⁵⁶⁹

4.112 Practices they acknowledged using included:

- the revision of statements leaving loopholes in the Crown case;
- reducing the quantity of drugs recovered to prevent a deemed supply charge being preferred, or to keep the quantity under the indictable level;
- altering the purpose of possession for personal use when it was known that the accused was a supplier;
- moving the location of the drugs to make possession more difficult to prove (the reverse of the course of action taken in implementing process corruption);
- not opposing bail;
- providing inaccurate letters of comfort on sentencing (some of which gave credit for assistance known to have been provided by persons other than the accused);
- providing false information or intelligence as to whether certain persons were drug dealers; and
- in one instance, altering 'the facts' in a case against a professional shoplifter from stealing to receiving.⁵⁷⁰

4.113 The practices they described were not dissimilar from those seen at Kings Cross, and are almost inevitable in the absence of a well-regulated and carefully supervised informant management

⁵⁶⁵ J. F. Wilson, RCT, 28/10/96, pp. 33389-90, 33413-18 & 33420-21; P. W. Lennon, RCT, 18/10/96, pp. 32973-75.

⁵⁶⁶ J. F. Wilson, RCT, 31/10/96, pp. 33799-800, 23/10/96, pp. 33257-61; P. W. Lennon, RCT, 18/10/96, p. 32979.

⁵⁶⁷ P. W. Lennon, RCT, 18/10/96, pp. 32967-75.

⁵⁶⁸ *Pollitt v R* (1992) 172 CLR 558; *R v Clough* (1992) 28 NSWLR 396; *R v Delapatrona and Duffield* (1993) 31 NSWLR 123.

⁵⁶⁹ They included: WS14, RCT, 8/3/96, p. 21319, 11/3/96, pp. 21400-05, 12/3/96, p. 21545, 13/3/96, pp. 21619-20; WS4, RCT, 15/2/96, pp. 20170-76; WS8, RCT, 27/2/96, pp. 20753-60, 28/2/96, p. 20779; WS9, RCT, 21/2/96, pp. 20352-61 & 20376-80; and WS11, RCT, 11/6/96, pp. 26742-54.

⁵⁷⁰ WS11, RCT, pp. 20605-08; WS8, RCT, pp. 20768-69.

plan designed to promote professionalism and to prevent the formation of unhealthy associations with criminals.⁵⁷¹

7. THEFT AND EXTORTION

4.114 In a disturbingly large number of cases, the Royal Commission received complaints of money and property having been stolen by police in the course of routine police work. Such was the regularity of these complaints that a separate schedule was maintained to determine whether any pattern emerged, sufficient to initiate a proactive inquiry. Following release of the first Interim Report, and a study by the Service of targeted integrity testing, it has now adopted similar procedures to identify areas ripe for investigation.

4.115 The Royal Commission is well aware of the potential for persons facing criminal charges to manufacture allegations of this kind by way of retribution, or to muddy the waters in any pending prosecution. It is also aware, on the one hand, of:

- the difficulty of proving such allegations; and
- the circumstance that traditionally most complaints of this kind have been not sustained, on the basis that there are competing versions as to the facts;

and on the other hand, of:

- the number of admissions made to it by serving and former police that they have been guilty of the very conduct that was the subject of this kind of complaint.

4.116 While it was impossible to undertake in-depth investigations into more than a small group of cases, sufficient evidence was collected to show that theft and extortion from criminals had become regular features of policing in some sections of the Service. It is an area where police are likely to feel some confidence in escaping detection, since:

- it will usually not be in the interest of an offender caught in the possession of drugs or the proceeds of crime to make a complaint if that property is then stolen by police; and
- the difficulties of making out a complaint are obvious given the absence of corroborative evidence and the ready explanation that the accused had a motive to lie.

Kings Cross Detectives

4.117 Admissions were made to the Royal Commission of this form of corruption in several instances. For example, Mr Trevor Haken acknowledged that:

- money seized during the search of premises of a struck off barrister was shared between some of the police involved rather than being booked up,⁵⁷² and
- monies found in the search of premises in Kings Cross in relation to drug dealing activity by two offenders (approximately \$1,000 - \$2,000), and in premises leased by the same offenders in Bayswater Road (\$1,000 out of a sum of \$12,000 - \$13,000) were retained and divided amongst a number of police.⁵⁷³

Operation King

⁵⁷¹ The topic of police/informant relationships and the development of professional standards in relation to associations with criminals is further examined in Volume II, Chapter 7 of this Report, paras. 7.27 - 7.57.

⁵⁷² T. D. Haken, RCT, 23/8/95, pp. 12058-59.

⁵⁷³ T. D. Haken, RCT, 23/8/95, pp. 11997-99; JTF6, RCT, 28/9/95, pp. 13708-09.

4.118 Another such case was that involving the JTF in relation to a suspected drug dealer arrested and charged with various drug offences and goods in custody. Two detectives gave evidence of skimming portion of the monies found on execution of a search warrant, and of fabricating a charge of bribery to pre-empt any complaint made in relation to the stolen money.⁵⁷⁴

Operation Tin

4.119 Operation Tin was a JTF investigation into a number of suspects involved in a conspiracy to import drugs. JTF6 informed the Royal Commission that an arrangement was made whereby, in return for a large amount of money, police agreed that a major suspect would not be verbaled.

Shakedowns at Kings Cross

4.120 There was evidence of opportunistic corruption at Kings Cross in the form of a 'shakedown' by which police would stop and search street runners and relieve them of the drugs and/or money that they were holding, without any further action. KX11 described this as a frequent activity which generated vast amounts of money for those police who engaged in it. He said that there were some officers who had a reputation for this type of activity. When they were on the streets, the word quickly spread amongst the runners who suspended operations until they had left the area.⁵⁷⁵

Operation Pickup

4.121 A significant operation was conducted by the JTF, in conjunction with Victorian police in December 1983, targeting two suspects, JTF2 and JTF3. In the course of this operation, the suspects were followed to the northern beaches after completing a drug sale at Sydney Airport. Search of their motor vehicle produced a quantity of plastic bottles containing white powder (cocaine), a carry bag containing \$27,000 cash, and a man's handbag containing \$14,400 cash and a slab of hash. All these items were formally booked up and became part of the police brief against the two suspects who were charged with drug offences and goods in custody.

4.122 Following inquiries by the Royal Commission into this operation, eight members of the JTF gave evidence of the theft of other sums of money found that night:

- JTF11 and JTF16, who were instructed to pick up the offenders' vehicle, gave evidence of finding a further sum of approximately \$6,000 in that vehicle, which they shared,⁵⁷⁶ and
- JTF9 and JTF10 gave evidence of searching a garage at Manly where the accused had been seen earlier. Cocaine, drug paraphernalia and a briefcase containing a sum of money estimated to be between \$150,000 and \$285,000 were found. Eight witnesses⁵⁷⁷ admitted to receiving shares of that parcel of money (which it was agreed would not be booked up or included in the brief). Mr Haken gave evidence of bundling up and handing lesser amounts to other members of the Task Force who had not worked on the operation that night.⁵⁷⁸

⁵⁷⁴ T. D. Haken, RCT, 12/9/95, pp. 12747-48; JTF10, RCT, 25/9/95, pp. 13451-57.

⁵⁷⁵ KX11, RCT, 14/6/95, pp. 8701-02.

⁵⁷⁶ JTF11, RCT, 26/9/95, p. 13555; JTF16, RCT, 3/10/95, p. 13889.

⁵⁷⁷ T. D. Haken, RCT, 12/9/95, p. 12736; JTF8, RCT, 21/9/95, p. 13382; JTF9, RCT, 21/9/95, p. 13402; JTF10, RCT, 25/9/95, p. 13443; JTF11, RCT, 26/9/95, pp. 13558-59; JTF12, RCT, 26/9/95, p. 13591; JTF13, RCT, 28/9/95, p. 13784; JTF16, RCT, 3/10/95, p. 13890.

⁵⁷⁸ T. D. Haken, RCT, 12/9/95, pp. 12738-39.

4.123 The evidence given by these members of the JTF also noted that:

- some hard feelings developed about the manner in which the money found in the Manly garage was apportioned among those members of the JTF (later known as the Christmas Club) who came to share in it;⁵⁷⁹ and
- a serious problem arose in relation to the booking up of the money 'recovered' in the operation. This occurred when it became apparent that some of the notes which had earlier been recorded by the Victorian Police were missing, as they had been kept by JTF11 and JTF16 when found by them in the offenders' car. Strenuous efforts were then made to recover the money,⁵⁸⁰ but this was made difficult by the fact that the bundle of notes originally booked up had already been photographed by the Police Scientific Section. To maintain cover, Mr Haken had to return the stolen notes to that bundle and organise to have it re-photographed.⁵⁸¹

4.124 A number of JTF officers, including some of the supervisors, denied all knowledge of the Christmas Club, or of any impropriety in relation to this operation. Whatever be the ultimate truth in relation to them, the simple fact is that a large number of police admitted to their participation in serious criminality.

4.125 Of concern are the circumstances that:

- unless there was tacit approval for this kind of conduct, or woefully inept supervision, there was a high risk of exposure, in view of the number of people involved and the prevailing current of dissatisfaction concerning the equity of the division;⁵⁸²
- JTF8 welcomed his inclusion in the scam as an indication that 'they [his colleagues] trust me enough to include me in something like this';⁵⁸³
- JTF13 felt that he was being presented, effectively, with a choice between accepting the money and remaining with the JTF, or refusing the money and being transferred out;⁵⁸⁴ and
- JTF11 left his share of money in his drawer at work, hoping that someone would realise that he did not want it and take it from him.⁵⁸⁵

Arrest of Northern Territory Safe Breaker

4.126 An offender suspected of stealing a large sum of money in the Northern Territory was arrested by Kings Cross police. The money was recovered by police in the offender's hotel room in Kings Cross. Police deducted an amount from the sum located and entered the balance as an exhibit. The sum which had been set aside was divided amongst the police involved in the arrest.⁵⁸⁶

Menai Search

4.127 A detective, formerly based at Kings Cross, recalled an occasion when during a search of premises at Menai which followed a successful covert drug operation in Kings Cross, he located \$4,000 to \$5,000 in \$50 notes in a cupboard. He retained this money which was eventually divided

⁵⁷⁹ T. D. Haken, RCT, 12/9/95, p. 12740; JTF8, RCT, 21/9/95, pp. 13378-79; JTF10, RCT, 25/9/95, pp. 13444-45; JTF10, RCT, 26/9/95, p. 13517; JTF9, RCT, 21/9/95, p. 13403.

⁵⁸⁰ JTF11, RCT, 26/9/95, pp. 13556-58; JTF12, RCT, 26/9/95, pp. 13594-95; T. D. Haken, RCT, 12/9/95, p. 12738; JTF16, RCT, 3/10/95, p. 13893.

⁵⁸¹ JTF12, RCT, 26/9/95, p. 13597; T. D. Haken, RCT, 12/9/95, p. 12738, 9/10/95, p. 14254.

⁵⁸² JTF9, RCT, 21/9/95, p. 13403.

⁵⁸³ JTF8, RCT, 21/9/95, p. 13374.

⁵⁸⁴ JTF13, RCT, 28/9/95, pp. 13786-87.

⁵⁸⁵ JTF11, RCT, 26/9/95, pp. 13559-60.

⁵⁸⁶ N. J. Scullion, RCT, 10/7/95, p. 10004; S. M. Pentland, RCT, 31/7/95, pp. 10423-25; JTF6, RCT, 28/9/95, p. 13707.

between a number of police.⁵⁸⁷ He facilitated the sharing of the funds as he felt that this was 'the decent thing to do'.⁵⁸⁸

Attitude to Monies Found During Searches

4.128 Detective Sergeant Neville Scullion gave evidence of a remarkable double standard when suggesting that a senior officer had told him that he was opposed to anyone accepting retainers (of the kind epitomised by 'the laugh'⁵⁸⁹), but had added 'if you went somewhere, searched a place and there was a whippy,⁵⁹⁰ it was all right - that's a free-for-all'.⁵⁹¹

4.129 Whether this conversation was truthfully attributed to the senior detective named or not, there was more than sufficient evidence to demonstrate that it was an attitude shared by very many detectives. Some referred to it as a form of 'taxation'⁵⁹² to ensure that criminals were sufficiently punished for their activities. However justified, it emerged in almost every area that the Royal Commission investigated.

North West Region

4.130 Several members of the North West Region Major Crime Squad admitted to the regular theft of money during the execution of search warrants, on some occasions representing part of the monies found and sometimes the whole of the monies found. The incidents were all similar and do not call for particular attention.⁵⁹³ Rarely were they the subject of complaints, but where complaints were made, the police involved were invariably given time to prepare a story before interview.⁵⁹⁴

4.131 In view of the 'staggering' amounts of drug money washing around and the ease with which it could be picked off,⁵⁹⁵ none of the officers lost any sleep over these practices. Similarly, few of the drug dealers seemed overly concerned about losing their money, no doubt because it was regarded as par for the course, was soon earned again, and was better not available as proof of their dealing.⁵⁹⁶

4.132 On a number of occasions police admitted to searches or arrests having become a vehicle for extortion, with money being extracted from suspects who feared being arrested or verballed even though they had committed no offences.⁵⁹⁷ WS14 gave an illustration of such a case where he deliberately set out to extort money from a licensed dealer who he learned was in the practice of selling (other than by auction) unredeemed pledges. On this occasion, WS14 said that having arranged for his arrest, he offered to 'lose' and subsequently did 'lose' the file, in return for the payment of \$3,500.⁵⁹⁸ This event was corroborated by the dealer,⁵⁹⁹ although being unaware of the circumstances that had attracted police attention, he regarded the event as having been initiated by him as an offer of a bribe.

⁵⁸⁷ D. G. Demol, RCT, 3/7/95, pp. 9603-10, 5/7/95, pp. 9791-95.

⁵⁸⁸ D. G. Demol, RCT, 3/7/95, p. 9608. Detective Sergeant Haken also spoke about this matter and acknowledged receiving a portion of these funds. T. D. Haken, RCT, 23/8/95, pp. 12001-04.

⁵⁸⁹ See Volume I, Chapter 5 of this Report, paras. 5.20 - 5.36.

⁵⁹⁰ See Glossary.

⁵⁹¹ N. J. Scullion, RCT, 10/7/95, p. 9936.

⁵⁹² D. G. Demol, RCT, 3/7/95, p. 9634, 4/7/95, p. 9685.

⁵⁹³ Multiple examples were given by WS4, WS8, WS9, WS11, WS12, WS14, WS15, WS16, between 1989 and 1995.

⁵⁹⁴ eg. WS9, RCT, 21/2/96, p. 20387.

⁵⁹⁵ WS14, RCT, 8/3/96, p. 21312.

⁵⁹⁶ eg. R. Kady, RCT, 13/6/96, p. 26980.

⁵⁹⁷ eg. WS14, RCT, 8/3/96, pp. 21300-06, 11/3/96, p. 21457, 12/3/96, p. 21472; WS9, RCT, 21/2/96, pp. 20335-38; and WS4, RCT, 15/2/96, p. 20157.

⁵⁹⁸ WS14, RCT, 13/3/96, pp. 21580-84.

⁵⁹⁹ P. W. Kennedy, RCT, 20/6/96, pp. 27371-77.

Central Coast Detectives

4.133 A good deal of evidence was called in relation to the activities of police working in drug law enforcement on the Central Coast, including that of certain persons involved in the supply or manufacture of drugs or their associates. While there was material supportive of the existence of corrupt relationships and of serious police misconduct, with the exception of one officer, the police concerned denied all wrongdoing. In these circumstances, final resolution will be left to the criminal justice process, and this Report will not elaborate on the matters noted in the First Interim Report.⁶⁰⁰

4.134 One former detective from Gosford Special Operations Group (SOG) did admit to corrupt conduct. He described several occasions when he and other police stole money, being part of the proceeds of money recovered from robberies or found during the execution of a search warrant.⁶⁰¹ He said that he became involved because he wanted 'to fit in and to be involved in major operations'. He explained that he would have been 'on the outer' had he refused to participate.⁶⁰²

8. PROTECTION OF THE DRUG TRADE

4.135 There was an overwhelming body of evidence suggesting the existence of close relationships between police and those involved in the supply of drugs. This encompassed a variety of activities ranging from police turning a blind eye to the criminality of the favoured in return for regular payments, to active assistance when they happened to be caught, to tip-offs of pending police activity, and to affirmative police action aimed at driving out competitors.

4.136 In some cases the corruption was relatively simple, for example, where a uniformed officer or detective 'relieved' street sellers of a portion of their proceeds of sale and left them to carry on. In other instances, it was much more complex and involved a degree of organisation and sharing of monies between a select group, such as the sergeants involved in 'the laugh', at Kings Cross. That 'laugh' was not confined to drug dealers since it overlapped with protection of club and private hotel operators who permitted others to ply their trade as prostitutes or drug suppliers from their premises.

4.137 In not all cases was there any positive return for these 'protection payments'. Some suppliers were persuaded into an erroneous belief that they were being assisted when, in fact, lack of investigative resources or evidence was all that enabled them to escape arrest or conviction.⁶⁰³ This does not, however, excuse or minimise the corruption involved. It helped encourage a belief among the suppliers that favours could be secured, that detectives as a body were amenable to corruption, and that the odds of escaping arrest were favourable. The consequences in terms of their continuing involvement in narcotics dealing, building up networks, and recruiting associates and street runners to whom they could confidently offer the shade of their protection, are obvious. Faced with this degree of confidence in their connections, they would inevitably meet up with an officer who would provide active assistance. Moreover, the damage to the morale of the honest officers who knew of, or suspected, these arrangements was significant.

Kings Cross

4.138 A number of self-confessed Kings Cross drug suppliers,⁶⁰⁴ as well as proprietors of various establishments who permitted the sale of drugs out of their premises,⁶⁰⁵ gave evidence of making payments to particular detectives either directly or through intermediaries, and of being approached by other police for similar contributions. In those cases where they did not deal directly with police, it

⁶⁰⁰ For more detail see RCPS, *First Interim Report*, February 1996, paras. 2.58 - 2.67.

⁶⁰¹ GDU12, RCT, 9/8/96, pp. 30204-05, 30210-18.

⁶⁰² GDU12, RCT, 9/8/96, p. 30207.

⁶⁰³ Detective Scullion justified at least some of the corrupt payments he received on this basis. N. J. Scullion, RCT, 10/7/95, pp. 9927 & 9947, 11/7/95, p. 10030.

⁶⁰⁴ Including D. G. Karam, RCT, 7/9/95, pp. 12506-09; KX11, RCT, 13/6/95, pp. 8566 & 8586; KX6, RCT, 15/5/95, p. 7083, 16/5/95, p. 7141.

⁶⁰⁵ P. Giovannone, RCT, 13/7/95, pp. 10261-64.

is always possible that they were the subject of a scam at the hands of other criminals running protection rackets in this area. However, it is of note that each reported a significant reduction in the attention given to their street dealers after making payments, and conversely of greater attention when payments were not made.⁶⁰⁶ It is also of note that the expectation generated was one in which a controlled environment⁶⁰⁷ was created whereby certain drug dealers could continue their trade provided that they complied with certain rules, such as not selling to young people, leaving guns out of the Cross, and refraining from any violent confrontation with other dealers.⁶⁰⁸ However comfortable this might have been for the conscience of police involved, it amounted to open encouragement for drug cartels to form, to carve up the territory, and to operate in an organised way.

4.139 Obvious problems attach to the credit of self-confessed drug dealers, and the possibility exists of pay back. Accordingly, without corroboration or admission from the police⁶⁰⁹ who they understood to be in receipt of these payments, only limited weight can be given to their evidence. However, the experiences they described were remarkably similar and generally fit in with the arrangements acknowledged by corrupt Kings Cross police. Premises from which their drug operations were run openly and with only limited police action included:

- The Budget Hotel;
- The Pink Panther;
- The Penthouse Snooker Room;
- Porky's;
- Playbirds International;
- Cosmopolitan Coffee Lounge ('the Cosmo');
- Lasers Amusement Parlour;
- Illusion Night Club;
- 40 Darlinghurst Road;
- 48 Darlinghurst Road;
- Pink Flamingo Massage Parlour; and
- The Bargain Backpackers Hotel.⁶¹⁰

4.140 Among the arrangements in respect of the premises described were:

- prior warnings of raids;⁶¹¹
- diversion of the Drug Unit activity to unprotected operations;⁶¹² and
- show raids without any thorough search being made.⁶¹³

4.141 Apart from evidence given by employees and managers of these premises, and detectives, graphic video tape evidence⁶¹⁴ was obtained in respect of the shooting gallery at 48 Darlinghurst Road

⁶⁰⁶ D. G. Karam, RCT, 7/9/95, pp. 12507-09 & 12515-16; T. D. Haken, RCT, 24/8/95, pp. 12112-13.

⁶⁰⁷ D. G. Karam, RCT, 7/9/95, p. 12498; P. Giovannone, RCT, 13/7/95, p. 10273.

⁶⁰⁸ KX11, RCT, 14/6/95, p. 8710; T. J. Kelly, RCT, 28/6/95, p. 9397.

⁶⁰⁹ T. D. Haken, RCT, 23/8/95, pp. 12015-18.

⁶¹⁰ Some of these premises have been converted to legitimate use, and either sold or closed down as a result of evidence to the Royal Commission.

⁶¹¹ KX6, RCT, 15/5/95, p. 7086; T. D. Haken, RCT, 23/8/95, p. 12031.

⁶¹² T. D. Haken, RCT, 23/8/95, p. 12030.

⁶¹³ KX11, RCT, 13/6/95, pp. 8589-91, 14/6/95, p. 8700.

⁶¹⁴ Video Tape of premises at 48A Darlinghurst Road, RCPS Exhibit 304.

during a search made by Royal Commission investigators. That evidence revealed the very poor state in which the premises were maintained, without any real regard to the security of sharps or used fits,⁶¹⁵ or to the sanitary disposal of the utensils of prostitution and drug use.

4.142 Other evidence received in relation to establishments openly operating as brothels revealed:

- the supply of drugs to those who hired the rooms and to sex workers;⁶¹⁶
- the physical abuse of staff which, according to some sex workers and security staff, bordered on the horrific;⁶¹⁷ and
- the limited attention given by police to those premises.⁶¹⁸

4.143 So far as the evidence of certain of the witnesses⁶¹⁹ suggested that an official decision was made by Kings Cross police to tolerate the existence of shooting galleries in the interest of securing ready medical assistance for those who collapsed from a drug overdose, it may be noted that:

- any such responsibility was left in the hands of people who were singularly unreliable and lacking in any medical training, being persons who had criminal records and were closely associated with the supply of drugs;
- such arrangements placed no emphasis on rehabilitation nor did they provide any facility for referral to the Public Health system, options which were contrary to the financial interests of those running the premises; and
- some of the police who were involved in the decision to tolerate these premises were in receipt of corrupt payments from the proprietors, and hardly disinterested.

4.144 The spectacle of police permitting criminals to maintain this industry in circumstances where they were a source of corrupt payments was, in truth, no less an hypocrisy than the pretence that these premises provided a 'community service'.⁶²⁰

4.145 On any view, there was an enormous proliferation in the sale of heroin and cocaine in Kings Cross during the 1990s, not only from the establishments mentioned, but also on the streets. The fact is that before the Royal Commission, few of the organisers or middle men were targetted on any consistent or determined basis, let alone brought to justice. So far as the Kings Cross detectives and Kings Cross drug unit were concerned, some of the explanation for this has been given by the police who admitted to the existence of corrupt arrangements. However, drug law enforcement in this area, which for much of this decade has been at the heart of the narcotics trade, also fell within the responsibility of other agencies such as:

- the Drug Enforcement Agency;
- the South Region Major Crime Squad Drug Unit; and
- the South Region Special Operations Group.

That they similarly had little real impact on the drug trade in this area remains a matter of concern. Some evidence was led of corrupt relationships with persons within those squads, but it remains, at this stage, uncorroborated and in part hearsay.

⁶¹⁵ See Glossary.

⁶¹⁶ KX9, RCT, 29/5/95, pp. 8146-47; KX10, RCT, 31/5/95, pp. 8353-57; KX7, RCT, 23/5/95, pp. 7655 & 7657-58; KX8, RCT, 23/5/95, pp. 7685-86.

⁶¹⁷ KX7, RCT, 23/5/95, pp. 7649-76; KX8, RCT, 23/5/95, pp. 7687-94; KX9, RCT, 29/5/95, pp. 8174-84; KX10, RCT, 31/5/95, pp. 8367-68.

⁶¹⁸ T. D. Haken, RCT, 22/8/95, pp. 11946-49.

⁶¹⁹ JTF6, RCT, 27/9/95, pp. 13680-81; R. B. Small, RCT, 27/4/95, p. 5911.

⁶²⁰ N. P. Ryan, RCT, 23/5/95, p. 7560.

North West Region

4.146 Several detectives from the North West Region Major Crime Squad admitted to receiving regular bribes from well-known drug dealers in the western suburbs, either as a form of retainer to be left alone, or on specific occasions, in return for information or for assistance in relation to trials.⁶²¹ They similarly gave evidence of occasions when they took action to close down competitors of their informants, at times sharing with them any drugs seized.⁶²² A number of persons known to be actively involved in the sale of heroin were not targeted by members of the Drug Unit who received regular bribes.

4.147 Each of Kings Cross and the metropolitan sector of the North West Region presented powerful examples of the problems faced in any area where high-risk criminal activity is tolerated. They are further explored in the next chapter of this Report.

9. PROTECTION OF CLUBS AND VICE OPERATORS

4.148 The protection of clubs and vice operators was at Kings Cross conducted on much the same basis as that for the drug suppliers. Key members of the group involved in 'the laugh' and various Kings Cross identities⁶²³ admitted to the regular payment of corrupt monies for these purposes. Additionally, for a time, one of the club operators acted as an intermediary collecting corrupt payments for police from a drug dealer KX11.⁶²⁴

4.149 Some evidence was given of incidental favours provided for reward to the proprietors of such establishments, where they came under police scrutiny for assaults and similar matters. This occurred particularly in the case of overzealous bouncers, but it also extended to assistance provided in resolving internecine disputes.⁶²⁵

4.150 Evidence was also received from former Detective Sergeant Kim Thompson acknowledging his receipt of monies while at Sydney District SOG from various interests involved in the retail of unclassified videos, and the sharing of those monies with other officers who had previously worked in the Vice Squad.⁶²⁶ Although the monies were to be paid in return for sparing the premises in question from police activity, it was his evidence that no such favours were provided.⁶²⁷ In explaining the approaches which were made to involve him in this scam, and which he made to the other police allegedly involved, he said that there was an 'intuitive' belief that they would accept, or if they did not they could be trusted to remain silent.⁶²⁸

4.151 Additionally, Mr Thompson said that although he had not shared in corrupt payments while at the Consorting Squad or at Darlinghurst, he was aware of their availability.⁶²⁹ It was his evidence that he was prepared to turn a blind eye to the activities of those who were in receipt of corrupt payments, so long as they did not cross his path.⁶³⁰ He did, however, acknowledge that he had shared in substantial payments from the club operators at Kings Cross from 1987.⁶³¹ He accepted that money because he assumed 'it went with the position' as second-in-charge of detectives,⁶³² a comment which

⁶²¹ WS14, RCT, 8/3/96, pp. 21239 & 21257-61, 11/3/96, pp. 21389-90, 12/3/96, p. 21477, 13/3/96, pp. 21578-88; WS9, RCT, 21/2/96, pp. 20339-40, 20347-8 & 20367, 18/6/96, pp. 27154-56; WS11, RCT, 26/2/96, p. 20584.

⁶²² WS14, RCT, 11/3/96, pp. 21427-34.

⁶²³ S. Hardas, RCT, 21/6/95, pp. 9025-26, 22/6/95, pp. 9049-53 & 9055-58.

⁶²⁴ S. Hardas, RCT, 22/6/95, pp. 9077 & 9086-90.

⁶²⁵ N. J. Scullion, RCT, 10/7/95, p. 9983, 11/7/95, p. 10028; T. D. Haken, RCT, 22/8/95, p. 11900; J. G. Swan, RCT, 6/7/95, pp. 9873-74.

⁶²⁶ That evidence was disputed by the persons he named as involved in those payments.

⁶²⁷ D. K. Thompson, RCT, 16/10/95, pp. 14804-09.

⁶²⁸ D. K. Thompson, RCT, 16/10/95, pp. 14860-63.

⁶²⁹ D. K. Thompson, RCT, 16/10/95, pp. 14744-45 & 14749.

⁶³⁰ D. K. Thompson, RCT, 16/10/95, pp. 14749-50.

⁶³¹ D. K. Thompson, RCT, 16/10/95, pp. 14756-67.

⁶³² D. K. Thompson, RCT, 16/10/95, pp. 14755-56.

somewhat neatly encapsulates the culture of the time and the abrogation of any sense of responsibility of supervisors to ensure the ethical and professional performance of detectives.⁶³³

10. PROTECTION OF GAMING AND BETTING INTERESTS

4.152 What was somewhat disturbing in relation to this aspect of the Royal Commission inquiry was that it followed so closely upon the 1993 ICAC Milloo inquiry,⁶³⁴ yet nothing seemed to have changed save for the circumstance that some of the witnesses called before the Royal Commission admitted that they had not told the truth to the ICAC.

4.153 In Milloo, the ICAC had found a pattern of totally ineffective policing and improper associations between illegal gaming identities and members of the former Gaming Squad.⁶³⁵ Criminal proceedings, arising out of its inquiries, were instituted against two police, and disciplinary proceedings were brought against them and against a third officer.⁶³⁶ The ICAC accepted that there was force to the criticisms it had received concerning the difficulties in interpreting and enforcing the *Gaming and Betting Act 1912*, and it recommended that careful consideration be given to amending the legislation.⁶³⁷

4.154 The ICAC's public hearings were held in March, June and September 1993. In August of that year the Chief Secretary established the Gaming and Betting Laws Task Force. It reported in April 1995⁶³⁸ that:

- there was mounting evidence that illegal forms of gambling, particularly those organised and conducted by large scale criminal groups, were continuing to flourish;
- this had in part been attributed to shortcomings in various laws controlling and regulating gaming and betting; and
- the history of prominent criminal activity in New South Wales indicated that illegal gambling had often been the common link between high-profile criminals and organised crime.

4.155 It recommended the repeal of the *Gaming & Betting Act 1912* and its replacement with fresh legislation.⁶³⁹ The publication of the Report coincided with a change in Government administrative arrangements which saw the Office of the Chief Secretary and the Chief Secretary's Department replaced by the office of the Minister for Gaming and Racing and the Department of Gaming and Racing respectively. It is understood that the Department of Gaming and Racing is presently giving attention to the implementation of a number of recommendations of the Task Force, most importantly to the draft of legislation to repeal the *Gaming and Betting Act 1912* and replace it with more workable legislation. This is to be commended.

4.156 The policing of this area of criminal activity was entrusted to the Gaming Squad until December 1993. Between April 1989 and then, the Squad had been part of the Drug Enforcement Agency; earlier it had been part of the CIB. In December 1993 the Gaming Squad was disbanded and its responsibility was passed to the Regions to be policed at a local level. All regions then established dedicated gaming and vice units except for Region North, which operated at a patrol level.⁶⁴⁰

⁶³³ See Chapter 2 of this Volume, paras. 2.19 - 2.23.

⁶³⁴ ICAC, *Investigation into the Relationship Between Police and Criminals*, First Report, February 1994.

⁶³⁵ *ibid*, Chapter 20.

⁶³⁶ These officers, and one further officer, subsequently resigned or were dismissed from the Service.

⁶³⁷ ICAC, *Investigation into the Relationship Between Police and Criminals*, First Report, February 1994, p. 183.

⁶³⁸ Gaming and Betting Laws Task Force, *Review of New South Wales Gaming and Betting Laws*, April 1995, RCPS Exhibit 5675.

⁶³⁹ *ibid*, p. 5, para. 1.5.4.

⁶⁴⁰ B. Gibson, Supplementary statement - *Policing of Illegal Gaming*, 10/8/95, RCPS Exhibit 5678, para. 2.2. The Gaming Consultancy Unit of the State Licensing Investigation Command was given responsibility for providing advice on procedures and strategies to patrols on illegal gaming matters. That Unit provides training for personnel in the identification of various card and dice games.

4.157 Necessarily by reason of their own special interests, police from squads or areas of the Service other than the Gaming Squad have been traditionally involved in the policing of these establishments, including members of the Consorting Squad, Drug Squads, Major Crime Squads and Licensing Squad. Their interest was inevitable given the penchant for active criminals to attend these premises for their own entertainment and there to do business with each other. Moreover, organised crime figures had been heavily involved historically either in operating these establishments, or in providing protection for them.⁶⁴¹

4.158 The financial returns on offer to the criminal community from gaming and betting are substantial and they have not been overlooked by those who are prepared to finance and run these operations. For those more interested in providing protection, the options on offer include:

- organising immunity from policing;
- suppressing competition; and
- enforcing payment of gambling debts.

4.159 In summary, the Royal Commission found similar associations to those found by the ICAC, between members of the former Gaming and Consorting Squads and detectives at patrol level on the one hand, and operators of illegal gaming establishments on the other hand. There was evidence of:

- regular payments to police by operators of some clubs in return for information about rostering arrangements, or for information about raids;
- regular payments without a specific understanding as to any particular favours save for police 'walk throughs' to give an appearance of security, or 'verification' of the assurances of operators that their premises were protected;
- arrangements being made for police to target the premises of rival establishments in return for payments and information, a mutually beneficial arrangement to the favoured operators who could attract more custom and to the police who could present an appearance of doing their job;
- assistance with bails or prosecutions, including the 'release' of exhibits or information from police briefs;
- public justice offences,⁶⁴² including the swearing of false affidavits in support of search warrants, and interference with exhibits, using an identity in the illegal gaming world to manipulate the computerised logic boards of seized gaming machines (PADs) in order to display the illegal games which might otherwise have been lost when the machine was switched off;
- the provision of free alcohol, meals and the like, to police visiting these premises, and the inevitable formation of unhealthy associations with those who ran the games, and with the regulars of their establishments. This was more than a trivial matter since the information available to the Royal Commission revealed significant associations between these establishments, Triad members, and persons involved in the importation and distribution of heroin. It also revealed a long-term pattern involving the use of a well-placed intermediary to act as a bagman for police;
- the use of these associations in aid of charity days and police fundraisers, either through direct donations from illegal gaming operators or through the sale of raffle tickets; and

⁶⁴¹ See Volume I, Chapter 3 of this Report.

⁶⁴² See *Crimes Act 1990*, Part 7, ss. 311-343A.

- the use of lawfully arranged searches as an opportunity for the theft of PADs and monies found, or for extortion in respect of persons who would prefer not to have been seen at illegal gaming premises.

4.160 The Royal Commission also found somewhat disturbing evidence of the lack of any clear, let alone consistent, objectives in the enforcement of gaming and betting laws. Perhaps this was not altogether surprising given the historical factors earlier mentioned,⁶⁴³ the public disinterest or lack of concern in relation to this area of activity, the lack of support or commitment from Senior Command at various times, and the difficulties of collecting evidence when faced with well-organised operations.

4.161 Such problems generated by these factors were only multiplied by the absence of effective training and understanding on the part of the operational police as to their role. Several officers⁶⁴⁴ described their confusion, or lack of knowledge, as to:

- the purpose of their presence at gaming clubs, in particular whether they were there to collect intelligence as to the activities undertaken and the criminal identities present, or to make arrests if they spotted unlawful gaming;
- the nature of the games which were being played; one officer, for example, confessing that the only games he recognised were two-up, blackjack and poker.⁶⁴⁵

4.162 This lamentable situation was not always or necessarily so, as was indicated by the success of 'Beck's raiders'⁶⁴⁶ and the more recent closure of Mr Joe Haddad's sizeable two-up game at Granville.⁶⁴⁷ If this area of policing is to be effective at least two matters are essential:

- the establishment of a clear and consistent objective to enforce the relevant laws by ethical policing; and
- the training of police in the relevant facets of gaming and betting targeted, and the provision to them of clear instructions as to what they are to do.

4.163 The Royal Commission inquiries tend to reinforce the findings of the ICAC Milloo inquiry, and of the Gaming and Betting Task Force. Some instances may be cited by way of example. A good deal of additional unverified intelligence and information was also gathered which was not led in the hearing room. It is inappropriate for any further disclosure to be made in this Report, having regard to its potential use by the PIC.

Arrangements with Gaming Operators

Galea

4.164 Mr Bruce Galea gave evidence to the ICAC that his association with premises in 31 Dixon Street Chinatown, was as the supplier of sandwiches, coffee and cigarettes to patrons playing lawful games. He refused to give any evidence to the Royal Commission concerning those premises or any other activities in which he might have been involved.⁶⁴⁸ Notwithstanding, the Royal Commission heard from:

- former Consorting Squad member Mr John Swan who said that between 1983 and 1986, he and other detectives from the Consorting Squad received regular payments from Mr

⁶⁴³ See Volume I, Chapter 3 of this Report.

⁶⁴⁴ FT3, RCT(U), 15/8/96, p. 6520; MV6, RCT(U), 25/7/96, p. 6063; R. Simmons, RCT, 22/2/96, p. 20516.

⁶⁴⁵ R. Simmons, RCT, 22/2/96, p. 20516.

⁶⁴⁶ L. J. Burgess, RCT, 11/8/95, p. 11305; M. L. Beck, RCT, 13/11/96, pp. 34254-59.

⁶⁴⁷ J. G. Haddad, RCT, 27/2/96, pp. 20692, 20714; FT1, RCT, 24/5/96, p. 3246.

⁶⁴⁸ He was found guilty of contempt of the Royal Commission on 27/7/95, and has remained in custody since his refusal to give evidence on 14/7/95.

Galea⁶⁴⁹ as well as from other gaming interests, although so far as he was aware nothing was done in return;

- a former Gaming Squad member who said that:
 - from early 1992, he received weekly cash payments from a doorman/manager of Mr Galea's club⁶⁵⁰ and he gave either Mr Galea, that doorman, or Mr Frank Johnson (an associate of Mr Galea) information about gaming squad rosters, shifts and planned raids,⁶⁵¹
 - he had seen Mr Galea hand money to his sergeant during a walk-through of Mr Galea's club;⁶⁵²
- a member of the 14K Triad, said that he had operated pai gow, fantan and sik bo games at various establishments over the years in Marrickville, Campsie and Chinatown, including premises associated with Mr Galea, on the understanding that arrangements had been made with police,⁶⁵³
- there was also evidence, led from three sources,⁶⁵⁴ of Gaming Squad police meeting with Mr Galea at the Bondi Diggers Club where at least one payment was made to them,⁶⁵⁵ and
- one officer gave evidence of assisting Mr Galea with pending proceedings. On one occasion he broke into an exhibit room, copied a seized SP betting ledger and passed it on, in return for \$1,000.⁶⁵⁶ On two occasions he met Mr Galea when information was requested in relation to declaration proceedings against the Dixon Street premises, including the recording of entries concerning those premises in Gaming Squad logs.⁶⁵⁷

4.165 In view of his refusal to give evidence, or to speak with investigators from the Royal Commission, it has not been possible to obtain any reply from Mr Galea in relation to this evidence.

Haddad

4.166 Mr Joe Haddad gave evidence of working in the illegal gaming industry for 25 years before opening his own two-up operation in 1986. He said that from 1986 to 1995 raids, if made, occurred between midnight and 1am so he adopted the simple stratagem of delaying the first spin until 2am. Additionally, he employed a cockatoo⁶⁵⁸ who was able to warn players of any raid. He denied making any arrangements with police, or receiving warnings of raids, and claimed that his simple although crude precautions were usually enough to escape prosecution.⁶⁵⁹ However, the Royal Commission received evidence from:

- a regular player at Mr Haddad's premises in Goode Street Granville, who said that he recalled more than 20 occasions when Mr Haddad warned players of an impending raid, and he also recalled Mr Haddad reassuring him that the place was protected,⁶⁶⁰
- an employee of Mr Haddad who said that after a big raid in 1994 involving police from various squads, the premises were intensively patrolled by Granville local police. This led

⁶⁴⁹ J. Swan, RCT, 5/7/95, pp. 9802-08; and see KX14, RCT, 25/7/96, pp. 29252- 54.

⁶⁵⁰ He did on at least one occasion receive a direct payment from B. Galea.

⁶⁵¹ FT3, RCT(U), 15/8/96, pp. 6525-36. That doorman (FT5) said that he did in fact pass money to FT3 from B. Galea in exchange for roster information, on behalf of Galea and later on behalf of the persons who had opened a new game at Cabramatta (but denied receiving warnings of raids); FT5(U), RCT, 9/12/96, pp. 7985-90.

⁶⁵² FT3, RCT(U), 15/8/96, pp. 6539-41. FT2 confirmed this account; FT2, RCT(U), 15/8/96, p. 6600.

⁶⁵³ PW, RCT(U), 16/8/96, pp. 6697-710.

⁶⁵⁴ FT2, RCT(U), 15/8/96, p. 6600; FT3, RCT(U), 15/8/96, p. 6539; FT5(U), RCT, 9/12/96, pp. 8003-04.

⁶⁵⁵ Although they differed as to the purpose of those payments; FT3 recalled that the proceeds had been shared between them, whereas FT2 maintained that the money was paid to purchase raffle tickets for another officer facing criminal charges.

⁶⁵⁶ FT3, RCT(U), 15/8/96, p. 6531.

⁶⁵⁷ FT3, RCT(U), 15/8/96, pp. 6533-34.

⁶⁵⁸ See Glossary.

⁶⁵⁹ J. G. Haddad, RCT, 27/2/96, pp. 20695-98.

⁶⁶⁰ FT1, RCT(U), 24/5/96. pp. 3238-45.

to them being closed down.⁶⁶¹ He also gave evidence of receiving a warning from Mr Haddad of a raid at quite separate gaming premises in Surry Hills, and of watching that raid from a hotel across the road;⁶⁶² and

- an officer who described receiving payments from Mr Haddad from February 1991 in exchange for information on raids although, according to him, no such information was supplied.⁶⁶³

4.167 Mr Haddad also gave evidence of visits received, each time he opened up a new game, from another Royal Commission witness who had earlier admitted to running a business of protecting gaming and vice establishments.⁶⁶⁴ According to him this identity reminded him that he was 'not paying the boys'. Each refusal to pay, he said, was followed by a further raid.⁶⁶⁵

AY

4.168 This witness gave evidence of operating a PAD establishment in Fairfield for 12 years from the late 1970s. He said that he received warnings of police visits from his PAD supplier, Mr Jack Pakis,⁶⁶⁶ and was assisted by him on an occasion when, during a raid, he was unsuccessful in operating the remote control to turn off an illegal game. The machine was seized, but after he telephoned Mr Pakis it was returned to him by police and he was not charged.⁶⁶⁷

4.169 A quite separate matter involving this witness was of interest in so far as it disclosed the possibility of machines seized from his premises by local detectives, having been tampered with rendering them inoperable for gaming after they were moved to the Gaming Squad Exhibit Room. One of the detectives who had found the machines in working order when seized, made a report about this event which led to an Internal Affairs investigation. While finding the machines had been tampered with in police custody, and noting the poor exhibit security, the investigation came to no conclusion as to the persons responsible.

Les Jones

4.170 Two former Gaming Squad detectives admitted to the receipt of payments of \$1,000 per month each paid over several months by an intermediary on behalf of PAD operator, Mr Les Jones, to protect the latter's interests.⁶⁶⁸

EC

4.171 This witness, an illegal gaming operator in Granville, gave evidence of paying monies for protection of his operation to several detectives.⁶⁶⁹

Elimination of Competition

4.172 Two officers gave evidence confirming that decisions were made to target certain establishments at the request of competitors.⁶⁷⁰

⁶⁶¹ BB, RCT(U), 20/8/96, p. 6734.

⁶⁶² BB, RCT(U), 20/8/96, pp. 6731-32.

⁶⁶³ WS9, RCT, 20/2/96, pp. 20330-32.

⁶⁶⁴ L. Bayeh, RCT, 6/11/95, pp. 16086 & 16123-26; and see KX6, RCT, 15/5/95, p. 6991.

⁶⁶⁵ J. G. Haddad, RCT, 27/2/96, pp. 20694-95.

⁶⁶⁶ AY, RCT(U), 16/8/96, pp. 6680-81.

⁶⁶⁷ AY, RCT(U), 16/8/96, p. 6689.

⁶⁶⁸ FT3, RCT(U), 15/8/96, pp. 6542-43; FT2, RCT(U), 15/8/96, pp. 6593-95.

⁶⁶⁹ EC, RCT, 15/3/96, p. 21850; WS4 recalled EC complaining to him that he had been approached by unnamed police seeking payments in connection with his club. WS14 and WS11 admitted to the receipt of payments from EC; WS4, RCT, 15/2/96, p. 20210; WS11, RCT, 26/2/96, pp. 20583-90; WS14, RCT, 13/3/96, p. 21624.

⁶⁷⁰ FT3, RCT(U), 15/8/96, pp. 6530 & 6533-34; FT5, RCT(U), 9/12/96, p. 8008.

Other Gaming Interests

4.173 A former detective sergeant gave evidence of receiving liquor and small amounts of cash from various gaming operators in the Marrickville and Campsie districts, which he understood to be in return for turning a blind eye to any illegal gaming activity taking place.⁶⁷¹ His evidence was corroborated by Mr Tony Achmar, who looked after the security of gaming houses at 317A Beamish Street Campsie and 402-404 Burwood Road Belmore.⁶⁷²

4.174 There was other evidence and information available to the Royal Commission consistent with police warnings of raids in respect of clubs run or managed by identities such as Mr Basil Barron⁶⁷³ and Mr Frank Johnson.⁶⁷⁴

4.175 Detective Sergeant Trevor Haken described receiving payments while stationed at Central Detectives in 1987, in respect of a gaming house in Chinatown which he shared with another officer.⁶⁷⁵ No benefits were given in return as Mr Haken did not work on gaming. He similarly described walking through an illegal gaming establishment with a well-known Chinese identity, and being entertained by him. He understood it was to the advantage of the latter to be seen in these circumstances with police.⁶⁷⁶ Mr Haken also described receiving a share of protection monies paid in respect of the unlawful gaming machines in the Downunder premises which, ironically, were located immediately below the Kings Cross Detectives' Office yet spared police attention.⁶⁷⁷ Other gaming establishments in Kings Cross, he said, were similarly left unpoliced.⁶⁷⁸

Association between Police and Gaming Operators in the North West Region

4.176 The associations between some North West Region police and gaming interests and unlicensed clubs was significant, there having been a large number of such establishments or operations within the Region. The admissions received further corroborate the existence of various forms of corruption that extended to:

- visits by police during quiet times on shift to these premises while unlawful activities were being openly carried on, including gaming and unlicensed sales of liquor. Although some of those visits were written up to legitimise the attendance, no action was taken in relation to any offences seen; free drinks were obtained and friendly relationships were maintained;⁶⁷⁹
- the provision of warnings of impending police activity, in return for payments;⁶⁸⁰ and
- allowing selected gamblers to quietly leave raided premises without an arrest, in return for a payment of money.⁶⁸¹

4.177 Incidentally, in the course of this segment of evidence the Royal Commission also learned of an earlier arrangement for the 'licensing' by members of the Consorting Squad Region West of pickpockets at metropolitan and country racetracks, and the running off of their competitors in return for a regular retainer.⁶⁸²

⁶⁷¹ MV1, RCT(U), 18/7/96, pp. 5576 & 5588-89.

⁶⁷² T. Achmar, RCT, 14/8/96, pp. 6476-77.

⁶⁷³ LF, RCT(U), 20/8/96, pp. 6739-41.

⁶⁷⁴ Call charge record, RCPS Exhibit 5692C; C. Little, Statement in the matter of 215A Thomas Street Haymarket, 20/8/96, RCPS Exhibit 5693; JS, RCT(U), 20/8/96, p. 6761; VG, RCT(U), 24/5/96, p. 3278; LF, RCT(U), 20/8/96, p. 6743.

⁶⁷⁵ T. D. Haken, RCT, 21/8/95, pp. 11846-48.

⁶⁷⁶ T. D. Haken, RCT, 21/8/95, pp. 11852-53.

⁶⁷⁷ T. D. Haken, RCT, 24/8/95, pp. 12100-01.

⁶⁷⁸ T. D. Haken, RCT, 22/8/95, pp. 11931-32.

⁶⁷⁹ R. Simmons, RCT, 22/2/96, pp. 20522-23.

⁶⁸⁰ WS9, RCT, 20/2/96, pp. 20331-32.

⁶⁸¹ WS, RCT, 19/9/96, p. 32621.

⁶⁸² WS14, RCT, 8/3/96, pp. 21247-49.

Theft

4.178 Two instances suffice as examples:

- two officers from the North West Region gave evidence of the stealing of money seized during a raid on gaming premises in Cabramatta in March 1993,⁶⁸³ and
- two former Gaming Squad detectives gave evidence of unrelated instances where prohibited amusement devices, seized during raids, were sold or given away - in one case to an illegal game operator and in the other case to a PAD machine supplier.⁶⁸⁴

Process Corruption

4.179 Three detectives gave evidence of the use by the Gaming Squad of a PAD supplier and technician to assist police in bringing up illegal games on seized PAD machines. His assistance in this role was not disclosed in the police briefs or to magistrates,⁶⁸⁵ even though that information could have been very useful to the defence, particularly in those cases where logic boards (the electronic memories) were swapped in machines whose memory had been erased by the operator when police made an entry to the premises. In some such cases the police evidence was perjured, so far as they said that they had brought up the games themselves. Two of the officers similarly acknowledged that false information was commonly supplied to secure search warrants.⁶⁸⁶

Inappropriate Associations

4.180 Evidence of inappropriate associations and the provision of long lunches, dinners, and alcohol by gaming operators to police was given by a number of police, and by at least one civilian, notwithstanding official instructions not to socialise with such persons either on or off duty.⁶⁸⁷ One other officer acknowledged similar conduct, but asserted that he regarded it as an investigative tool to find out what was happening in the criminal world.⁶⁸⁸ Detective Senior Constable Deborah Locke also gave evidence of members of the Gaming Squad's surveillance unit spending a great deal of time drinking and socialising, and of the existence of a slush fund for that activity on Wednesdays and Saturdays.⁶⁸⁹ She also described the high incidence of raids where it became obvious that the persons present were aware that police were coming.⁶⁹⁰

4.181 The existence of these kinds of improper relationships and practices had already been exposed by the ICAC inquiry, and as a consequence the Royal Commission did not direct any more attention to them than was necessary to confirm the ICAC conclusions. Some additional matters that did emerge, however, included admissions that:

- the association between one member of the Gaming Squad and a well-known supplier of PAD equipment extended to attendance by the latter at the wedding of the former, and his purchase of a set of shirts for a police cricket team;⁶⁹¹ and
- collections for charities and police fundraisers from gaming figures were common.⁶⁹²

⁶⁸³ WS14, RCT, 12/3/96, p. 21559; WS9, RCT, 18/6/96, p. 27189.

⁶⁸⁴ FT3, RCT(U), 15/8/96, p. 6544; FT2, RCT(U), 15/8/96, p. 6605.

⁶⁸⁵ FT2, RCT(U), 15/8/96, pp. 6584-85, 6592; FT3, RCT(U), 15/8/96, p. 6546; P. L. Devlin, RCT(U), 16/8/96, p. 6659.

⁶⁸⁶ FT2, RCT(U), 15/8/96, p. 6589; FT3, RCT(U), 15/8/96, p. 6522.

⁶⁸⁷ T. Achmar, RCT(U), 14/8/96, pp. 6478-79; J. G. Swan, RCT, 5/7/95, p. 9799; R. Simmons, RCT, 22/2/96, p. 20515; MV1, RCT(U), 18/7/96, pp. 5631, 5646, 5648, 19/7/96, pp. 5774, 5779-80; MV6, RCT(U), 24/7/96, p. 5929; FT3, RCT(U), 15/8/96, pp. 6523 & 6576.

⁶⁸⁸ P. L. Devlin, RCT(U), 16/8/96, p. 6642.

⁶⁸⁹ D. L. Locke, RCT(U), 7/5/96, pp. 2125-27.

⁶⁹⁰ D. L. Locke, RCT(U), 7/5/96, p. 2128.

⁶⁹¹ FT2, RCT(U), 15/8/96, p. 6602.

⁶⁹² MV1, RCT(U), 18/7/96, pp. 5588-89; FT2, RCT(U), 15/8/96, pp. 6599 & 6602; FT3, RCT(U), 15/8/96, p. 6541; P. L. Devlin, RCT(U), 16/8/96, p. 6636; AY, RCT(U), 16/8/96, p. 6691.

11. DRUG TRAFFICKING

4.182 Perhaps most disturbing of all was the extent to which police admitted to being directly involved in the supply of cocaine, heroin and cannabis. In most cases this involved the recycling of drugs seized in various operations that had simply not been booked up. The methods of supply included the provision of drugs to informants in return for information and re-sale through informants and known dealers.

4.183 Quite apart from the impossible and totally indefensible position in which police were placed when crossing the line into active participation in the drug trade, the practice of retaining drugs became an aid to process corruption. Although each case was very similar in its implementation, some admitted instances can be noted.

4.184 Although a number of detectives attached to Kings Cross admitted to the recycling of seized drugs among informants⁶⁹³ and their use in loading up suspects, members of the North West Region Crime Squad admitted to this kind of conduct in a manner and to an extent that carried it into an entirely new dimension. These deals were, on their account, so regular that little is served by descent into detail. The following transactions described by detectives from this Squad, however, stand out:

- \$12,000 was provided by a dealer to police to finance a buy-bust.⁶⁹⁴ The drugs (two ounces of heroin) were obtained, but the money was lost in the operation. The drugs were then cut⁶⁹⁵ and a portion given to the dealer to cover his loss.⁶⁹⁶ This was not the only occasion where known criminals were described as having financed this type of operation by police, either to set up a competitor or to steal his drugs and money;⁶⁹⁷
- 10 pounds of cannabis were stolen in a job set up by criminal informants and then re-sold by them, the proceeds being shared between police involved in the operation and the criminal intermediaries;⁶⁹⁸
- some heroin found by a detective in a map drawer of the Drug Unit was broken up by him into smaller deals. Some he gave to an informer, the balance he sold to a known drug dealer in the Granville area.⁶⁹⁹ Other police confirmed the use of this drawer as a stash for heroin;⁷⁰⁰
- a detective purchased drugs from one associate for the purpose of re-sale to another associate who was having difficulty in obtaining the stocks he needed for his 'business' at a competitive price from his usual supplier.⁷⁰¹ In something of a twist to this, the usual supplier gave evidence of supplying the end buyer for a time through yet another detective, his purpose being to hide his role as he feared that the buyer was a police informant.⁷⁰² The last-mentioned detective collected a commission on these sales, further evidencing the entrepreneurial spirit of the detectives working in this area.⁷⁰³ A third detective admitted that he, too, had arrangements with the end buyer for the supply of drugs to him⁷⁰⁴ which included, on one occasion, their joint financing of a purchase of a quantity of heroin for re-sale;⁷⁰⁵ and

⁶⁹³ JTF6, RCT, 27/9/95, pp. 13690-91.

⁶⁹⁴ See Glossary.

⁶⁹⁵ See Glossary.

⁶⁹⁶ WS14, RCT, 12/3/96, pp. 21492-93; WS9, RCT, 18/6/96, p. 27158.

⁶⁹⁷ WS11, RCT, 12/6/96, pp. 26799-804.

⁶⁹⁸ WS11, RCT, 26/2/96, pp. 20596-99; WS14, RCT, 11/3/96, pp. 21436-38; WS4, RCT, 15/2/96, pp. 20152-53; WS9, RCT, 18/6/96, pp. 27132-34, WS15, RCT, 5/6/96, pp. 26499-501 & 26537-39.

⁶⁹⁹ WS4, RCT, 15/2/96, pp. 20161-66.

⁷⁰⁰ WS14, RCT, 11/3/96, pp. 21450-51; WS15, RCT, 5/6/96, p. 26516.

⁷⁰¹ WS14, RCT, 13/3/96, pp. 21598-99.

⁷⁰² EC, RCT, 15/3/96, p. 21869.

⁷⁰³ EC, RCT, 15/3/96, pp. 21869-70; WS11, RCT 26/2/96, pp. 20583-88.

⁷⁰⁴ WS4, RCT, 15/2/96, pp. 20191-99.

⁷⁰⁵ WS4, RCT, 15/2/96, p. 20204.

- a dealer gave police information in order to close down a competitor in return for a half share of the heroin that the police might find. The competitor was raided and one pound of heroin was found. This was taken back to the Drug Unit office where it was cut with glucose. A small quantity of the cut drug was given to the informant who was not advised of the amount which police had located. The remainder was sold by the police to a major heroin dealer who subsequently handed the first-mentioned detective \$80,000 in payment. According to that detective, this was shared with some of the other police associated with the raid. Other officers, who were not aware of the amount of heroin seized, were given smaller amounts of cash.⁷⁰⁶

12. INTERFERENCE WITH INTERNAL INVESTIGATIONS AND THE CODE OF SILENCE

4.185 One of the greatest obstacles identified by the Royal Commission has been the code of silence and solidarity in the face of any form of criticism of the Service or prospect of internal investigation. In some quarters this has been referred to as a brotherhood which supports those who close ranks and punishes viciously those who place duty first. It has become so powerful a feature of the police culture that it rarely requires express enunciation. Rather, it has been understood, accepted and blindly followed without regard to the harm to the Service it causes, or to the risks it creates for honest police.

4.186 Inevitably, as Royal Commission inquiries demonstrated, it is at its most potent within the lower ranks at operational and street level where policing is actually delivered. However, it is not confined to the lower ranks, being repeated at high levels within the Service although possibly not for the same reasons:

- among operational police, it is essentially a shield against complaint, for example, in circumstances where an officer has stepped out of line in the heat of the moment, but it is equally powerful in those cases where deliberately corrupt practices have been embraced; and
- among more senior ranks, the motive has tended more towards altruistic notions of maintaining morale and protecting the reputation of the Service, although having progressed through the ranks, and having been exposed to similar influences, many commanders are quite comfortable with the brotherhood principle.

4.187 In fairness to police, this form of solidarity is not confined to them. It is a feature of everyday life, and it is a universal problem that can be partially answered only by 'Whistleblower' legislation, or by support schemes for internal informants. In the context of policing it has been proven to be particularly well developed and resistant to change, being reinforced by an almost instinctive reaction for a payback complaint and a capacity for leaks. No matter what assistance is provided, or how much encouragement is offered, an internal witness will inevitably face some degree of isolation, unless a radical shift in culture can be achieved. These propositions are, to a degree, trite and are dealt with in more depth in Volume II of this Report where the phenomenon of payback complaints and the effect on promotional and career opportunities are examined. Some additional instances detected by the Royal Commission, illustrating the nature and extent of the problem, are identified here.

⁷⁰⁶ WS14, RCT, 11/3/96, pp. 21424-29. EC and other police officers provided indirect corroboration of this account. EC, RCT, 15/3/96, pp. 21845-61; WS9, RCT, 18/6/96, pp. 27129-31, WS15, RCT, 5/6/96, p. 26499.

Operational Police at Kings Cross

4.188 Among the early witnesses to roll over in the Kings Cross segment was a former detective who described the proposition that police should always ‘cover their arse’⁷⁰⁷ and protect their colleagues⁷⁰⁸ as cornerstones of the brotherhood. He also described how:

- the ICAC, Internal Affairs and the Royal Commission were seen as ‘the enemy’;⁷⁰⁹
- once police were aware of an internal investigation they were expected to warn any others who might be involved⁷¹⁰ and, if interviewed, to let them know what had been said;⁷¹¹
- it was expected that police would get together to arrange a cover-up;⁷¹²
- police with whom he had been working at the time he was called as a witness had repeatedly discussed who may have ‘rolled’ to the Royal Commission in a context of how they might best protect themselves.⁷¹³ Even when video evidence had made his position untenable they had encouraged him to ‘keep his chin up’, and reminded him that ‘they’ve got to prove it if you were lying’;⁷¹⁴ and
- when he decided to come forward and tell the truth he received support from friends, but not from any members of the Service.⁷¹⁵

4.189 His evidence was mirrored by that of other police who co-operated with the Royal Commission,⁷¹⁶ and was corroborated by many of the covertly recorded conversations former Detective Sergeant Haken had with his corrupt colleagues while working undercover for the Commission. It was also consistent with the fact that the expression ‘whale in the bay’, indicative of an alert as to the existence of an internal inquiry, had become established in the vernacular, if not the folklore, of the Service.⁷¹⁷

4.190 A graphic demonstration of the effect that the ‘brotherhood’ had for the internal complaint procedure was given by former Detective Sergeant Scullion. A complaint of assault and robbery by Kings Cross police was given to him to investigate. In an electronically recorded conversation with Mr Haken, Mr Scullion told him ‘I’ve got a fuckin’ departmental to fuckin’ handle’. He commented ‘Nobody fuckin’ belted him, nobody fuckin’ robbed him’ and ‘He’s just making a cunt of himself’. Then he explained to Mr Haken how he would resolve the matter, ‘Well what I, I’m playing it with a two forked attack ... I’m sending correspondence to the address he supplied ... If he comes ... I could probably ah ... talk to him. If he doesn’t ... I’m going to write it off that way’.⁷¹⁸

Cornish

4.191 In the course of the Cornish hearings (relating to a series of matters arising in the Northern Rivers and Peel Districts) referred to in the First Interim Report, the Royal Commission was exposed to its first practical demonstration of the code of silence and of the struggle faced by the several witnesses who elected to assist the Royal Commission. Some reported subsequent ostracism, alienation and retribution including threatening notes, lasting for a lengthy period after they gave

⁷⁰⁷ D. G. Demol, RCT, 3/7/95, p. 9578.

⁷⁰⁸ D. G. Demol, RCT, 3/7/95, pp. 9592-94.

⁷⁰⁹ D. G. Demol, RCT, 4/7/95, pp. 9663, 9671.

⁷¹⁰ D. G. Demol, RCT, 4/7/95, p. 9685.

⁷¹¹ D. G. Demol, RCT, 4/7/95, p. 9685.

⁷¹² D. G. Demol, RCT, 4/7/95, p. 9686.

⁷¹³ D. G. Demol, RCT, 4/7/95, pp. 9661-63.

⁷¹⁴ D. G. Demol, RCT, 3/7/95, p. 9618.

⁷¹⁵ D. G. Demol, RCT, 3/7/95, p. 9575.

⁷¹⁶ Such as Detective Sergeants Haken; N. J. Scullion, RCT, 10/7/95, p. 9949; D. K. Thompson; and J. G. Swan.

⁷¹⁷ A notable example of this was the telephone call made by Detective Sergeant Thompson to Detective Sergeant Churchill at the time of the 1989 IPSU investigation into the drug dealing activities of the latter; Transcript of telephone call, 30/3/89, RCPS Exhibit 239.

⁷¹⁸ Transcript of Scullion/Haken conversation, 8/9/94, RCPS Exhibit 2992.

evidence.⁷¹⁹ Their co-operation, however, was something of a breakthrough, in so far as it threw new light on previously inconclusive internal inquiries, and provided an example for those who were to follow. There can be little doubt that this public breakthrough served to weaken the code of silence.

Auburn Illustration

4.192 A 1992 incident involving the improper use of a police motor vehicle, and a subsequent cover-up of an accident in which it was involved, was also instructive. The matter was initially reported by the two police involved as an accident in the course of a surveillance operation while they were in pursuit of another vehicle. Subsequently it was acknowledged by each officer that three girls were in the vehicle at the time of the accident. The girls had been picked up outside a club where they had all been drinking.⁷²⁰ This fact had not been mentioned in the reports prepared at the time of the accident, although it was known to other police at Auburn station. When the presence of the girls emerged in the course of an unrelated investigation, a Departmental investigation was conducted which led to these two officers and three others being charged with conspiracy to pervert the course of justice. Those proceedings were terminated midstream when it was reported that the civilian witnesses had 'not come up to proof'. The matter was, however, referred to the Royal Commission, and reinvestigated by it.

4.193 Although the officer who was the passenger in the vehicle maintained his denial of any wrongdoing, the driver of the vehicle, three other police and one general support officer each admitted to having assisted in a cover-up of the incident either by deliberately supplying false information, withholding information, or not following up inquiries or telling the truth when interviewed by Internal Affairs.⁷²¹

4.194 The incident is of interest so far as it revealed:

- the reluctance of the uniformed police who had been drawn into the affair to do in the detectives, which was later compounded by their fear of being subject to Departmental charges. Together, this led them to cling to their original version until that position was no longer tenable, a position which some attributed to the unapproachability of senior staff and the absence of any source for advice or guidance;⁷²² and
- the mixed response of the more senior officers at Auburn police station, once suggestions emerged that all was not right with the matter, there having been a distinct lack of will to get to the heart of the matter.

Operation TransAm

4.195 A particularly troublesome example of a co-ordinated effort to resist an internal investigation, which demonstrated the depth of resentment among police towards Internal Affairs, and the absence of any real commitment to resist corruption from within, was given by an incident in this 1991 IPSU Operation. A surveillance operative from IPSU who was detected while maintaining surveillance upon a detective sergeant, was effectively arrested by that officer and by other detectives attached to the Major Crime Squad North-West, taken back to their office and unlawfully detained there for more than two hours, during which time he was also interrogated by their commander.⁷²³

⁷¹⁹ C. B. Mooney, RCT, 24/2/95, pp. 2363-64; P. Gallagher, RCT, 6/4/95, pp. 5139-40.

⁷²⁰ In his evidence to the RCPS, B1 admitted to having been drinking in the Auburn RSL and then picking the girls up from the front of the Club; B1, RCT(U), 19/3/96, pp. 378-383. The other officer admitted the girls were in the vehicle in his second interview with PIB subsequent to the court proceedings; S. J. Ryan, RCT(U), 19/3/96, p. 365.

⁷²¹ See B1, RCT(U), 19/3/96, pp. 375-404; B2, RCT(U), 19/3/96, pp. 404-53; B3, RCT(U), 19/3/96, pp. 453-66; D. G. Faul, RCT(U), 20/3/96, pp. 472-98; and B5, RCT(U), 19/3/96, pp. 367-75, 21/3/96, pp. 593-616.

⁷²² See B1, RCT(U), 19/3/96, pp. 398-401; B2, 19/3/96, RCT(U), p. 414; B3, RCT(U), 19/3/96, pp. 458-59, 462; and D. G. Faul, RCT(U), 20/3/96, pp. 489-90.

⁷²³ WS14, RCT, 11/3/96, pp. 21441-44; DS, RCT, 14/3/96, pp. 21757-67; S. F. Graham, RCT, 14/3/96, pp. 21769-70.

4.196 Upon any view of the evidence, and even making the greatest allowance for any misunderstandings or failures of recollection, this procedure was totally irregular and conveyed an utterly inappropriate message to the detectives concerned.

4.197 A not unimportant side result was the effective termination of Operation TransAm,⁷²⁴ and the transfer of the surveillance operative who was seriously stressed by the incident, particularly after he had been informed during his detention and interrogation that without any foundation, he was a suspect for a series of robberies. The attitude of the commander was well reflected by his admission that although he suspected the person detained to be from Internal Security and legitimately carrying out surveillance on one of his staff, he thought it 'unfair' for them to be employing these 'mind games'.⁷²⁵ There is little doubt that the entire incident was one of considerable amusement to all concerned apart from the IPSU operative.

Attitude of Supervisors and Commanders

4.198 Another illustration of the misguided approach that is sometimes brought to these cases by supervisors and commanders was that relating to a detective superintendent who had brought information to the notice of the Royal Commission concerning a possibly corrupt approach made to him by Trevor Haken. Unknown to him the conversations he had with Mr Haken were all the subject of electronic surveillance. When debriefed by Royal Commission investigators, he initially failed to disclose part of a conversation which suggested that he and another more senior officer had been in receipt of bribes from a drug dealer. Subsequently, he made a partial correction by disclosing that an allegation had, in fact, been made in relation to himself, but he still failed to make any mention of the allegation relating to the other officer who was a close associate. When pressed to explain this he said that he wanted to protect that officer from 'ruination of his character' since he knew him not to be corrupt.⁷²⁶

4.199 A similar illustration emerged in the course of an inquiry conducted by the PIB during the Royal Commission. Unknown to the police concerned, a listening device had been installed in Port Macquarie Police Station which recorded the patrol commander, since retired, and two detectives discussing the investigation. In the course of the discussion the patrol commander advised one '... you don't want to say too fucking much you know'. This officer acknowledged that after having been advised of the Internal Inquiry, he had informed staff of it, and cautioned them to 'be wary and to behave'.⁷²⁷ He acknowledged passing on to police the substance of the matters under investigation, his reasons being that:

- on the one hand, he thought this might let them assist the investigation; and
- on the other hand, he thought the allegations ridiculous, and his staff to be people in whom he could place absolute trust.⁷²⁸

No finding is made by the Royal Commission on the evidence currently available of any knowing impropriety by any of the police involved in this affair. However, the attitude of serving police to internal inquiries, and the lack of respect given to confidentiality, mirrored elsewhere, was obvious.

4.200 At their most favourable, and leaving aside any question of what might have been disclosed without electronic surveillance, responses of this kind expose the difficulty even senior police have with providing their full assistance to any form of corruption investigation, and a too-ready willingness to trust colleagues.

⁷²⁴ With a singularly misleading report to the Ombudsman later and to the effect that 'surveillance carried out on Sergeant ... failed to disclose any relationship between Detective Sergeant ... and ...' This report was counter-signed by the acting head of Internal Police Security Branch who was aware of the actual circumstances surrounding the termination of TransAm; see R. J. Myatt, RCT, 3/6/96, pp. 26257-64.

⁷²⁵ J. T. Turner, RCT, 14/3/96, p. 21737.

⁷²⁶ B. J. Meredith, RCT, 17/8/95, p. 11766. The other officer was later dismissed when other evidence concerning him was led before the Royal Commission.

⁷²⁷ A. J. Kay, RCT(U), 27/9/96, p. 7723.

Flow-On Effect

4.201 The individual experience of police faced with open hostility after they have reported incidents of possible corruption, and apparent inaction or lack of sensitivity on the part of Internal Affairs investigators, does not go unnoticed. One of the significant witnesses in the North-West segment, Detective Senior Constable Geoffrey Fagan, described these precise experiences after reporting an apparent attempt by two senior detectives to interfere in an inquiry commenced by him and his partner.⁷²⁹ Although the two detectives were already the subject of a long-standing internal investigation,⁷³⁰ that inquiry effectively went nowhere and the opportunity of proactively using the officers who had reported this new incident, as well as consequent harassment from other police,⁷³¹ was simply not taken up. Rightly or wrongly, it was their impression that friendships or prior associations with the detectives under suspicion were operating as a brake upon the internal investigations, and they lost all confidence in Internal Affairs.⁷³² This experience discouraged one witness from bringing further matters to light and also led him to deliver similar advice to other officers who sought his counsel, that is, until he was interviewed by Royal Commission investigators.⁷³³ He was not the only officer to report a similar reaction to his experience in bringing matters to notice.

A New Approach?

4.202 By way of conclusion, it may be noted that on 18 April 1996 evidence was called before Commissioner Urquhart from six relatively junior police⁷³⁴ who, as recent graduates from the Police Academy, had brought to official notice conduct of more senior police which they thought to be inappropriate or unlawful. Although a small sample, it was of interest since some were attached to country patrols and others to suburban stations. The conduct reported included:

- an apparent serious assault upon a person under arrest;
- an assault in police cells;
- threatening and abusive conduct;
- inaction in relation to drivers testing positively to roadside alcohol tests;
- the submission of false returns in relation to roadside breathalyser testing;
- an officer going off night duty to visit his girlfriend; and
- interference with an investigation at the time of questioning a suspect.

4.203 Each expressed some concern about making the decision to report the relevant conduct, but confirmed that if placed in the same situation again, they would probably respond in the same way. Significantly, of the six officers:

- several reported that they felt the training at the Academy had not properly prepared them to deal with the problem;⁷³⁵

⁷²⁸ A. J. Kay, RCT(U), 27/9/96, p. 7729.

⁷²⁹ G. W. Fagan, RCT, 13/2/96, pp. 20033-37; BA, RCT, 14/2/96, pp. 20088-91.

⁷³⁰ J. F. Withers, RCT, 14/2/96, p. 20143.

⁷³¹ G. W. Fagan, RCT, 14/2/96, pp. 20050-55.

⁷³² G. W. Fagan, RCT, 13/2/96, p. 20036.

⁷³³ G. W. Fagan, RCT, 13/2/96, p. 20022, 14/2/96, p. 20058; CD, RCT, 29/2/96, p. 20968; see also the reaction of his work partner MW, RCT, 14/2/96, pp. 20077-78; and the evidence of WS8, RCT, 28/2/96, p. 20787.

⁷³⁴ See CP1, RCT(U), 18/4/96, pp. 1670-73; CP2, RCT(U), 18/4/96, pp. 1683-92; CP3, RCT(U), 18/4/96, pp. 1692-700; CP4, RCT(U), 18/4/96, pp. 1700-08; CP5, RCT(U), 18/4/96, pp. 1708-15; and CP6, RCT(U), 18/4/96, pp. 1715-20.

⁷³⁵ See CP1, RCT(U), 18/4/96, pp. 1671, 1678 & 1681; CP2, RCT(U), 18/4/96, pp. 1690-91; CP4, RCT(U), 18/4/96, p. 1707.

- all found the Internal Affairs inquiry to be efficient, but two felt it unduly procedural and too matter-of-fact or impersonal;
- four had experienced a negative reaction from fellow officers, including gossip designed to damage the reputation of one,⁷³⁶ open reluctance on the part of fellow police to work with a second,⁷³⁷ the appearance of notices around the station with the picture of a plant alongside the name of the third officer,⁷³⁸ and a cold shoulder from some, but not all, staff in the fourth case,⁷³⁹ and
- two expressed support for a hot line by which officers could receive advice on corruption issues, and on their obligations and entitlements; and two had taken, or were in the course of taking, a transfer to another station.

13. OTHER CIRCUMSTANCES SUGGESTIVE OF CORRUPTION

4.204 In a large number of instances, intelligence was received in relation to individual police which if accepted would signify their involvement in corrupt activity. In some cases, subsequent financial analysis or inquiries revealed:

- significant cash bankings and expenditures;
- patterns of overseas travel and expensive local holidays;
- the presence of large sums of cash hidden in shoe boxes,⁷⁴⁰ or similar containers,⁷⁴¹ and
- monies available to them which inexplicably moved through accounts of friends and relatives.

4.205 The explanations given for the financial transactions were, in many cases, patently absurd, often turning on 'successful punting', or 'gifts' or undocumented 'loans' some of which had been allegedly made by now deceased relatives. Surprisingly, officers who resorted to punting as the explanation seemed never to suffer any losses, or to have any distinct memory of records of their successful bets. In some cases, an 'explanation' was given which, if true, involved an admission that the officer was engaged in unauthorised secondary employment, and avoiding income tax. In other cases, no real attempt at explanation was offered, the witness either suggesting an absence of all recollection of the transaction and the loss or destruction of any material records, the delegation of control over financial matters to a partner or spouse, or simple, but inexplicable, error in such documentation as was found.

4.206 In another significant group of cases, there was uncorroborated evidence of police having been involved in various forms of criminality and dishonesty. In each of these cases where the officer concerned denied any wrongdoing and corroboration was lacking, they have not been further noted here; similarly with those cases where criminal proceedings have already been instituted and are yet unresolved or are on appeal. Some miscellaneous cases can, however, be conveniently mentioned.

Operation Azure/Revival

4.207 One case to which serious concern attaches was a Drug Enforcement Agency (DEA) Task Force operation in 1992. This was a sting operation based upon information received from RY, in which the buy money of \$340,000 provided by the Crime Commission was 'lost', allegedly stolen in a

⁷³⁶ CP1, RCT(U), 18/4/96, p. 1674.

⁷³⁷ See CP2, RCT(U), 18/4/96, p. 1687.

⁷³⁸ CP5, RCT(U), 18/4/96, p. 1711.

⁷³⁹ See CP6, RCT(U), 18/4/96, pp. 1718-20.

⁷⁴⁰ M. L. Bigg, RCT, 9/5/95, pp. 6715-31; K. G. Middleton, 18/9/96, pp. 32578-82; K. J. Middleton, RCT, 18/9/96, pp. 32540-43.

⁷⁴¹ G. J. Fowler, RCT, 1/11/95, pp. 15784-87 & 15794.

reverse sting set up by RY and some associates. The operation, on any view, went wrong at almost every stage of its planning and implementation. That situation was only compounded by serious irregularities and suspicious circumstances affecting its subsequent investigation. Although it is not possible to conclude that there was police complicity in the reverse sting, that possibility remains open.

4.208 In summary, following initial contact and preliminary negotiations including a 'show' of the buy money⁷⁴² on 3 July 1992, a buy-bust⁷⁴³ was set up for 5 July 1992. On that day, RY was supplied with a hired car which was fitted out with a listening device, and he wore another listening device on his person. Surveillance was available in the form of a Pol Air helicopter, 12 surveillance operatives in nine vehicles supported by DEA officers. The commanders of the operation were supposedly able to maintain control from a remote listening post and via police radio. There were no difficulties in establishing visual and electronic surveillance, or in maintaining a comprehensive communication network.

4.209 As events turned out, RY drove to the designated meeting point where he was expected to remain in possession of the money, while the car supplied to him was taken away and returned with the drugs. Contrary to instructions, he allowed himself to be blindfolded and driven away by two persons, but still in possession of the money. He was taken by a circuitous route to a position near a railway embankment. There he left the car which was driven away by one man, while the second person escaped with the money via a stormwater drain that went under the railway embankment.

4.210 The hired car was later found abandoned, and the buy monies were not seen again. Subsequent financial investigations turned up banking and other financial transactions by RY and certain associates involving some bank notes of the same serial numbers as those allegedly provided by the Crime Commission for the buy.

4.211 Close analysis of the operation revealed the following:

- a total absence of any real check by the DEA on the reliability of RY, or on his possible status as a drug dealer, even though there was information readily available to suggest that he had proven less than reliable in the past and was suspected of involvement in various forms of criminality;
- some inherent incredibility in the scenario painted, so far as RY claimed a hatred of drugs yet professed to have a close association with those involved in their supply;
- overtly deficient surveillance on 3 July when the show money⁷⁴⁴ was produced;
- no real attempt to verify or test the information, for example, by a small controlled buy, or by checking the source of the various telephone calls ostensibly made to RY by the supplier, or by a person alleged to have been a police officer corruptly assisting the supplier;
- the failure to terminate the operation immediately RY disobeyed his instructions by driving off with the suppliers in the car;
- the failure of police to maintain physical surveillance of the vehicle at the most critical time, that is, once it had stopped at the railway embankment, one officer having acknowledged that he elected to drive past it before sending a message to the effect that he had broken off surveillance;
- the failure of anyone to monitor the listening device on the person of RY;

⁷⁴² See Glossary.

⁷⁴³ See Glossary.

⁷⁴⁴ See Glossary.

- confusion between the DEA and JTSG operatives as to who had the responsibility to monitor the various listening devices; and
- the order by the officer in charge of the operation for all cars to pursue the hired vehicle even though one operative had reported that it now had only one occupant, and his failure to direct a ground search in the area where RY had been left even though there had been a surveillance vehicle on the other side of the railway embankment in the direction the offender absconding with the money was heading.

4.212 If this bungled operation was not bad enough, more problems emerged after the event:

- first, it was believed that only one tape existed recording the conversation in the hired car, this being a tape on which the voice of one of the persons later charged and convicted could be heard. For reasons which remain unexplained, this tape was later contaminated, an occurrence which an internal inquiry subsequently found to be deliberate. A second tape which had initially been overlooked emerged only later;
- second, significant concern arose in reconciling the bank notes lost with those allegedly obtained for the operation and said to have been photocopied during the days preceding it. In summary, there could be no reconciliation in view of the fact that:
 - three detectives gave evidence of photocopying notes from the subsequently stolen funds in circumstances where these alleged photocopies could not have formed part of the photocopies which were presented in the prosecution brief and in the subsequent trial as photocopies of the notes given to RY;
 - photocopies of other notes which did form part of the collection of photocopies so presented could not have related to the notes used in the operation for various reasons; for example, at least \$20,000 in face value of photocopies had been prepared before the funds used in the operation had been withdrawn from the bank,⁷⁴⁵
 - shortly after the theft the DEA prepared a computer list of the serial numbers of the photocopied notes. In the course of doing this, many apparently innocent clerical mistakes were made including the entering of the same serial number twice and some numbers three times. In all, there were more than 100 wrong entries. With these mistakes the computer list of notes added up to \$337,500.⁷⁴⁶ The police who were involved in the photocopying process all made their statements subsequent to the preparation of the DEA list. By an apparently remarkable coincidence the value of the notes photocopied in accordance with these statements was also \$337,500.

4.213 The best face that one could put on this operation would be to say that it was bungled from the beginning with never a hope of success. The result is that about \$340,000 was lost, and the opportunity to tie up a possible drug syndicate missed. Moreover, considerable suspicion remains as to the true scenario and identity of those involved in the scam. The reputation of the DEA has been substantially damaged. No doubt within the criminal milieu the entire event is regarded with a good deal of humour.

B. OTHER INQUIRIES

4.214 The forms of corruption outlined above are not new, and the move by police to actively engage in criminal activity is not surprising given the lack of effective reform in past years. It is of concern that both the ICAC and the Ombudsman in NSW have investigated, exposed and made

⁷⁴⁵ In all there was reason to believe that the photocopy record of the stolen funds had been falsified at least in relation to an amount of \$30,000 and possibly as much as \$145,000.

⁷⁴⁶ This was \$2,150 more than the value of the notes depicted in the collection of photocopies.

recommendations about corruption in the NSW Police Service with little resultant change or acknowledgment by the Service. This Royal Commission has had an advantage, in the power and resources accorded it, to expose the real nature and extent of corruption. It is hoped that in the face of this inquiry some real changes will be made to the way the Service conducts itself, and that professionalism will be adopted as a way of life. If the substance of the following reports sound familiar it is because each has its counterpart in the investigations of the Royal Commission. They are highlighted here to support the Royal Commission findings and to emphasise the need for major reform which was, unfortunately, present before this Royal Commission was initiated.

THE ICAC

4.215 The ICAC has had a specific brief to target corruption within the public sector, including the Police Service since 1988.⁷⁴⁷ For the year to 30 June 1994, approximately 30% of the complaints to the ICAC from members of the public concerned police.⁷⁴⁸ The volume of those complaints, when taken into account with matters reported directly to the Service and to the Ombudsman, did point to the existence of a significant problem. While the ICAC has historically given more prominence to education and corruption prevention than to detection,⁷⁴⁹ it has conducted several investigations into issues concerning police corruption, the most notable being the Milloo inquiry which examined improper associations between detectives and criminals.⁷⁵⁰

The Milloo Inquiry

4.216 In this inquiry the ICAC examined armed robberies, the Gaming Squad, prosecutions, and associations between particular police and criminals. Mr Arthur Stanley (Neddy) Smith, the main witness, alleged that current and former senior officers had facilitated and procured the commission of serious crimes, and in some cases had actively participated in the commission of such crimes. He also claimed that the same officers had engaged in systemic conduct to prevent the proper and lawful investigation of criminality, and had regularly and wilfully engaged in perverting the course of justice in the course of the prosecution of criminal acts.⁷⁵¹

4.217 Corruption found in the Milloo Inquiry took various forms:

- accessing confidential information;⁷⁵²
- improper relationships between officers and criminals, and police involvement in gang wars;⁷⁵³
- conspiracy to pervert the course of justice, and compromise or favourable treatment in prosecutions;⁷⁵⁴ and
- protection of gaming and betting interests.⁷⁵⁵

Nine serving or former police officers were found to have acted corruptly. Statements that consideration be given to criminal and/or disciplinary action were made against 15 people.⁷⁵⁶

⁷⁴⁷ *Independent Commission Against Corruption Act 1988* .

⁷⁴⁸ ICAC, *Annual Report* , 1994, RCPS Exhibit 2904/3, p. 13.

⁷⁴⁹ See RCPS, *First Interim Report* , November 1996, Independent Commission Against Corruption, paras. 3.105 - 3.109.

⁷⁵⁰ ICAC, *Report on Investigation into the Relationship between Police and Criminals* , First Report, February 1994.

⁷⁵¹ *ibid*, p. 3.

⁷⁵² N. Smith received help from R. Rogerson when disposing of 500 \$200 gold coins. Rogerson asked Detective John Brown to check at Property Tracing Section whether the coins were listed as stolen and offered active support to Smith; ICAC, *Report on Investigation into the Relationship between Police and Criminals* , First Report, February 1994, p. 24.

⁷⁵³ *ibid*, pp. 31, 41.

⁷⁵⁴ Payment of \$70,000 to R. Rogerson and J. Openshaw re charges against Harvey Jones; *ibid*, p. 41; a Prosecuting sergeant accepted money to get N. Smith off murder charges, but did nothing for the money; *ibid*, p. 62; Smith said he paid \$4,000 to an associate to have bail conditions changed and that Detective Sergeant Gordon Beardmore (Waverly) was involved - had discussions with Detective Sergeant Ron Daly re beating charge - arranged to pay \$12,000 - failed to notify witness so did not turn up at court and charges were dismissed; *ibid*, p. 87.

⁷⁵⁵ *ibid*, part IV - Gaming.

⁷⁵⁶ ICAC, *Annual Report* , 1994, RCPS Exhibit 2904/34, p. 17.

However, it resulted in limited convictions and the enforced departure of only a few corrupt officers from the Service.

Other ICAC Inquiries

4.218 The ICAC has also investigated allegations that:

- two officers had solicited and been paid money by a person they had charged; as a result the officers resigned from the Service;⁷⁵⁷
- two off-duty officers were involved in an assault and robbery; this investigation was discontinued when a crucial witness refused to co-operate;⁷⁵⁸
- an officer accepted a bribe in exchange for fixing a prosecution; this was referred to the DPP;⁷⁵⁹
- there had been an unauthorised release of police information, (most likely by a police officer), in particular one document from the State Intelligence Group;⁷⁶⁰
- police officers had been receiving spotters' fees for reporting heavy vehicle accidents to tow truck operators and had been involved in the harassment of rival tow truck operators; as a result three officers were charged with serious offences, one was dismissed from the Service;⁷⁶¹
- payments were being made by the licensee of a hotel to a licensing officer - he later resigned;⁷⁶²
- free meals and gifts of liquor were made available to licensing officers and that such conduct was widespread;⁷⁶³
- evidence was fabricated (heroin was planted) during a raid on Frank Hakim's office - no impropriety was found on the part of any of the officers in relation to the arrest and prosecution of Mr Hakim;⁷⁶⁴ and
- misconduct had occurred in the buying of testimony from prison informers in exchange for favours.⁷⁶⁵

THE OMBUDSMAN

4.219 Prior to 1983 the Ombudsman had power to review reports of police investigations into complaints only. In that year the powers of the Ombudsman's office were extended under the *Police Regulation (Allegations of Misconduct) Act (PRAM) 1978*, to give the Ombudsman greater power to directly investigate complaints made about the Police Service.⁷⁶⁶ Throughout its investigations the Ombudsman has revealed many problems and deficiencies in the New South Wales Police Service, many of which are to do with incivility and neglect of duty. However, many more serious matters, similar to the problems uncovered by this Royal Commission, have come to its notice.

⁷⁵⁷ ICAC, *Annual Report to 30 June 1991*, RCPS Exhibit 2904/40, p. 47.

⁷⁵⁸ ICAC, *Annual Report to 30 June 1992*, RCPS Exhibit 2904/36, p. 36.

⁷⁵⁹ ICAC, *Report on Investigation into Matters Relating to Police and Confidential Information*, June 1994, p. 19.

⁷⁶⁰ Several recommendations were made concerning access to information, computer security and record keeping. A Statement of Best Practice on the Security of Information Systems was formulated; ICAC, *Report on Investigation into Matters Relating to Police and Confidential Information*, June 1994.

⁷⁶¹ ICAC, *Report on Investigation into Police and Truck Repairers*, May 1991, p. iii.

⁷⁶² ICAC, *Report on Investigation into Sutherland Licensing Police*, February 1991, p. iii.

⁷⁶³ It was recommended that consideration be given to the prosecution of one of the officers for having received bribes; ICAC, *Report on Investigation into Sutherland Licensing Police*, February 1991.

⁷⁶⁴ ICAC, *Report on Investigation Relating to the Raid on Frank Hakim's Office*, December 1989, p. 1.

⁷⁶⁵ Consideration for prosecution was made in two cases; ICAC, *Report on Investigation into the Use of Informers*, vol. 1, January 1993, pp. 172 & 399.

⁷⁶⁶ NSW Ombudsman, *Annual Report, Year ended 30th June 1984*, RCPS Exhibit 2904/5, p. 2.

4.220 Matters investigated and/or deficiencies exposed since 1984 include:

- the existence of a police culture which features a ‘cone of silence’⁷⁶⁷ or ‘corruption of silence’;⁷⁶⁸
- the inappropriate use of the power of arrest;⁷⁶⁹
- conflicts of interest arising from improper associations,⁷⁷⁰ and secondary employment (especially in relation to the security industry),⁷⁷¹ and the use of police powers for personal gain or for the benefit of family or friends;⁷⁷²
- assaults, for example by police of persons both in custody⁷⁷³ and elsewhere, unlawful detention, and harassment;⁷⁷⁴
- unauthorised access and disclosure of personal information;⁷⁷⁵
- the lack of supervision on night shifts;⁷⁷⁶
- inadequate handling of exhibits, as in the French’s Forest and Lismore matters;⁷⁷⁷
- delays by the Service in investigating complaints by the public,⁷⁷⁸ identified by the Ombudsman as the most common complaint about the police investigation system;⁷⁷⁹
- lack of support for officers in reporting misconduct or corruption,⁷⁸⁰ and the failure of the Service to protect internal informants;⁷⁸¹
- a lack of accountability on the part of the Service;⁷⁸²
- alcohol consumption while on duty, and driving police vehicles while intoxicated;⁷⁸³
- attempts by police to persuade complainants to withdraw complaints by threats of violence, persecution or harassment, inducements such as offers to ignore traffic infringements or apologise, or misrepresentations that the matter is being dealt with;⁷⁸⁴
- fabrication of evidence⁷⁸⁵ and conspiracy to pervert the course of justice;⁷⁸⁶
- car repairs to a private vehicle effected at the Service’s expense;⁷⁸⁷

⁷⁶⁷ NSW Ombudsman, *Annual Report*, 1993-94, RCPS Exhibit 2904/54, pp. 46-48.

⁷⁶⁸ NSW Ombudsman, *Annual Report*, Year ended 30th June 1990, RCPS Exhibit 2904/12, p. 173; NSW Ombudsman, *Annual Report*, 1993-94, RCPS Exhibit 2904/54, p. 46.

⁷⁶⁹ NSW Ombudsman, *Annual Report*, Year Ended 30th June 1984, RCPS Exhibit 2904/5, p. 123; NSW Ombudsman, *Annual Report*, Year ended 30th June 1985, RCPS Exhibit 2904/6, p. 140; NSW Ombudsman, *Annual Report*, Year ended 30th June 1987, RCPS Exhibit 2904/10, p. 113; NSW Ombudsman, *Annual Report*, Year ended 30 June 1991, RCPS Exhibit 2904/4, p. 116; NSW Ombudsman, *Annual Report*, 1991-92, RCPS Exhibit 2904/53, p. 55; NSW Ombudsman, *Annual Report*, 1992-93, RCPS Exhibit 2904/55, p. 40; NSW Ombudsman, *Annual Report*, 1995-96, RCPS Exhibit 2904/56, p. 3436.

⁷⁷⁰ NSW Ombudsman, *Annual Report*, 1993-94, RCPS Exhibit 2904/54, p. 39.

⁷⁷¹ NSW Ombudsman, *Annual Report*, 1991-92, RCPS Exhibit 2904/53, p. 62.

⁷⁷² *ibid*, pp. 55-58.

⁷⁷³ NSW Ombudsman, *Annual Report*, Year ended 30 June 1991, RCPS Exhibit 2904/4, pp. 130-33; NSW Ombudsman, *Annual Report*, Year ended 30th June 1990, RCPS Exhibit 2904/12, pp. 173-74.

⁷⁷⁴ NSW Ombudsman, *Annual Report*, Year ended 30 June 1991, RCPS Exhibit 2904/4, p. 124-127.

⁷⁷⁵ NSW Ombudsman, *Annual Report*, 1995-96, RCPS Exhibit 2904/56, p. 29 reported there were 173 complaints of unauthorised access in 1993-94, 217 complaints in 1994-95, and 255 complaints in 1995-96.

⁷⁷⁶ NSW Ombudsman, *Annual Report*, 1993-94, RCPS Exhibit 2904/54, pp. 54-55.

⁷⁷⁷ NSW Ombudsman, *Annual Report*, 1992-93, RCPS Exhibit 2904/55, p. 50.

⁷⁷⁸ NSW Ombudsman, *Annual Report*, Year ended 30th June 1984, RCPS Exhibit 2904/5, p. 106.

⁷⁷⁹ NSW Ombudsman, *Annual Report*, 1991-92, RCPS Exhibit 2904/53, p. 33.

⁷⁸⁰ NSW Ombudsman, *Annual Report*, Year ended 30 June 1991, RCPS Exhibit 2904/4, pp. 130-132.

⁷⁸¹ *ibid*, p. 133.

⁷⁸² *ibid*, p. 135.

⁷⁸³ NSW Ombudsman, *Annual Report*, Year ended 30th June, 1988, RCPS Exhibit 2904/11, p. 8; NSW Ombudsman, *Annual Report*, Year ended 30 June 1991, RCPS Exhibit 2904/4, p. 133; NSW Ombudsman, *Annual Report*, 1993-94, RCPS Exhibit 2904/54, pp. 54-55.

⁷⁸⁴ NSW Ombudsman, *Annual Report*, Year ended 30th June 1986, RCPS Exhibit 2904/7, p. 190.

⁷⁸⁵ NSW Ombudsman, *Annual Report*, Year ended 30th June, 1988, RCPS Exhibit 2904/11, p. 8.

⁷⁸⁶ NSW Ombudsman, *Annual Report*, 1992-93, RCPS Exhibit 2904/55, p. 36.

- poor internal investigation practices (a theme repeated often in the Ombudsman's investigations and reports),⁷⁸⁸ such as allowing police under investigation time to discuss their stories, denigration of complainants, lack of effort on the part of investigating officers, and delays in the completion of investigations,⁷⁸⁹ and failure to locate witnesses.⁷⁹⁰ These inadequacies were especially evident in the Police Service handling of the Angus Rigg matter;⁷⁹¹
- inadequate intelligence, inaccurate information in obtaining warrants, and poor supervision in relation to the execution of warrants; specifically in the case of the raid on Eveleigh Street Redfern in 1991⁷⁹² where the Ombudsman expressed concern about the use of possibly fatal force without a sound intelligence basis;⁷⁹³
- numerous complaints about inadequate procedures and practices in dealing with minority groups,⁷⁹⁴ in particular the use of the power of arrest.⁷⁹⁵
- the Miles and McKinnon⁷⁹⁶ complaints about the conduct of senior police on the North Shore, which embraced consorting with criminals, conspiracy to pervert the course of justice, drunkenness on duty, failure to attend the scene of a serious crime, mishandling of exhibits, victimisation and the failure of the police investigation of the original complaint;⁷⁹⁷ and
- the way the Service handled an investigation of a detective inspector from Special Investigative Group and his relationship with a convicted drug trafficker.⁷⁹⁸

The Ombudsman's Relationship with the Police Service

4.221 The Ombudsman has not always enjoyed a positive relationship with the Police Service. Differences have emerged arising out of frustration at Service failures to implement recommendations, and attempts to thwart the exercise of the Ombudsman's powers. These differences have extended to:

- the Police Association support of a challenge to the Ombudsman's practice of finding complaints against police 'unable to be determined' (rejected by the Court of Appeal on the grounds that the Ombudsman was entitled to make such a finding because he had no independent investigative powers);⁷⁹⁹
- complaints concerning the lack of helpful submissions from the Service on provisional findings of investigations;⁸⁰⁰
- unwillingness by the Service to comply with requests from the Ombudsman for information, and general delays in doing so;⁸⁰¹

⁷⁸⁷ NSW Ombudsman, *Annual Report, Year ended 30th June, 1988*, RCPS Exhibit 2904/11, p. 8.

⁷⁸⁸ NSW Ombudsman, *Annual Report, Year ended 30th June, 1985*, RCPS Exhibit 2904/6, pp. 135b-37; NSW Ombudsman, *Annual Report, Year ended 30th June 1987*, RCPS Exhibit 2904/10, p. 139.

⁷⁸⁹ NSW Ombudsman, *Annual Report, Year ended 30th June, 1985*, RCPS Exhibit 2904/6, p. 142.

⁷⁹⁰ NSW Ombudsman, *Annual Report, 1993-94*, RCPS Exhibit 2904/54, p. 7.

⁷⁹¹ NSW Ombudsman, *Annual Report, 1992-93*, RCPS Exhibit 2904/55, p. 32.

⁷⁹² NSW Ombudsman, *Annual Report, Year ended 30 June 1991*, RCPS Exhibit 2904/4, p. 106.

⁷⁹³ NSW Ombudsman, *Annual Report, Year ended 30 June 1991*, RCPS Exhibit 2904/4, p. 106.

⁷⁹⁴ NSW Ombudsman, *Race Relations & Our Police*, Special Report to Parliament, January 1995; see also the various Annual Reports which regularly report incidents against minority groups.

⁷⁹⁵ NSW Ombudsman, *Annual Report, Year ended 30 June 1991*, RCPS Exhibit 2904/4, pp. 114-17.

⁷⁹⁶ Constable Paul Miles and Constable Max MacKinnon complained to the Ombudsman after the Police Service failed to adequately address their complaints; NSW Ombudsman, *Annual Report, Year ended 30 June 1985*, RCPS Exhibit 2904/6, p. 117.

⁷⁹⁷ NSW Ombudsman, *Annual Report, Year ended 30th June, 1985*, RCPS Exhibit 2904/6, pp. 117-21.

⁷⁹⁸ NSW Ombudsman, *Conflict of Interest*, Special Report to Parliament, March 1997.

⁷⁹⁹ NSW Ombudsman, *Annual Report, Year ended 30th June, 1984*, RCPS Exhibit 2904/5, p. 94.

⁸⁰⁰ NSW Ombudsman, *Annual Report, Year ended 30th June, 1986*, RCPS Exhibit 2904/8, pp. 182-84.

⁸⁰¹ NSW Ombudsman, *Annual Report, Year ended 30th June, 1985*, RCPS Exhibit 2904/6, p. 112; NSW Ombudsman *Annual Report, Year ended 30th June, 1986*, RCPS Exhibit 2904/8, p. 184.

- attempts by the Service to invoke legislative provisions which prevent certain information from being published in the event of criminal proceedings, where no such proceedings are pending, the effect of which is to delay or prevent reinvestigation by the Ombudsman;⁸⁰²
- the description by a former President of the Police Association of officers seconded to the Ombudsman as 'spies';⁸⁰³
- the need for legal action by the Ombudsman against the Commissioner seeking declarations to require the Commissioner to notify the Ombudsman in accordance with the PRAM Act of any written complaint made to the Commissioner by a member of the Force against another member of the Force;⁸⁰⁴
- the suggestion by the Police Board that the Ombudsman's role be eliminated entirely;⁸⁰⁵
- the divergence between the Police Board and the Ombudsman about the complaints system and the role of the latter;⁸⁰⁶
- opposition to the Ombudsman's jurisdiction in relation to the David Gundy matter;⁸⁰⁷
- the special report of the Ombudsman to Parliament concerning the Commissioner's continued refusal to adopt its recommendations for the use of independent legal advice when considering criminal and/or disciplinary charges against police;⁸⁰⁸
- the Service claim that complaints by one officer against another did not fall within the Ombudsman's jurisdiction - later clarified by Supreme Court (December 1987) that they did;⁸⁰⁹
- a legal challenge by Commissioner Lauer to prevent publication of the Ombudsman's provisional finding that his decision to remove the late Raymond Denning from the witness protection program was 'unreasonable' and 'oppressive';⁸¹⁰ and
- numerous reports from the Ombudsman about dissatisfaction with the way police handled investigations.

4.222 In her 1996 Annual Report, Ombudsman Irene Moss, expressed her concern that, despite the changes effected by the Royal Commission, complaints against police had continued to rise, and the pattern of complaints had not changed.⁸¹¹ She went on to say:

Police are still capable of generating huge numbers of complaints about broadly similar issues year after year. Why? At a time of unprecedented scrutiny of individual police and the Police Service in general, why are there record numbers of complaints against police? Unfortunately the messages being sent by the complaints do not appear to be getting through to, or acted upon by, police officers in the front line ... Whether the issue is one of corruption, serious misconduct or customer service, the origins of the problem are the same - abuse of power and a lack of professionalism and integrity.⁸¹²

SEPARATIONS AND PROSECUTIONS SINCE MAY 1994

4.223 In order to identify changes in Police Service composition and structure since the commencement of the Commission, information regarding separations from the Service and

⁸⁰² NSW Ombudsman, *Annual Report, Year ended 30th June, 1985*, RCPS Exhibit 2904/6, pp. 140-41.

⁸⁰³ NSW Ombudsman, *Annual Report, Year ended 30th June, 1987*, RCPS Exhibit 2904/9, p. 135.

⁸⁰⁴ NSW Ombudsman, *Annual Report, Year ended 30th June, 1988*, RCPS Exhibit 2904/11, p. 133.

⁸⁰⁵ NSW Ombudsman, *Annual Report, Year ended 30th June, 1989*, p. 257 - quoting from article in the *SMH*, 8/10/88 - 'Confidence and trust in the Police'.

⁸⁰⁶ NSW Ombudsman, *Annual Report, Year ended 30th June 1989*, p. 253.

⁸⁰⁷ *ibid*, pp. 274-78.

⁸⁰⁸ In the report he said he had made the same recommendation on 13 occasions in the past two years; *ibid*, p. 284.

⁸⁰⁹ *ibid*, pp. 2294-302 - re Operation Blow Wave.

⁸¹⁰ NSW Ombudsman, *Annual Report, 1993-94*, RCPS Exhibit 2904/54, pp. 28-32.

⁸¹¹ NSW Ombudsman, *Annual Report, 1995-96*, RCPS Exhibit 2904/56, pp. 4-5.

prosecutions of police officers was sought from both the Police Service and the Office of the Director of Public Prosecutions (ODPP).

4.224 The Service provided schedules of separation statistics from the HR Millennium database, and schedules of police officers prosecuted, both finalised and unfinalised, which had been obtained from the Internal Affairs Court List Database.

4.225 The ODPP provided annual lists of matters before the court involving the prosecutions of police officers, however information as recent as March 1997 could not be provided and consequently the ODPP material was not used in the following tables.

4.226 The following tables incorporate information received from the Police Service. They should however be read with caution as the Commission has been unable to independently check all Service information. The acquisition of data took a considerable amount of time. Inaccuracies within the information, were identified and the Service was asked to check and remedy them. The following problems, encountered during the analysis of the data, highlight inadequacies in Police Service information management systems, which will be further elaborated in Volume II, Chapter 7 of this report. They include the circumstances that:

- data is not maintained in a format which lends itself to manipulation or analysis, suggesting that neither is undertaken on a regular basis by the Service itself; and
- there is a lack of commitment to the consistent input of information into Service computer systems, which results in the in-consistent use of terminology, and occasional contradictions. For example, contradictory information was recorded regarding the outcome of the same prosecutions.

4.227 Such problems are of obvious concern to this Commission, particularly as the monitoring of the reform process will require analysis of information similar to that which has been produced in this table, and which is presently very difficult to obtain.

⁸¹² NSW Ombudsman, *Annual Report*, 1995-96, RCPS Exhibit 2904/56, p. 5.

OFFICERS SEPARATED FROM THE NEW SOUTH WALES POLICE SERVICE

MAY 1994 TO MARCH 1997

Rank	OFFICERS ADVERSELY MENTIONED AT RCPS As At 21 MARCH 1997 ⁸¹³						OFFICERS NOT ADVERSELY MENTIONED As At 13 MARCH 1997 ⁸¹⁴			
	Retired	Resigned	Dismissed	HOD	Still in Service (Medical Report)	Deceased	HOD	Resigned	Dismissed/ Terminated	Retired
Probationary Constable								55	2	
Constable		5	1*				15	264	7	
Senior Constable	1	24	14		2	1	121	564	12	21
Sergeant		16	4	1**	5		111	69	4	90
Senior Sergeant	1	2			2		16	7		68
Non-Commissioned Total	2	47	19	1	9	1	263	959	25	179
Inspector	3	2	1				17			64
Chief Inspector	1						4	4		39
Superintendent		1	1		2		3	3		12
Chief Superintendent			1				1	1		16
Assistant Commissioner		1								4
Senior Assist Commissioner										1
Deputy Commissioner										1
Commissioner										1
Commissioned Total	4	4	3		2		25	8	0	138
Grand Total	6	51	22	1	11	1	288	967	25	317

This table is historical. The inclusion of an officer in any category is not a finding of corruption.
 NB: This information has been obtained from the NSW Police Service.

* Medical
 ** Retired

⁸¹³ NSW Police Service, Statistics on fate of officers adversely mentioned at RCPS as at 21/3/97, Doc. 2600846.

⁸¹⁴ NSW Police Service, Statistics on fate of officers not adversely mentioned at RCPS as at 13/3/97, obtained from the HR Millenium databases, Doc. 2679633.

NSW POLICE OFFICERS PROSECUTED⁸¹⁵

RANK	INSTITUTED							COMPLETED							OFFENCE OUTCOME				DECISION APPEALED			
	Un-known	91	93	94	95	96	97	Un-known	Ad-journed indefinitely	93	94	95	96	97	With-drawn	Dis-missed	Proven	Not Finalised	Un-known	Dis-missed	Up-held	Not Finalised
Transit					1							1				1						
Probationary Constable	1				6	4	1				5	5	2	1	6	5	3			1		
Constable	1	1	1	9	48	26	7			1	2	24	45	11	12	35	58	29		6	1	
Senior Constable	1			10	48	97	21	3	12		7	30	76	49	24	37	90	82	4	2	2	
Sergeant	1			2	25	10	5				1	17	17	8	7	7	31	14				
Senior Sergeant					2	2							3	1	3	1	1	2				
Former Officer			1		2							1	2				2	5				
Non-Commissioned Total	4	1	2	21	132	139	34	3	12	1	10	87	149	71	47	86	188	135	4	8	3	1
Inspector																						
Chief Inspector						1							1	1			1					
Superintendent					1	1							1	1			1					
Chief Superintendent																						
Assistant Commissione																						
Deputy Commissioner																						
Commissioned Total					1	2							2	2			2					
Grand Total	4	1	2	21	133	141	34	3	12	1	10	87	151	73	47	86	188	137	4	8	3	1

This table is historical. No attempt has been made to link the prosecutions of officers with findings of the Royal Commission.

⁸¹⁵ NSW Police Service, Schedule of Police Officers Prosecuted both finalised and unfinalised since 12/5/94, Obtained from Internal Affairs Court List Database, Doc. 2679631.

ROYAL COMMISSION SURVEY

4.228 A survey was conducted by the Commission in August 1995, to:

- obtain information on the nature and extent of corruption in the Service;
- obtain information on other issues relevant to the Commission's terms of reference (including promotions, training, internal investigations, internal informers); and
- provide the opportunity for all currently serving officers and some resigned officers to place their views on corruption and other matters before the Commission.

4.229 Three different groups of officers - 13,976 in total - were surveyed, namely:

- all serving non-commissioned officers;
- all serving commissioned officers; and
- a selection of officers who had resigned from the Service within their first five years of service (since 1 January 1984).

4.230 The survey response rate was generally low, representing:

- 44% of commissioned officers;
- 25% of non-commissioned officers; and
- 10% of the selection of resigned officers.⁸¹⁶

4.231 Analysis of the responses to the survey⁸¹⁷ was conducted by Dr Stephen Mugford.⁸¹⁸ In addition, the Commission sought comment from Dr Janet Chan,⁸¹⁹ and other experts in the field.

4.232 The generally poor response rate places limitations on the conclusions which can be drawn as it is possible that the views and experiences of those who responded is not representative of all NSW police.

4.233 Despite the limitations resulting from the low response rate, the survey still provides valuable insights into NSW police officers' views and experiences regarding corruption and other matters relevant to the Commission's terms of reference. As suggested by Dr Chan:

At the very least, the responses represented over 3,000 submissions - albeit anonymous ones - to the Royal Commission by serving and resigned officers on issues relevant to the Commission's terms of reference. Unless there is clear evidence that the respondents were deliberately attempting to mislead the Commission, these submissions cannot be ignored.⁸²⁰

Personal Encounters with Corruption

4.234 The rates of personal encounters with corruption, during the past 10 years, varied by respondent group. The considerably higher percentage of resigned officers (61%) who reported having personally encountered corruption was very likely the result of response bias: 'Given the low response rate among this group, those who responded were likely to be those who had some

⁸¹⁶ J. Chan, 'Comments on Royal Commission Survey of NSW Police Officers', Institute of Criminology, Sydney, September 1996, RCPS Exhibit 2828, p. 3.

⁸¹⁷ A full description of the survey methodology is provided in Volume III.

⁸¹⁸ S. Mugford, 'Analysis of material derived from a survey, undertaken by the Royal Commission into the NSW Police Service', Australian Institute of Criminology, April 1996, RCPS Exhibit 2827C.

⁸¹⁹ J. Chan, September 1996, op cit.

⁸²⁰ J. Chan, September 1996, op cit, p. 7.

information about corruption they wished to pass on to the Commission'.⁸²¹ It would be unsafe to assume from this response that six out of 10 serving officers were likely to experience such an encounter with corruption.

4.235 The reported rates of a personal encounter with corruption for non-commissioned and commissioned officers (36% and 32% respectively) similarly should not be interpreted as meaning that three out of 10 officers had that experience.⁸²²

4.236 Moreover, there is a possibility that the phenomenon of 'socially desirable response' affected the survey - that is, the circumstance that recipients of the survey answered in the way that they assumed the researcher would want to hear, or in the way they thought the Service would wish to be portrayed. Alternatively there may have been a degree of anxiety about the reputation of the Service, and their own reputation, which led them to downplay the extent of corruption they had encountered.⁸²³

4.237 The Ombudsman expressed some surprise at the low rate reported by serving officers given the breadth of the definition of corruption employed, and the readiness of many senior commanders at a police ethics seminar in 1996 to acknowledge that they had been aware of corruption at some point in their careers.⁸²⁴

Typical Attitudes towards Corruption

4.238 Non-commissioned respondents indicated that the NSW Police Service is generally intolerant of corruption. The leaders of the organisation were seen to be the most intolerant whereas 'workmates' and civilians were considered the least intolerant. Dr Chan observed that these results are consistent with those of some other Australian studies.⁸²⁵

Factors Affecting the Reporting and Control of Corruption

4.239 The Commission's survey included a series of questions on factors which encourage and discourage police officers from reporting corruption, and factors which assist or hinder the Police Service in dealing with corruption. Respondents from each of the three groups of officers nominated:

- lack of support from colleagues, supervisors and the Police Service; and
- the police culture of mateship;

as the most important factors which discourage reporting of corruption.

4.240 Dr Chan noted that, in general, these results are consistent with the view that the 'code of silence' was sustained by the police culture of solidarity and that whistleblowers would not get much support from peers, supervisors or the organisation.⁸²⁶ To break out of this 'code of silence', respondents in all three groups of officers put personal integrity above all other factors as the most important, followed by support from their family. The legal obligation upon officers to report

⁸²¹ J. Chan, September 1996, op cit, p. 23.

⁸²² Due to low response rates, those officers who responded to the survey cannot be assumed to be representative of all NSW police officers; J. Chan, September 1996, op cit, p. 23; S. Mugford, April 1996, op cit, p. 134.

⁸²³ I. Moss, NSW Ombudsman, *Comments on the RCPS survey of NSW police officers*, 13/1/97, RCPS Exhibit 5999/29, pp. 1-2.

⁸²⁴ *ibid.*

⁸²⁵ J. Chan, September 1996, op cit, p. 16.

eg. a survey of Queensland police officers found that respondents consistently rated the Queensland Police Service management as taking the most serious view of unethical behaviour (compared with the general public, the respondent and the 'typical officer'); CJC, *Ethical Conduct and Discipline in the Queensland Police Service: The Views of Recruits*, *First Year Constables and Experienced Officers*, CJC, Brisbane, 1995.

A survey by the National Police Research Unit also found that respondents perceived that the Police Department would regard ethical breaches associated with operational matters more seriously than would the 'typical officer'; K. M. McConkey, G. F. Huon & M. G. Frank, *Practical Ethics in the Police Service*, Ethics and Policing Study 3, NPRU, Adelaide, 1996.

⁸²⁶ J. Chan, September 1996, op cit, p. 16.

misconduct, and the Police Service Statement of Values were rated as the least important factors listed in the questionnaire.

4.241 These results suggest that respondents were sceptical about the effectiveness of legal regulation and the Service's rhetoric on integrity; 'they saw resistance to police culture as, above all, a personal struggle'.⁸²⁷ The Ombudsman suggested that, 'in the absence of more effective anti-corruption measures, it is not surprising that respondents endorsed personal integrity as the most effective means of preventing corruption'.⁸²⁸

Level of Corruption within the NSW Police Service

4.242 The vast majority of non-commissioned officer respondents (78%) and commissioned officer respondents (77%) thought that the level of corruption within the Police Service at the time of the survey was low, very low, or non-existent. Only approximately 3-4% of each group indicated that the level of corruption was high, or very high. Both non-commissioned and commissioned officer respondents were also extremely positive about the achievement, commitment and ability of the Service when dealing with corruption. The overwhelming opinion among the respondents was that the level of corruption had decreased over time and that the Service's commitment and ability to deal with corruption had increased.⁸²⁹

4.243 Respondents were also asked to indicate their perception of the frequency of occurrence of the different types of corruption identified. The five types of corruption receiving the highest scores were:

- misusing resources or time;
- ignoring or covering up corruption by other police;
- accepting money, alcohol or other benefits;
- using threats and/or excessive force; and
- doing favours for money or other benefits.⁸³⁰

4.244 In view of the evidence led at the Royal Commission, it is surprising that process corruption was not given a higher score. This may be indicative of the phenomenon of 'socially desirable response', or of the unwillingness of police to identify such activity as amounting to corruption. As the Ombudsman observed:

... as one respondent to the survey wrote: "*Most criticised corruption is nothing more than good police work*". With respect to issues such as process corruption, perceptions of corruption and other police misconduct might be confused with "*good police work*".⁸³¹

Attitudes to Reporting Corruption

4.245 Non-commissioned officers were asked about the response they would be likely to receive from commissioned officers and other police officers in their section, if they were to report corrupt conduct by another officer to their supervisor. Approximately half the non-commissioned respondents (51%) indicated that they expected approval from other police officers, and more than three quarters (76%) also expected approval from commissioned officers. Close to 99% of commissioned officer respondents indicated that they would approve of the action of an officer reporting corruption to them.

⁸²⁷ *ibid.*

⁸²⁸ I. Moss, NSW Ombudsman, *Comments on the RCPS survey of NSW police officers*, 13/1/97, RCPS Exhibit 5999/29, p. 4.

⁸²⁹ J. Chan, September 1996, *op cit*, p. 17.

⁸³⁰ J. Chan, September 1996, *op cit*, p. 17.

⁸³¹ I. Moss, NSW Ombudsman, *Comments on the RCPS survey of NSW police officers*, 13/1/97, RCPS Exhibit 5999/29, p. 2 (emphasis in original).

4.246 As Dr Chan observed, the picture of the Service presented by these results is quite positive. Although approximately one-fifth of the non-commissioned officer respondents expected disapproval from fellow officers for breaking the 'code of silence', only 7% expected disapproval from commissioned officers.⁸³² Dr Chan, however, notes that 'this optimistic view should be tempered somewhat by the fact that the respondents might not be representative of the population of NSW police officers and favourable attitudes towards the reporting of corruption might not be translated into actual reporting'.⁸³³

Views of Commanders

4.247 The response rate was high enough to permit general inferences about the views and experiences of commanders.⁸³⁴ As noted by Dr Don Weatherburn:

This is an important point as Commanders are by definition in a position to carry forward (or frustrate) attempts to reform the NSW Police Service.⁸³⁵

4.248 As may have been expected, they were generally very optimistic about the Service, reporting that the level of corruption within their area of command was either 'low' to 'very low' (52%) or non-existent (48%). Only 1% believed that the level of corruption within their command had increased; 56% reported that it had decreased; whilst 22% suggested that it had not changed during the past 10 years.

4.249 In terms of the types of corruption experienced within their area of command, the five most often cited as occurring 'sometimes' were:

- misusing resources or time;
- accepting money, alcohol or other gratuities;
- using threats and/or excessive force;
- ignoring or covering up corruption of other police; and
- selling or misusing information.

4.250 Dr Mugford observed that the forms of corruption reported by commanders as occurring within their area of command were 'the more minor or 'grey' areas, while serious corruption was absent'.⁸³⁶ Interestingly, there was again little expectation of the existence of process corruption, which may well be suggestive of an ambivalent attitude towards its acceptability.

4.251 Commanders were asked open-ended questions about the steps which they had taken to combat corruption and the perceived obstacles to success in dealing with it. Responses to these questions revealed a wide array of anti-corruption strategies. As noted by Dr Chan, the strategies mentioned related to:

- *planning*, including the development of anti-corruption plans and patrol management plans;
- *action*, including setting example, discussions with staff, encouraging reporting, dealing promptly with corruption, training and education, improving supervisory practice; and

⁸³² J. Chan, September 1996, op cit, p. 18.

⁸³³ *ibid.*

⁸³⁴ D. Weatherburn, Director, NSW Bureau of Crime Statistics and Research, Letter re Royal Commission survey of police, 27/12/96, p. 2.

⁸³⁵ *ibid.*

⁸³⁶ AIC, 'Analysis of material derived from a survey, undertaken by the Royal Commission into the NSW Police Service', April 1996, RCPS Exhibit 2827C, p. 207.

- *analysis and monitoring*, including risk analysis, checking finances and assets, quality assurance and audit.⁸³⁷

4.252 In terms of obstacles to combating corruption, commanders listed a range of:

- *cultural* characteristics, such as apathy, code of silence, solidarity, and lack of confidence in the organisation; and
- *structural* factors, such as lack of support for whistleblowers, lack of resources and training, difficulty of close supervision in police work, a slow and cumbersome disciplinary system, and the opportunity and temptation open to police officers in the policing of certain areas.⁸³⁸

4.253 In sum, the responses by commanders suggested that they were generally knowledgeable about anti-corruption strategies and had a good understanding of the obstacles to combating corruption. However, as noted by Dr Mugford, they were 'not all that keen to admit to the existence of it close to home in some way that would reflect badly on them'.⁸³⁹

COMPLAINTS CONCERNING ASSAULTS AND LARCENY

4.254 In the course of the Royal Commission, evidence has been received from a number of police acknowledging their involvement in assaults and in various forms of larceny. The concern generated by this evidence, is that only the tip of an iceberg has been revealed.

4.255 To explore this further, a study has been made of the complaints of such misconduct received respectively by the Royal Commission, the Police Service and the Ombudsman during the period of the Commission. By reason of difference in recording methodology, and also by means of dual reporting, no point is served by any form of comparative review, and it is inappropriate to combine the incidents reported to reach a cumulative total. Moreover, it cannot be assumed that each complaint is soundly based. Some only have been investigated and others have been found not sustained on the basis that they depend on the word of the complainant against the officer. This latter outcome is not unexpected, and it was one which those officers who admitted their misconduct said had left them confident that:

- they would receive the support of fellow officers if a complaint was made; and
- it was most unlikely that any complaint would be sustained if it came down to their word against that of a 'criminal'.⁸⁴⁰

4.256 In support of the proposition that the cases uncovered were only the tip of an iceberg, many of the same officers acknowledged that:

- they had been involved in cases of assault or larceny when no complaint had been made; and
- in the case of the larceny of drugs or money taken from those suspected of criminal activity, they did not expect any complaint.⁸⁴¹

4.257 Subject to these qualifications, the statistics are of interest so far as they reveal a consistently high pattern of complaint in these areas. Even if a relatively small proportion is true, a serious situation is presented that underlines the need for:

⁸³⁷ J. Chan, September 1996, op cit, p. 21.

⁸³⁸ *ibid.*

⁸³⁹ S. Mugford, 'Analysis of material derived from a survey, undertaken by the Royal Commission into the NSW Police Service', Australian Institute of Criminology, April 1996, RCPS Exhibit 2827C, p. 227.

⁸⁴⁰ See eg. JTF7, RCT, 21/9/95, p. 13300; JTF8, RCT, 31/10/95, pp. 15688-91; D. Demol, RCT, 4/7/95, p. 9671.

⁸⁴¹ See eg. T. Haken, RCT, 21/8/95, p. 11817; WS11, RCT, 11/6/95, pp. 26718-19; WS14, RCT, 12/3/96, p. 2155; WS4, RCT, 15/2/96, p. 20190.

- greater field supervision of police in the execution of search warrants and in the investigation of crime scenes;
- the maintenance of an intelligence data base to identify patterns of such activities by individual officers, squads or other groups;
- the use of targeted integrity testing;
- a less cynical attitude being brought to bear by the Service in relation to these classes of complaint accompanied by a more determined investigation of them;
- a wholehearted attack on the code of silence which traditionally has made the investigation of such complaints difficult; and
- more effective training of police in dealing with conflict situations and suspect management.

4.258 In summary, the respective statistics, in each case for periods that coincide with financial years,⁸⁴² are presented in the tables below.

Table 1
THE ROYAL COMMISSION *

Category	1/7/94 - 30/6/95	1/7/95 - 30/6/96	1/7/96 - 31/12/96	Total
Assault	21	68	47	136
Larceny	16	58	69	143
Total	37	126	116	279

* **Note:** The Royal Commission data comprises all allegations (both oral and written) which were received in the selected date ranges. It has not been attempted to differentiate between different types of assault or larceny in these figures.

⁸⁴² ie. for years commencing 1 July and concluding 30 June.

Table 2
NSW OMBUDSMAN *

Category	1/7/94 - 30/6/95	1/7/95 - 30/6/96	1/7/96 - 31/12/96
Assault			
Injury	393	502	136
No injury	361	346	244
Total	754	848	380
Larceny			
Theft	257	280	139
Grand total (all allegations)	8220	9850	4924

* **Note:** This data was provided by the Office of the Ombudsman. It comprises the number of allegations in written complaints determined in the selected date ranges.

Table 3
NSW POLICE SERVICE *

Category	1/7/94 - 30/6/95	1/7/95 - 30/6/96	1/7/96 - 31/12/96
Assault			
Physical injury	908	572	348
No injury	540	509	249
Total	1448	1081	597
Larceny			
Theft	427	384	133
Break, enter & steal	8	16	0
Receiving	12	7	0
Goods in custody	2	4	6
Total	449	411	139
Grand total (all complaints)	12261	13255	5334

* **Note:** The NSW Police Service data was obtained from a CIS 'all categories trend' report generated on 10/3/97 and 11/3/97. It comprises all allegations (both oral and written) which were initiated in the selected date ranges.

C. CONCLUSION

4.259 On any view the inquiries of the Royal Commission disclosed a very serious state of corruption that was widespread and of long-standing origin. Its existence was acknowledged by the many police who were prepared to be frank when asked for their assessment, and it is difficult to accept the evidence of the remainder who professed never to have seen or suspected any corruption within the Service. While there were many who did not support or lend themselves directly to corrupt practices, it is clear that they felt powerless to do much about it. The culture was such, and the management and internal investigative systems were so deficient, that the state of corruption found can only be regarded as systemic and entrenched.

4.260 Substantial change is, however, under way, as outlined earlier in this Volume, and further reform is both proposed by the Service and recommended in this Report. Very many of the police who came under adverse notice in the hearings of the Royal Commission have departed the Service as has much of the senior management in office at the commencement of the Royal Commission, either through dismissal, retirement, resignation, or non-renewal or termination of their contracts (in the case of PSSSES officers).

4.261 Although it must be emphasised that the departure of the vast majority of these staff was not related to their personal integrity, the senior staff who have left must collectively accept some of the blame for the poor supervision and inept management which allowed the state of affairs detected to exist. They have been replaced by a new group of officers who it is expected will have the youth, vigour and commitment to force a profound change of culture and to promote professionalism and integrity. Ultimately, the responsibility rests with them. No matter what structural changes or safeguards are introduced, corruption is ultimately a matter of individual choice, which can only be influenced by peer pressure, example and close supervision.

CHAPTER 5

CORRUPTION - SOME CASE STUDIES

5.1 From the evidence received, it is possible to develop some case studies to examine whether there were any common factors at work, particularly of an institutional kind. These studies have been selected for their diversity and include:

- a known high-risk, inner-city patrol;
- a regional crime squad;
- a suburban patrol; and
- an elite task force.

A CITY PATROL - KINGS CROSS

5.2 In its First Interim Report, the Royal Commission noted in a general way the many forms of corruption evident in the Kings Cross Patrol. That outline has been supplemented by the specific instances mentioned earlier in this Report.⁸⁴³ In summary, they embraced the theft of drugs and money; shakedowns⁸⁴⁴ of drug dealers; the collection of regular payments from drug dealers, gaming operators, clubs and brothels; the protection of favoured criminals; process corruption; assaults; and inappropriate associations with those who ran illegal and fringe businesses in the area extending to handouts, free drinks and the like.

5.3 The only conclusion open, on the entirety of the evidence, is that the responsibility for the entrenched and systemic corruption that emerged rests with the abject failure of the Service to manage the patrol in any effective way.

5.4 It is otherwise impossible to explain how it could be that corruption of the type admitted to the Royal Commission⁸⁴⁵ could have continued so long, apparently unchecked.

5.5 The Kings Cross Police Station was initially a substation of the Darlinghurst Police Station. It took on full patrol status when the Darlinghurst Patrol was closed down in 1979,⁸⁴⁶ and it is likely that it inherited a corrupt culture from that patrol.⁸⁴⁷

5.6 Within its boundaries were included a high-density residential population and a thriving commercial entertainment business catering for all tastes ranging from well-conducted hotels and restaurants to strip clubs, video and sex shops, brothels, street prostitutes, flop houses, drug outlets, and illegal casinos. The area is busy 24 hours a day, attracts many visitors, and for decades has been the haunt of the criminal milieu who have operated or serviced the illegal trade for which Kings Cross is notorious.

⁸⁴³ See Volume I, Chapter 4 of this Report.

⁸⁴⁴ See Glossary.

⁸⁴⁵ eg. by former detectives Haken, Thompson, Scullion, Swan, JTF6, Demol and Pentland, and by uniformed officers Langton, CL, JM and WH.

⁸⁴⁶ M. Lazarus, Statutory Declaration, 31/10/96, RCPS Exhibit 2761, p. 12.

⁸⁴⁷ D. G. Demol, RCT, 3/7/95, pp. 9578-79, 9582, 9584-86, 4/7/95, p. 9676; M. E. Lazarus, RCT, 4/11/96, pp. 33903-04. So great were the opportunities for corruption that it was known amongst police as 'Goldenhurst'. N. J. Scullion, RCT, 10/7/95, p. 9924; T. D. Haken, RCT, 22/8/95, p. 11905, 10/10/95, p. 14374; D. K. Thompson, RCT, 16/10/95, pp. 14740-41; M. E. Lazarus, RCT, 4/11/96, p. 33869.

5.7 The potential for corruption, particularly of an opportunistic kind, was always high in such a region, and police working the area from Darlinghurst and Kings Cross were never likely to have been far from it. Although it has always had a reputation for its night time and bohemian lifestyle, it became the mecca for prostitution, drug dealing and the like during the Second World War and the Vietnam War.

5.8 The evidence suggests that practices of the kind disclosed to the Royal Commission prospered during these periods, and were well understood by police whose work took them into the area.

5.9 Certainly 'the laugh', which involved detective sergeants at Kings Cross receiving and sharing corrupt payments, was in place for a lengthy period, and pre-dated the Churchill affair of 1989, and the appointment of Detective Sergeant Trevor Haken to the patrol later that year.⁸⁴⁸

The Churchill Affair

5.10 The investigation into Detective Larry Churchill and other Kings Cross detectives was a lost opportunity to address corruption within the patrol. Had it been properly managed, for example, by a proactive and wide-based operation, it is possible that 'the laugh' and the corruption that later flourished could have been avoided. This affair is of sufficient interest to note in a little more detail.

5.11 Detective Larry Churchill had conspired with others to supply amphetamines. One of the people he had involved in his plan was another police officer who was to look after the drug operation whilst Mr Churchill was on holiday in the Philippines. That police officer informed the Internal Police Security Unit (IPSU) of the plan and a police operation was commenced known as Operation Hawkesbury.

5.12 On 31 March 1989, officers from the IPSU entered and searched the office occupied by Kings Cross detectives in response to the information received. At that time Senior Sergeant Graham Fowler was Chief of Detectives, and Detectives Larry Churchill and Dennis Kimble Thompson followed him in seniority.

5.13 Ultimately, as the result of inquiries made by IPSU, Mr Churchill pleaded guilty to a charge of conspiracy to supply the prohibited drug methyl amphetamine. From the remarks on sentence it emerges that:⁸⁴⁹

- an agreement was made by Mr Churchill and another detective that in return for a payment of \$10,000 charges arising from the arrest of a drug dealer, Mr Alan Saunders, would be lessened, and Mr Saunders would be protected in relation to his further drug dealings;
- on 14 March 1989, Mr Churchill struck an agreement with Mr Colin Fisk to arrange bail for a criminal associate in return for a payment of \$10,000. The agreement, between Mr Churchill, Mr Fisk and the other officer, led to Operation Hawkesbury;
- upon Mr Churchill's return from the Philippines, Mr Fisk arranged a meeting with him to divide up the proceeds of the drug sales that had been arranged. Prior to this meeting, Mr Churchill received a telephone call from Detective Sergeant Kim Thompson who warned him there was 'a whale in the bay'.⁸⁵⁰ He passed a message to other co-conspirators to say nothing as there was 'trouble in the camp'.⁸⁵¹

⁸⁴⁸ T. D. Haken, RCT, 22/8/95, p. 11896; J. G. Swan, RCT, 6/7/95, p. 9844; D. K. Thompson, RCT, 16/10/95, p. 14756; N. J. Scullion, RCT, 10/7/95, p. 9926.

⁸⁴⁹ *R v Churchill*, District Court of NSW, Court J, 22/8/89, RCPS Exhibit 3016.

⁸⁵⁰ See Glossary.

⁸⁵¹ D. K. Thompson, RCT, 16/10/95, p. 14759.

5.14 The telephone conversation was intercepted by members of the IPSU and as a result Mr Thompson was departmentally charged with misconduct. Mr Thompson did not deny making the call. His case was that when he had made the call he was not aware that Mr Churchill had been under investigation for serious criminal activity (the manufacture and distribution of narcotics). He said that the internal investigation had been widely suspected for some months and that he believed that it concerned Mr Churchill's slackness and inefficiency. The Police Tribunal accepted that Mr Thompson had not known about the nature of the investigation, but found that he had called Mr Churchill to warn him that he was under investigation.⁸⁵²

5.15 Arising out of the same inquiry, then Detective Sergeant Graham Fowler was interviewed by IPSU and admitted that he and Mr Churchill had an association with Mr Lawrence Wang, a person summonsed to appear before the NCA. That association extended to luncheons, and to visits by Mr Fowler and Mr Churchill to the Philippines paid for and promoted by Mr Wang.⁸⁵³

5.16 Although a number of departmental charges brought against Mr Fowler were dismissed by the Police Tribunal, he was found to have made a series of false entries in his official police notebook recording his presence on duty in Sydney at a time when he had, in fact, been in the Philippines with Mr Churchill.⁸⁵⁴

5.17 As a consequence of these developments, it should have been apparent to the Service, by mid-1990, that:

- Mr Churchill had been receiving monies in return for promises to interfere with the judicial process;
- Mr Churchill had indicated to a criminal he could protect that person's drug trading operation from police attention;
- Mr Churchill had himself participated in a drug trading operation;
- the Chief of Detectives had attended a series of lunches with Mr Churchill and a businessman who was the subject of investigation by the NCA; and
- Mr Thompson had been able to obtain information that there was an internal investigation taking place and had advised the target of the investigation.

5.18 The Police Service response to the fallout of the Churchill matter was totally inadequate:

- in February 1990, Mr Fowler was returned to Kings Cross as Chief of Detectives;⁸⁵⁵
- in April 1990, Mr Thompson was returned to Kings Cross Detectives' Office as its second senior officer;⁸⁵⁶
- Mr Haken was transferred to the Kings Cross Patrol in May 1989 as the third senior detective, from Central Detectives where his performance was reported to be less than adequate, and at a time when his problems with alcohol abuse ought to have been well-known.⁸⁵⁷

5.19 The circumstances of these transfers gives rise for concern as it appears that insufficient consideration was given by the Service to the need for considerable care in appointing officers to

⁸⁵² *Commissioner of Police v Thompson*, Bell J, 6/6/90, Police Tribunal of NSW, RCPS Exhibit 2190.

⁸⁵³ Statement of Detective Senior Sergeant G. J. Fowler to Detective Chief Inspector Watson, IPSU, re his involvement or knowledge of Lawrence Wang, 11/7/89, RCPS Exhibit 2262; L. G. Churchill, RCT, 22/5/96, p. 25678.

⁸⁵⁴ *Commissioner of Police v Fowler*, Judgment, 8/2/90, Police Tribunal of NSW, RCPS Exhibit 2195, p. 11.

⁸⁵⁵ Fowler's application for appointment to Chief of Detectives at Kings Cross, RCPS Exhibit 2191.

⁸⁵⁶ When he later left the Kings Cross Patrol it was to work with the Sydney Special Operations Group based in Redfern where he was able to maintain significant influence in Kings Cross. T. D. Haken, RCT, 22/8/95, pp. 11905-06 & 11939.

⁸⁵⁷ T. D. Haken, RCT, 21/8/95, pp. 11874-75.

supervisory positions in the most demanding and corruption-prone patrol in the state, and in monitoring their performance.

'The Laugh' and Trevor Haken

5.20 The experience of Detective Sergeant Trevor Haken, who was the Royal Commission's key witness in the unravelling of corruption at Kings Cross in the aftermath of the Churchill affair, is instructive.

5.21 Mr Haken joined the NSW Police Force, as it then was, in 1969 aged 19, immediately after leaving high school. He initially served at North Sydney where he said that he first encountered corruption in the form of a pre-existing system of gratuities from tow truck operators and undertakers⁸⁵⁸ in addition to witnessing assaults and verbals.⁸⁵⁹ In 1974 he was posted to Number 21 Division, the training ground for young detectives, where he became aware of improper associations between police and criminal identities, the selective policing of illegal gaming and prostitution, alcohol abuse and the exercise of police powers beyond the law.

5.22 Whilst stationed as a junior detective at Chatswood in the late 1970s, he said that he engaged in opportunistic corruption involving the theft of drugs and money, and in the thwarting of internal investigations by 'holding the line'.⁸⁶⁰

5.23 From 1979 to 1982, Mr Haken served at the Drug Squad CIB. Corruption in that Squad was not the hit and miss affair he had previously encountered. On his account, he became a participant in the systematic manipulation of evidence, the abuse of police powers, the breach of the criminal law in the pursuit of a conviction, and opportunistic theft.⁸⁶¹

5.24 Following a dispute with a senior officer in 1982, Mr Haken was sent to Phillip Street, the first of two 'penalty' stations at which he was to serve. He admitted to this Commission that he participated in the theft of property during the execution of a search warrant while serving at this station.⁸⁶²

5.25 In 1983, he joined the Commonwealth-New South Wales Joint Task Force on Drug Trafficking (JTF), a posting that he expected would lead to career advancement. He gave evidence that during his three years' service at the JTF he engaged in, or become aware of, numerous incidents of corrupt conduct. His experiences there served to reinforce for him the notion that corruption was part and parcel of life as a member of the Service and that involvement in corrupt conduct served to enhance the reputation of an officer amongst those officers who 'played A grade'.⁸⁶³

5.26 Mr Haken, by now a detective sergeant, developed a drinking problem while serving with the JTF, which together with the animosity that developed in respect of the uneven distribution of stolen money during Operation Pickup (also known as 'the Christmas Club') led to his transfer to the second 'penalty' station, Central Detectives in Sydney. Here his drinking problem worsened. On his account, he continued to be a recipient of corrupt payments from criminals and to be involved in the manipulation of evidence. He became disillusioned with the Service whilst stationed at Central Detectives which was understaffed and neglected, and this led him to complain to the media. The Service's response was to transfer him to the Kings Cross Detectives' Office.⁸⁶⁴

⁸⁵⁸ Mr Haken said he was aware of the practice, but never took money from undertakers. He admitted to taking money from tow truck drivers. See T. D. Haken, RCT, 9/10/95, pp. 14262-63.

⁸⁵⁹ T. D. Haken, RCT, 21/8/95, pp. 11798-801, 9/10/95, p. 14265 (assaults), p. 14269 (verbals).

⁸⁶⁰ T. D. Haken, RCT, 21/8/95, pp. 11807-15, 9/10/95, p. 14270. See Glossary.

⁸⁶¹ T. D. Haken, RCT, 21/8/95, pp. 11816-34.

⁸⁶² T. D. Haken, RCT, 21/8/95, pp. 11834-36.

⁸⁶³ T. D. Haken, RCT, 21/8/95, p. 11822.

⁸⁶⁴ T. D. Haken, RCT, 21/8/95, pp. 11836-75.

5.27 Upon his arrival at Kings Cross, Detective Sergeants John Swan and Neville Scullion introduced Mr Haken to 'the laugh' - an arrangement by which police received payments from drug dealers and operators of strip clubs. 'The laugh' was confined to the sergeants in the Detectives' Office.⁸⁶⁵ Mr Haken eventually became the person who collected and divided the contributions among members of 'the laugh' sorting it into envelopes with coded pictures to identify the officers.⁸⁶⁶

5.28 In 1991 Mr Haken was appointed as head of the Kings Cross Drug Unit which earned a reputation for a high workload and arrest rate at street level. When as a supervisor he allocated jobs which had a corruption potential, he assigned them to officers he knew were corrupt. He went undetected for years because there were so many officers in precisely the same position, and such a high volume of work.⁸⁶⁷

5.29 Partly as a result of the rules which Mr Haken and other senior Kings Cross police had developed in consultation with the criminal element, the drug trade in Kings Cross changed from a largely disorganised ad hoc affair to an organised network of major drug factions operating with relative impunity.⁸⁶⁸

5.30 In late 1993 Mr Haken was transferred under a cloud of suspicion to the City of Sydney detectives under the immediate command of Detective Inspector Fowler. This period of service Mr Haken described as one of little work and long lunches. He still received his share of 'the laugh' and also received payments from a Chinatown businessman engaged in the rental of Asian soap opera videos in return for ensuring police action against the video pirate competitors of that businessman who were engaged in copyright infringement.⁸⁶⁹ In late 1994 Mr Haken learnt that he was under investigation by Internal Affairs. After being called to the NSW Crime Commission for examination and there denying any misconduct, he was approached by the Royal Commission. He then agreed to assist the Commission by working covertly for it. This activity, which extended over a period of nine months, led to the breakthrough which later unfolded in the evidence and persuaded other officers to co-operate with the Commission.

5.31 Mr Haken attributed his deviance to the environment in which he found himself. Like other similarly placed officers, he acknowledged that there were detectives who did not take money, and that the decision to do so was his alone. However, he found that to join the club of detectives, he had to engage in corrupt activity and join in drinking and similar practices.⁸⁷⁰ The alternative was to be treated as an outcast.⁸⁷¹ He was always able to find someone with whom he could 'carry out untoward activity'.⁸⁷²

5.32 He regarded the giving of false evidence as part and parcel of being a detective,⁸⁷³ something encouraged by senior officers and the public. He made no attempt to rationalise the theft of money or drugs, similarly regarding it as part and parcel of life as a detective, particularly where the 'victims' were drug dealers.

⁸⁶⁵ T. D. Haken, RCT 22/8/95, pp. 11895-97 & 11903. Witnesses to the Royal Commission who acknowledged their membership of 'the laugh' included Haken, Thompson, Swan, JTF6 and Scullion. Other officers named by them denied participation in 'the laugh'.

⁸⁶⁶ T. D. Haken, RCT, 22/8/95, p. 11915.

⁸⁶⁷ T. D. Haken, RCT, 22/8/95, p. 11934.

⁸⁶⁸ These rules called for a prohibition on the use of firearms and violence in the solution of disputes between rival camps, and a ban on the sale of drugs to children. T. D. Haken, RCT, 24/8/95, p. 12018; see also T. J. Kelly, RCT, 28/6/95, p. 9395 re comments made to him by members of the criminal element as to the rules of the street.

⁸⁶⁹ T. D. Haken, RCT, 24/8/95, pp. 12107-08. This arrangement was in place during Haken's earlier period of service at Central Detectives and was re-activated when he returned to the area which was then administered by the City of Sydney station, which replaced Central Detectives office when it closed down. See T. D. Haken, RCT, 21/8/95, p. 11845.

⁸⁷⁰ T. D. Haken, RCT, 9/10/95, p. 14283.

⁸⁷¹ T. D. Haken, RCT, 9/10/95, p. 14273.

⁸⁷² T. D. Haken, RCT, 21/8/95, p. 11872.

⁸⁷³ T. D. Haken, RCT, 9/10/95, p. 14288.

5.33 He informed the Commission that if a corrupt officer moved station, he usually took his comrades with him. This made it much safer to continue to operate corruptly.⁸⁷⁴

5.34 Mr Haken noted the paradox that it is possible to be an effective police officer and a corrupt officer at the same time. This was his position during the latter part of his service at the Kings Cross Drug Unit. He had seen many other detectives 'work both sides of the street'. He cautioned that the more successful an officer was in working the 'sunny side of the street' the more likely he was to succeed on 'the dark side', and the more difficult it was to unmask him.

5.35 Mr Haken said that he knew detectives would hold the line, lie on oath and rebut any suggestion of corruption unless they were trapped by tapes and videos.⁸⁷⁵ An increase in the odds of being caught out, which he did not consider high while internal investigations were carried out by police,⁸⁷⁶ would discourage corruption.⁸⁷⁷ This was an important factor in the entrenchment of corrupt practices.

5.36 Finally, in relation to internal inquiries he said that, in his experience, targets were almost invariably tipped off by friends or workmates, including those who were otherwise honest. This was at least in part due to the 'them and us' relationship which existed with Internal Affairs. In any Internal Affairs investigation of himself, Mr Haken had always been aware of the inquiry well in advance of any interview. As a result he was able to collude with his colleagues. Because of the general perception that IA leaked 'like a sieve', he did not expect any colleagues, whether honest or not, to do him in.

⁸⁷⁴ T. D. Haken, RCT, 9/10/95, p. 14328.

⁸⁷⁵ T. D. Haken, RCT, 9/10/95, p. 14309.

⁸⁷⁶ T. D. Haken, RCT, 9/10/95, pp. 14326-27.

⁸⁷⁷ T. D. Haken, RCT, 9/10/95, p. 14328.

JTF6

5.37 The experience of JTF6, which in some ways mirrors that of Trevor Haken, should also be mentioned. It is of interest in that during his career he drew a distinction between 'acceptable' and 'unacceptable' corruption which took him a long way towards risking exposure of his own misconduct when he brought matters he regarded as beyond the pale to the notice of the Service.

5.38 During the early years of his service, JTF6 said that he resisted approaches initially from a sergeant at a Sydney suburban station, to join in a spotter's fee arrangement with tow truck operators, and later from a detective at a country station to share in payments from the owner of a brothel.⁸⁷⁸

5.39 His first personal involvement in corrupt conduct followed his transfer to the JTF in 1986. It began, he said, with a 'note book'⁸⁷⁹ on a drug suspect which led he and another officer to give perjured evidence at the committal. So fierce was the attack on their evidence by defence counsel that it was decided amongst the police that the matter should not go before a jury.⁸⁸⁰ Other corruption in which he said he became involved with the JTF included:

- the false report of the theft of a motor vehicle which was involved in an accident while he was driving home from a hotel after drinking with other Task Force members;⁸⁸¹
- the 'salting'⁸⁸² of exhibits in Operation Cross, when on the account of JTF6 certain bank notes acquired for a drug buy were mixed with bank notes found during the execution of a search warrant;
- ground up heroin which had been removed from premises searched was added to a carpet and to the head of a hammer, both items forming part of the evidence used in the trial of a suspect. At the time of the search of the premises a sniffer dog had not detected heroin on the carpet.⁸⁸³ These matters became issues at the trial in which the accused was eventually acquitted;
- the payment of money by the suspect in Operation Tin to avoid being verballed;⁸⁸⁴
- the exchange of information and records of interview between various officers interviewed by the Crime Commission when Operation Tin arose for investigation in 1990 during Operation Cedar,⁸⁸⁵ and again when it was re-opened by the Royal Commission in 1995;⁸⁸⁶ and
- the sharing of money obtained in Operation North.⁸⁸⁷

5.40 JTF6 resigned from the Service in 1988, but rejoined in 1991. After a period of probation he was invited to take up a position with Trevor Haken in the Kings Cross Drug Unit. It was in this posting that he walked a very uncertain line between dedicated and professional policing and outright corruption. Together with Mr Haken he was responsible for scrounging the resources needed for the Drug Unit, and maintaining the high arrest rate it achieved. On his account, he also tried without success to secure participation by the Drug Enforcement Agency (DEA) in a co-ordinated attack on the drug trade.⁸⁸⁸

⁸⁷⁸ JTF6, RCT, 27/9/95, pp. 13620-22.

⁸⁷⁹ See Glossary.

⁸⁸⁰ JTF6, RCT, 27/9/95, pp. 13625-31.

⁸⁸¹ JTF6, RCT, 27/9/95, pp. 13631-34.

⁸⁸² See Glossary.

⁸⁸³ JTF6, RCT, 27/9/95, pp. 13635-39. This evidence contains the phrase that JTF6 attributed to a senior JTF officer: that officer allegedly said that he had been 'like Tinkerbell sprinkling goodness' when speaking of his placement of buy money amongst other money found at the accused's addresses.

⁸⁸⁴ JTF6, RCT, 27/9/95, pp. 13641-50.

⁸⁸⁵ JTF6, RCT, 27/9/95, pp. 13650-56.

⁸⁸⁶ JTF6, RCT, 27/9/95, pp. 13657-64.

⁸⁸⁷ JTF6, RCT, 27/9/95, pp. 13665-69.

⁸⁸⁸ JTF6, RCT, 27/9/95, pp. 13675-76.

5.41 JTF6 acknowledged being involved in:

- the fabrication of evidence;⁸⁸⁹
- the theft of money;⁸⁹⁰
- the receipt of bribes;⁸⁹¹
- sharing in 'the laugh',⁸⁹² and
- the supply of seized drugs to informants in exchange for information.⁸⁹³

Some approaches from drug dealers and other criminals, and some opportunities for corruption, he declined.⁸⁹⁴

5.42 Curiously, as a result of a report he made, two officers who were masquerading as Mr Haken and JTF6 in shaking down drug dealers came under Internal Affairs investigation.⁸⁹⁵ On his account, he was initially unaware that Mr Haken was receiving money from drug dealers. By reason of his concerns in relation to the activities of Mr Bill Bayeh and one of his associates, he brought these matters to the attention of senior staff, and effected an introduction of KX6, an informant, to the DEA and PIB.⁸⁹⁶

5.43 Following inquiries into the firebombing of KX6's car, JTF6 said that he became aware of Mr Haken's association with the Bayeh group⁸⁹⁷ and of the involvement of other police in corrupt dealings. He reported his concerns in relation to the corrupt police who had been identified to his patrol commander and to the PIB, urging the formation of a task force.⁸⁹⁸

5.44 When asked why he had taken this course which was likely to expose his own corrupt conduct, he answered:⁸⁹⁹

Witness: I'd had enough of the corruption and that sort of corruption and having been - I could see a difference between picking up some money in a search warrant or just the - I could see a difference between helping a brief along or picking up some money here and there and the sort of allowing drug dealers to do what they do. I just couldn't see the morality of it, you know.

Q: The expression that you used in your statutory declaration was the phrase, "The joke got beyond a joke"?

Witness: That's right.

5.45 Earlier he had said that while it was difficult to justify the theft of money from suspects, he often found it necessary to use his own money to pay informants and these funds were a form of recompense.⁹⁰⁰ He did not know whether it was entirely possible for a detective working in drug law enforcement at Kings Cross to remain free of corruption given the appalling conditions, the high turnover of jobs, and the pressure.⁹⁰¹ He thought it not unreasonable to pass seized drugs to informants, in return for information, since it was known that any money paid to them would be immediately converted to drugs.⁹⁰²

⁸⁸⁹ JTF6, RCT, 27/9/95, pp. 13686, 28/9/95, 13700-01.

⁸⁹⁰ JTF6, RCT, 28/9/95, pp. 13702, 13706, 13708 & 13766.

⁸⁹¹ JTF6, RCT, 27/9/95, p. 13687.

⁸⁹² JTF6, RCT, 28/9/95, p. 13709.

⁸⁹³ JTF6, RCT, 27/9/95, pp. 13690-91.

⁸⁹⁴ JTF6, RCT, 27/9/95, pp. 13684-85, 28/9/95, 13745 & 13762.

⁸⁹⁵ JTF6, RCT, 27/9/95, pp. 13693-4.

⁸⁹⁶ JTF6, RCT, 28/9/95, p. 13739.

⁸⁹⁷ JTF6, RCT, 28/9/95, pp. 13747-50.

⁸⁹⁸ JTF6, RCT, 28/9/95, p. 13737.

⁸⁹⁹ JTF6, RCT, 28/9/95, pp. 13754-55.

⁹⁰⁰ JTF6, RCT, 27/9/95, p. 13688.

⁹⁰¹ JTF6, RCT, 27/9/95, p. 13689.

⁹⁰² JTF6, RCT, 27/9/95, p. 13691.

5.46 He also gave evidence of circumstances pointing to leaks affecting inquiries by the DEA⁹⁰³ and the NSW Crime Commission.⁹⁰⁴

5.47 As a result of an early approach by the Royal Commission, JTF6 agreed to assist, and worked for it in a valuable undercover role for a period before giving evidence. His story, in summary, was one of an officer who:

- was intelligent, capable and innovative;
- resisted early approaches at corruption;
- was corrupted at the JTF;
- was 'sponsored' in subsequent moves in his career by officers whom he came to know earlier in his service, particularly at the JTF; and
- later mixed effective policing with improper practices;

before becoming an important catalyst in the revelations which emerged, thereby bringing an end to his career.

5.48 The chameleon-like make-up of this officer was not confined to him nor was he unaware of this circumstance, so far as he suggested that various officers with whom he had engaged in corrupt dealings had stopped these practices later in their careers when seeking promotion.⁹⁰⁵ The capacity of police to move from a pattern of corrupt performance of their duties, to a position of ostensible honesty as they rise in rank, is a feature of the Service in NSW that presents a significant challenge if it is to be eliminated.

Management of Intelligence

5.49 The Kings Cross Patrol Commanders⁹⁰⁶ between 1990 and 1994 (neither of whom is suggested to have been personally corrupt) had no knowledge or appreciation of the hotbed of corruption which flourished during their periods of command.

5.50 Superintendent James McCloskey's assessment, in summary, was that:

- misconduct in the form of accepting money and drinking on duty was no worse at Kings Cross than at any other patrol;⁹⁰⁷
- he had total confidence in his licensing unit,⁹⁰⁸ and
- the Drug Unit was under 'pretty strict control', 'well supervised',⁹⁰⁹ its members were 'honest', and it was effective.⁹¹⁰

5.51 Superintendent Robin Small similarly said that:

- he did not see any corruption in his time at Kings Cross,⁹¹¹
- the work load, product, and number of people the Drug Unit were charging was 'quite outstanding',⁹¹² and

⁹⁰³ JTF6, RCT, 27/9/95, pp. 13692, 28/9/95, 13763.

⁹⁰⁴ JTF6, RCT, 28/9/95, pp. 13772-74.

⁹⁰⁵ JTF6, RCT, 28/9/95, pp. 13710-11.

⁹⁰⁶ Superintendent McCloskey from 23/5/90 to 27/10/92, and Superintendent Small from 28/10/92 to 31/7/95.

⁹⁰⁷ J. H. F. McCloskey, RCT, 26/4/95, pp. 5820-21.

⁹⁰⁸ J. H. F. McCloskey, RCT, 26/4/95, p. 5839.

⁹⁰⁹ J. H. F. McCloskey, RCT, 26/4/95, p. 5845.

⁹¹⁰ J. H. F. McCloskey, RCT, 26/4/95, pp. 5847-48 & 5841.

⁹¹¹ R. B. Small, RCT, 27/4/95, p. 5901.

- he never suspected that Drug Unit detectives would be aligned with drug traders.⁹¹³

5.52 There is no doubt that the evidence of Mr McCloskey and Mr Small was a testament to the ability of corrupt officers to conceal their criminality. However, effective information management and analysis of intelligence should have disclosed that certain drug dealers in Kings Cross were surviving and even thriving. This should have caused senior police to question whether they were receiving police protection.

Planning and Co-ordination of Policing

5.53 Even more significant was the failure to establish and maintain a clear line of responsibility for policing the area, and to adequately resource the patrol to fulfill its responsibilities.

5.54 When Mr Small was interviewed for the position of patrol commander at Kings Cross he informed the interviewing committee that he would make policing the drug trade his number one priority.⁹¹⁴ However, when he became the patrol commander he was not given the resources to effectively carry out that task.⁹¹⁵

5.55 The Service had other more sophisticated resources available for that purpose in the form of the DEA, the South Region Drug Unit, and the Sydney District Special Operations Group.⁹¹⁶ While each of these agencies had some responsibility for policing the drug trade in Kings Cross, there was no co-ordination or clear demarcation of authority. The police effort was greatly diminished as a result, and the fragmentation of responsibility provided a perfect breeding ground for corruption.

5.56 Trevor Haken, as officer in charge of the Kings Cross Drug Unit, could comfortably direct Drug Unit operations towards some traders and away from others, as he was never expected to comprehensively police the drug trade. He clearly could not do so with the resources available to him.⁹¹⁷

5.57 Similarly members of the other units could direct investigations towards one group and provide protection for another. If challenged they said they were doing everything they could with their limited resources. Had there been a comprehensive plan for coverage of the region this could not have occurred.

5.58 Mr Small was not unaware of the problem caused by this fragmentation of effort and explained that, for a time, monthly meetings were organised between the various agencies.⁹¹⁸ When he attended the first meeting he found that the detectives representing the DEA and the South Region Major Crime Drug Unit were not officers in whom he had any trust. He formed the view that the meetings were a waste of time and he stopped attending.⁹¹⁹

5.59 The high-water mark for lack of co-ordination was Task Force NIS. This was intended as an intelligence gathering exercise to explore the connection between licensing, vice, gaming and drug-related criminal activities and certain premises in the area.⁹²⁰ Between November 1991 and

⁹¹² R. B. Small, RCT, 27/4/95, p. 5901.

⁹¹³ R. B. Small, RCT, 27/4/95, p. 5955.

⁹¹⁴ R. B. Small, RCT, 27/4/95, p. 5904.

⁹¹⁵ W. J. Galvin, RCT, 16/7/96, p. 28843; Attachment 1, to A. Peate's response to Section 6 No. 559 of 96, RCPS Exhibit 2194.

⁹¹⁶ W. J. Galvin, RCT, 16/7/96, p. 28843.

⁹¹⁷ Resources provided were a room with two desks, a telephone and a typewriter. Applications for vehicles were unsuccessful so the Drug Unit utilised petty cash money to repair an unroadworthy and rusted 1984 Datsun. Haken also bought a Datsun 180B from a friend for \$200 using petty cash funds. No cameras were available until a Neighbourhood Watch scheme folded, and KX Command gave the unit \$600 which was used to buy a camera from a pawnbroker in the area. JTF6 requested resources, eg. staff, photographic and video equipment, motor vehicles and personnel all to no avail. He regularly borrowed equipment from business people in the area, eg. cars from the Backpacker Trading Place (police paid for their own petrol) and cameras from pawn shops. T. D. Haken, RCT, 22/8/95, pp. 11936-37, 27/9/95, 13673-75.

⁹¹⁸ R. B. Small, RCT, 27/4/95, p. 5962.

⁹¹⁹ R. B. Small, RCT, 27/4/95, p. 5962.

⁹²⁰ Task Force NIS - *Final Report*, July 1992, RCPS Exhibit 207C.

August 1993 this Task Force managed to conduct investigations in and around Kings Cross and report to the Service without having any interaction with the patrol commanders and district commanders. No intelligence generated by this 'intelligence probe'⁹²¹ was ever received by Kings Cross Patrol,⁹²² and very little followed in the way of prosecution. In hindsight, the report of the Task Force seriously understated the position, so far as it concluded that 'no particular criminal activity/offence/incident or suspect was identified for specific investigation'⁹²³ and that 'the distribution of drugs ... appears on the surface not to be directly connected to the ownership or management of various establishments'.⁹²⁴ Had the Task Force conducted a more probing and co-ordinated investigation, the existence of corruption may well have been detected.

5.60 In his time as patrol commander at Kings Cross,⁹²⁵ Chief Superintendent Malcolm Brammer recognised the need for strong leadership and for a co-ordinated, multi-agency response to drug related crime. The overall morale and level of performance of the patrol improved under his leadership, notwithstanding the public disclosures of the Royal Commission.

Risk Minimisation

5.61 Prior to the Royal Commission virtually nothing was done to minimise corruption risks within the patrol. Reference has previously been made to the limited vetting of the integrity of detectives transferred to the patrol, and of the return of detectives whose integrity had previously been questioned. Not only was there an absence of any system for limiting the term of duty of officers within the patrol, it appears that commanders did not have the capacity to remove officers under suspicion.

A REGIONAL CRIME SQUAD - NORTH WEST REGION

5.62 Rampant corruption was also found within the North West Major Crime Squad (NWMCS) Drug Unit which extended to other stations in the region.

5.63 The evidence suggested that the corruption practised in the metropolitan sector of the region was also deployed when Sydney-based detectives from the Drug Unit mounted operations in country sectors.⁹²⁶ On some of these occasions local police, or other police assigned to assist, were drawn into these corrupt activities and were expected to back up the Drug Squad detectives.

5.64 The region became of interest to the Royal Commission because, at least in its metropolitan component, it encompassed a geographical alternative to Kings Cross in terms of drug distribution, gaming and vice, and was an area to which some elements of the criminal milieu might be expected to migrate if the heat was turned up at Kings Cross. A significant insight into the nature and extent of the corruption, found in these instances, was given by the witnesses who said that the practices they employed were to be found among detectives generally, had been encountered early in their careers, and had been taken by them to the North West Region where they found themselves in the company of like-minded officers.⁹²⁷

⁹²¹ R. B. Inkster, RCT, 27/4/95, pp. 6000-02.

⁹²² J. H. F. McCloskey, RCT, 26/4/95, p. 5861; R. B. Small, RCT, 27/4/95, pp. 5980-81; W. J. Galvin, RCT, 16/7/96, p. 28851.

⁹²³ Task Force NIS, *Final Report*, Executive Summary (Edited Version), Detective Inspector R. B. Inkster, 5/8/93, RCPS Exhibit 208, p. 1.

⁹²⁴ *ibid.*, p. 4.

⁹²⁵ 30/7/94 to 22/3/96.

⁹²⁶ eg. WS15, RCT, 5/6/96, pp. 26478-88 and WS16, RCT, 5/6/96, pp. 26545-52; and see Prosecution File re D. Firth & G. Riddle, charged supply and possess prohibited drug, RCPS Exhibit 1987; WS14, RCT, 11/3/96, pp. 21462-65; WS9, RCT, 18/6/96, pp. 27143-44; WS14, RCT, 8/3/96, pp. 21276-81.

⁹²⁷ eg. WS14 said that he had learned corrupt practices from senior police at the Regional Crime Squad based at Penrith before he moved to the North West Crime Drug Unit. (WS14, RCT, 8/3/96, pp. 21241-49.) Similarly, WS9 described his earlier experiences at Kings Cross in dealing with street dealers and robbing from them, (WS9, RCT, 20/2/96, p. 20333) as 'like shooting fish in a barrel'. (WS9, RCT, 20/2/96, p. 20308.)

5.65 Other younger detectives, however, said that their first encounter with any form of organised corruption was after they had joined the Drug Unit.⁹²⁸ Thereafter, seemingly with little resistance, they slipped into the same practices.⁹²⁹ Somewhat intriguingly, there were indications that even the seriously corrupt could become satiated with these activities, and seek a transfer in order to end what they had been doing.⁹³⁰

5.66 Features of the corruption seen within the Drug Unit, and practised by some of its members in other rotations, included:

- the establishment of very close relationships between police and criminal informants, particularly in the drug and gaming scenes, in which favours were given in return for information leading to drug busts which became little more than an occasion for the theft of drugs and money;
- the widespread ignorance or refusal to comply with the Informant Management Plan, or its abuse to conceal corrupt relationships;⁹³¹
- the regular theft from civilians in the course of the execution of search warrants, a practice in respect of which an alarming level of confidence existed, the view being taken that any complaint depending on the word of an offender against an officer was bound to fail. The preferred object was cash, the Commission being informed of 'an old Police rule: If you can't bend it, fold it or stack it, don't take it';⁹³²
- the existence of 'deal makers' within the Service who worked out arrangements with criminals and later handed out shares of money collected, to more junior officers who may have been quite unaware of the job from which the money had come or of the deal arranged;⁹³³
- ventures into active drug dealing and straight out robbery, quite unassociated with any policing activity, for example, the robbery of 10 pounds of cannabis which was then resold;⁹³⁴
- the lack of resistance on the part of those who became the 'victim' of these forms of police corruption either because they lacked any trust in the Service making an effective investigation of a complaint,⁹³⁵ or because they were relieved not to be charged, or to have their charges diluted;⁹³⁶
- the readiness with which a number of the officers concerned were prepared to load or verbal suspects, and then give perjured evidence in the belief, perhaps genuinely held by some officers, that they were doing society a favour, but without regard to the possibility that they were quite wrong in their assessment of the guilt of those persons;⁹³⁷
- the readiness of supervisors to lead the way in the cover up of assaults of people in custody;⁹³⁸
- the resort to extortion to which some victims succumbed to avoid being verbally or becoming the subject of a fabricated brief, or alternatively to secure an advantage with

⁹²⁸ WS15, RCT, 5/6/96, pp. 26467-72.

⁹²⁹ WS15, RCT, 5/6/96, pp. 26456-544.

⁹³⁰ WS9, RCT, 21/2/96, p. 20401.

⁹³¹ See T. Griffiths, RCT, 3/11/95, pp. 15994-97; T. R. Eastwood, RCT, 3/11/95, pp. 15958-63; P. Young, RCT, 25/1/96, pp. 18931-44, 18946.

⁹³² WS14, RCT, 12/3/96, p. 21520.

⁹³³ eg. WS15, RCT, 5/6/96, p. 26473.

⁹³⁴ WS9, RCT, 14/3/96, p. 21793; WS14, RCT, 13/3/96, pp. 21589-90; WS, RCT, 19/9/96, pp. 32614-17.

⁹³⁵ eg. S. Orban, RCT, 21/2/96, p. 20424; AE, RCT, 9/2/96, p. 19818; S. Williams, RCT, 19/6/96, p. 27305.

⁹³⁶ eg. R. Kady, RCT, 13/6/96, p. 26986; A. Bates, RCT, 19/9/96, p. 32601.

⁹³⁷ WS15, RCT, 5/6/96, p. 26485; WS11, RCT, 11/6/96, p. 26710; WS14, RCT, 8/3/96, p. 21313.

⁹³⁸ WS12, RCT, 29/2/96, pp. 20928-30; WS14, RCT, 12/3/96, p. 21535.

pending charges or prosecutions⁹³⁹ which on occasions occurred via an intermediary from outside the Service; and

- the ready falsification of records to cover up misconduct including, for example, the making of untrue entries in duty books, note books, intelligence reports and the like, which either recorded the finding or not finding of drugs and money, depending on the version desired, and the shredding or 'loss' of inconvenient but correct records kept by an officer not party to the corrupt dealing.⁹⁴⁰

5.67 Some limited indication of the extent of those practices was given by a study of a seven-month period between 1 May 1992 and 31 November 1992, worked by one detective sergeant.⁹⁴¹ He admitted that out of the 70 jobs in which he was involved during this period, 31 - almost half - were associated with some form of corruption.

5.68 The experience of that officer, who was the first detective within this segment of Commission evidence to admit to widespread corruption, proved to be typical of many others. He described a history which:

- began with minor opportunistic corruption when he was transferred to plain clothes duties at Petersham in the early 1980s;⁹⁴²
- escalated after his transfer to the Regional Crime Squad West when he and other police stole a quantity of cigarettes which had been recovered in the course of an investigation into the hijacking of a Rothmans van,⁹⁴³ and he began an association with the principal suspect;
- became organised after his transfer to the Consorting Unit within the Major Crime Squad West in 1983, a posting which he found to be particularly congenial and productive in terms of payments received from thieves allowed to work race meetings,⁹⁴⁴ and in the sharing of payments collected by members of the city-based Consorting Squad from illegal gaming interests,⁹⁴⁵
- reached its peak from 1987 after his transfer to the Drug Unit of the newly established North West Major Crime Squad, when he and other detectives became involved in the regular theft and re-sale of drugs and extortion previously described; and
- spread when he received an overture from the 'Rat Pack'⁹⁴⁶ to join in a rip-off being organised by them, and when he and other police stole monies while seconded to Task Force King, a task force set up to target the explosion of drug dealing in Cabramatta.

5.69 The message that the activities of this detective and other like-minded officers gave to junior police who had aspirations to be detectives was obvious:

- one young and essentially principled officer, who secretly returned his share of money stolen by other police from the wallet of a suspect, said:

I was just starting my detective's career and if at the time I had said anything with the climate and the culture of the Police Service at the time, I would have automatically been branded what's termed a dog, and that would have meant virtually the finish of my career ... it would have been passed around

⁹³⁹ eg. see attempted extortion of MG: WR, RCT, 6/6/96, p. 26614 and WS14, RCT, 12/3/96, pp. 21517-18; the extortion of Sarkis Nader: WS14, RCT, 11/3/96, pp. 21389-90 and WS, RCT, 19/9/96, pp. 32609-14; of Nick Sipka: WS14, RCT, 8/3/96, p. 21306; and of PK: WS14, RCT, 13/3/96, p. 21582.

⁹⁴⁰ eg. WH, RCT, 12/6/96, p. 26878; V. P. Murtagh, RCT, 12/6/96, pp. 26850-55; WS11, RCT, 11/6/96, p. 26700; WS15, RCT, 5/6/96, p. 26492. WS14.

⁹⁴² WS14, RCT, 13/3/96, p. 21606.

⁹⁴³ WS14, RCT, 8/3/96, pp. 21241-42.

⁹⁴⁴ WS14, RCT, 8/3/96, pp. 21247-48.

⁹⁴⁵ WS14, RCT, 8/3/96, pp. 21248-49.

⁹⁴⁶ A reputedly corrupt group of detectives attached to Fairfield who came under the spotlight in the Task Force Medlar investigation.

amongst other officers ... that ... I couldn't be trusted in the sense that I would back up other people if I had done anything about it at the time⁹⁴⁷;

- another officer, newly arrived at the Drug Unit, gave this account of his thoughts the first time he was handed money by a colleague:

I put it in my pocket, went outside, took it home. I thought about it ... It wasn't something that I was happy with. Then I thought that if I did give it back, that would be basically stating that I didn't want to be in the squad any more, couldn't be trusted and you'd be looking for another spot ... in my mind it seemed to be the fact that if you didn't partake in those goings on, partake in the way they did things, you were going to be ostracised. That just wouldn't be ostracised in the particular squad you were in; that would be ostracised in the detectives generally. ... it would follow you wherever you went. It didn't matter if you transferred to another district or transferred to another division, another squad, someone would contact someone in the other squad or someone would ring up and you'd find out basically they'd say, "Don't trust him, he couldn't be trusted"⁹⁴⁸.

5.70 These perceptions were confirmed by other officers. For example, one detective described the 'bush telegraph' that operated in respect of new arrivals, in these terms:

They would get news that someone was about to arrive and, on an informal basis ask: "What do you know about this bloke?" and someone might say, "Oh, he's right, he can be trusted". The same happened when any bloke came. Somebody would either know him or know where he came from and know somebody from that station or - and you would find out along these lines ... somebody would make a phone call and you'd know before they got there, or you'd just find - you'd find out. ... We'd leave him on the outer until we knew something ... Eventually everyone would know whether he could be trusted or not⁹⁴⁹.

5.71 The bush telegraph also operated in reverse, suggesting that the activities of the corrupt officers were not unrecognised by honest police, even though little was done about them. For example, one detective who gave an account of being ostracised by detectives attached to the Drug Unit when he was transferred to it, said he had been earlier warned that the officers there were a 'bunch of cowboys'⁹⁵⁰.

5.72 This inaction was surprising given the dislike of many honest police for these officers, which on one occasion caused a group of young, honest police working at patrol level at Ermington and Granville to mount their own operation against a substantial heroin dealer and leave the Drug Unit uninformed because they feared, correctly as it turned out, that the target had corrupt relations with that unit.⁹⁵¹ Whatever other motives existed for inaction, the net result was one of disempowerment and loss of morale, which inevitably led to corruption becoming entrenched.

5.73 Witnesses who assisted with this North West Region segment identified various factors that had led them to engage in corrupt practices, and to escape detection before becoming the subject of the Royal Commission's attention. They variously spoke of:

- the example set by senior police⁹⁵² which they thought it appropriate to follow;
- the perception that although police changed colour as they progressed through the ranks, they turned a blind eye to the activities of others:

they become whiter than white and they don't want to know. They're protecting their own positions and they don't wish to become compromised.⁹⁵³

⁹⁴⁷ C. Dorrough, RCT, 29/2/96, p. 20960.

⁹⁴⁸ WS15, RCT, 5/6/96, p. 26471.

⁹⁴⁹ WS9, RCT, 19/6/96, pp. 27249-50.

⁹⁵⁰ SM, RCT, 19/9/96, p. 32628.

⁹⁵¹ MW, RCT, 14/2/96, p. 20080. Not only was their assessment correct, but some members of the unit actually supplied the target with drugs.

⁹⁵² eg. WS12, RCT, 29/2/96, p. 20930; WS9, RCT, 18/6/96, p. 27210.

⁹⁵³ WS14, RCT, 13/3/96, pp. 21628-29.

- their awareness that supervisors were often too remote from the action and rarely out in the field;⁹⁵⁴ were in some cases unconcerned to prevent corrupt behaviour and blindly willing to support their staff in the face of any complaint; were disinclined to supervise matters such as informant management; and were ready to give uncritical references to those under suspicion;⁹⁵⁵
- the 'testing' of new officers to see if they could be 'trusted' by the corrupt⁹⁵⁶ in the realisation that once an officer is compromised, that situation is difficult, if not impossible, to reverse;⁹⁵⁷
- the culture of denial, in which reporting corruption was something that was 'just against the rules' or simply 'not done',⁹⁵⁸ a culture shared by some of the criminals who participated in those activities;⁹⁵⁹
- peer pressure;⁹⁶⁰
- the absence of any real fear of being caught by the existing internal investigative agencies;⁹⁶¹
- the ready acceptance of the belief by some detectives that criminals should not be allowed to retain the proceeds of their criminality, and that they might as well have it themselves, particularly if conviction and forfeiture are not certain,⁹⁶²
- the pressure of meeting supervisors' expectations of arrests, particularly in rural operations;⁹⁶³ and
- the lack of resources permitting the electronic and photographic capture of contemporary evidence, for which the only substitute appeared to be manufactured evidence.⁹⁶⁴

5.74 What was of particular concern in relation to this segment, quite apart from the widespread and systemic corruption that was detected, was the almost total failure of senior management, before Assistant Commissioner Jeffrey Jarratt took command of the Region in November 1994,⁹⁶⁵ to act in relation to it. This was the case despite reservations and suspicions held by some senior police in relation to certain of the key figures, some of whom were even given glowing and unsupportable assessments when applying for promotion.⁹⁶⁶ Had there been any penetrating consideration of those suspicions, and of warnings from other senior police; an examination of the work practices, associations and lifestyles of those under suspicion; field involvement of supervisors;⁹⁶⁷ real monitoring of the Informant Management Plan; closer liaison with the Professional Responsibility Command; and analysis of complaint histories leading to targeted integrity testing or proactive investigation, the appalling situation that developed may well have been avoided.

⁹⁵⁴ WS11, RCT, 12/6/96, p. 26815.

⁹⁵⁵ eg. D. Neathway Brown, RCT, 29/2/96, pp. 20915-17; M. A. Hagan, RCT, 13/2/96, p. 19964; and M. Brammer, Statement, 6/3/97, RCPS Exhibit 2199C.

⁹⁵⁶ WS9, RCT, 18/6/96, p. 27211; 19/6/96, pp. 27249-50.

⁹⁵⁷ WS14, RCT, 13/3/96, p. 21606.

⁹⁵⁸ G. Fagan, RCT, 13/2/96, p. 20040. See also WS13 who said this came from 'a feeling that everyone is against you', RCT, 29/2/96, p. 20962, and WS14 who said that although it was hard to admit his own corruption, it was worse 'affecting the people that are liked and were friends of mine', RCT, 19/9/96, p. 32707.

⁹⁵⁹ eg. EC, who said that he would 'sacrifice my four kids' before giving up WS11, RCT, 26/2/96, p. 20613, and only admitted his corrupt relationship with WS11 after he knew that officer was assisting the Commission.

⁹⁶⁰ WS12, RCT, 29/2/96, p. 20925. See also MA, RCT, 29/2/96, p. 20950; WS13, RCT, 29/2/96, pp. 20959-60; WS9, RCT, 18/6/96, p. 27210; WS15, RCT, 5/6/96, pp. 26462, 26471 & 26518; WS16, RCT, 5/6/96, p. 26558.

⁹⁶¹ WS15, RCT, 5/6/96, p. 26529. A confidence which was well founded if the experience of G. Fagan in bringing to light a possible incident of corruption involving senior detectives with the North West Major Crime Squad was any indication, (G. Fagan, RCT, 13/2/96, p. 20028) and also by the circumstance that although one detective (WS14) identified 126 operations in which he had engaged in criminal activity, only 10 complaints were made against him, each of which was found 'not sustained'.

⁹⁶² WS11, RCT, 11/6/96, pp. 26719-20; WS4, RCT, 15/2/96, p. 20214.

⁹⁶³ WS14, RCT, 8/3/96, p. 21321.

⁹⁶⁴ WS14, RCT, 19/9/96, pp. 32684-86.

⁹⁶⁵ J. T. Jarratt, RCT, 13/12/94, p. 530.

⁹⁶⁶ eg. WS9, WS14 and AM.

⁹⁶⁷ S. Graham, RCT, 13/3/96, p. 21778.

5.75 Although it is easy to be wise in hindsight, the Royal Commission had little difficulty in identifying the problem officers, setting up surveillance, and then progressively rolling officer after officer after presenting them with the unanswerable.

5.76 Some indication of the extent of the poor management and reputation of the Drug Unit is also given by the fact that:

- despite the clear direction of Regional Commanders that the Drug Unit should target second tier drug dealing, senior officers who had the responsibility for directing operations understood that they were there to help with street level policing;⁹⁶⁸ and
- when some members of the squad were sent to help out Cabramatta Patrol during a crack down on the burgeoning drug trade, their work performance and practices proved so unacceptable that they were sent back by the Cabramatta Patrol Commander.⁹⁶⁹

A SUBURBAN PATROL - MARRICKVILLE DETECTIVES

5.77 In order to determine whether the corruption seen elsewhere was confined to high risk areas or to the specialist units, the Royal Commission conducted an investigation into information available to it relating to the activities of certain patrol detectives who had worked principally at Marrickville (a busy patrol with a multi-cultural population). In the course of that investigation:

- two detectives⁹⁷⁰ agreed to co-operate at a fairly early stage, after becoming aware that there was incriminating material in the possession of the Royal Commission;
- two other detectives,⁹⁷¹ who had worked with them, were then drawn into the net, and admitted to similar practices, as did two Licensing Sergeants;⁹⁷² and
- to a very substantial extent the evidence thus received was corroborated by that of the criminals with whom they dealt.

5.78 The matters admitted embraced most of the forms of corruption noted earlier in this Report, that is, assaults and abuse of power, process corruption, favours with prosecutions, soliciting and accepting bribes, theft during search warrants, the receipt of gratuities from operators of gaming houses and brothels, and the supply of confidential information. An interesting twist was the involvement of an intermediary⁹⁷³ with connections to those of one particular nationality, well represented in the local community, who similarly admitted her role as a go-between in making corrupt arrangements.

5.79 The evidence of the two key witnesses, MV1 and MV6, leaves little doubt that:

- they enjoyed a free rein in respect of their work as patrol detectives;
- such supervision as did exist was woefully inadequate; and
- there were real problems with lack of discipline and respect for supervisors, from a group of young uniformed police, particularly those associated with the corrupt detectives.

This was despite strong attempts by a sergeant who was brought in as a shift supervisor, to restore a proper standard of performance. In this she met with considerable resistance and harassment, including deliberate destruction of her personal property.⁹⁷⁴

⁹⁶⁸ M. Hagan, RCT, 12/2/96, p. 19904.

⁹⁶⁹ A. Leek, RCT 8/2/96, pp. 19780-82.

⁹⁷⁰ MV1 and MV6.

⁹⁷¹ MV2 and MV4.

⁹⁷² MV3 and MV7.

⁹⁷³ MV5.

⁹⁷⁴ JR, RCT(U), 16/7/96, pp. 5373-84; L. A. Butterworth, RCT(U), 16/7/96, p. 5327.

5.80 Part of the problem lay with the lack of active supervision at shift level, due to the number of sergeants on restricted (non operational) duties as the result of illness or injury,⁹⁷⁵ and to the lack of a Chief of Detectives for a considerable time. This meant that one of the key witnesses⁹⁷⁶ held one of the two senior detectives' positions. He had a deserved reputation as a bully, not only because of his practice of striking other police but also because of his petty insistence on officers re-typing documents which contained minor errors, and his antagonism towards female staff.⁹⁷⁷ The difficulty in supervising detectives was increased by the fact that their office was located a block away from the police station. Morale was not helped by a perceived reluctance on the part of some detectives to assist uniformed police.

5.81 Some of the more graphic illustrations of corruption which were admitted included:

- a raid on premises at Dulwich Hill in October 1991 in the course of which at least \$60,000 cash was stolen by two key Commission witnesses, MV1 and MV6, although a quantity of cannabis and \$22,000 were correctly booked up at the police station.⁹⁷⁸ The Chief of Detectives learned of a complaint about money being stolen, but did nothing about it because he did not doubt the integrity of the officers and thought it unnecessary to report a complaint he did not believe;⁹⁷⁹
- a raid at Marrickville in July 1994, when the second of the key witnesses kept some of the cannabis found and passed it on to a well-known criminal with whom several detectives appear to have had a totally inappropriate relationship, and stole about \$5,000 of the cash located.⁹⁸⁰ He later received \$1,000 for the cannabis.⁹⁸¹ Two other detectives⁹⁸² admitted to receiving money in respect of this offence, although one had not been involved in the police operation;
- in August 1993, uniformed police arrested a suspect who was found to be in possession of marijuana, amphetamines and cash. The first key witness MV1 was contacted by a well-known criminal who claimed ownership of the drugs and cash and offered to hand himself in. He then arranged for the release of the initial suspect and kept \$3,000 of the \$9,500 which had been found;⁹⁸³
- both key witnesses admitted to assaults of several suspects while they were in custody, and to having lied about them when questioned by Internal Affairs or in court;⁹⁸⁴
- MV1 acknowledged receiving cash and liquor from several gaming operators while working at Campsie before joining Marrickville in order to turn a blind eye to their activities, or in return for registration checks;⁹⁸⁵
- two Licensing Sergeants⁹⁸⁶ acknowledged the receipt of cash payments via Mr Tony Achmar, a civilian associated with operators of both gaming establishments and nightclubs in the region.⁹⁸⁷ The second of the sergeants acknowledged that throughout his career in licensing he had received gifts of alcohol, free lunches, and cash from proprietors of

⁹⁷⁵ L. A. Butterworth, RCT(U), 16/7/96, p. 5327.

⁹⁷⁶ MV1.

⁹⁷⁷ S. L. Brennan, RCT(U), 16/7/96, pp. 5359 & 5368; MV1, RCT(U), 19/7/96, pp. 5747 & 5795.

⁹⁷⁸ MV6, RCT(U), 24/7/96, pp. 5930-41; MV1, RCT(U), 18/7/96, pp. 5600-08.

⁹⁷⁹ P. H. Lander, RCT(U), 25/7/96, pp. 6156-58.

⁹⁸⁰ MV6, RCT(U), 24/7/96, pp. 5988-90.

⁹⁸¹ MV6, RCT(U), 24/7/96, p. 5991.

⁹⁸² MV1 and MV4.

⁹⁸³ After offering it to the 'new suspect'. MV1, RCT(U), 18/7/96, pp. 5618-21.

⁹⁸⁴ MV6, RCT(U), 24/7/96, p. 5958; MV1, RCT(U), 18/7/96, p. 5626.

⁹⁸⁵ MV1, RCT(U), 18/7/96, pp. 5586-91, 5631 & 5646; 19/7/96, p. 5792.

⁹⁸⁶ MV3 and MV7.

⁹⁸⁷ MV3, RCT(U), 26/7/96, pp. 6235-38; MV7, RCT(U), 13/8/96, pp. 6302-05. Achmar corroborated the evidence. T. Achmar, RCT(U), 14/8/96, pp. 6485-91.

licensed clubs, which he considered not to be in return for neglect of duty, but as an 'appreciation for advice' he had given;⁹⁸⁸

- despite the inconsequential Internal Affairs inquiry into a complaint of police visiting brothels within the patrol and receiving free sex and alcohol, the second key witness, MV6, acknowledged that the proprietor of a local brothel went out of his way to cultivate good relations with police, and that at any time the latter were welcome to call in for free alcohol.⁹⁸⁹ The proprietor of the premises confirmed that this did in fact occur.⁹⁹⁰ Another detective gave evidence of receiving money from the owner of a local Marrickville brothel during a gaming and vice inspection;⁹⁹¹
- the two key witnesses and another officer gave evidence of negotiating bribes to reduce charges, or to otherwise provide favourable treatment, in respect of a variety of offenders, and of lying to Internal Affairs investigators, and in court when complaints surfaced;⁹⁹² and
- on a number of occasions these bribes were said to have been negotiated via the intermediary,⁹⁹³ who corroborated that fact when called as a witness by the Royal Commission, as did those who provided the bribes.⁹⁹⁴

5.82 Several detectives working out of Marrickville, including both those who admitted to corruption and those who denied any such wrongdoing, acknowledged having social associations with various persons known to be involved in the local criminal milieu, and to receiving free meals and alcohol from them.⁹⁹⁵ Whether or not those associations had any corrupt element attached to them, they were indicative of the free rein given to detectives within this patrol between 1990 and 1995, and were totally inappropriate. Although the evidence received in this segment related to a microcosm of the Service, it was significant that the corruption acknowledged did not differ to any significant degree from that in relation to larger sections of the Service, nor were there any differences in the circumstances which led the police concerned to become involved in corrupt practices.

AN ELITE TASK FORCE - THE JTF

5.83 Although incidents concerning individual operations have been dealt with earlier in this Report the emergence of serious corruption within the Commonwealth-New South Wales Joint Task Force on Drug Trafficking (JTF)⁹⁹⁶ was of grave concern.

5.84 This Task Force was comprised of detectives of supposedly high calibre, integrity and experience, hand chosen from the NSW Police Service and the Australian Federal Police, supported with the best available resources and tasked with targetting high level drug dealers. It operated between 1979 and 1987. Although it achieved a high conviction rate and not all of its members became involved in improper practices, the inquiries of this Royal Commission found that a large number of its operations were tainted by various forms of corruption, including:

- bribery in exchange for an offer of favourable treatment;
- stings upon persons of interest where money was received in exchange for offers of assistance which was then not provided;

⁹⁸⁸ MV7, RCT(U), 13/8/96, p. 6299.

⁹⁸⁹ MV6, RCT(U), 24/7/96, p. 6020.

⁹⁹⁰ JJ, RCT(U), 13/8/96, p. 6317.

⁹⁹¹ MV4, RCT(U), 25/7/96, p. 6087.

⁹⁹² MV1, RCT(U), 18/7/96, pp. 5568-73 & 5651-55; MV2, RCT(U), 23/7/96, pp. 5844-50; MV6, RCT(U), 24/7/96, pp. 5980-82.

⁹⁹³ MV5.

⁹⁹⁴ MV1, RCT(U), 18/7/96, pp. 5639-43; MV6, RCT(U), 24/7/96, pp. 5971-74, 6005-07 & 6008-16; MV5, RCT(U), 26/7/96, pp. 6172 & 6178-80; G. Athanaseris, RCT(U), 18/7/96, pp. 5668-72; JT, RCT(U), 25/3/96, pp. 668-73; D. Karakikes, RCT(U), 14/8/96, pp. 6423-49.

⁹⁹⁵ J. Markakis, RCT(U), 17/7/96, pp. 5499-505; F. Schocher, RCT(U), 17/7/96, pp. 5543-45; MV6, RCT(U), 24/7/96, pp. 6017-19 and 25/7/96, p. 6067; MV4, RCT(U), 25/7/96, p. 6090.

⁹⁹⁶ This was an initiative of both Commonwealth and State authorities, formed to address the problem of high level drug trafficking.

- process corruption in its many facets where in more than one instance, people were convicted on the basis of evidence which was improperly obtained or fabricated;
- opportunistic larceny of money and property located during the course of searches; and
- possible collusion to thwart investigation by outside agencies, or to assist those under investigation.

5.85 A large part of its problem as perceived by those members who admitted to these practices when giving evidence to the Royal Commission was that it was an elitist group isolated from the parent police agencies, which was arrest and conviction driven. The philosophy was adopted that the end justified the means, that the targets were undeserving of fair treatment, and that all they were receiving when assaulted, or stripped of their property, was their 'just desserts'. The more junior staff were made to feel the need to prove that they were up to the big league, by joining in these practices. Such were the tight-knit bonds and the need for recognition and acceptance, that the initiators of corruption were confident that those who were not willing to accept money or to fabricate evidence, would protect the remainder against any allegation of misconduct.

5.86 To some extent, it seems that members from each Service brought prior experience of corrupt practices to the JTF, some of those from the AFP having been involved in similar activities with the former Federal Narcotics Bureau, and some of those from the NSW Police Service having come from drug work where similar practices were well known. It remains something of a mystery, having regard to the number of officers who have admitted their criminality, that those senior officers who claimed to be uninvolved and unaware of the true state of affairs, remained in that blissful state. At best, this throws up real questions as to:

- the desirability of establishing elite task forces to work on an area of criminality, with a high potential for corruption, for any significant length of time without very strict safeguards for supervision and rotation of staff; and
- the adequacy of the supervision and organisational direction of this task force.

5.87 The attitude of its members when confronted with corrupt overtures, for the first time, were not dissimilar: One member⁹⁹⁷ said that as a junior officer from the AFP he felt very much an outsider until he was approached by another officer⁹⁹⁸ and asked if he had 'a problem'⁹⁹⁹ with one of the accused in Operation North paying police a sum of money in return for being facilitated in her bail application. He felt that he had no choice in going along with this proposal, and later in accepting approximately \$2,000 as his share. Had he not accepted the money, it would, in his view, have affected his relationship with the team and led to his exclusion from its activities.¹⁰⁰⁰ This reaction was not unique. Another officer similarly said he felt it better to join in any corrupt opportunity that was offered, than to run the risk of being transferred out of the Task Force.¹⁰⁰¹

5.88 Equally relevant are the attitudes displayed to the corrupt practices in which numbers of the JTF joined. For instance:

- one officer, who spent approximately four years with the JTF, said he was not surprised to find corruption there. He assumed that he had been seconded on the recommendation of officers from the Narcotics Bureau with whom he had earlier been involved in corrupt practices including sharing in money from seizures and from the resale of drugs which had

⁹⁹⁷ JTF1.

⁹⁹⁸ JTF7.

⁹⁹⁹ JTF1, RCT, 19/9/95, p. 13124.

¹⁰⁰⁰ JTF1, RCT, 19/9/95, p. 13128. While the officer who made this approach denied that was a test to blood the junior officer, he said that he was confident that the latter could be trusted not to say anything even if he rejected the proposal. His own approach, he said, was motivated 'out of fairness' as the junior officer had been involved in the operation. TF7, RCT, 20/9/95, pp. 13253-54.

¹⁰⁰¹ JTF13, RCT, 28/9/95, p. 13786.

been found.¹⁰⁰² He said that in those cases where he gave fabricated evidence, he had a belief as to the guilt of the suspect and that his motivation was simply to 'firm up the brief';¹⁰⁰³

- another officer explained, in unequivocal terms, the attitude of JTF members to process corruption:

It came from you being selected to go to the task force. You weren't there to lose. You were there to win. If that meant bending the rules, so be it ... To us these people were criminals; they were wrongdoers. You can't put a quantity of lives on the amount of heroin that was seized. All right, we might have done the wrong thing, but we saw it for the greater good. We didn't see ourselves as criminals by assaulting someone or trying to put criminals behind bars. That was - you know, the morality that we saw. It was like if it was a perfect world, sir, the people who were guilty would plead guilty. It's not a perfect world. You know, it's like fronting up to somebody and saying, you know, Marquis of Queensberry Rules and they kick you in the balls. It's not like that out there. My view of it is - and it's somewhat cynical - it's a big game and the criminals tell lies, the police tell lies, or did tell lies, and if you, shall we say, played it by the rules the whole time, you'd lose.¹⁰⁰⁴

5.89 In the outcome very many members of the JTF admitted to corrupt practices. The overwhelming conclusion must be that its members operated as a group with their own morality and rules, where the price of admission was a willingness to achieve results with faint regard for due process. There can be little doubt that it was arrest and conviction rate driven. Its apparent success rate in these terms was very high. This, combined with the wealth of resources available to it, created a pride of membership and a zeal to achieve gains in the war on drug traffickers, where process corruption was a means to an end and the end was all that mattered.

5.90 There can also be no doubt that there were members who, whilst they were attached to the JTF, did not initiate or participate in other forms of corruption such as theft or the solicitation of bribes, but who regarded process corruption as no more or less than a weapon to be used. It was the way to share in the atmosphere and the accolades. In this environment there was no likelihood that any member would break ranks and report corruption, and there was every likelihood that corruption would take hold. Indeed this environment was ideal for those minded to practice the other forms of corruption, protected as they were by the apparent success of the JTF, and safe in the knowledge that many members of the task force were themselves tainted.

5.91 These features of corruption in the JTF speak volumes of the entrenched nature of corruption which emerged elsewhere within the Service. That so many of the former JTF members went on to achieve rank in both the NSW Police Service, and the Australian Federal Police, raises the very real prospect that for many years the methodology they employed, with so much apparent success (in terms of arrest and conviction rates), was preached and practised in drug law enforcement long after the JTF was disbanded.

5.92 Specific instances of the serious corruption which occurred during the term of this task force have been earlier identified. Intelligence is available which would suggest that there were other equally serious matters, which can still be followed up. While it may be conceded that the objective of the JTF, shared by its members, was to strike hard at the organisers of the trade in narcotics, this did not excuse their resort to theft, assault and abuse of police powers which occurred. On any view the practices used constituted a denial of professionalism. As such the JTF stands as a caution for any Police Service considering a similar task force, to exercise extreme care in the selection of staff and in the establishment of operational procedures.

¹⁰⁰² JTF10, RCT, 25/9/95, pp. 13500-01.

¹⁰⁰³ JTF10, RCT, 25/9/95, p. 13492.

¹⁰⁰⁴ JTF8, RCT, 31/10/95, pp. 15688-89.

CHAPTER 6

ENTRENCHED AND SYSTEMIC CORRUPTION: WHY IT EMERGED AND WAS NOT EXPOSED

6.1 Despite regular inquiries and efforts at reform the Service has rarely been free of corruption. What is of concern arising out of the present inquiry is the manner in which corruption has expanded from those forms commonly seen in connection with regulatory forms of policing, to the active involvement of police in planning and implementing criminal activity, sometimes in partnership with known criminals and on other occasions, in competition with them. This finding mirrors the experience of the 1994 Mollen Inquiry which similarly found that corruption within the New York Police Department (NYPD) was no longer confined to fortuitous opportunity or to protection provided by way of a blind eye to selected criminal activities, but often arose because police created and actively planned similar activities.¹⁰⁰⁵

6.2 Although the disclosures in the previous chapters are sufficient to require widespread reform of the Service, it is necessary to explore in a little more depth the reasons for the emergence and non-detection of this degree of corruption. Unless these matters are sufficiently understood, there is a danger of their repetition. The simple fact is that corruption does not emerge suddenly. By its nature it is spawned in stealth, and grows in a climate in which it is comfortable.

A. THE REASONS FOR THE EMERGENCE OF CORRUPTION WITHIN THE SERVICE

6.3 The evidence called by the Royal Commission revealed that a number of factors have contributed to the emergence of the forms of corruption within the Service described earlier in this Report. The threads are brought together here.

THE CIB TRADITION AND THE ELITISM OF DETECTIVES

6.4 The evidence shows that the traditional practices of the CIB and its aura of elitism and mystique did not depart the Service with its devolution. They were merely transported to the regional crime squads, and came also to be acquired by some patrol detectives. A disturbing feature of this development was the unquestioning acceptance that the CIB model was the norm. This dissuaded a number of honest police from becoming detectives,¹⁰⁰⁶ and left others feeling powerless to resist corrupt approaches from other officers.

6.5 This model was also one that helped entrench the heavy drinking, long meals, and inappropriate associations with criminals that had been the trademark of the CIB. The peer group pressure to join in these practices, at risk of being rejected as someone who was different and not to be trusted, was enormous. However, once drawn into the brotherhood of this group, professionalism and personal standards were bound to slide, and access to corrupt monies became necessary to maintain the lifestyle.

¹⁰⁰⁵ *Commission Report: The City of New York Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department*, (M. Mollen, Commissioner), New York, 1994, p. 2.

¹⁰⁰⁶ eg. J. H. Sturdy, RCT, 14/2/96, p. 20095.

6.6 Moreover, the arrogant and cynical attitude to law breakers and to the public at large shown by adherents to this model provided a ready justification for the slide into theft, assault, and process corruption.¹⁰⁰⁷

6.7 The evidence suggested that corrupt elements within the CIB came to exert inordinate influence over other police, the Service and the Police Associations because of:

- the elite status and institutional deference given to that group, particularly those members who were self-proclaimed 'A graders',¹⁰⁰⁸ with records for high-profile arrests and convictions;¹⁰⁰⁹
- the history of failed prosecutions of such officers, most of whom were able to return to work with enhanced reputations as being untouchable;¹⁰¹⁰
- their resistance to any form of supervision;¹⁰¹¹
- the fear honest police held of repercussions if they stood up to these officers;¹⁰¹² and
- their ability to influence transfers and promotions to ensure that officers of the same mind-set worked with them, and the remainder were transferred out.¹⁰¹³

6.8 An inevitable consequence of the cliques that developed in such an environment was the formation of power groups such as 'the Barbecue Set' in the 1980s,¹⁰¹⁴ comprising detectives who rose to senior ranks and were in a position both to protect their followers and frustrate any attempt at reform.

6.9 The formation of cliques of this kind, and especially where they embraced corrupt practices, was absolutely inimical to an effective Service. It led to disillusionment and frustration on the part of the honest officers who were excluded and who not only saw their career paths blocked, but expected any efforts they made to improve the Service to be defeated by the established and powerful factions.

6.10 This came to be a problem in the regionalisation process, several officers having given evidence that, in the manner in which devolution occurred, it:

- created a risk that the Major Crime Squads would become 'mini CIBs';¹⁰¹⁵
- simply spread corruption through the regions;¹⁰¹⁶ and
- increased the danger of 'creating more than one organisation within the whole'.¹⁰¹⁷

6.11 Another aspect of the CIB tradition which has continued to plague the Service was the development of improper associations between police and criminals under the guise of an 'informant relationship'. Separated from the community responsibilities and the more structured supervision of their patrol colleagues, the CIB detectives relied mainly on criminals to provide them with information.¹⁰¹⁸ The lack of formal guidelines and the absence of proper supervision allowed detectives to maintain relationships with criminals in which, in exchange for information about major

¹⁰⁰⁷ eg. JTF7, RCT, 21/9/95, p. 13300; JTF8, RCT, 31/10/95, pp. 15688-91; WS11, RCT, 11/6/96, pp. 26710-11.

¹⁰⁰⁸ See Glossary.

¹⁰⁰⁹ See M. W. Schloeffel, RCT, 13/11/96, pp. 34322-23; R. C. Shepherd, RCT, 12/11/96, p. 34195; L. D. Kellock, RCT, 12/11/96, p. 34211.

¹⁰¹⁰ R. C. Shepherd, RCT, 12/11/96, p. 34180.

¹⁰¹¹ eg. R. C. Shepherd, RCT, 12/11/96, p. 34177, agreed that the CIB was a 'law unto itself'.

¹⁰¹² R. C. Shepherd, RCT, 12/11/96, p. 34174 said that one way to wreck your career was to bring to notice any unethical or corrupt behaviour.

¹⁰¹³ L. D. Kellock, RCT, 12/11/96, pp. 34207-08.

¹⁰¹⁴ M. L. Beck, RCT, 13/11/96, p. 34272; K. R. Brown, RCT, 11/11/96, p. 34143; see also Glossary.

¹⁰¹⁵ B. Gibson, RCT, 8/2/96, pp. 19738-39.

¹⁰¹⁶ M. W. Schloeffel, RCT, 13/11/96, p. 34294.

¹⁰¹⁷ N. O. Taylor, RCT, 7/12/94, p. 212.

¹⁰¹⁸ A. R. Lauer, RCT, 18/11/96, pp. 34426-27.

crimes, they ignored the criminal activities of their informants.¹⁰¹⁹ These relationships became so corrupted that in many cases the informant ran the police officer.¹⁰²⁰

THE CODE OF SILENCE

6.12 Although the code of silence is not peculiar to the NSW Police Service, the evidence shows it came to be particularly well developed, in no small measure due to the CIB factor. So persuasive was its influence that it came, in the minds of some witnesses to be synonymous with the 'police culture'.¹⁰²¹

6.13 The effect of the code of silence was clearest in those cases where police were prepared to support officers they did not even know, or accept money from fellow detectives without knowing where it came from.¹⁰²² Time and again, officers placed in this position explained their support, or the acceptance of money, on the basis that this was the 'way the system worked',¹⁰²³ and that any other response would end their career.

6.14 The strength of the code of silence was very evident during Commission hearings. Almost without exception officers approached by the Commission initially denied ever witnessing or engaging in any form of corrupt activity. Even with an undertaking that police would not be disciplined for failing to report certain forms of corruption,¹⁰²⁴ the offer of an amnesty¹⁰²⁵ and the availability of protection against self-incrimination, officer after officer maintained this stand until presented with irrefutable evidence to the contrary. Each knew the truth, yet the strength of the code, and the blind hope that no one would break it, prevailed.

6.15 The code of silence is strengthened by an 'us and them'¹⁰²⁶ attitude which encourages police to adopt an adversarial position to anyone who is not a police officer or who challenges police activity. It was described as a 'siege mentality'¹⁰²⁷ by several witnesses.

6.16 The continual reinforcement of the code of silence is likely to have contributed to the emergence of corruption in different ways:

- in the minds of honest and, in particular, inexperienced police it was apt to condition them to accept corruption as part of the job, so far as it left them lacking in confidence to report any matter of concern, and compelled either silent acceptance of their colleagues' behaviour, or collaboration with them;
- in the minds of managers it was similarly apt to generate a sense of futility in any attempt to address corruption or to introduce meaningful reforms;
- in the minds of corrupt police it was seen as the means to manipulate and control fellow officers, particularly those who had been earlier compromised by acquiescence or collusion; and

¹⁰¹⁹ A. R. Lauer, RCT, 18/11/96, p. 34448.

¹⁰²⁰ A. R. Lauer, RCT, 18/11/96, p. 34448.

¹⁰²¹ eg. C. Dorrough, RCT, 29/2/96, p. 20960; D. K. Thompson, RCT, 2/5/95, p. 6277, 17/10/95, pp. 14902-03; B. G. Hartmann, RCT, 28/2/95, p. 2577; WS8, RCT, 28/2/96, pp. 20794-95; WS14, RCT, 12/3/96, p. 21486.

¹⁰²² eg. WS9, RCT, 18/6/96, p. 27167; WS14, RCT, 12/3/96, p. 21486.

¹⁰²³ eg. YM3, RCT, 25/6/96, p. 27600; GDU12, RCT, 9/8/96, p. 30207.

¹⁰²⁴ On 14/3/95 during the Cornish segment in Lismore the following announcement was made: 'I'm authorised by the Acting Commissioner of Police to say that any police officer who comes forward of his or her own accord and in good faith gives evidence honestly and truthfully of misconduct concerning other police officers need fear no repercussions in the form of disciplinary action for failure to report, provided the officer is not a principal in the alleged misconduct or not a key player or main player'. M. J. Finnane, QC, Counsel for the Police Service, RCT, 14/3/95, pp. 3578-81.

¹⁰²⁵ On 29/11/95, an amnesty was announced whereby, subject to certain exceptions and conditional upon full co-operation with the Royal Commission, police guilty of corruption or misconduct might be permitted to resign from the Service and avoid prosecution. See Volume III, Appendix 13 of this Report.

¹⁰²⁶ D. G. Demol, RCT, 3/7/95, pp. 9578-79; JTF7, RCT, 21/9/95, p. 13300.

¹⁰²⁷ J. K. Avery, RCT, 5/12/94, p. 33; G. D. Bell, RCT, 19/11/96, pp. 34530-31; B. G. Quinn, RCT, 31/10/95, pp. 15735-36.

- in the minds of internal investigators it had the potential to predetermine the result of any investigation, discouraging vigorous inquiry.

6.17 Quite apart from the direct effect on individual police, the techniques which were developed to reinforce the code of silence significantly influenced the capacity of the Service to detect corruption. These were shown to include:

- the use of coded warnings such as the ‘whale in the bay’ call to alert colleagues to a pending internal investigation;¹⁰²⁸
- the ‘police telegraph’ which one officer said was ‘faster than anything modern technology can come up with’;¹⁰²⁹
- the use of ‘scrumdowns’ which brought police together to assemble a united response to any inquiry;¹⁰³⁰
- the development of counter-surveillance techniques;¹⁰³¹ and
- the ever-present threat of ostracism.¹⁰³²

PROTECTION OF THE REPUTATION OF THE SERVICE

6.18 Another important circumstance which similarly emerged in the Mollen Inquiry was the institutional pressure to suppress or contain the disclosure of corruption in the belief that this was in the best interests of the Service so far as its reputation and morale were concerned.¹⁰³³ This kind of philosophy came to be expressed in a number of ways, each of which was inimical to prevention of corruption. They included:

- suppression and editing of adverse audit reports, or active discouragement of critical comment on the part of those whose task it was to identify problems;¹⁰³⁴
- denial of the obvious, to the point where those who sought to bring problems to notice became branded as ‘troublemakers’ and risked transfer out of any job of significance;¹⁰³⁵
- iron-fisted control over the release of information to Parliamentary committees and to external watchdogs, which helped maintain the conviction that the Service, and its members, were laws unto themselves;
- inadequate resourcing and support for the Internal Affairs Command, which in turn deterred better investigators from seeking postings and reduced its investigative capacity;
- early warnings and leakage of information to police under investigation;
- fragmentation of investigations, thereby losing the opportunity of broad-based inquiries that may have thrown up systemic misconduct; and
- ineffective support for internal informants.

¹⁰²⁸ L. D. Kellock, RCT, 12/11/96, p. 34202; J. T. Jarratt, RCT, 28/11/95, p. 16469; L. G. Churchill, RCT, 22/5/96, p. 25731; W. J. Eade, RCT, 12/12/95, p. 17446; D. K. Thompson, RCT, 2/5/95, pp. 6296-97, 16/10/95, pp. 14762-63; G. J. Fowler, RCT, 1/5/95, p. 6176, 2/11/95, p. 15869; A. J. Collings, RCT, 1/2/96, pp. 19320-21; T. D. Haken, RCT, 9/10/95, pp. 14323-24.

¹⁰²⁹ AW, RCT, 10/4/96, p. 23227.

¹⁰³⁰ JTF16, RCT, 3/10/95, pp. 13880-81, 13885; D. G. Demol, RCT, 4/7/95, pp. 9681-84.

¹⁰³¹ L. D. Kellock, RCT, 12/11/96, pp. 34203-04.

¹⁰³² eg. C. Dorrough, RCT, 29/2/96, p. 20960; M. L. Beck, RCT, 13/11/96, p. 34277; D. C. Hungerford, RCT, 21/10/96, p. 33026; WH, RCT(U), 25/9/96, p. 7478; SM, RCT, 19/9/96, p. 32625; HW1, RCT, 8/12/95, p. 17301; PS, RCT(U), 29/5/96, p. 3431.

¹⁰³³ *Commission Report: The City of New York Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department*, (M. Mollen, Commissioner), New York, 1994, p. 2.

¹⁰³⁴ See G. D. Bell, RCT, 19/11/96, particularly p. 34518.

¹⁰³⁵ eg. YB1, RCT(U), 30/4/96, p. 1963; K. C. Jurotte, RCT(U), 23/5/96, p. 3145, 27/6/96, p. 4385.

6.19 This kind of defensive mentality was an inevitable recipe for collapse of command responsibility for the maintenance of integrity, and for reinforcement of a 'them and us' attitude. It sent a very powerful message to the ranks not only that the rhetoric to which they were exposed was empty, but that the opposite was what was truly expected. What must now be understood is that public disclosure of successful investigations into misconduct is not an indicator of failure. Rather, it should be seen as evidence that the system is working, and that there is a brake being applied to problems which would otherwise fester and multiply before the inevitable scandal. Similarly it must be understood that adverse internal audits provide a valuable opportunity for nipping management problems in the bud, as well as encouraging honesty.

OTHER STRUCTURAL FACTORS

6.20 Several other organisational factors emerged as contributory factors. They included:

- the regulatory nature of policing historically applied in the high-risk areas of starting price (SP) betting, gaming, vice, and licensing that set a precedent for the corruption and protection that followed once the drug trade exploded;
- the disciplinary system which was unduly rigid concentrated on minor disciplinary infractions and honest mistakes, punished internal informants, treated those who voiced concerns as 'troublemakers', and otherwise discouraged openness and honesty in admitting error;¹⁰³⁶
- the absence of recognition and support for ethical conduct and the repression of individual initiative;
- the existence of too many regulations and instructions whose main purpose often seemed to be the provision of a framework for attributing blame if something went wrong, rather than a practical guide to ensure best practice;
- an unrealistic management strategy which was arrest rate driven, but not matched with sufficient resources leading to various forms of process corruption described by one officer as the 'tricks of the trade', and encouraging the formation of close and fiercely protected relationships between detectives and criminal sources;¹⁰³⁷
- failure of the Service as a whole to discourage process corruption or to recognise its potential to leave officers seriously compromised;
- an institutional tolerance for brutality and particularly for unnecessary assaults of persons under investigation or in police custody;
- with some recent notable exceptions¹⁰³⁸ inadequate involvement of community resources and Local Government to act in partnership with the Service in crime prevention, opportunities which if acted on might not only have encouraged dedicated police, but also improved the quality of life, job satisfaction and morale of the Service;
- undue central retention of decision-making leaving regional and district commanders without sufficient power to deploy their resources to best value; and
- the self-imposed isolation of the Service from external ideas and influences, seen in its past refusal to embrace lateral entry and contemporary management strategies, which has

¹⁰³⁶ M. E. Lazarus, RCT, 4/11/96, p. 33888; J. K. Avery, RCT, 5/12/94, p. 40; G. D. Bell, RCT, 19/11/96, p. 34518; R. C. Shepherd, RCT, 12/11/96, p. 34181.

¹⁰³⁷ YM4, RCT, 26/6/96, pp. 27662 & 27672.

¹⁰³⁸ In its submission the Police Policy Research Unit of the School of Social Work, University of New South Wales, cited cases of successful community involvement such as the introduction of an Aboriginal community consultative committee by the Patrol Commander at Casino Patrol in 1989, and the establishment of a similar committee at Murwillumbah which established a youth refuge. UNSW Police Policy Research Unit, *Police and the Community - The Necessity for Change*, August 1996, RCPS Exhibit 2809/112, pp. 65-74.

helped the negative element of the police culture to develop in what has essentially been a closed system.

6.21 A related circumstance of importance has been the history of inquiry and attempt at reform accompanied by a good deal of rhetoric which was not matched by action let alone by results. The message received that nothing was about to change left the corrupt free to continue as before, and the honest fearful and cynical about the capacity and the will of the Service to achieve change. This cynicism was expressed to the Commission both in evidence and at the round table discussions where representatives of the Police Associations voiced the justified criticism of their members that they had heard it all before.¹⁰³⁹ It has been further reinforced by an awareness of the practical difficulty the Service faced in securing the dismissal of corrupt and wilful non-performers.

SERVICE TRAINING AND DEVELOPMENT

6.22 The evidence, round table discussions and submissions revealed that ethics and integrity have, in the past, received very little attention during recruit training or during in-service development. Similarly, despite requirements to the contrary they appear to have been paid, at best, lip service, in the promotion process.

6.23 It emerged that within recruit training and in-service development at the Police Academy:¹⁰⁴⁰

- there was until recently, very little in the way of any structured segment focusing on ethics or integrity; and
- even less in the way of practical application or guidance.¹⁰⁴¹

6.24 So far as instruction in this respect had at an earlier time been left to mentors, 'buddies',¹⁰⁴² or supervisors at patrol or station level, it had an inauspicious beginning. A number of witnesses described their totally inappropriate experiences when assigned to Number 21 Special Division¹⁰⁴³ and to uniformed duties at Darlinghurst Police Station. Not coincidentally, the corruption found by the Mollen Inquiry was in part attributable to a similar practice within the NYPD. That Department had created dumping grounds or punishment stations in high corruption areas for the misfits, the malcontents, and the incompetent or less disciplined officers, and then by some form of twisted logic had used them to 'blood'¹⁰⁴⁴ trainees as quickly as possible into the hard realities of policing. As was pointed out by Mollen, police who believe they have been dumped in such a location will develop a perverted pride in their unsavoury reputation and then act it out.¹⁰⁴⁵ So it was in NSW where duties at Darlinghurst, with the Number 21 Special Division or in general policing, placed officers in close contact with areas of criminality, vice, gaming, drugs and the like where there were maximum opportunities for corruption.¹⁰⁴⁶ The poor morale was described by one officer:

Darlinghurst then was a police station that was more or less considered a punishment station, as I found out when I got there ... No one wanted to be there, so there was a lot of police there with chips on their shoulders.¹⁰⁴⁷

¹⁰³⁹ RCPS, *Police Service Reform Process Meeting Minutes*, Promotions Day 1, 8/8/96, RCPS Exhibit 2808/9.

¹⁰⁴⁰ K. E. Moroney, RCT, 8/12/94, p. 328.

¹⁰⁴¹ JTF1 said police fail to see the ramifications of their actions and suggested the Service pay greater attention to educating police about the possible ramifications of engaging in corrupt practices; RCT, 19/9/95, pp. 13131-32.

¹⁰⁴² The 'buddy' system was a training approach which paired young inexperienced police with more experienced officers for the first few weeks of their patrol duty.

¹⁰⁴³ The name of this division was originally 'No. 21 Division', but was changed to Number 21 Special Division. In 1979 it was renamed again as 'Number 21 Mobile Division' see NSW Police Force, CIB Centenary, 1879-1979, RCPS Exhibit 2790BC/12, p. 34. It has also been known as 21 Special Squad.

¹⁰⁴⁴ See Glossary.

¹⁰⁴⁵ *Commission Report: The City of New York Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department*, (M. Mollen, Commissioner), New York, 1994, pp. 60-62.

¹⁰⁴⁶ R. C. Shepherd, RCT, 12/11/96, p. 34172.

¹⁰⁴⁷ P. W. Grinter, RCT, 14/3/95, p. 3567.

6.25 Many young police were in the past tested for their preparedness to succumb to temptation and to support the culture of loyalty to their colleagues in environments such as this. The Service has not overlooked this in more recent years, and the creation of demonstration patrols was a positive step.¹⁰⁴⁸ In the meantime, however, the harm had been done so far as very many police were concerned.¹⁰⁴⁹

6.26 For much of the history of the Service promotion was seniority based. It was not until 1984 that merit and integrity became relevant factors.¹⁰⁵⁰ However, so far as that rested upon the assessment of other officers, or upon a report from Internal Affairs¹⁰⁵¹ the system has continued to be troubled by:

- favouritism;¹⁰⁵²
- uncritical assessments by first line commanders and supervisors;
- poor interchange of intelligence between the Office of Professional Responsibility, and regional Internal Affairs and commanders, such that those who should have been aware of possible high-risk officers were not pre-warned of the need for special scrutiny;
- the absence of any strategies for impartial and objective testing of key skills; and
- the complex promotional appeal structure.

6.27 The undeniable fact is that many officers who were known to be corrupt, or wilful non-performers, still managed to gain promotion thereby entrenching their power base and allowing them to sponsor like-minded police. One such officer admitted that he should have never been promoted to sergeant.¹⁰⁵³ This situation left honest officers cynical and disillusioned about:

- the possibility that corruption was officially condoned;
- the possibility that integrity was not a priority;
- the point in maintaining a high standard of performance;
- attempts by the Service to address corruption issues; and
- their own career prospects.

6.28 What was lacking before the Royal Commission was any real attempt to identify the enlightened and professional staff who had demonstrated courage, honesty, initiative and integrity, and then to arrange their rapid promotion so that they could operate as new role models and serve in key placements.

FACTORS OUTSIDE THE CONTROL OF THE SERVICE

6.29 It cannot be denied that the increase in drug-related crime during the past 20 years has had a significant effect on the incidence of corruption. The opportunities available to corrupt police from these activities has far exceeded anything that was ever available through selective policing and protection of SP betting, gaming, sly grogging,¹⁰⁵⁴ and vice.¹⁰⁵⁵ Furthermore, it has increased the number of police exposed to the temptations of easy money.

¹⁰⁴⁸ Demonstration Patrols are patrols specifically staffed and equipped to expose probationary constables to 'best practice, [and] good role models', see A. R. Lauer, RCT, 6/12/94, pp. 145-46.

¹⁰⁴⁹ See the evidence of D. Demol, RCT, 29/6/95 and 3--5/7/95.

¹⁰⁵⁰ See Volume I, Chapter 3 of this Report, paras. 3.83 - 3.84.

¹⁰⁵¹ In relation to certain police appointments s. 94A *Police Service Act (1990)* requires IA to furnish a report on the particulars of any criminal proceedings or complaints against the officer to the Minister, Police Board or Commissioner in relation to certain police appointments.

¹⁰⁵² C. J. McLachlan, RCT, 12/2/96, pp. 19839-40; A. B. Lynch, RCT, 5/4/95, p. 5039.

¹⁰⁵³ WS14, RCT, 13/3/96, p. 21629.

¹⁰⁵⁴ See Glossary.

6.30 As has earlier been recorded, it became commonplace for police to steal from offenders who were raided or to offer favours to them.¹⁰⁵⁶ Corruption was bound to occur where temptation of this form was high and the co-operation of criminals could be bought easily. Although responsibility for the proliferation of recreational and habitual use of drugs cannot be laid at the door of the Service, its poor supervision, the failure to rotate police out of drug-related squads, and minimal training in ethics and integrity or reinforcement on the job have affected its ability to detect and address this sort of corruption.

6.31 The earlier illegality of betting, gambling, pornography and prostitution and their current qualified 'legitimate status' have similarly contributed to the problems of corruption. Their policing has not been addressed any better than that directed towards the drug trade, which has the potential by itself to undermine any police service.

B. THE REASONS CORRUPTION WENT UNEXPOSED

6.32 The evidence and submissions revealed a combination of factors that resulted in the limited exposure of corruption within the Service.

COMMAND ACCOUNTABILITY AND EFFECTIVE SUPERVISION

6.33 Without effective first-line supervision, accountability by commanders and supervisors for failure to identify and deal with corrupt practices, and action from Senior Command that matched rhetoric, there was little hope of detecting and effectively targeting corruption. Part of the problem in this regard has been the lack of any real sense of responsibility at local level, the view having been taken that corruption should be left to the Office of Professional Responsibility or its predecessors. As a result local supervisors and commanders who should have been best placed to know what was going on, were frozen out of the circuit.

6.34 Problems identified in this area included:

- the blind trust many supervisors and commanders have placed in the integrity of their staff,¹⁰⁵⁷
- the greater weight often given by commanders to personal popularity, when respect born out of a reputation for integrity, professionalism and fairness were more likely to promote support from those who were in a position to bring misconduct to notice;
- the absence of any system to identify and pursue tell-tale signs of corruption that should have been apparent at a local level, such as overseas holidays, unexplained wealth, or gambling;
- the refusal of many detectives to submit to the command and direction of uniformed officers, particularly Patrol Commanders, some of whom simply delegated responsibility for their oversight to the Chiefs of Detectives, whose interests were clearly aligned with those they were expected to lead; and
- the failure to understand the reasons for the Informant Management Plan and to implement it in any meaningful manner, such checks as were made having largely been of a routine or proforma kind without any attempt to investigate or terminate relationships with criminals who did not qualify as informants or community sources.

¹⁰⁵⁵ R. C. Shepherd, RCT, 12/11/96, p. 34165.

¹⁰⁵⁶ See Volume I, Chapter 4 of this Report for various instances. Specifically, see paras. 4.126, 4.149 & 4.178.

¹⁰⁵⁷ Several commanders and supervisors denied any knowledge of the corrupt activities of their staff and expressed amazement at the revelations about officers under their command; eg. J. T. Turner, RCT, 14/3/96, p. 21725; R. B. Small, RCT, 27/4/95, p. 5901.

6.35 A not unrelated, but unintended, consequence of the manner in which regionalisation was effected, was the retention of resources at higher levels of the Service in 'management positions', remote from where they were needed and at the same time leaving staff on the ground disempowered from dealing with the problems.

6.36 The significance of this factor, and of the need for critical assessment and review of the performance of commanders and supervisors in those areas where corruption emerges, cannot be overstated. Without such an approach, the possibility of identifying and redressing the root cause of corruption is lost, and its existence will never be accepted as a Service-wide problem.

RISK MANAGEMENT

6.37 Although very many practical guidelines and instructions were prepared by the Service, in the main they were too complex, were frequently breached, and did not address the high-risk activities. For example, until recently there was no requirement for:

- the use of independent observers (that is, from other sections of the Police Service) to supervise arrests and searches in operations where significant seizures of drugs, money, or other property were expected;
- the video taping of such operations, and the audio recording of conversations at the place of arrest or other dealings prior to the time at which formal, electronically-recorded interviews were conducted;
- the tagging, sealing and recording of exhibits at the scene, under the supervision of senior officers or independent observers;
- field involvement of supervisors in operations, and training of commanders in the identification of corruption hazards;
- random drug and alcohol testing;
- targetted integrity testing of officers coming under suspicion;
- formal review of significant prosecutions which unexpectedly failed, or were the subject of adverse judicial comment or questions by the DPP; and
- the promulgation of a code of conduct and ethics which might provide a practical guide, or of any system by which an officer might receive quick, impartial and informed advice on a matter of concern, either through a hot line or by reference to a local ethics or professional standards committee.

INTERNAL INVESTIGATIONS

6.38 The deficiencies in the pre-existing system involving a combination of internal investigations, and civilian oversight by the Ombudsman and the ICAC, were surveyed in this Commission's First Interim Report.¹⁰⁵⁸

6.39 In summary, the factors contributing to the limited success of internal investigations by the Service there identified, and as confirmed by the further hearing of the Commission, included:

- the difficulty of police investigating police - a concept which ran headlong into the adverse aspects of the police culture previously mentioned;

¹⁰⁵⁸ RCPS, *First Interim Report*, February 1996, pp. 4-32.

- the reactive focus of the complaints system on single instances of misconduct, and their fragmentation within a rigid formula, a system which has not allowed for a classification of complaints in a way reflecting their different levels of seriousness, tended to conceal the discovery of links and patterns indicative of organised corruption, and overlooked the broader management and intelligence considerations and opportunities for early remedial intervention;
- the highly labour intensive, technical, and dilatory nature of the complaint procedures which have effectively diverted resources away from the more difficult areas of corruption investigation, and led many officers to resign from the Service with stress-related conditions referable to the time taken for resolution of relatively simple matters which might have been better dealt with as management issues;
- the concentration on an adversarial complaint and investigative system in which punitive rather than remedial action has inhibited police from admitting to mistakes, has encouraged a culture of group cover-up and denial, and has led to a philosophy that most complainants were whingeing individuals out to settle a score - a philosophy which only reinforced the 'them and us' approach;
- the limited resources given to the Professional Responsibility Command, and the downgraded, unpopular status of holding office within that Command, in some quarters regarded as a 'retirement haven' for those who did not otherwise fit the mould, or, alternatively, as a mere stepping stone to promotion (without commitment to the job);
- the failure to successfully utilise intelligence, covert techniques, surveillance and the like, or to attempt the rollover of individual officers able to expose a wider net of corruption (because of the perceived need to immediately prosecute or discipline any individual caught out in corruption);
- the failure to use broad-based financial and intelligence analysis, the lack of communication between regional and central Internal Affairs Units, and the failure to sufficiently involve commanders in the management of, and responsibility for, misconduct within their command;
- an inherent bias in investigations as the result of which the Service has failed to carry out impartial investigations, or to pursue allegations with the same rigour or approach seen in ordinary criminal inquiries (it often seemingly having been the case that the innocence of the officer in question was assumed, with the inquiry being directed more towards finding justification for his or her conduct, rather than a search for matters which might corroborate the complaint);
- the lack of security in relation to corruption investigations, with information and warnings being promptly passed on to police under investigation which compromised the investigations, and a general lack of trust on the part of potential informants (both internal and external) in the confidentiality of any information provided, and consequently in their own safety;
- the use of ineffective investigative techniques, for example, the issue of directive memoranda calling for an explanation in writing which allowed groups of police under investigation to be forewarned of the inquiry, and to manufacture a watertight defence in collaboration;
- the use of an investigation methodology which frequently began and ended with the officer's denial of the allegations, on the basis that faced with such a response the facts could not be determined, an investigative approach which would rarely terminate a conventional criminal inquiry, but which allowed corrupt police to return to duty with their reputations enhanced either as 'untouchables' or as effective police who were hurting criminals thereby attracting complaints;

- the closure of cases involving serious misconduct once a minor disciplinary infraction was established;
- the imposition of penalties which were not always commensurate with the misconduct found, including 'penalty transfers' without sufficient significance being given to questions of personal dishonesty or to the danger of moving a problem officer elsewhere within the Service; and
- the lack of protection and support for internal informants.

6.40 The roles of:

- the ICAC in targetting official corruption within the public sector, including the Police Service, in delivering education and in preparing anti-corruption strategies; and of
- the Ombudsman in supervising the Service complaints system ensuring quality of service, and monitoring the adequacy of internal investigations and the conciliation of complaints;

were also outlined in the First Interim Report.¹⁰⁵⁹

6.41 Each has undertaken valuable inquiries leading to significant reports on specific matters of concern,¹⁰⁶⁰ and on corruption prevention and education measures. Notwithstanding, the fact is that corruption has continued within the Service unabated and largely unaddressed. It is not the purpose of this Report to further canvass the matters which it was suggested in the First Interim Report had led to this state of affairs. However, in summary, the ability of the agencies to contribute significantly to any fight against corruption in the period preceding the Royal Commission was limited by:

- their charters which in each case extended to the supervision of many other public agencies, officials and services;
- their limited staff and resources;
- their substantial dependence on the secondment of members of the Service as investigators;
- the inability on the part of the Ombudsman to deploy coercive powers or to undertake proactive investigations, and the former (but not present) reluctance, in the case of the ICAC, to employ electronic surveillance and other similar techniques;
- the lack of a specific division, in the case of the ICAC, focused on police corruption; and
- the emphasis of the ICAC on corruption prevention and education at the possible expense of its investigative role.

6.42 Such greater success that the Royal Commission enjoyed, in comparison to the Service, the ICAC and the Ombudsman, and in comparison to earlier Royal Commissions, can be attributed to a number of factors, including:

- its extensive use of coercive powers to compel witnesses to give evidence and produce documents, and to enter relevant premises to inspect and copy documents;
- its heavy reliance on wide-based proactive inquiries, and electronic and physical surveillance;
- its greater resources;
- its willingness to turn witnesses (both police and criminals) and to use them covertly;

¹⁰⁵⁹ RCPS, *First Interim Report*, paras. 1.27 - 1.59.

¹⁰⁶⁰ Reports by the ICAC and the Ombudsman in relation to the NSW Police Service are listed in Volume III, Appendix 24 of this Report.

- its heavy reliance on intelligence analysis for patterns of associations, complaints, and compromised internal investigations;
- its use of financial profiling and analysis to demonstrate lifestyles that could not be sourced from a police salary;
- the deployment of multi-disciplinary task forces in which the skills of investigators, lawyers and analysts could be combined;
- the use of investigators drawn from law enforcement agencies other than the NSW Police Service, who lacked all connection to hostile and corrupt elements within that Service and who had no fears about their career prospects in confronting matters that might embarrass it;
- its direct encouragement of the public, and victims of police corruption and misconduct, to come forward and assist, under conditions in which they could be protected, assured of confidentiality, and where appropriate spared from criminal liability;
- the active co-operation of other law enforcement agencies and financial institutions;
- its declared commitment to actively pursue corruption in all its facets without any agenda to protect reputations, or any preconceptions as to the state of the Service; and
- its use of state of the art technology in investigations in the storage and use of intelligence and information collected and in the presentation of evidence.

6.43 Additionally, it has had the advantage of being able to conduct investigations and hearings on an inquisitorial basis, unconfined by the technical rules governing hearings based on the adversarial system, or by the criminal standard of proof.

EXTERNAL FACTORS

6.44 Among the external factors that have limited the disclosure of corruption in the past have been:

- a degree of reluctance on the part of the judiciary and the public when serving as jurors to question sufficiently police practices and evidence;
- the successful manipulation of the media by the Service, the Police Associations, and by some high-profile police, in times of potential crisis;¹⁰⁶¹
- the ingrained political concern to contain embarrassment in any area of the public sector;
- the undue deference paid by politicians to the perceived power of the Service and of the Police Associations to mobilise the electorate in sensitive electorates which has often seen Ministers or parties too readily give way to their demands, and in so doing reinforce the sense of invulnerability and influence possessed by police; and
- the unworkable disciplinary structure provided from outside the Service, which has been characterised by delay, inconsistency in decision-making, and undue legality.

C. CONCLUSION

6.45 Mollen's observation that the NYPD had a 'multifaceted problem', that flourished:

¹⁰⁶¹ See R. C. Shepherd, RCT, 12/11/96, p 34182; A. R. Lauer, RCT, 18/11/96, pp. 34441, 34456.

... not only because of opportunity and greed, but because of a police culture that exalts loyalty over integrity; because of the silence of officers who fear the consequences of 'ratting' on another cop, ... because of wilfully blind supervisors who fear the consequences of a corruption scandal more than corruption itself; because of the demise of the principle of accountability that makes all commanders responsible for fighting corruption in their commands; because of hostility and alienation between police and community ... [and the abandonment of] responsibility to ensure the integrity of its members.¹⁰⁶²

is equally applicable to the NSW Police Service.

6.46 The Commission has, in this Volume, examined the problem of corruption within the NSW Police Service not only by reference to the forms of corruption which exist but also by reference to the causes for their emergence and non-exposure.

6.47 What is clear, first, is that the nature of corruption evolves over time, and, second, that the reasons for its emergence, and the failure of the Service to deal with it, are numerous. The message for reform is clear. Addressing only one or several of these factors will lead to resounding failure. Strategies for wholesale reform and for its monitoring and implementation are essential.

6.48 Change may be daunting but it is not impossible. What must now be harnessed is the energy, commitment and loyalty which have in the past underpinned the brotherhood, but within a framework of sensible, achievable and carefully planned reform.

6.49 Lest the foregoing gives a contrary impression, this Commission does wish to emphasise, and to develop in Volume II, the proposition that the main focus of the Service should not be on corruption prevention simpliciter. Such an approach is unduly negative and constricting, and risks the efficiency of the Service. Rather, the focus must be on improving the organisation overall, and in the course of achieving that outcome, introducing strategies that will discourage corruption and allow for its detection. At all levels, it is necessary to recruit police to the notion of working together to produce a better Service, and to recognise that selection or rejection of the corrupt road depends not just on individual choice, but on the existence of an acquired and taught mind-set that neither encourages nor tolerates unethical behaviour.

6.50 Before developing the matters which this Commission considers justify particular attention, and the process for achieving the transformational change required, it should be stated, unequivocally, that this Commission does not judge the entire Service by the misconduct of those whose activities and practices have been highlighted in this Volume. Many thousands of police have given their conscientious best to deliver a service to the community. Their commitment, and their good will, is a valuable asset which should be strategically employed in the process of transformation since it will benefit them as well as the community.

¹⁰⁶² *Commission Report: The City of New York Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department*, (M. Mollen, Commissioner), New York, 1994, p. 1.

