

# 98–99 Annual Report



Independent Commission Against Corruption

## HOW TO GET IN TOUCH WITH THE ICAC

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Project team: Produced in-house with photography, editing, indexing and printing out-sourced.  
Photography: Joseph Lafferty Photography  
Printing: Rostone Print

## ICAC ANNUAL REPORT 1998-99

ISSN 0 642 19652 4

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Two thousand copies of this Report were printed at a cost of \$9.60 per copy. Three thousand summaries were produced at a cost of 53 cents per copy.

## ICAC SERVICES AND HOW TO OBTAIN THEM

The purpose of the Independent Commission Against Corruption (ICAC) is to expose and minimise corruption in the New South Wales (NSW) public sector. This work involves participation by the following groups:

- the public sector of NSW which includes all NSW government departments, statutory authorities, local councils and Councillors, judicial officers and Members of the NSW Parliament
- private sector organisations and individuals who interact with the NSW public sector
- the people of NSW.

In addition to undertaking investigations, the ICAC engages in a wide range of activities to expose and minimise corruption. These services are outlined below:

### **Receiving information about possible corruption**

To provide information about possible corruption you may write to, visit or telephone the ICAC and ask for the Assessment Section. You will be given instructions about how to supply the information and how it will be dealt with.

### **Corruption prevention advice**

A telephone advice service is available to all members of the NSW public service, and any individual or agency interacting with the public sector. Advice can also be sought in writing.

### **Publications and resources**

When the publication is known, callers to the ICAC are referred to an answer phone where publication and address details can be left. If the caller requires assistance, the matter is referred to the ICAC's Education Section. Requested publications are forwarded by mail. Many publications are also available on the ICAC's web site <http://www.icac.nsw.gov.au>.

### **Other information or requests of the ICAC**

All other matters can be directed to the ICAC receptionist who will direct your enquiry to the relevant area of the ICAC.

## OUR SERVICE COMMITMENT

In its activities the ICAC will:

- maintain as its primary concern the protection of the public interest and the prevention of breaches of the public trust
- be tenacious in fighting corruption and maintaining its independence
- deliver services which are useful, practical, strategically targeted and appropriate to needs
- respond to customer needs in a way which maximises the impact of ICAC activities and makes the best use of resources
- carry out its duties impartially and with integrity
- meet the standards of ethical behaviour and accountability that the ICAC promotes in its dealings with other government organisations
- have regard for the impact of its work on organisations and individuals.

The ICAC welcomes your input. Comments about your experience of ICAC services help us improve the quality of our service. Comments may be made by phone or in writing.

Complaints about the conduct of staff are treated seriously and will be investigated by a member of senior management. The investigation and any proposed action will usually be reviewed personally by the Commissioner. For more serious or difficult complaints against a staff member, a person from outside the ICAC may be engaged to investigate and the investigation will be reported to the Operations Review Committee. Comments or complaints should be made in writing or by phone to the Solicitor to the Commission.





Independent Commission Against Corruption

The Hon Meredith Burgmann MLC  
President  
Legislative Council  
Parliament House  
SYDNEY NSW 2000

The Hon John Murray MLA  
Speaker  
Legislative Assembly  
Parliament House  
SYDNEY NSW 2000

Madam President

Mr Speaker

The ICAC's Annual Report for the year ended 30 June 1999 has been published in accordance with the *Independent Commission Against Corruption Act 1988* and the *Annual Reports (Departments) Act 1985*.

In accordance with s76 of the Independent Commission Against Corruption Act, I am pleased to furnish the Report to each of you for presentation to Parliament.

If Parliament is not in session when this report is ready for publication, I recommend, pursuant to s78 of the Independent Commission Against Corruption Act, that the Report be made public forthwith.

Yours faithfully

A handwritten signature in black ink, reading 'B.S. O'Keefe'.

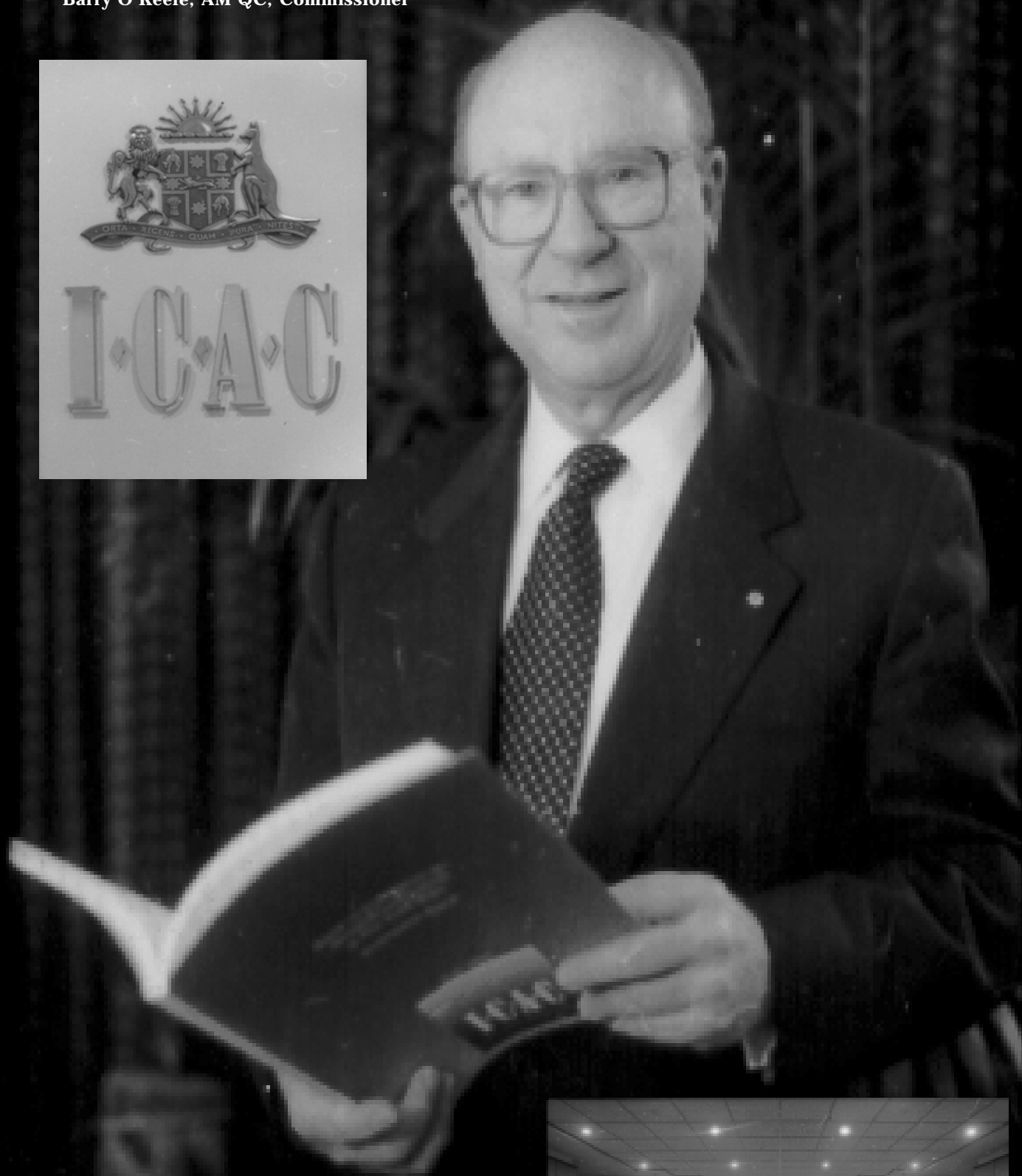
The Hon B S J O'Keefe AM QC  
Commissioner



## CONTENTS

<b>Commissioner's review and highlights</b>	<b>3</b>	- Unravelling corruption II	55
<b>About the ICAC</b>	<b>9</b>	- Community and journalist attitude survey	55
<b>Independence and accountability</b>	<b>12</b>	- Case management in NSW correctional centres	56
- Parliamentary Joint Committee	12	<i>Supporting investigations, prevention, education and research</i>	<i>58</i>
- Operations Review Committee	13	- Year in review – Corporate services	58
- Other accountability mechanisms	13	- Human resource management	58
<b>Performance 1998–99</b>	<b>15</b>	- Information technology and management	66
- Performance against corporate plan	15	- Financial and facility management	67
- Financial performance	16	- Support services	69
- Guarantee of service	17	<i>Financial statements</i>	<i>70</i>
<b>Improving the ICAC's strategic capacity</b>	<b>18</b>	- Independent audit report	71
<b>Year in review by program</b>		- Statement by the Commissioner	72
<i>Exposing corruption</i>	<i>27</i>	- Operating statement for year ended 30 June 1999	73
- Year in review—Investigations and Legal	27	- Statement of financial position as at 30 June 1999	74
- Receipt, preliminary inquiry and assessment of matters	28	- Statement of cash flows for year ended 30 June 1999	75
- Formal investigations—Exercise of Special Powers	29	- Summary of compliance with financial directives	76
- Public and private hearings	31	- Notes to and forming part of the financial statements	77
- Current formal investigations	31	<b>Appendixes</b>	
- Investigation reports	32	- Appendix 1 Organisation chart	84
- Other matters investigated	33	- Appendix 2 Code of conduct	85
- Oversight by the Operations Review Committee (ORC)	33	- Appendix 3 Freedom of information	91
- Litigation	35	- Appendix 4 Equal Employment Opportunity Management Plan, Ethnic Affairs Priority Statement and Disability Services Program 1999–2000	94
- Other accountability requirements	35	- Appendix 5 ICAC publications 1998–99	100
<i>Preventing public sector corruption</i>	<i>37</i>	- Appendix 6 Media statements 1998–99	101
- Year in review – Public sector prevention and education	37	- Appendix 7 Contributions to seminars, conferences and workshops	103
- Complementing investigative work	40	- Appendix 8 Participation in significant committees	106
- Advice	41	- Appendix 9 Prosecutions and disciplinary actions	108
- Information and training	41	- Appendix 10 Statement of financial performance	110
- Model of public duty	43	- Appendix 11 Payment performance indicators	114
<i>Informing the people of NSW</i>	<i>45</i>	- Appendix 12 Consultancies	114
- Year in review – Community education	45	- Appendix 13 Statutory requirements reference	115
- Informing about the ICAC and its work	45	<b>Index</b>	<b>119</b>
- Helping people take responsible action against corruption	46		
- Input to formal and professional education	47		
- International liaison	47		
<i>Informing anti-corruption strategies</i>	<i>53</i>		
- Year in review – Research	53		
- Ethical culture project	53		
- Private contractor's perceptions of the public sector	54		
- Discussion paper on the corruption prevention challenges facing public sector managers	54		

Barry O'Keefe, AM QC, Commissioner





# Commissioner's review and highlights

During the reporting period, in addition to entering its second decade of operations in March 1999, the ICAC further consolidated its position as one of the world's pre-eminent public sector corruption fighting bodies.

The strategy begun in early 1995 to broaden the ICAC's then perceived role, both in the community and within the NSW public sector culminated during the reporting period. The ICAC has moved from essentially an investigative body, to one that meets the wider ranging intentions of the ICAC Act for the Commission to fight corruption in, and in relation to, the public sector.

This involved expanding the Commission's corruption prevention, education and research resources to boost the long-term outcomes of ICAC investigations into corruption by enabling it to be proactive in preventing corruption. It is axiomatic that unless the exposure of corruption is followed quickly and effectively by informed remedial action, the systems and attitudes that allowed the corruption to occur in the first place will allow it to occur again.

A good example of the benefits of this change in approach is work done concerning the former State Rail Authority (SRA). The former SRA was the subject of an ICAC investigation, and in June 1998, a critical report pointed to widespread corruption in the organisation. Top management in the successor agencies—the new SRA, Freightcorp, Railway Services Australia and Rail Access Corporation—responded positively to the inquiry and co-operated with the Commission's follow up corruption prevention work. Each of the new public authorities formulated comprehensive corruption prevention strategies and a timetable for their implementation. The chief executives and senior management of all the new authorities embraced the recommendations for change in the Commission's report and all have been progressing the implementation of their anti-corruption strategies. The Commission has, and I as Commissioner have, also been involved directly in the implementation process.

It is worth noting that the annual reports of most of these new Government authorities refer to their anti-corruption activities and strategies. Furthermore, these strategies have not prevented most of the authorities producing handsome profits. Good ethics have clearly proved to be good for business as well.

Another example in 1998–99 of the application of the Commission's strategy of combining corruption prevention work with investigations is the Commission's *Investigation into Parliamentary and Electorate Travel: Second Report – Analysis of*

*administrative systems and recommendations for reform*. This second report followed a public inquiry into the use of air travel warrants by the then Minister for Transport, Brian Langton MP.

Analysis of the Parliamentary administration systems revealed scope for significant improvement in minimising or eliminating opportunities for corrupt conduct. Commission staff are working closely with Parliamentary officers to implement our recommendations for reform. The Speaker, the President and the administration have agreed to implement a majority of the Commission's 63 recommendations. A monitoring report will be issued in November 1999. It will be one of nine further reports and publications scheduled for release before my term as Commissioner expires.

Reform to the framework that guided behaviour of NSW Parliamentarians, albeit significantly delayed, occurred in mid-1998, with the adoption of a code of conduct. The need for a code was revealed in 1992 by a NSW Supreme Court decision regarding the ICAC's findings in *Investigation into the Metherill Resignation and Appointment*. In 1994 the ICAC Act was amended to ensure the Commission had the power to make corrupt conduct findings against Parliamentarians if their conduct met the description of corrupt conduct in the Act and amounted to a breach of the then yet-to-be-determined code of conduct. It took four years, two different committees, public hearings and many meetings to finalise a very basic code which the ICAC would like to see further developed and strengthened.

As community leaders, politicians should set an example in relation to probity. This standard also applies to NSW public sector managers at every level. This message was clearly expressed in the Commission's publication, *Ethics: The key to good management*, published in December 1998. This publication stressed that ongoing workplace change, such as corporatisation, contracting out and downsizing (reducing staff numbers), increasingly strained an organisation's 'ethical health', and called for greater attention by management to corruption risks.

This message is being emphasised by the Commission throughout the ranks of public sector managers as they are vital in devising, then promoting, effective strategies to raise the ethical standards of their agencies.

The likelihood of individual staff acting corruptly is also affected by circumstances associated with their work, a problem that was acknowledged early in the reporting period with the publication of *Accountable Health & Building Inspections: Recommendations for local government*. This report

found that the high-level of delegated authority, significant autonomy and routine exercise of wide discretion placed local government inspectors, along with other public sector employees in similar situations, at greater risk of exposure to corruption.

To raise awareness among all NSW public sector employees and government contractors of their obligation to act ethically in the public interest, *Strategies for Preventing Corruption In Government Regulatory Functions* was issued by the Commission in March 1999. Each year the State Government spends \$10 billion of taxpayers' money on goods and services and as the Commission's report states, it is important for workers to have the highest ethical values when dealing with this money.

A commitment to inculcate and maintain a culture of integrity and to exhibit personal leadership in this regard has become part of the employment requirements and performance assessment criteria for Chief Executive Officers in the NSW public sector. The same applies to those who join or are part of the Senior Executive Service. A recommendation by the ICAC contributed significantly to the adoption of this requirement in January 1999.

Probity issues which arise when senior officers, middle level managers and politicians leave to join the private sector were addressed in *Strategies for Managing Post Separation Employment Issues*, issued by the Commission in September 1998. It outlined ways to protect the public interest from those staff who may, among other things, misuse confidential information or use their former contacts to influence public officials. Government action to implement the recommended strategies appears to be on hold.

The misuse of public trust by people in positions of influence is frequently encountered by the ICAC, and this was the case in the *Report on Investigation into Aboriginal Land Councils in New South Wales: Investigation Volume*, released in June 1999. The abuses that report exposed include misappropriation, bribery, misuse of confidential information and nepotism, with no regard shown for those in real need. Factionalism, cronyism and self-interest, rather than the public interest, motivated those whose conduct was criticised.

As the great majority of Aboriginal people are concerned about the proper operation of the 117 local land councils throughout NSW, the Commission embarked on an extensive information gathering program. Thirty-two regional centres were visited between March and June 1999 and ICAC staff talked with indigenous people about the development of corruption prevention strategies for land councils, based on the 26 recommendations in the ICAC's *Report on Investigation into Aboriginal*

*Land Councils in New South Wales: Corruption Prevention and Research Volume*. Some of these recommendations are being implemented with Commission assistance, but greater commitment is needed from the NSW Aboriginal Land Council, as the State's peak land council body. Action, not just words, is required.

A further investigation report into the use of allowances by NSW Aboriginal Land Council councillors (public hearings were conducted in May 1999), and a monitoring report on progress of the corruption prevention recommendations will be published in November 1999.

Corrupt payments of more than \$500,000, the loss of several millions of dollars in waste dumping fees and more than \$1 million in lost environmental levies were revealed in the June ICAC report, *Weighing the Waste: An Investigation into Conduct at Local Council Waste Depot Weighbridges at St Peters and Elsewhere*. This resulted in major rectification in the systems in place at the depots concerned, providing a model for similar improvements to all other local government operators of these depots. All councils with waste disposal responsibilities received information on the problems and solutions that the ICAC suggested. Legal action is under way to recover the money lost to the ratepayers and taxpayers.

The behaviour of local government officials, in particular a former Deputy Mayor, was found wanting in the *Report on the Investigation into the Conduct of an Alderman on Fairfield City Council*, released in November 1998. It revealed more than \$45,000 in "facilitation" payments by property developers to the then alderman and his failure to declare an interest in the construction of a multi-million dollar local shopping centre.

As part of the Commission's ongoing inquiry into corruption within the NSW prison system, two reports were produced in 1998-99. The first, *Investigation into the Department of Corrective Service: Second Report - Inappropriate Relationships with Inmates in the Delivery of Health Services*, resulted in major improvements in staff selection and management of health professionals operating in gaols. The second, *Investigation into the Department of Corrective Services: Third Report - Betrayal of trust: The activities of two correctional officers* led to a major revamp of prisoner work release programs, both in the selection of employers and the testing of inmate participants for drug use while on the program.

ICAC research released in March 1999 into the Department of Corrective Services case management system for gaol inmates showed the need for significant reform if NSW's then 7,000 full-time inmates were to be offered effective rehabilitation opportunities. This world-first

research found that although some correctional centres paid only lip service to making case management work, the great majority of prison officers and inmates believed the system valuable if implemented properly. The ICAC is working with the Department to ensure this. Unless implemented and administered properly, the case management system has the potential for major corruption. Its reform is a key to the more effective operation of correctional centres in New South Wales.

A major investigation into a multi-million dollar racket of the 'rebirthing' of stolen motor vehicles commenced in 1998. The ICAC has worked closely with the NSW Roads and Traffic Authority and NSW Police Service on this investigation. Public hearings, which commenced in June 1999. Outcomes from this inquiry are expected to contribute to improvements in systems for second-hand car sales. These include informing the buyer of the true identity and ownership of the vehicle and ensuring that vendors really own the vehicles and can give good title to them.

Flaws in the management systems of other government agencies were revealed during public hearings into a \$200,000 ticketing fraud at Sydney Ferries and the misuse of a large promotional fund for personal purposes by the senior officer of a Regional Development Board.

While the ICAC's successes in exposing corruption and improving NSW public sector integrity can be listed here, it is pleasing that our efforts are reflected in public opinion. Results from the ICAC's community attitude survey in February 1999 revealed that increasing numbers of people believe the ICAC is valuable for NSW (95 per cent) and that the Commission has successfully exposed corruption (84 per cent). A survey of 100 journalists revealed very positive attitudes as well: 100 per cent thought that the ICAC is a good thing for the people of NSW; 97 per cent thought it has been successful in exposing corruption in NSW.

Recognition of the Commission as a leader in corruption prevention and investigation is not just domestic; it is international as well. Requests are received from many countries, especially in the Asia-Pacific area, for representatives of their enforcement agencies to benefit from our experience by visiting us for training or to observe our operation, or for ICAC officers to travel overseas and share the expertise of the Commission. Federal Government agencies, such as AusAID, are among those seeking ICAC participation in international projects, reflecting the Commission's high reputation.

In 1998 the international standing of the ICAC was further recognised when I was honoured to be asked by the Commonwealth Secretariat in London to be one of an Expert Group of 10 whose function was to formulate anti-corruption strategies, both

international and domestic, for the 54 nations of the Commonwealth. A number of meetings of the Expert Group were held and draft reports were prepared for consideration by the law officers of the Commonwealth nations and by the finance ministers of those nations. The final report of the Expert Group is to be considered by the Commonwealth Heads of Government when they meet in Durban, South Africa in November 1999.

While it has been publicly acknowledged by the Premier, Treasurer and some Ministers that NSW benefits from the existence of the ICAC and that the reputation of NSW as a clean place for business is substantially advanced through the ICAC's work, the government acted only recently to stem an effective budget cut of more than \$3.5 million per annum in real terms since 1990-91.

Such funding cuts have adversely affected what the Commission has been able to achieve in its areas of statutory responsibility for investigation, corruption prevention and education. This has meant significant lost opportunities which can never be retrieved.

It is a credit to the ICAC's staff that they were able to achieve more with less up to the point that there is no room left for more productivity gains. This led me last year to be critical of the failure to provide us with adequate resources to do the job required by the ICAC Act, a job wanted and appreciated by the taxpayers of NSW.

On the positive side, in addition to stemming the reduction in funding, the Government is preparing to appoint a new Commissioner when my non-renewable term expires on 13 November 1999. I have been advised that the selection process is under way and I am hopeful that by the time this report is tabled, an announcement of my successor will have been made, thus preventing the untenable position faced at the end of my predecessor's commission; namely an eight month gap from his departure to my appointment.

That delay in appointment created substantial dislocation for the Commission and its staff. Without a long-term strategy, the ICAC merely trod water, staff morale sagged and important work was not carried out or unnecessarily delayed. The task of turning around this situation required reassessment of the Commission's strategic direction as well as developing staff commitment and support to pursue this new direction.

During my time as Commissioner, that commitment and support have been forthcoming. The people of NSW have been well served by the staff of the ICAC. They are committed, dedicated, hardworking and well trained. Their expertise is widely recognised both nationally and internationally.

As this is my final Annual Report, it is appropriate to reflect upon the achievements of the ICAC not only in 1998-99 but also since November 1994.

Of necessity, the Commission's primary focus in its first half-decade was creating a strong investigative profile that would command the attention and respect of the public sector and the community alike. This was achieved, albeit at some expense to the broader requirements of the ICAC Act.

Long-term, effective elimination of corruption and the reduction in opportunities for it to occur demands that the operating/management system flaws that allowed individuals to behave corruptly must be rectified and the attitudes that may have condoned the development of a corrupt workplace culture corrected.

With the expansion of corruption prevention and education initiatives from early 1995 on the one hand and the budget reductions on the other, two important factors required careful consideration; the maintenance of an effective investigations capacity, and the need to convince senior public sector officers that the ICAC has a real role to play in helping them develop effective anti-corruption strategies.

A restructuring of the Commission from senior management down and the development of better, more efficient ways of operating freed resources to expand not only the areas of corruption prevention and education, but to increase research capacity so as to direct our work better.

Increased staffing in these areas was combined with a concerted effort to present ICAC as a body which sought to work collaboratively with public sector agencies to improve their levels of probity. This strategy has been remarkably successful, and has led to an increased understanding and acceptance of the ICAC's preventive role in the public sector.

A primary vehicle in this process was the production of the *Practical Guide to Corruption Prevention*, launched in Sydney in 1996 before a large group of senior public sector managers. It exemplified the broadening of the Commission's core functions in line with the ICAC Act.

As a result of the change in strategy, increasing numbers of senior public sector officers have sought information from ICAC corruption prevention staff. In fact, it is not unusual for Departmental Heads, Chief Executive Officers and even Government Ministers to approach the Commission for assistance on a wide range of matters, usually before any question of corruption arises. The maxim, "prevention is better than cure" has been widely accepted throughout the public sector and the ICAC increasingly is seen as the prophylactic.

Since 1995 a range of educational products were produced, not only supplementing the Commission's corruption prevention work but also informing the community about the dangers of corruption. These include an interactive CD-ROM, *Talk of Toppsville*, which teaches community values

to primary school students, *Ethics and Enterprise – Life Cycle of a Business*, a video presentation which helps HSC students of business studies learn associated ethical conduct, and *The Individual and the State*, a video-based resource kit for high school teachers of legal studies. Resources that assist the teaching of ethical problem solving in years 7-10 and HSC Design and Technology have also been produced. These products have been very popular with demand extending to other states and countries.

The development of a *Community Advisers' Guide* for parliamentarians or other officials likely to be required to inform people about the ICAC's role, and a state-wide Corruption Matters poster competition/exhibition for TAFE students are other community education initiatives.

The publication of a newspaper on anti-corruption issues every four months, and the production of a practical ethics and public duty training kit, *Conduct Becoming*, are examples of other education initiatives directed at the public sector.

Expansion of our research capacity over the last five years has enabled the Commission to produce many influential reports, often groundbreaking, which allow the Commission and other public sector agencies to target corruption prevention efforts.

Reports included two volumes on *Monitoring the Impact of the NSW Protected Disclosures Act, 1994: Encouraging NSW Public Sector Employees to Report Corruption* and *NSW Public Sector Employee Attitudes to Reporting Corruption*. The findings of the latter led to Premier Bob Carr's involvement in steps to ensure the Act worked more effectively.

Regular community attitude surveys, on such topics as the nature of corruption, its effects and the ICAC's effectiveness, are valuable in communicating with the public and informing the work of the Commission. The success of the ICAC in recent years can be measured by these community surveys which show increased support for the Commission and its work. Undoubtedly, this support is based on the ICAC's ability to conduct major, detailed inquiries into corrupt behaviour effectively and to recommend and monitor necessary changes.

The ICAC's overall effectiveness has undoubtedly improved in the past five years, providing NSW with an agency of world recognised standard that can tackle corruption on a broad front. This, in turn, provides a base for the State to reap significant economic benefits through the proper application of taxpayers' resources as well as a way of attracting investors who know they will be dealt with fairly by government in NSW.

Such important achievements occur only through



efforts by the Commission's small but dedicated staff and for that I am very appreciative. They have acted to benefit the people and reputation of NSW in ways that should not be underestimated.

It has been a great privilege to have guided the ICAC for the past five years. The work has been demanding, but it has been stimulating and satisfying. In this time the Commission's reputation as an effective corruption fighter has been confirmed locally and established internationally.

The reputation of NSW as a place where probity is a priority has been enhanced; the State public sector is now well regarded. Much has been achieved, but much more is yet to be done. Success should not engender smugness; vigilance is essential. Just as an elite athlete must practice constantly to stay on top, so too must the State ensure the accountability mechanism that is the ICAC is maintained in top condition.

This requires an allocation of resources that is appropriate and not constantly shrinking. It requires support from the Government and leadership from the top; leadership by action not just rhetoric. Action and rhetoric must be consistent.

I leave the ICAC in good condition. Its reputation is good, its effectiveness acknowledged by the community, the media and thinking politicians.

I wish my replacement every success in the important office of ICAC Commissioner and hope that there will be even greater achievement in the coming years.

Table 1: ICAC priorities and highlights 1998-99

Priority: Select work that brings greatest benefit to the public sector and the people of NSW	page
Investigation into the 'rebirthing' of stolen second hand motor vehicles has potential for significant direct impact on the community	27
Investigation into Liverpool Council exposed substantial fraud and that Councils constituents will benefit from its remedy	32
Expanded and improved training kit, <i>Conduct Becoming</i> , produced to assist public sector employees to understand better their public duty	41
Extensive workshop program run to raise awareness of indigenous people about preventing corruption in Aboriginal land councils.	40
Work undertaken with members of Parliament on many areas identified for improvement in policies, systems, procedures and culture in the administration of Parliament.	40
Material published to help all public sector agencies and employees to recognise and avoid corruption opportunities in staff recruitment and selection and to handle attempts to influence them through gifts or bribes.	39
Priority: Motivate public sector agencies and their employees to minimise corruption and make sure that they are capable of doing so	page
The experiences and helpful suggestions of public sector executives in combating corruption published in <i>Tips from the Top</i> .	54
An investigations conference for anti-corruption and law enforcement investigators to improve their performance organised jointly with others.	42
Leaders of public sector organisations helped to effect organisational and cultural change particularly where corruption has been exposed through an ICAC investigation.	38
Consultations with and presentations to unions undertaken to enhance their understanding of corruption and knowledge of the ICAC so that they support their members.	39
Priority: Encourage all people of NSW to support the need to combat corruption and to understand ICAC's role in this	page
With the Department of Local Government, produced material for use by Councils to assist ratepayers and developers to recognise and avoid attempts to solicit bribes.	39
Access on the Internet to information about combating corruption enhanced.	45
An improved <i>Community Advisers Guide</i> distributed to assist Parliamentarians and their staff, local government Councillors, chamber magistrates and community workers to help members of the community to recognise and respond appropriately to corruption and corruption risks.	47
Consolidated and improved guidance and assistance given to those providing information to the ICAC and to those considering this action.	47
A survey of community and journalist's attitudes to the ICAC and understanding of its role and work conducted.	46
Improved media coverage of the wide range of ICAC activities.	

# About the ICAC

The Independent Commission Against Corruption (ICAC) was created by the *Independent Commission Against Corruption Act 1988* (the ICAC Act).

The establishment of an anti-corruption body in NSW was in response to growing community concern about the integrity of public administration. This followed events that included the imprisonment of a Chief Magistrate and a Cabinet Minister, trials of senior officials, and an enquiry into the police force which led to the discharge in disgrace of a Deputy Commissioner of Police.

The ICAC's creation by the State Government in 1988 was a significant and symbolic public statement that corruption would not be tolerated in NSW, and that positive steps were being taken to eradicate it. It was also a response to the community's demand for a public sector that it could trust.

The ICAC commenced operating in March 1989, its mission being to expose and minimise corruption in, and in connection with, the NSW public sector. It seeks to promote high standards of integrity and ethical operations in public administration.

The ICAC is independent of government, but is accountable to the people of NSW through the Parliament. The ICAC's exercise of independence and accountability is outlined in the following chapter.

## CHARTER

The ICAC's major concerns are to protect the public interest and to prevent breaches of public trust by exposing and minimising corruption.

The ICAC Act is specifically designed to give the ICAC the powers to achieve this. The ICAC's concern with the conduct of individuals is directed to this end. As explained in more detail below, it does not punish offences or have a prosecutorial role.

### What the ICAC may do

Most ICAC work originates from reports made to it by public sector agencies and information received from members of the public. Subject to certain accountability mechanisms, the ICAC has

discretion about which matters it investigates and how it investigates them.

Upon completion of an investigation the ICAC may make findings of fact and form opinions based on those facts as to whether any person, even someone other than a public official, has engaged in corrupt conduct. When appropriate, it may make recommendations for reforms that it believes others should undertake. It is not part of the ICAC's function to compel others to implement recommendations or to prosecute offences.

As well as conduct investigations, the ICAC may initiate corruption prevention and education projects and can also form task forces with other government agencies.

### What the ICAC must do

The ICAC is subject to the law. It is obliged to act in accordance with the ICAC Act and other applicable laws. In particular the ICAC is required to:

- pursue only those matters that are within jurisdiction
- investigate any matter referred by both houses of Parliament
- produce reports on any matter that is the subject of a public hearing, or which has been referred by both houses of Parliament, and furnish the reports for tabling in Parliament
- include in reports, in respect of each person about whom substantial allegations have been made, a statement as to whether the ICAC is of the opinion that consideration should be given to the prosecution, taking of disciplinary action or dismissal of the person.

### Corrupt conduct

Corrupt conduct is broadly defined in the ICAC Act. It commonly involves conduct of any person that adversely affects or could adversely affect, directly or indirectly, the honest or impartial exercise of official functions by any public official or public authority. The definition includes the misuse of information by a public official or any other breach of public trust. It must also involve a criminal or disciplinary offence, be grounds for dismissal, or, in the case of a Member of Parliament, be a substantial breach of their code of conduct.

Jurisdiction

The ICAC has jurisdiction to investigate any circumstances which in its opinion may involve corrupt conduct as defined under the ICAC Act. All public officials in the Parliament, government departments, statutory authorities and local councils in NSW, as well as Parliamentarians and local councillors, judges and magistrates are covered by the ICAC’s charter. Those working in the private sector and general community who are not public officials may be covered if their conduct adversely affects or could adversely affect the honest or impartial exercise of a public official’s official functions.

Functions

The principal functions of the Commission are specified in s13 of the ICAC Act. They include:

Investigation

Serious and systemic corruption and corruption opportunities are targeted and investigated. Through the process of investigation, which can include conducting both private and public hearings, the ICAC exposes corruption and establishes the facts. It then states whether others should consider prosecution, discipline and preventive measures. Changes to prevent similar corruption happening again are recommended.

Corruption prevention

The exposure of corruption, followed by remedial advice, guidance and information, helps organisational changes that minimise the likelihood of recurrence. It is emphasised to public sector agencies that each has responsibility for minimising corruption in its operations. Preventive assistance and advice are also available to help agencies deal with potential corruption issues.

Education

An ethical climate and an understanding of public duty encourage public sector agencies and individuals to act against corruption. These concepts are promoted to the public sector through education, communication and training. To enlist the support of the people of NSW in combating corruption, the ICAC informs the community about the effects of corruption and the role of the ICAC.

An agent of change

The ICAC is an agent of change. The three main functions provided in s13 of the ICAC Act work together to initiate change, guide the

implementation of change, and influence organisational culture to make it more resistant to corruption.

For example, investigations, often with consequent public exposure, have the capacity to motivate public sector leaders to introduce programs for change. Corruption prevention advice assists not only in improving systems, but also in implementing that change. Education influences the culture to accept the change by promoting an ethical climate and an understanding of public duty.

Other theoretical frameworks support the combination of these functions as an effective formula to promote change. Criminology studies indicate that aberrant behaviour such as corruption is likely to occur when the following preconditions are present. Each precondition is addressed by the application of either investigation, prevention or education work:

Table 2: Relationship between preconditions to aberrant behaviour and ICAC functions

Corruption precondition	ICAC response
Opportunity – for example, poor systems	Corruption prevention advice
Little fear of exposure or likelihood of detection	ICAC investigations or agency monitoring, undertaken as part of prevention work
Cultural acceptance of the aberrant behaviour – both community and organisational	Support for change implementation and education of public sector and community
Lack of ethical leadership and support	ICAC prevention, leadership, education and support for organisational change implementation
Self-excusing – personal rationalisations that the conduct is excusable	Education about ethics and public duty

By exercising its functions flexibly, the ICAC ensures its responses are appropriate to the circumstances giving rise to the corruption, and thus more likely to lead to an effective remedy.

Misunderstandings

The public and the media tend to focus on the ICAC’s investigations and the exposure that public hearings generate. Because the ICAC’s long-term impact on systemic corruption, achieved largely through its mix of functions, is not as newsworthy it does not receive similar widespread news coverage.



News coverage has created a perception that the ICAC's prime activity is to investigate corrupt individuals. This perception, which also arises from a lack of understanding of the ICAC's statutory functions, can lead to dissatisfaction by some members of the public about the way the ICAC deals with information provided by them.

Another common expectation is that the ICAC will pursue all information from the public and will investigate or intervene on behalf of individuals. Resolving individual grievances is not the ICAC's role.

The large volume of information collected and collated by the ICAC, and the resources available, prohibit the investigation of every individual matter received. Such unfocussed investigation activity, if undertaken, would require enormous resources but would not be likely to provide any real benefit in terms of improved strategic capacity. Moreover, the public sector's responsibility to deal with corruption allegations would be negated by such an approach. It is of more value to the people of NSW for the ICAC to target its work and to focus on major and systemic forms of corruption.

The most common misunderstandings about the ICAC are:

*The ICAC can investigate allegations of corruption in the **private sector** even when the corruption has nothing to do with the public sector*—The ICAC cannot investigate matters involving private individuals or companies which have no connection to the NSW public sector or NSW public officials.

*The ICAC has the power to prosecute people*—The ICAC does not have the power to prosecute people. That is the role of the NSW Director of Public Prosecutions.

*The ICAC is the anti-corruption body for the whole of Australia*—The ICAC's jurisdiction is confined to the NSW public sector.

*The ICAC cannot investigate allegations of corruption against NSW judges and magistrates*—It can. The ICAC Act defines a public official to include a judge, magistrate or holder of a judicial office.

*The ICAC cannot investigate allegations of corruption in NSW local government*—It can. The ICAC Act defines a 'public authority' so as to include a 'local government authority' and a 'public official', including an individual who is a member of a public authority. For a local government authority this includes councillors.

# Independence and accountability

To operate as Parliament intended, and to ensure community confidence is maintained, the ICAC is both independent and accountable.

The ICAC is independent in that its operations, including investigations, are not subject to the direction of politicians, any political party, or the Government. Unlike most other publicly funded organisations, the ICAC is not responsible to a Government Minister; rather it is responsible to the NSW Parliament through a Parliamentary Committee on the Independent Commission Against Corruption (the Parliamentary Joint Committee or PJC).

This independence is essential for the public to have confidence that the ICAC is not biased and subject to the dictates of the Government of the day. It also maintains the integrity of its operations.

Under the ICAC Act, the ICAC is given extensive powers which, in most cases exceed those given to the police, to perform its investigative functions. These powers, which are specified in detail on pp 29–30, include authority to:

- require any person to produce specified documents or things
- require a public authority or public official to produce a statement of information
- search premises
- enter and inspect premises occupied by a public authority or public official, inspect documents on the premises and take copies of any documents
- apply to the Supreme Court for authority to use a listening device
- summons witnesses to appear at a hearing to give evidence or produce documents or both and to answer questions, even if the answer might incriminate the witness.

*It can also, under the Telecommunications (Interceptions) Act 1979, obtain warrants for telephone intercepts from a Federal Court Judge or an Administrative Appeals Tribunal member. Under the Law Enforcement (Controlled Operations) Act 1997, the Commissioner can authorise controlled operations.*

Because of its independence and powers, accountability to the people of NSW through the Parliamentary Joint Committee, the Operations

Review Committee, and regular reporting, is very important for the ICAC.

## PARLIAMENTARY JOINT COMMITTEE

The ICAC is accountable to the NSW Parliament through this 11member Committee, which includes Members from both Houses of Parliament with a range of political affiliations. The PJC is established under the ICAC Act, which also defines its powers and functions. The PJC ensures the ICAC is accountable by monitoring and reviewing the ICAC's activities and ICAC reports on various matters. It may also examine trends in corruption.

The PJC usually asks the ICAC Commissioner to give evidence before it in public hearings twice a year. It can report to both Houses of Parliament on any non-operational matter relating to the ICAC. No report adverse to the ICAC has been submitted in the current year. The PJC can inquire into any question put to it about the ICAC by both Houses. The PJC may look at areas of particular relevance to the ICAC's work and in fact refers a small number of unsolicited complaints from the public about the ICAC to the Commissioner for response.

The PJC's role does not extend to investigating a matter related to particular conduct or reconsidering ICAC investigative decisions.

During the year under review the PJC had the following members:

- Mr P Nagle MP (Chairman)
- Ms M Andrews MP
- Mr D Beck MP
- The Hon D Gay MLC
- Mr P Lynch MP
- The Hon I MacDonald MLC (Vice-Chairman)
- Dr P MacDonald MP
- Ms R Meagher MP
- Mr B O'Farrell MP
- The Hon B Vaughan MLC
- Mr J Watkins MP.

The Committee, which formed on 30 May 1995, ceased to exist upon the dissolution of Parliament prior to the State election in March 1999.

The ICAC Commissioner appeared before the Committee on 7 July 1998.

The PJC commenced a public review of the ICAC Act in June 1997. During the year under review, the Commission made a number of submissions and gave evidence concerning the review. At the time it was dissolved, the Committee had not finalised the review.

## OPERATIONS REVIEW COMMITTEE

The Operations Review Committee (ORC) is established under the ICAC Act and its functions, membership and procedures are also specified in the Act. It ensures that the ICAC's decisions as to whether it will investigate complaints made by members of the public are accountable. The main role of the ORC is to advise the ICAC Commissioner whether the ICAC should discontinue or not commence an investigation of a complaint alleging corruption. The ORC must be consulted before an investigation into a complaint can be discontinued.

Whilst this is the ORC's main function, the ICAC and the ORC have given it a broader role in investigation matters by agreeing to it having the following terms of reference:

- advise the Commissioner whether the ICAC should discontinue or not commence an investigation of a complaint
- advise the Commissioner at least every three months whether the ICAC should continue an investigation
- advise the Commissioner whether the ICAC should discontinue an investigation conducted on its own initiative or on a report made to it
- advise the Commissioner on other matters the Commissioner may from time to time refer to the ORC
- bring to the attention of the Commissioner any matters relating to the operations of the ICAC which the ORC considers important.

The ORC consists of eight members. At the conclusion of the financial year the composition of the ORC was as follows:

- The Hon BSJ O'Keefe AM QC, the ICAC Commissioner, and Chairman of the Committee
- Assistant Commissioner of the ICAC, nominated by the Commissioner

- Mr Peter Ryan QPM, the Commissioner of Police, New South Wales Police Service
- Mr Laurie Glanfield, Director General, Attorney General's Department, appointed by the Governor on the recommendation of the Attorney General, with the concurrence of the Commissioner
- Four persons appointed by the Governor on the recommendation of the Minister with the concurrence of the Commissioner, to represent community views:
  - Reverend Harry Herbert, Executive Director of the Board for Social Responsibility in the Synod of NSW of the Uniting Church in Australia
  - Ms Yvonne Grant, lawyer
  - Ms Ruth McColl SC, barrister
  - Ms Suzanne Jamieson, lecturer, Sydney University.

The Commissioner has a statutory obligation to consult with the ORC on a regular basis, and at least once every three months. In practice, the Commissioner meets with the ORC every month, except January. A report on the ORC's work in 1998-99 is set out in the *Exposing Corruption* Chapter of this report.

## OTHER ACCOUNTABILITY MECHANISMS

This Annual Report reviews the work of the ICAC as required under the ICAC Act and annual reporting legislation. Statutory reporting requirements are referenced in Appendix 13.

The Audit Office of NSW reviews the ICAC financial statements. An unqualified audit certification was provided. See page 71. An internal and external audit of ORC files was undertaken. Details of those audits are at page 34.

The Commission engages the Audit Office of NSW to provide it with an internal audit function. The 1998-99 internal audit examined:

- information technology strategic planning
- payment of superannuation contributions
- investigations - adherence to legislative requirements and policy in serving of notices
- management of petty cash and travel advances

- payment of payroll tax
- administration of senior management salary packages
- correct authorisation of expenditure
- administrative and financial control in relation to special operations expenses.

While some minor recommendations for improvement were made, no adverse comments were received as a result of the extensive audit of Commission activities undertaken.

The Ombudsman scrutinises ICAC compliance with the statutory requirements for telephone intercepts and controlled operations. The ICAC reports on its use of each listening devices to the Attorney General of New South Wales and to the issuing judge in accordance with the *Listening Devices Act*. Similarly, the ICAC reports to the issuing magistrate in respect of each search warrant obtained, as required by the *Search Warrants Act*.

Investigation reports on each investigation involving a public hearing or any matter referred from both Houses of Parliament must be presented to Parliament. Investigation reports specify any findings of corrupt conduct, and recommend changes to ensure that future corruption opportunities are minimised. As well, recommendations are made on whether consideration should be given to prosecution of, or the taking of disciplinary action against, individuals. Investigations and investigation reports are outlined in the *Exposing Corruption (Investigations & Legal)* chapter.

ICAC reports are subject to judicial review by the Supreme Court of New South Wales on limited grounds. In public and private hearings, witnesses and affected persons can be legally represented. Any claim that the ICAC has wrongly used its powers can thus be challenged and resolved. Two persons initiated challenges during the last financial year. Details are included on pages 34–35.

# Performance 1998–99

During the year implementation of the corporate plan *ICAC 1998–2001* continued. Performance this year is measured against the strategies and measures set out in this corporate plan.

The ICAC's aim is to make NSW a better place to live and do business by combating corruption affecting the public sector, and promoting the highest ethical standards.

To achieve this the ICAC undertakes the following strategies:

- Carefully assess information to target serious and systemic corruption and corruption opportunities
- Continue to develop sound relationships and work collaboratively with public sector agencies, other organisations and individuals
- Guide and advise the public sector in ways that are practical and relevant, and that enhance the reputation of New South Wales

- Educate selected groups so their responses to corruption and potential corruption contribute to the achievement of the ICAC's aim
- Encourage public sector agencies to communicate with their staff and clients about corruption
- Recognise and support public sector agencies in their efforts to achieve organisational improvement
- Continue to improve our own skills, systems and practices to advance the achievement of ICAC's priorities
- Strengthen all our working relationships by managing expectations and promoting effective communications.

These strategies are collectively measured by the following criteria

Table 3: Performance information against corporate plan measures 1998–99

Measure	Performance 1998–1999
In our reports and in each annual report, provide a description and analysis of the corruption and corruption opportunities we have identified and addressed.	<p>Eight investigation reports have been published, describing corruption opportunities exposed and recommending action to address them.</p> <p>Five corruption prevention reports have been published with corruption and corruption opportunities addressed in:</p> <ul style="list-style-type: none"> <li>■ receipt of gifts, benefits or bribes</li> <li>■ staff recruitment and selection.</li> </ul>
Evaluate the extent to which ICAC services, products and advice are used in and beyond NSW.	<p>Seven research reports produced, analysing preventive strategies.</p> <p>Visits by 16 delegations from overseas.</p> <p>Over eighty presentations to conferences and workshops by ICAC officers.</p> <p>Commissioner and/or delegate accepted 20 invitations from 20 overseas agencies or conferences.</p> <p>Director Corruption Prevention and Education is supporting the Papua New Guinea Ombudsman Commission institutional strengthening project, funded by AusAID.</p>
Monitor and report on community perceptions of the ICAC and its effectiveness.	Community and Journalists Attitude Survey 1999 found high awareness and support for the ICAC.
Identify and recognise agencies that develop products and processes to inform their staff and clients of their anti-corruption strategies.	<p>An investigation report recognised efforts of Wollongong and Sydney City Councils to develop corruption prevention strategies in managing waste.</p> <p>An investigation report recognised efforts of Department of Corrective Services and Corrections Health Service to address issues exposed.</p>

Measure	Performance 1998–99
Public sector agencies evaluate ICAC guidance as timely, practical and relevant.	Although this has not been measured substantially during the year, unsolicited feedback both formal and informal indicates the response to advice provided is positive.
Recognise and acknowledge agencies that implement change strategies designed to lead to the minimisation of corruption.	While acknowledgement has been given directly to agencies, a project to publicly recognise 'best practice' initiatives will commence next year.
Appraise and report on our dealings with individuals and groups with whom we work and affect.	<p>A successful round of consultations with:</p> <ul style="list-style-type: none"> <li>■ Aboriginal communities to implement recommendations contained in <i>Report into an Investigation into Aboriginal Land Councils in New South Wales: Corruption Prevention and Research Volume</i></li> <li>■ unions representing public sector employees</li> <li>■ people from non-English speaking background (NESB)</li> <li>■ Design students (MYDA).</li> </ul> <p>Assistance to members of the public in reporting corruption (s10) framed in response to research.</p>

## FINANCIAL PERFORMANCE

The ICAC is funded from Consolidated Fund allocations for recurrent and capital expenditure with a separate provision for superannuation and

long service leave. The allocations for the present and next financial years, and the associated expenditure for current and previous financial years are shown in the following table

Table 4: ICAC Allocations and expenditure 1996–97, 1997–98, 1998–99 and 1999–2000

	1996–97 Expenditure	1997–98 Allocation	1997–98 Expenditure	1998–99 Allocation	1998–99 Expenditure	1999–2000 Allocation
Funding	\$'000	\$'000	\$000	\$'000	\$'000	\$'000
Consolidated Fund recurrent	12,664*	12,936	12,936	13,377	13,377	13,544
Consolidated Fund capital	180	240	240	240	221	240
Net cost of service (includes non-cash items)	15,151	14,309	14,481	14,977	15,268	15,049

\*In addition, the ICAC used \$407,000 of its existing cash balances, bringing the actual amount available to \$ 13,071,000.

The Commission's funding allocations have decreased in real terms consistently since 1990–91. This has made expansion of its work increasingly difficult.

Table 5: Funding in real terms 1990–91 to 1998–99

YEAR	1989–90	1990–91	1991–92	1992–93	1993–94	1994–95	1995–96	1996–97	1997–98	1998–99
CPI		4.9%	1.7%	0.9%	1.4%	3.5%	5.0%	1.4%	0.8%	1.3%
Actual allocation (\$000)	11,540	14,470	11,999	12,802	12,734	13,004	13,022	13,071	12,936	13,377
Adjusted allocation (\$ 000)	11,540	13,761	11,195	11,816	11,562	11,313	10,587	10,405	10,168	10,300

There are some minor changes from the table in last year's Annual Report due to changes in the Consumer Price Index and formulas used.

## GUARANTEE OF SERVICE

The standards for provision of service are outlined in the preliminary pages of the Report. There has

been no review or amendment to the published service guarantee. Comment on performance against these standards is provided below.

Table 6: ICAC Performance against standards for provision of service

Service commitment	How performance is evaluated or regulated	Improvements in standard of service delivery
Maintain as the ICAC's primary concern the protection of the public interest and the prevention of breaches of the public trust.	PJC monitoring, review and reporting.	Level of reporting maintained.
Be tenacious in fighting corruption and maintaining ICAC independence.	Community attitude survey.	Survey conducted and showed higher levels of public awareness and increased community support.
Deliver services that are useful, practical, strategically targeted and appropriate to customer needs.	Services and products evaluated and adjusted in the light of feedback.	Services and products tailored in response to survey results: <ul style="list-style-type: none"> <li>• <i>Corruption Matters</i> Newspaper</li> <li>• <i>Conduct Becoming</i> practical ethics and public duty training kit</li> <li>• Community Adviser's Guide</li> </ul>
	Strategies developed in response to sound research/survey data.	Research into ethical culture is shaping prevention and education initiatives.
Respond to customer needs in a way that maximises the impact of ICAC activities and makes the best use of resources.	Analysis and reporting of strategic capacity data.	Data from improved strategic capacity published in this report.  Resource to help inform s10 complainants and improve quality of information produced.  Strategies to improve quality of s11 and s53/s54 information developed for implementation in 1999–2000.
Carry out duties impartially and with integrity.	Accountability mechanisms employed.	Much of ICAC work is done in public and open to scrutiny by the media and the public. It is also open to PJC comment.
	Staff aware of responsibilities.	Commitment to ethical practices is a criterion in selection of staff. ICAC code of conduct reviewed and reinforced with staff.
Meet the standards of ethical behaviour and accountability that the ICAC promotes in its dealings with other government organisations.	Internal monitoring and audit.	The focus of the internal audit program has moved from financial controls and compliance to one that incorporates assurance that operations are being conducted effectively and efficiently.
	Formal documents provide guidance in preventing any breach of public trust by a Commission officer.	Guidance in documents and on personal basis by means of security setting.
Have regard for the impact of our work on organisations and individuals.	Action taken where research has advised impact is adverse.	Assistance to agencies undergoing ICAC investigation provided in <i>How to Handle the Effects of an ICAC investigation</i> .  New resource to assist members of the public provide information to the Commission produced.



# Improving the ICAC's strategic capacity

Last year's annual report outlined a significant project aimed at improving the ICAC's capacity to analyse and identify trends in the information it receives about corruption, and hence improve the ICAC's strategic capacity to select work which brings the most benefit to the public sector. The strategic capacity project continued throughout 1998-99.

## BACKGROUND

The ICAC does not attempt to investigate every matter it receives and could not do so with the resources available to it. Even if the resources were available, the ICAC considers that such a strategy would be counter-productive because ultimately public sector managers and their organisations must be responsible for preventing, detecting and responding to corruption.

The ICAC's investigative role is to deal with those matters of potentially broad significance to the public sector and matters which the public sector cannot or should not deal with. It must also work with the public sector over time to ensure public sector organisations have the skills and commitment to do most of the day-to-day corruption prevention and investigation work.

Given that the ICAC receives a considerable amount of information about alleged corruption in the NSW public sector, the challenge is to select the work that will deliver the greatest benefit to NSW. The analysis of aggregated allegations to determine patterns and trends provides a mechanism for identifying public sector corruption risk areas and corruption-related issues that are relevant to a range of different agencies. It also enables the identification of agencies to whom the issues examined in specific investigations will be relevant.

At the outset of the project it was recognised that a number of barriers to improving the ICAC's strategic capacity existed:

- the existing computer system did not have the capacity to service the ICAC's analytical and intelligence needs
- insufficient data was being systematically collected, analysed and centrally stored from the complaints, reports and other information received

- some of the information received was of poor quality.

Significant progress has been made in addressing each of these areas in the past year. The ICAC's new computer system, comprising a new hardware platform and new operating system which came on line 18 months ago, continued its roll out during the year. The increased capacity of this system has enabled development of an enhanced corporate data collection and analysis system, namely the ICAC Corporate System (ICS) which came on-line on 22 March 1999.

One of the features of the ICS is the integration of a number of existing ICAC databases and consolidation of information about the 'complaint handling process' to facilitate searching. The benefits of the enhanced system are demonstrated in the following analysis of the information received during the period 1 April to 30 June 1999.

Enhancing the information collected on the nature of the allegations received by the ICAC and improving the quality of the information received has been the subject of a number of projects during the year, reported on pages 23-24.

## ANALYSIS OF INFORMATION RECEIVED 1 APRIL TO 30 JUNE

To understand the analysis it is necessary to know how the ICAC classifies the information it receives about the public sector. Section 10 of the ICAC Act provides that any person may make a complaint about corrupt conduct (referred to as (s10s). When the complaint is made by someone who is also a public sector employee, then, provided a number of conditions are met, the complaint will also be classed as a 'protected disclosure'. Because the difference between the two types of complaints is significant, they are treated separately in this analysis.

Principal officers (such as Chief Executive Officers of state government agencies and General Managers of local councils) are required by Section 11 of the ICAC Act to report to the ICAC any suspected corrupt conduct. These reports are known as 'Section 11 reports' (s11 reports).

It should be remembered that the following analysis is limited to a three month period for the purpose of demonstrating the potential of the new system. A full assessment will be possible only at the end of a longer period.

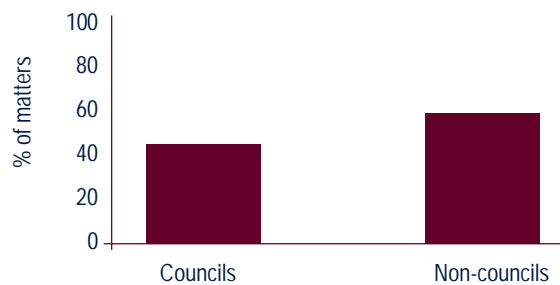


## Which public authorities were the subject of matters raised in April—June 1999?

Given the very different nature of s10 matters (including protected disclosures) and s11 reports these matters are considered separately.

There were 101 public authorities which were the subject of s10 and protected disclosure matters received by the ICAC during April – June 1999. More than half (57 per cent) of the subject authorities were state-level government agencies while the remaining 43 per cent were local government councils (see Figure 1).

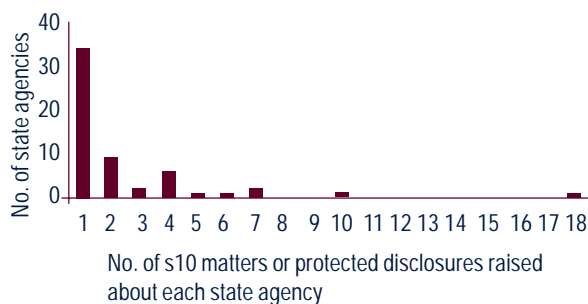
Figure 1: Type of public authority the subject of s10 and protected disclosure matters received by the ICAC during April – June 1999



Fifty-eight different state government agencies were the subject of the s10 matters or protected disclosures received. More than half were the subject of only one such matter (see Figure 2). Only five state government agencies were the subject of more than five s10 or protected disclosures during this three-month period:

- Department of Corrective Services (18 matters)
- Department of Health (10 matters)
- Department of Community Services (7 matters)
- NSW State Transit Authority (7 matters)
- Roads and Traffic Authority (6 matters).

Figure 2: Frequency of individual state agencies as the subject of s10 and protected disclosure matters received by the ICAC during April – June 1999



Categories of state agencies which were the subject of s10 and protected disclosure matters:

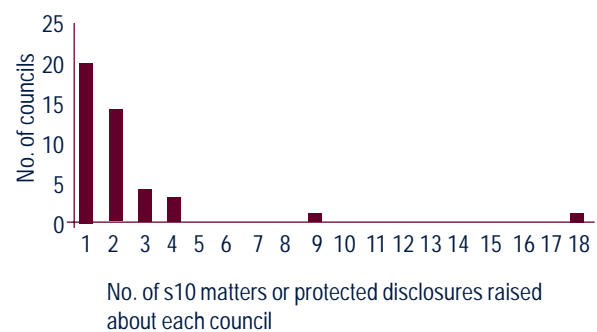
- Law enforcement or justice agencies (29 matters)
- Transport agencies (17 matters)
- Health related agencies (17 matters)
- Aboriginal Land Councils (15 matters)
- Consumer protection agencies (8 matters)
- Emergency and community services (7 matters).

The remaining state government public authorities, which were the subject of 50 such matters received during April–June, were less readily categorised.

Forty-three different local government councils were the subject of s10 and protected disclosure matters received. Most of these councils were the subject of only one matter (see Figure 3). Only two councils were the subject of more than five s10 or protected disclosure allegations:

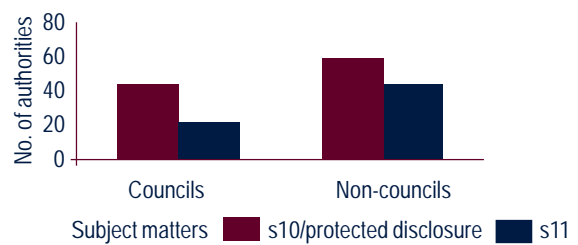
- Liverpool City Council (18 matters)
- Pittwater Municipal Council (9 matters).

Figure 3: Frequency of individual councils the subject of s10 and protected disclosure matters received by the ICAC during April – June 1999



An interesting comparison can be drawn between local government and other public sector agencies by examining the statistics on s10/protected disclosure matters and s11 reports. The statistics show that, when comparing the number of public authorities which are the subject of s11 reports with the number of public authorities which are also the subject of s10 or protected disclosures, a much smaller proportion of councils are the subject of s11 reports than is the case with state-level agencies. (See Figure 4).

Figure 4: Comparison of state and local government agencies the subject of s10 / protected disclosures and s11 reports during April–June 1999



A significant discrepancy between the number of complaints (s10s and protected disclosures) received and the number of s11 reports, when complaints are greater in number, may suggest that the agency concerned does not have effective mechanisms in place to inform it of any corrupt conduct which may be occurring. There may be other explanations, however, the statistics themselves can prompt the ICAC to inquire.

What were the allegations about?

In the new ICS each allegation is summarised by pairing a workplace activity (e.g. tendering, building and development applications, licensing) with a type of corrupt conduct (e.g. bribery, misuse or theft of public resources, favouritism, etc). Hence allegations are summarised in pairs such as: favouritism in tendering, bribery in licensing, etc.

Allegations to the ICAC are more remarkable for their diversity than for their similarity. The 316 s10s, protected disclosures and s11 reports received during the April – June 1999 period contained 417 allegations. These 417 allegations involved more than 150 different combinations of the possible areas of workplace activity and types of corrupt conduct categories. Even the most common combinations account for very small percentages of all the allegations received.

The most common combinations of workplace activity and type of corrupt conduct which describe the 417 allegations were:

- misuse or theft of public resources in the area of use of public resources (17 allegations or 4 per cent)
- failure to disclose/actual conflict of interest in development applications (15 allegations or 4 per cent)

- favouritism in tendering (14 allegations or 3 per cent)
- assault while providing consumer care (10 allegations or 2 per cent)
- bribery in relation to development applications (9 allegations or 2 per cent).

Table 7 summarises the areas of workplace activity in which corrupt conduct was alleged to have occurred. The most common areas of workplace activity referred to in the 417 allegations received during April–June 1999 were:

- Development applications (17.5 per cent)
- Provision of consumer care (10.8 per cent)
- Purchase of goods or services/tendering (10.6 per cent).

Interestingly, the relative frequency of workplace activities varied depending on whether the source of the information was a complaint or s11 report. Development applications was the most frequently mentioned area of workplace activity in s10 matters; purchase of goods and services/tendering was the most frequently mentioned area of workplace activity within protected disclosures and provision of consumer care was the most frequently mentioned among the s11 reports.

The most common types of corrupt conduct mentioned were:

- Misuse or theft of public resources (13.9 per cent)
- Favouritism/nepotism (9.4 per cent)
- Breach of policy or procedure (8.6 per cent)
- Fabricate/falsify information/fraud/forgery (7.4 per cent).

Table 7: Nature of allegations – area of workplace activity

Type of workplace activity	s10*	Protected disclosure	s11 report	Total No.	Total %
Development applications	54	10	9	73	17.5
Provision of consumer care	19	3	23	45	10.8
Purchase of goods and services / tendering	17	13	14	44	10.5
Law enforcement	16	1	12	29	7.0
Use of public resources—materials / equipment	5	5	12	22	5.3
Staff matters—staff management / allocation of work / treatment of co-workers	4	10	6	20	4.8
Use of public resources—accounts / cash / credit cards	5	2	10	17	4.1
Staff matters—recruitment/promotion	7	6	3	16	3.8
Allocation of goods and services	11	1	2	14	3.4
Staff matters—other	4	5	3	12	2.9
Staff matters—wages / workers compensation/other benefits	4	4	3	11	2.6
Reporting corruption	4	3	2	9	2.1
Licensing / qualifications / certificates	5	2	1	8	1.9
Disposal of public assets	6		2	8	1.9
Staff matters—secondary employment			8	8	1.9
Use of public resources—other / unspecified	5		2	7	1.7
Use of public resources—time / travel claims		2	5	7	1.7
Grants	5		1	6	1.4
Elections	5		1	6	1.4
Public transport	4		2	6	1.4
Use of information	1		4	5	1.2
Staff management—maintaining staff records	4		1	5	1.2
Ticket vending	2	1	1	4	1.0
Waste management	3		1	4	1.0
Staff management—dismissal / redundancy	3	1		4	1.0
Use of public resources—vehicles		3	1	4	1.0
Other	10	1	6	17	4.1
Unspecified / not applicable	3		3	6	1.4
<b>Total number of allegations</b>	<b>206</b>	<b>73</b>	<b>138</b>	<b>417</b>	<b>100.0</b>

\* Excluding protected disclosures

How serious were the matters received?

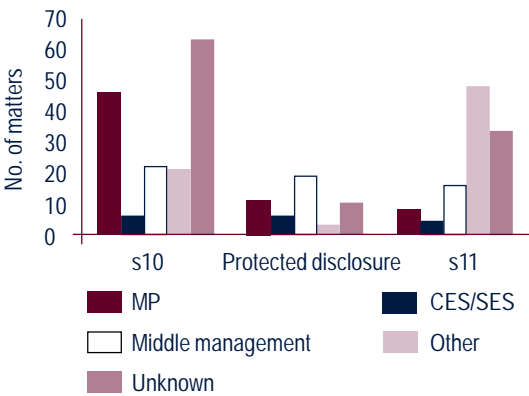
A feature of the new ICS is that additional information is recorded about the seriousness of the matter. Although there is no single measure of seriousness, a number of broad indicators of seriousness are recorded:

- how recent is the alleged conduct
- whether the alleged conduct was that of an individual or a group of public officials acting together as part of an organised scheme
- whether any money is believed to be involved, and if so, the amount
- the frequency of the conduct (a one-off incident versus repeated behaviour)
- the seniority of the public official(s) involved. (see Figure 5)

Figure 5, which illustrates information about the seniority of public officials involved in matters referred to the ICAC, is included as an example. From this figure it can be seen that s10 matters were more likely to involve elected officials, in comparison with s11 reports, which were more likely to describe the conduct of staff below the level of middle managers.

These areas will in future be the subject of data collection and analysis. Over time this analysis could help the ICAC to make more informed choices about the matters it chooses to investigate. It will also enable the ICAC to better inform the community about alleged or suspected corruption in NSW.

Figure 5: Seniority of perpetrator involved in conduct the subject of s10, protected disclosures and s11 reports received by the ICAC April – June 1999



What action had been taken prior to referral to the ICAC?

Another feature of the new ICS is that, where available, information is recorded on whether action has been taken about the matter prior to and in addition to referring it to the ICAC. In particular whether it has also been:

- referred to the organisation which is the subject of the complaint
- investigated by the subject organisation
- referred to the police
- referred to one or more investigative agencies, other than the ICAC or the police.

Overall, for the 316 s10, protected disclosure and s11 reports received between April and June 1999 it was found that:

- 59 per cent had also been referred to the subject organisation (20 per cent had not been referred and in 20 per cent it was unclear whether or not it had also been referred to the subject organisation). As would be expected, referral to the subject organisation was commonly the case for s11 reports
- 36 per cent of matters had been or were being investigated by the subject organisation (34 per cent were not being investigated and in 30 per cent it was unclear). Investigation by the subject organisation was commonly and understandably the case for s11 reports
- 11 per cent had been referred to the police (60 per cent had not been referred and in 29 per cent there was no information). Once again referral to the police was more likely for s11 reports
- 15 per cent had been referred to one or more investigative agencies other than the ICAC or police (52 per cent had not been referred to other agencies and in 33 per cent of matters information was not available).

## QUALITY OF INFORMATION RECEIVED

Because the value of the analysis under the new system is largely governed by the quality of the information the ICAC receives, the ICAC is pursuing a number of projects designed to improve the quality of that information.

Two projects focus on the ICAC's two major sources of information. The major sources of information are complaints (s10) whether from the public or public officials, and reports by CEOs of public authorities (s11). Improving the quality of the information received from each area presents different challenges. It is possible to provide information directly to CEOs and their staff to improve their understanding of how matters should be reported. The information needs of complainants are harder to satisfy until they first come in to contact with the ICAC.

A third project is focused on information which may be derived from the exercise of the ICAC's powers under s53 and s54 of the Act. Under s53 of the Act, the ICAC may refer a matter for investigation or other action to another person or body. In referring a matter the ICAC may require a report back on the investigation under s54 of the Act.

### Improving section 11 reporting

Section 11 reporting is a major source of information for the ICAC. As noted earlier, Principal Officers are required by s11 of the Act to report suspected corrupt conduct. Generally, instances of suspected corrupt conduct are reported individually, however, some of the larger agencies have been permitted to report less significant matters by schedule on a regular basis.

Over the past 12 months the ICAC has reviewed the reporting arrangements for some agencies. Eleven of the larger agencies assisted with detailed information about their processes to identify matters to be reported and outlined concerns they have with the current arrangements.

In addition, ICAC staff have increased the amount of time they spend on liaising with agencies which report by schedule. This was because the review clearly indicated that to improve the quality of information in the schedule reports, the ICAC should provide prompt feedback about the quality of the reports.

The ICAC will issue revised guidelines to public sector agencies on their s11 reporting obligations during the next 12 months.

### Section 10 complaints

When complainants make direct contact the ICAC has, through the new ICS, provided its staff with a better guide to the information they should elicit from the complainant. However, when the complaint is received in writing, the complainant may have had no previous contact with the ICAC and may have little or no knowledge about the ICAC's jurisdiction. This means that the ICAC often receives complaints which are outside jurisdiction. Also, written complaints often have insufficient information to enable them to be assessed properly.

The ICAC has pursued a number of strategies to improve both the public's understanding of the ICAC's work and the quality of the information received from those who choose to make complaints to the ICAC including:

1. The *ICAC Guide for Community Advisers* is an information resource for people (such as Members of Parliament, local government councillors, magistrates and community legal centre workers) to provide accurate advice to the public about the ICAC and corruption-related issues.
2. A new information brochure for complainants is currently being trialled to see whether it meets their information needs.
3. The Commission's standard correspondence to complainants has been redrafted to focus more on the complainant's role as an information provider and to ensure that the complainant understands how the information is processed.

### Referring investigations to public authorities

The ICAC does not attempt to investigate every matter. Referring matters for investigation under s53 and requesting a report under s54 enables the ICAC to ensure that matters which should be investigated by a public authority are investigated. It also enables the ICAC to examine the capacity of individual public authorities to deal with alleged corrupt conduct within their agency.

In particular, s54 reports can provide information about:

- the investigative capabilities of individual public authorities

- the conduct of individual public officials
- the outcome for the individual concerned where there is evidence of corrupt conduct (e.g. demotion, repayment of monies to the public authority, criminal charges etc)
- systems providing opportunity for corrupt conduct
- changes made to improve systems
- aspects of organisational culture that are susceptible to corrupt conduct.

During the year a sample of closed ICAC files involving s53 referrals and their associated s54 reports were reviewed to explore how the ICAC could improve the quality of information provided and make better use of the information received through s54 reports.

A number of issues were identified in the review including the need to ensure that requirements in referrals were clearly stated. As a result of the review the ICAC will in the next 12 months issue a set of guidelines to inform public authorities about the information to be included in a s54 report. Associated correspondence will also be reviewed.

## **OBJECTIVES FOR THE NEXT 12 MONTHS**

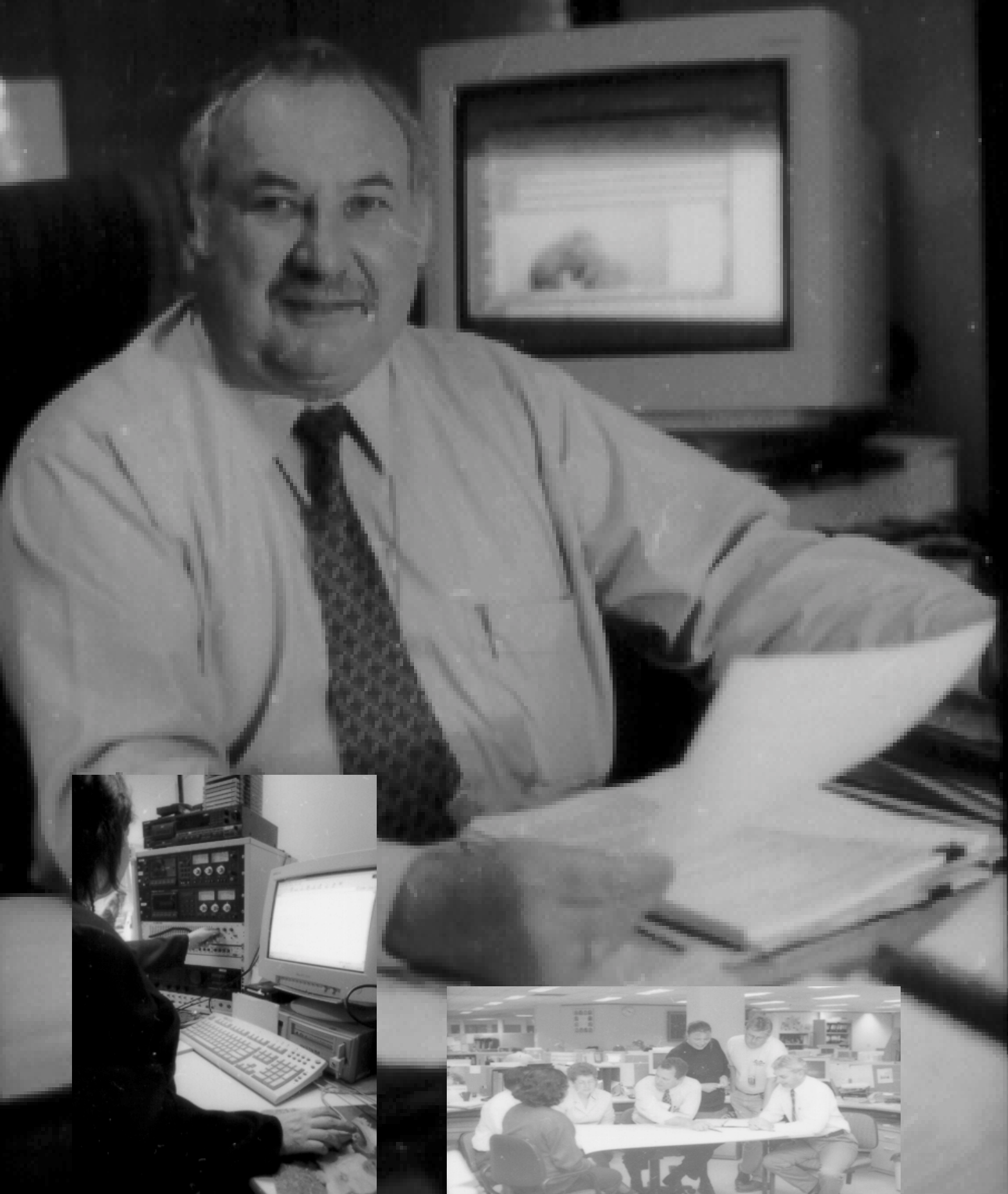
To date the Strategic Capacity Project has been primarily concerned with improving how the ICAC manages the information it receives and improving the quality of that information. Over the next 12 months the new ICS database will continue to be refined and new sources of information will be explored to help identify emerging corruption risks in the NSW public sector.

**John Feneley, Solicitor to the Commission**





**Guy Slater, Director, Investigations**





# Exposing corruption

## (The investigation function)

The previous chapter reported on action taken by the ICAC to improve its management of information and thereby enhance its strategic capacity. This chapter includes information about the process used by the ICAC to expose corruption and investigative activity in the past year, recent litigation and certain accountability requirements related to the ICAC's investigation function.

For most people, perceptions of the ICAC are formed by media reports about investigations and public hearings. Exposure through public hearings, and the media interest that accompanies it, are important ways to inform people about the nature of corruption and its effects.

For many in the public sector, the fear of public exposure initially led to active avoidance of the ICAC. Advice was not sought because of fear that it might reveal mistakes and invite investigation. The statutory requirement that heads of public sector agencies report corruption was not embraced with enthusiasm.

Increasingly, the public sector is coming to see that acting promptly and effectively on internal reports of corruption, and conscientiously fulfilling statutory reporting requirements, are a means of managing better. Some agencies report in ways that suggest they are effectively dealing with allegations of corruption themselves.

It is not unusual for the ICAC to be asked by an agency to investigate and hear a matter. When an intransigent culture is conducive to corruption and resistant to change, the catharsis of an investigation, and possible public hearing, can be a potent prompt to change.

The need for the ICAC to maintain its independence and objectivity limits the extent of joint investigations with public sector agencies whose employees are under investigation. However, in many significant investigations the ICAC receives substantial assistance from the agency concerned, and in some cases aspects of a particular investigation are conducted jointly. Operation Cadix involving the Department of Corrective Services, Operation Jommelli involving the Roads and Traffic Authority and Operation Negri involving the Environment Protection Authority are good examples of close cooperation in the past year.

### **YEAR IN REVIEW – INVESTIGATIONS AND LEGAL**

The role of the Investigation Unit is to gather and analyse relevant evidence. The Legal Unit arranges and co-ordinates hearings and provides legal, policy and strategic advice to ensure that ICAC's powers are exercised appropriately and legally.

Investigating corruption is one of the ICAC's principal functions. The Act gives the ICAC a broad jurisdiction to investigate any allegation, complaint, or circumstances which in the ICAC's opinion imply that:

- corrupt conduct, or
- conduct liable to allow, encourage or cause the occurrence of corrupt conduct, or
- conduct connected with corrupt conduct may have occurred, may be occurring, or may be about to occur.

An ICAC investigation may be commenced as a result of:

- a complaint by any person (s10 of the ICAC Act)
- a report by the CEO of a public sector agency or General Manager of a local council (s11 of the ICAC Act)
- the ICAC's own initiative
- a reference by both Houses of the NSW Parliament.

A matter referred by Parliament to the ICAC must be investigated. In all other matters the ICAC can decide whether or not to investigate. The Commissioner must consult with the Operations Review Committee under s10 of the ICAC Act before deciding to discontinue or not commence the investigation of a complaint.

As previously noted, not all matters reported to the ICAC can be investigated by the ICAC. ICAC resources do not permit it. Furthermore, as public sector managers have responsibility for dealing with corruption in their organisations, they of necessity have to undertake the bulk of this work. This means that the ICAC must give priority to matters it considers involve important issues of systemic corruption or those which command priority due to their seriousness or some other public interest consideration. Other matters may be referred to other agencies for investigation or for information,

if unlikely to involve significant corruption. All these decisions are referred to the ORC.

Of the matters which are retained by the ICAC for investigation, not all require the exercise of the statutory powers conferred on the ICAC by the ICAC Act and other legislation. Many matters can be determined without the need to exercise these powers. Similarly, other matters may require the exercise of some statutory powers but do not require the holding of private or public hearings. While perceptions of the ICAC are often formed by media reports about investigations involving public hearings, these only form part of the investigation work undertaken by the ICAC.

When undertaking investigation work the ICAC encourages the use of multi-disciplinary teams. Investigation teams can comprise investigators, lawyers, analysts, corruption prevention and education officers and researchers. The make-up of each team depends on the nature of the matter and the need for particular skills. In this way the ICAC is able to be both flexible and innovative in its approach to its investigative function.

Information obtained during the course of investigations may also be considered for corruption prevention action, such as developing initiatives with agencies to address the corruption risks. This approach is followed in all cases involving public hearings. Operation Cadix (Department of Corrective Services) was a good example of this approach during 1998–99.

## RECEIPT, PRELIMINARY INQUIRY AND ASSESSMENT OF MATTERS

### Mode of receipt

Matters received or dealt with by the ICAC during the reporting year totalled 2742. Of these, 1741 were individual complaints or reports of corrupt conduct. The remaining 1001 were instances of minor corruption reported by principal officers in quarterly schedules.

These matters were received either by letter, telephone, a visit to the ICAC or in schedules. The table compares the number of matters received by type of receipt for 1997–98 and 1998–99.

Table 8: Matters received by mode of receipt 1997–98 and 1998–99.

Mode of Receipt	1997–98	1998–99
Letter	1350	1242
Telephone	415	460
Personal visit	48	42
Country visit*	3	3
<b>TOTAL INDIVIDUAL MATTERS</b>	<b>1816</b>	<b>1747</b>
Schedule	1234	1001
<b>TOTAL</b>	<b>3050</b>	<b>2748</b>

\* Matters received by ICAC officers when visiting country locations.

### Classification of matters

Individual matters are classified as complaints or reports of alleged corrupt conduct under relevant sections of the ICAC Act:

- Complaints from the public (s10)
- Reports from principal officers, generally Chief Executive Officers of government departments or General Managers of local councils (s11)

The Commission also investigates matters initiated by its own enquiries, and any matter referred by Parliament as well as considering information obtained from other agencies.

Table 9: Classification of individual matters received 1997–98 and 1998–99

Classification	1997–98*	1998–99
Complaints from public (s10)	1031	908
(number of s10 matters that are also classified protected disclosures)	(234)	(231)
Reports from public authorities (s11)	502	489
Information	137	183
Enquiry	28	21
Dissemination	11	14
Referral from Parliament	Nil	Nil
Outside jurisdiction	102	131
Own initiative	5	1
<b>Total</b>	<b>1816</b>	<b>1747</b>

\* Totals may vary from previous financial year as matters are reclassified.

## Public authorities which are the subject of allegations from the public

The public authorities which are the most frequent subject of allegations of corrupt conduct received from members of the public during the year under review are:

Table 10: Public authorities the subject of allegation by a member of the public in 1998–99, by percentage of total complaints

Public authority	Percentage of total
Local Government (Department of Local Government and 177 individual local councils)	28
Department of Health (includes Area Health Services)	13
Department of Community Services	7
Department of Corrective Services	5
NSW Police Service*	3
Aboriginal Land Councils	3
State Rail / State Transit Authorities	3
Department of Education & Training	2
All others	36

\* NSW Police Service was transferred to PIC jurisdiction 1 January 1997

## Protected disclosures

Protected disclosures are a sub-category of complaints from the public. Public officials who make complaints to the ICAC are covered by the Protected Disclosures Act, provided their complaint is made in accordance with that Act. The information they provide is then dealt with by the ICAC in accordance with the procedures outlined in that Act.

Of the 1242 complaints received in 1998–99, 231 (18.6 per cent) were protected disclosures.

Table 11: Public authorities, the subject of a protected disclosure 1998–99, as percentage of total number of protected disclosures received

Public authority	Percentage of total
Local Government (Department of Local Government and individual 177 Local Councils)	19
Department of Health (includes Area Health Services)	12
Department of Corrective Services	10
State Rail / State Transit Authorities	8
Department of Education & Training	4
Aboriginal Land Councils	4
Department of Community Services	2
NSW Police Service*	2
All others	39

\* NSW Police Service was transferred to PIC jurisdiction 1 January 1997

## The assessment process

Each allegation of corruption is assessed under criteria to ensure that the ICAC Act and the ICAC's Corporate and Strategic Plans are taken into account. A brochure describing the ICAC's decision making process is provided to complainants when acknowledging receipt of their complaint.

A three-member assessment panel meets four times a week to make initial decisions about how to handle s10 and s11 matters received by the ICAC. The panel includes the Director of Investigations, the Solicitor to the Commission and the Director of Corruption Prevention and Education, or their nominees. To assist the panel other ICAC officers may attend the meeting.

Applying the established criteria, the panel recommends matters that warrant further inquiry by the ICAC, those to refer to other agencies for investigation or those not to pursue further. The panel's recommendations not to pursue individual s10 complaints (including protected disclosures) must be referred to the ORC. The ORC then advises the Commissioner whether the ICAC should discontinue or not commence investigation of these matters.

## FORMAL INVESTIGATIONS—EXERCISE OF SPECIAL POWERS

The ICAC has significant powers under the ICAC Act. To ensure that these are only used when appropriate, the ICAC has an internal procedure for approving the use of its coercive powers. The parameters of an investigation, which must be approved by the Commissioner before it can proceed, are set out in a scope and purpose document.

These investigations are referred to as formal investigations and are given operational titles (for example, Operation Cadix). Matters with the potential to expose significant and/or systematic corruption are selected for formal investigations, usually involving the commitment of significant resources. Eight formal investigations were approved by the Commissioner in 1998–99, compared with 10 in the previous reporting period.

The following table summarises the ICAC's use of the above powers in 1997–98 and 1998–99.

Table 12: Use of Formal powers 1998-99 compared with 1997-98

Power	1997-98	1998-99
Summonses to give evidence or produce documents or both at a hearing (s35).	205	186
Warrant for arrest of a witness (s36).		
[If a witness fails to appear the Commissioner may issue a warrant for the arrest of the witness.]	0	1
Order that prisoner appear before ICAC (S39).	39	9
Search Warrant.		
[An authorised Justice or the Commissioner may, upon application by an ICAC officer, issue a search warrant if satisfied that reasonable grounds exist. (s40). A search warrant may be sought when an ICAC officer has a reasonable belief that there are on the premises, documents or other things which are associated with an ICAC investigation. The ICAC policy is to obtain search warrants only from authorised Justices unless there is an exceptional situation.]	22	34
Notice for public authority/official to provide statement of information (s21).		
[The ICAC can require a public authority or public official to provide a Statement of Information. Written notices are used when exercising this power.]	42	15
Notice requiring production of documents (s22)	367	193
Notice authorising ICAC officer to enter premises occupied by public authority/official, inspect any document or thing and copy any document (s23).		
[The Commissioner can authorise ICAC officers in writing to enter specific premises occupied by a public authority or public official, inspect any document or thing in the premises and copy any document.]	36	3
Listening device warrant.		
[ICAC officers may apply to the Supreme Court for a warrant to use a listening device under the <i>Listening Devices Act 1984</i> ]	74	14
Telephone intercept warrant.		
[Telephone calls may be intercepted and recorded by the ICAC under provisions of the <i>Telecommunications (Interception) Act</i> , provided a warrant is obtained from a Federal Judge or a nominated member of the Administrative Appeals Tribunal. The warrant must satisfy strict requirements under the Act and relate to classes of offences set out in the Act. Corruption was included as a separate category of offence in 1995.]	15	10
Controlled operation authorised.		
[Under the Law Enforcement (Controlled Operations) Act the Commissioner is able to authorise controlled operations. These are operations that may involve ICAC officers or others in engaging in activity which might be illegal if it were not for the approved controlled operation. An example is payment of a bribe to a public official in a 'sting' operation. There are strict requirements under the Act and certain types of activities may not be authorised.]	2	2
Acquisition and use of assumed identities.		
[The <i>Law Enforcement and National Security (Assumed Identities) Act 1998</i> permits the acquisition and use of assumed identities by officers of certain agencies, including the ICAC. None of the 9 that were authorised was revoked during the reporting period. As the legislation only came into effect in March 1999, no audit was undertaken prior to 30 June 1999.]		9

The variation from year to year in the use of particular powers is generally due to the varying nature and needs of the investigations being conducted.

## Inspection of records by the Ombudsman

To ensure compliance with statutory requirements, the NSW Ombudsman inspected the ICAC's records of telephone interception activities on 14 December 1998 and 8 March 1999. Inspection reports have been satisfactory. The ICAC has upgraded its record keeping to accommodate the increase in activity in this area consequent to the 1995 amendments to the legislation. The Ombudsman also conducted an inspection on 14 December 1998 of the ICAC's records on controlled operations.

## PUBLIC AND PRIVATE HEARINGS

The purpose of hearings is to facilitate an investigation. Hearings may be held in public, private or a combination of both. When considering whether to hold hearings in public or private, the ICAC must take into account any matter relating to the public interest.

The Commissioner or an Assistant Commissioner conducts hearings. Eight Assistant Commissioners were appointed by the Governor during the reporting period. Six presided over ICAC hearings. Biographical information about the Commissioner and appointment details of Assistant Commissioner's is on pages 63.

The ICAC may give directions about the persons who may be present during a private hearing. The publication of evidence may also be prohibited by the ICAC. Any witness at a hearing is generally permitted legal representation, while any person or group with a substantial and direct interest in the same matter may also be allowed representation.

A document, outlining hearing procedures and matters considered when deciding if proceedings should be public or private, has been published by the ICAC and is available on request.

When a public hearing occurs or an investigation originates from a Parliamentary reference, the ICAC must provide a report to the Parliament. Reports may also be prepared about any other ICAC investigation.

Hearings were held on 10 investigation matters in 1998–99. The table below sets out the number of hearing days in each matter.

Table 13: Hearing days for 1998–99

Matter	Public hearing days	Private hearing days
Investigation into Aboriginal Land Councils (Operation Zack)	2	-
Investigation into Department of Corrective Services (Operation Cadix)	3	33
Investigation into Liverpool City Council (Operation Benda)	7	10
Investigation into whether Louis Bayeh provided any benefits or rewards to Paul Gibson MP (Operation Becker)	9	6
Investigation into employees of Sydney Ferries (Operation Berdan)	2	6
Investigation into waste depot weighbridges at St Peters and elsewhere (Operation Anschutz)	3	6
Investigation into employees of Environment Protection Agency (Operation Negri)	11	3
Investigation into former and serving officers of the RTA and others (Operation Jommelli)	1	17
Investigation into officers of the Illawarra Development Board (Operation Besa)	2	5
Operation Weckmann (not public)	-	1

## CURRENT FORMAL INVESTIGATIONS

A number of matters are currently under investigation. Details of investigations which have been the subject of public hearings but have not yet been finalised are outlined below. These will be the subject of public reports in the future.

### Investigation into the Department of Corrective Services (Operation Cadix)

This ongoing investigation is one of the most challenging for the ICAC. Three matters have been the subject of public reports so far and public and private hearings into further aspects of the prison system have been conducted.

The closed nature of the prison system makes any investigation by an external body very difficult as prison officials control access. This makes covert investigations particularly difficult, if not impossible, without the co-operation and assistance of the Department. The need for this assistance and co-operation had to be balanced with the equally important need to maintain the confidence of complainants (many of whom are prison officers or inmates) in the Commission's independence. Nevertheless, the ICAC's investigation would not have been possible, and incidents of corruption



would not have been exposed, without the information and co-operation provided by the Department.

### **Investigation into Aboriginal Land Councils (Operation Zack)**

The report on the corruption prevention and research aspects of this investigation was published during 1998–99. The report on the ICAC's investigation into five land councils was published in June 1999. A further report into the conduct of some NSW Aboriginal Land Council councillors is planned.

### **Investigation into the Environment Protection Agency (Operation Negri)**

This investigation concerns the conduct of employees of the Environment Protection Agency (EPA) in their dealings with a number of companies and individuals holding approvals and licences issued by the EPA. This investigation was conducted by Assistant Commissioner John Stowe QC. A report will be published shortly.

### **Investigation into the conduct of present and former employees of Sydney Ferries (Operation Berdan)**

This investigation concerns the creation, use and sale of "live" reject ferry tickets by five operators at Manly Wharf. Public hearings were conducted by Assistant Commissioner John Graves SC and ended in June 1999. A report is being prepared.

### **Investigation into Liverpool City Council (Operation Benda)**

This investigation focussed on the conduct of the Liverpool City Council Purchasing Manager. Hearings were conducted by the Commissioner and Assistant Commissioner Michael Cashion SC. A report will be published shortly.

### **Investigation into officers of the Illawarra Development Board (Operation Besa)**

This investigation concerns the conduct of officers of the Illawarra Development Board in relation to the financial affairs of the Board as constituted between 1987 and June 1990. This matter will be finalised early in the next financial year.

Investigation into former and serving officers of the RTA and others (Operation Jommelli)

This investigation concerns the conduct of former and serving officers of the RTA and others in relation to the registration of motor vehicles which have previously been stolen or illegally imported. Hearings are being conducted by the Hon. Jerrold Cripps QC and are not expected to be finalised until October 1999.

### **Investigation into the conduct of employees of the Roads and Traffic Authority (Operation Jommelli)**

This major investigation concerns the conduct of public officials involved in the 'rebirthing' of stolen motor vehicles. The investigation has focussed on the registration of stolen vehicles and the availability of forged identity documents. Public hearings conducted by Assistant Commissioner Jerrold Cripps QC commenced in June 1999.

## **INVESTIGATION REPORTS**

The following investigations were the subject of public hearings and an investigation report in 1998-99. All reports published during the year are listed in Appendix 5.

- *Investigation into the Conduct of a Senior Inspector with the Department of Gaming and Racing (Operation Visual)*. The report was prepared by the Commissioner and made public in September 1998.
- *Report on the Investigation into the Conduct of an Alderman on Fairfield City Council (Operation Sturt)*. This report was prepared by the Commissioner and made public in November 1998.
- *Investigation into the Department of Corrective Services: Second Report – Inappropriate Relationships with Inmates in the Delivery of Health Services (Operation Cadix)*. This report was prepared by Assistant Commissioner Anna Katzmann SC and made public in November 1998.
- *Investigation into the Department of Corrective Services: Third Report – Betrayal of Trust: The activities of two correctional officers (Operation Cadix)*. This report principally concerned the conduct of two correctional officers and their relationships with inmates or former inmates. This report was prepared by Assistant Commissioner Peter Neil SC and was made public in June 1999.
- *Investigation into Parliamentary and Electorate Travel: Second Report – Analysis of*

*administrative systems and recommendations for reform* (Operation Becker). The report was prepared by the Commissioner and published in December 1998.

- *Investigation into allegations by Louis Bayeh against the Member for Londonderry, Paul Gibson MP* (Operation Becker (E)). This report was prepared by Assistant Commissioner the Hon Jeremy Badgery-Parker QC and made public in December 1998.
- *Investigation into Conduct at Local Council Waste Depot Weighbridges at St Peters and Elsewhere* (Operation Anschutz). This report was prepared by Assistant Commissioner John Stowe QC and published in June 1999.
- *Report on Investigation into Aboriginal Land Councils in New South Wales: Investigation Volume* (Operation Zack). This report focuses on the ICAC's investigation into five land councils. The report was prepared by the Commissioner and published in June 1999.

## OTHER MATTERS INVESTIGATED

Generally speaking, the public will not be aware of the ICAC's investigative work unless it involves a public hearing and or a public report. Yet as noted above, a great deal of investigative work is completed without recourse to the ICAC's formal powers and even when formal powers are used will not necessarily result in public hearings and the publication of an investigation report.

For example many matters are the subject of preliminary inquiries to determine whether they should be further investigated or referred to another agency.

Although ICAC policy is not to disclose operational details about matters which are not in the public domain, it is possible to describe examples of some subjects of investigation or preliminary inquiry.

- A number of allegations concerning the adequacy of investigations conducted by public authorities into disclosures made pursuant to the Protected Disclosures Act have been investigated. The ICAC also examined complaints alleging reprisals taken against those who made disclosures pursuant to the Protected Disclosures Act.
- The ICAC investigated a complaint alleging that a decision to terminate prosecutions against boarding house proprietors under the provisions of the Youth and Community Services Act had been improperly influenced at

a political level. After conducting enquiries, the ICAC determined that there was no evidence of corruption.

- A significant amount of time was spent investigating a complaint that Fisheries officers were involved in corrupt conduct. This allegedly involved public officials in:
  - receiving seafood in return for partial or dishonest performance of their official functions
  - "black-market" prawn farming
  - performing contract work for fish farm operators.

No evidence was found to substantiate the allegations.

- A significant allocation of resources was required to investigate allegations of secret commissions or other rewards allegedly paid to WorkCover Authority inspectors responsible for inspecting and certifying as safe for use, machinery and equipment on the New South Wales snowfields. The investigation did not disclose sufficient evidence to warrant further action.
- Significant resources were also expended on investigating allegations that officers of the Department of Housing were receiving corrupt payments for preferential treatment in the allocation of public housing in sought-after areas of Sydney. Once again, investigation of the complaint did not disclose sufficient evidence to warrant further action.

The resources allocated to each matter vary, depending upon the nature of the matter and the issues for investigation. Some matters are finalised on the basis that investigation has indicated no evidence of corrupt conduct. Other matters might be referred to a Government department or agency for further investigation and report back to the ICAC or simply for information. In other matters, while there may not be any evidence of corrupt conduct, there may be systems issues which are brought to the attention of the relevant Government department or agency.

## OVERSIGHT BY THE OPERATIONS REVIEW COMMITTEE (ORC)

The role of the ORC is explained in the *Independence and Accountability* chapter. The ORC generally meets at the ICAC's premises on a monthly basis, excluding January. ORC members

are provided with written reports outlining the allegations and recommendations on matters not less than a week before each meeting to allow sufficient time to consider them.

During the meetings, the ORC may reject, accept or modify recommendations made by ICAC officers and/or request further investigation into any matter reported to it.

### **The ORC's workload in 1998–99**

During 1998–99, the ORC met 10 times and considered 1223 matters pertaining to 510 complaints. Of these the ORC:

- accepted the recommendation made in relation to 950 of the matters (78 per cent) without any alteration or comment
- made specific comment or alteration to the recommendation before accepting the report on 137 matters (11 per cent)
- did not accept the recommendation, but sought further information and required further reports to be prepared, for 99 matters (8 per cent)
- accepted the recommendation to refer, or required the referral of 486 matters to other agencies for their consideration
- accepted reports on the status of 37 matters (3 per cent)

The Commissioner accepted the advice of the ORC on every matter.

### **Ensuring compliance with duty to report to ORC**

For the past five years the ICAC has arranged for the external audit of the reports submitted to the ORC and the associated complaint files to check the integrity and quality of reports submitted. In addition in early 1994, the ICAC started regular internal audits of the reports and associated files.

### **Internal audit**

A random selection of reports submitted to the ORC meetings is evaluated strictly against the contents of the associated file(s). The audit examines reports for possible inaccuracies or inadequacies, and also determines whether the report is in the correct format, as specified by the ICAC's internal policies and procedures.

When a report is found to be unsatisfactory, either a further report is requested to correct deficiencies

picked up in the audit, or the report author is advised of deficiencies to prevent the same occurring in the future.

During this audit period 99 reports were examined. Of these, only one failed to adequately reflect the nature of the allegations and assessment of the matter. This report was reviewed and re-submitted to the ORC. The results of this audit indicate that the quality of information presented to the ORC is satisfactory.

### **External audit**

At the invitation of the ICAC, the Audit Office of NSW audited a random sample of the reports submitted to the ORC and the ICAC's response to requests for further action and other suggested changes.

The 1998–99 audit required a review and appraisal of the adequacy and effectiveness of the ICAC's procedures and controls to ensure that all complaints were promptly and properly recorded and were classified and reported to the ORC in compliance with statutory and operational requirements. A random sample of 100 of the 2,060 completed enquiry files was audited to assess that:

- the complaint classification procedure had been appropriately applied
- a matter classified as a complaint was reported to the ORC for advice before closure
- in the event that the ORC called for a further report – whether one was presented in the time frame specified
- the requirement for provision of a status report was complied with
- when a complaint became, or was incorporated into, the scope and purpose of a formal investigation – whether the complaint was included in the final report submitted to the ORC recommending discontinuance
- the data provided to the ORC concerning the number of complaints received and finalised each month were accurate and adequate
- when the minutes of any ORC meeting specify that some action was to be taken by the ICAC – the request was complied with.

The audit found that the ICAC complied fully with its statutory requirements for reporting to the ORC. In relation to procedural matters, the audit made some observations that may enhance the management of complaint files. The ICAC will consider these observations.



## LITIGATION

The ICAC's first report on its investigation into Parliamentary and electorate travel, published on 30 April 1998, included a finding that Brian Langton MP had engaged in corrupt conduct. Langton sought Declarations from the Supreme Court concerning the use of air travel warrants by Members, that the finding was made without or in excess of jurisdiction and that the finding was wrong in law.

On 3 November 1998 Sperling J dismissed the claim for Declarations. Langton lodged an appeal against this decision on 30 November 1998. No hearing date has been set for determining the appeal.

Other proceedings continued to the end of the financial year in relation to the ICAC's investigation into allegations by Louis Bayeh concerning Paul Gibson MP. On 30 April 1998 Gibson commenced proceedings for defamation against the ICAC Commissioner. The proceedings relied on statements made two days earlier by the Commissioner during a speech at the Sydney Town Hall at the launch of a report on the corruption prevention and research aspects of the ICAC's investigation into Aboriginal Land Councils. The matter was settled prior to hearing in early July.

## OTHER ACCOUNTABILITY REQUIREMENTS

The ICAC Act specifies that certain matters be reported on in the Annual Report. Appendix 13 provides an index for locating in the report those matters required to be reported – whether under the ICAC, Annual Reports (Departments) Act, or another instrument.

### Prosecutions and disciplinary proceedings

The ICAC liaises with the NSW Director of Public Prosecutions and other public sector agencies in relation to any prosecutions or disciplinary actions commenced as a result of an investigation. The status of current prosecutions and disciplinary proceedings appears in Appendix 9. The implementation of systemic and legislative recommendations made in investigation reports was not reviewed this year. A review which will continue the monitoring undertaken in 1997-98 will be reported on in the next financial year.

## Legal changes affecting the ICAC

The most significant legal change affecting the ICAC during 1998-99 was the enactment of the *Law Enforcement and National Security (Assumed Identities) Act 1998*.

That Act provides a mechanism for the acquisition and use of assumed identities in the performance of official duties by officers of certain State and Federal agencies that have law enforcement and national security functions. The Act was enacted to clarify the position of officers who need to use assumed identities by deeming not unlawful anything done by them in good faith in accordance with an approval granted to them under the Act. It also includes record keeping requirements and a provision for audit of those records.

The definition of "public official" in the ICAC Act was amended to include an accredited certifier within the meaning of the *Environmental Planning and Assessment Act 1979*. This amendment was undertaken to ensure that private sector professionals contracted to approve building and development work on behalf of Local Councils are within ICAC jurisdiction.

## Recommended legal changes

The ICAC regularly comments on proposals for new legislation and the review of existing legislation that affects it.

The *Law Enforcement (Controlled Operations) Act*, which commenced operation in March 1998 was reviewed and the Commission participated in that process which was conducted by the Inspector of the Police Integrity Commission. The review which was tabled in Parliament on 1 June 1999 recommended that a number of changes be made to the Act to maximise its use and effectiveness and referred to a number of submissions made by the ICAC.

In the past year the ICAC has also commented on proposed Commonwealth privacy legislation affecting the private sector.

## Liaison with law enforcement agencies

To facilitate its work, the ICAC liaises with State and Commonwealth law enforcement agencies. These provide information and assistance, as required and as is relevant, to the ICAC. The ICAC also provides information to these agencies when appropriate.

During 1998-99, information and data were exchanged with the Australian Federal Police, the Australian Bureau of Criminal Intelligence, the National Crime Authority, the Australian Customs Service, the Police Integrity Commission and the NSW Crime Commission.

Peter Gifford, Director, Corruption Prevention and Education



# Preventing Public Sector Corruption

The ICAC Act requires the ICAC to actively examine policy, operating and management procedures in the public sector to minimise or eliminate opportunities for corrupt behaviour. This work includes providing advice to agencies or individuals requesting it, and making recommendations about legislative and system change to help remedy corruption opportunities exposed in reports from agencies, the public, or as a result of ICAC investigations and hearings.

This work has been undertaken since the ICAC's inception and has been given added emphasis in the last five years. The increasing sophistication of public sector systems and operating environments means the nature of advice has changed, becoming more complex. For example, the increased interaction between the public and private sectors in areas such as tendering, contracting out, corporatisation and privatisation has meant that providing advice in these areas requires constant detailed analysis.

More recently, preventive work has been combined with educative strategies to influence the culture of the public sector. The aim is to foster broad public sector acceptance of public duty and work more closely with individuals and agencies to help create ethical workplace cultures, which in turn influence relationships with those with whom the agency deals.

## YEAR IN REVIEW – PUBLIC SECTOR PREVENTION AND EDUCATION

The prevention of corrupt behaviour involves changing the way public sector organisations and, perhaps more importantly how the individuals within those organisations, operate so opportunities for, and incidents of, corruption are reduced. While governments set policy and laws that impose responsibility, it is the values and attitudes of managers and staff that give life to systems and procedures, and these individuals who determine the overall effectiveness of any prevention approach.

In selecting its prevention work, the ICAC has given priority to:

- strategic prevention—influencing public sector policy to include ethical considerations and publishing guidance about emerging issues or risks that are relevant to the whole or significant parts of the public sector
- complementing investigative work—assisting agencies which are the subject of investigations to develop remedies to problems with systems
- advice—providing guidance to agencies and individuals on request in response to information received
- providing information and training.

## STRATEGIC PREVENTION

This work influences public policy to respond to ethical and corruption prevention issues. Strategic prevention also provides guidance on emerging issues affecting the whole or large parts of the public sector. As such, it often involves working with central policy-making or regulatory agencies to develop sector-wide policies and guidelines.

## Protected Disclosures Implementation Steering Committee

The Premier established the Protected Disclosures Implementation Steering Committee in 1996 to heighten public sector awareness and improve responses to the provisions of the *Protected Disclosures Act 1994*. The Committee, chaired by the ICAC, includes representatives from the ICAC,

NSW Ombudsman, Audit Office of NSW, NSW Premier's Department, Department of Local Government, The Cabinet Office, Police Integrity Commission and the NSW Police Service. During the year the ICAC also led the following Committee initiatives:

### Workshops

During 1998–99 the Committee organised and conducted seven *Better Management of Protected Disclosures* workshops in Sydney and regional NSW for over 140 attendees. The Committee will schedule more to meet demand in the next reporting period.

Participants have responded favourably to the workshop content, format and delivery with 83 per cent reporting that the workshops are very relevant, and 88 per cent stating that the presenters met their nominated key workshop outcomes.

### Focus groups

In the last financial year the ICAC explored responses to findings published in *Monitoring the Impact of the Protected Disclosures Act 1994*. Focus group discussions were held with general managers of local councils and CEOs of state agencies.

Analysis of these discussions was published in *Tips from the Top*, circulated to all local government general managers and government department CEOs.

### Ethics Working Party

The Ethics Working Party promotes inclusion of ethics in the public sector policy framework, and supports the implementation of ethics and public duty initiatives throughout the NSW public sector. It contributes to public sector policy by developing initiatives and referring them to the Chief Executives Committee for consideration and possible adoption.

In the previous year an expanded membership drawn from the ICAC, Labor Council of NSW, NSW Ombudsman's Office, Audit Office of NSW, NSW Treasury, Department of Public Works and Services, Department of Local Government and Department of Education and Training, was agreed. This group, and special purpose subcommittees, continued to meet during the reporting period and during the year achieved:

- development of an Ethics Framework for the NSW public sector which maps where ethics and public duty consideration can be included (public sector requirements, policies, training etc)

- presentation of the draft NSW Ethics Framework by the Director, Corruption Prevention and Education, ICAC to the Chief Executives Committee. The framework was endorsed for adoption throughout the NSW public sector
- ethics training through workshops using the ICAC's practical ethics and public duty training resource, *Conduct Becoming*
- agreement to develop a NSW public sector ethics website.

### Implementing organisational change – An ethical model

Proof of the positive impact of ethics on organisational effectiveness and efficiency was documented in *Ethics: The Key to Good Management*, which the ICAC published during the reporting period.

The ICAC's current approach to corruption prevention increasingly recognises the interdependency of organisational features that contribute to an organisation's ethical health and therefore increase resistance to corruption. A conceptual ethical model that illustrates this interdependency is used to structure ICAC's work to assist public sector organisations in assessing their ethical health, and developing co-ordinated strategies to enhance their resistance to corruption.

The ICAC has prepared a draft paper entitled *Organisational Integrity - Converting Values into Action* which describes this ethical model and its components and how it can be used by public sector organisations to evaluate and enhance their organisation's performance.

The model will be trialled before it is finalised and circulated.

### Guidance on managing the impact of an ICAC investigation

To meet the information needs of agencies that may be the subject of ICAC investigations, the ICAC published *How to Handle the effects of an ICAC Investigation: A Guide for Public Sector Managers*. The publication outlines the process of an investigation, the rights and responsibilities of staff during an investigation, the staff reaction which can be expected and how to improve an organisation following an investigation.

## Liaison with unions

The ICAC recognises the important role unions can play in promoting ethical conduct to NSW public sector employees. Changes in management practices, the development of systems to minimise opportunities for corruption, and providing appropriate protection for workers, have been achieved with the co-operation and assistance of unions.

Unions with significant coverage of public sector employees were consulted on the information they need about the ICAC's work. Unions will be assisted further in providing help to members about matters relating to corrupt conduct during 1999–2000.

## Preventing corruption in government regulatory functions

The ICAC has investigated corrupt conduct in both state and local government regulatory functions on a number of occasions, for example, the way in which local councils manage environmental health and building regulation. As a result a report was published in June 1998, *Accountable Health and Building Inspections: Recommendations for Local Government*. To promote the publication the ICAC held a media campaign, led the development of a communication strategy for communities and explored ways to include ethics and corruption prevention information in the curricula of health and building surveying training.

The ICAC also recognised that the issues raised in *Accountable Health and Building Inspections: Recommendations for Local Government* had relevance for the public sector as a whole. Agencies and public officials that carry out regulatory functions such as work safety, regulation of various industries, environmental pollution, licensing, vehicle registration, building safety, noxious weed eradication, and the liquor and gaming industries, need to be aware of the corruption risks they may face and have in place preventive strategies.

*Strategies for Corruption Prevention in Government Regulatory Functions*, which identifies risk factors for regulators and provides practical tips for organisations on how to deal with them was published this year. It also provides broader management strategies to help organisations to minimise the risks of corruption.

## Recruitment and selection

Because recruitment and selection processes are a common cause for complaint to the ICAC, corruption risks and concerns in public sector recruitment and selection practices have been reviewed in consultation with government agencies and unions.

In May 1999, the ICAC launched *Best Practice, Best Person: Integrity in Public Sector Recruitment* for public officials who manage or are otherwise involved in recruitment and selection. The report also assists public sector job candidates to understand how the system is meant to work.

## The offering and acceptance of gifts, benefits and bribes in the public sector

Around 50 per cent of formal investigations undertaken by the ICAC centre around the offering of gifts, benefits or other bribes to public officials.

The publication, *Gifts, Benefits or Just Plain Bribes* was produced to guide public officials who could be offered a gift or benefit which may be a bribe. It also assists agencies to develop and implement policies for dealing with gifts, benefits and bribes.

## New technology

It is the Government's aim to take advantage of communications technology, especially the Internet, for communication and service provision. However, these technologies can be a medium for corruption.

In addition, as agencies restructure to take advantage of new work practices, (often built on technological developments) and as service delivery systems become more vertically integrated and more discretion and authority is vested with individuals, corruption risks increase. The ICAC has commenced a project to assist the NSW public sector to develop strategies to deal with corruption risks associated with various electronic technologies. The ICAC also participated in a policy working party on government e-commerce strategies.

## Forced medical retirement of public sector employees

Complaints from a number of public sector employees who were dissatisfied with the way in which they were allegedly forced into medical retirement indicated that there may be deficiencies



in the procedures adopted by agencies in determining when, why and who should be referred for assessment of their medical fitness for continued employment in the public sector.

The Commission examined the procedures of agencies that have been the subject of the majority of the complaints to ensure that in future, ethical standards are maintained at every stage of the process.

## COMPLEMENTING INVESTIGATIVE WORK

Investigations and hearings have the effect of exposing corruption and describing how it came about—but of themselves, investigations do not necessarily bring about a remedy to the circumstances revealed. Corruption prevention assistance—employed during investigations as well as afterward—enables organisations to emerge from the investigation process more positively and with an increased likelihood that the problems will not recur.

### Preventing corruption in NSW Aboriginal Land Councils

Implementation of the 26 recommendations contained in the April 1998 *Report on Investigation into Aboriginal Land Councils in New South Wales: Corruption Prevention and Research Volume* was a priority during 1998–99.

Following negotiations with the New South Wales Aboriginal Land Council (NSWALC), NSW Department of Aboriginal Affairs (DAA) and the Office of the Registrar of the Aboriginal Land Rights Act, a comprehensive action plan was developed to:

- promote an awareness of the recommendations within and outside of the Aboriginal Land Council system
- support the agencies involved in the implementation program
- participate in the Government's review of the *Aboriginal Land Rights Act 1983*.

As a result, the ICAC's recommendations form part of the terms of reference for the current review of the *Aboriginal Land Rights Act 1983*.

Community workshops on the recommendations were conducted throughout NSW, giving Aboriginal communities an understanding of the recommendations, providing an opportunity to

discuss local issues and to develop strategies based on the ICAC recommendations.

Seminars were arranged for government and non-government agencies and networks, training seminars were held for staff at NSWALC and lectures given to students at Tranby Aboriginal College. The ICAC has been represented at a number of conferences and meetings about Aboriginal affairs in general.

To raise Local Aboriginal Land Council (LALC) members' awareness of the proper functions and responsibilities of LALC executives and the role of the ICAC in the operation of LALCs, advertisements were placed in 24 NSW regional newspapers and the *Koori Mail* in May and June 1999.

A further report on individual allegations of corrupt conduct arising from the investigation into the NSWALC is being prepared. Another, reporting on the implementation of the 26 recommendations made in *Report on Investigation into Aboriginal Land Councils in New South Wales: Corruption Prevention and Research Volume*, will be published in 1999–2000.

### Investigation into Parliamentary and electorate travel

The ICAC report *Investigation into Parliamentary and Electorate Travel: Second Report—Analysis of administrative systems and recommendations for reform* made 63 recommendations in areas including documentation, accountability, administration, entitlements and culture.

Subsequently policies and systems that were the subject of many of the recommendations for change have been reviewed. Assistance was provided to the Parliament in developing codes of conduct for parliamentary staff and electorate staff. An internal reporting system was developed to address the power imbalance between Members and staff.

### Investigation into waste services provided in Sydney City Council

The ICAC has been assisting Sydney City Council to understand the corruption issues involved in waste disposal and to develop effective corruption prevention strategies. Following the uncovering of a major fraud at Sydney City Council's St Peters Waste Depot, the Council was given advice on the installation of electronic and video-based corruption prevention and revenue protection measures.

The Commission wrote urging all councils in NSW including those which operate weighbridges or handle cash, to critically examine their operations to ensure that they are sufficiently resilient against fraud and other corruption.

## Investigation into the Department of Corrective Services

This investigation has continued from the last reporting period. Commission officers continue to work with the Department of Corrective Services by giving advice on revising the policy on bag searching on entry to correctional centres, and the policy on secondary employment. Needed improvements to the case management system revealed by ICAC research are also been implemented.

The Department's substantial progress in developing improved corruption prevention strategies will be described in the forthcoming and final report on Operation Cadix.

## ADVICE

The ICAC's corruption prevention advice—provided over the phone and in response to written requests—is available to all public sector employees and agencies as well as the public. Seminar presentations are provided when a significant need is established. Advice is also given in response to information received, such as reports from CEOs of government departments and General Managers of local councils about corruption, media articles, or information provided by the public. In the reporting period, advice was provided on over 400 matters that included:

- remediation of Homebush Bay
- review of Government Procurement Policy codes of practice and tendering
- internet corruption prevention issues
- a review of public tenant housing allocations
- advice on ethical leadership strategies
- giving advice to the Hong Kong ICAC about best practice in information systems security, stores management, investment of surplus funds in fixed income accounts and administration of consultants
- assisting a number of Councils to deal with perceived conflicts of interest when they have a dual role as a regulator and a developer.

Increasingly the ICAC is being asked to provide corruption prevention advice to overseas organisations, like the World Bank, and has been involved with development programs for countries such as Papua New Guinea, Thailand and Indonesia.

## INFORMATION AND TRAINING

Strategies to inform the NSW public and public sector on exposing and minimising corruption include the use of the media and the internet, as well as:

### *Corruption Matters newspaper*

Three issues of the ICAC's tri-annual newspaper *Corruption Matters*, were produced for public sector agencies, secondary school principals, protected disclosures co-ordinators and Aboriginal Land Council members.

The readership survey in April/May last year was extremely positive with the mix of article and size of the paper supported. More frequent publication was requested. Responses from the survey led to the reintroduction of themed issues, such as why ethics is good for business, the costs of corruption and public duty.

### ICAC public duty principles

To help public officials and the public understand the principles of public duty within the NSW public sector, a statement of public duty principles has been developed. It is derived from overseas and Australian sources and designed to fit the Australian context and support the probity principles the ICAC already promotes. The statement of public duty principles will be promoted during the coming year. It is included on page 43 of this report.

### Got an ethical problem?

The Commission produced a poster entitled "Got an ethical problem?" that provides simple, easy-to-follow guidance to public officials faced with an ethical dilemma. It will be distributed throughout the NSW public sector in the next financial year.

### Implementation of ICAC ethics training resource

The 1996 video-based training resource *Conduct Becoming...the personal responsibility of public duty*, was evaluated and further developed during the year. The evaluation found that while the video



was an effective discussion prompt, the materials to support discussion could be improved. The updated kit includes materials on public duty and encourages participants to relate the lessons in the video to their work in their agencies.

Around 500 expanded kits have been produced in two versions—one for local government councils and the other for government agencies. Assistance and guidance will be given on using the kit, and train-the-trainer workshops will be run during 1999–2000.

### **National Investigations Symposium – checks, lies and videotape**

The second joint ICAC, NSW Ombudsman and Institute of Public Administration of Australia (IPAA) conference was attended by over 250 participants from NSW, interstate and overseas agencies. The conference theme explored maintaining the integrity of investigations and provided dialogue about:

- investigation techniques
- the application of technology
- current issues
- planning and managing investigations.

Participants rated the conference highly and called for it to be convened again.

### **Internal investigation training**

The ICAC, with administrative support from IPAA, ran workshops to provide public sector personnel who are not professional investigators with practical advice on how to conduct a range of minor internal investigations competently and efficiently, using the *Internal Investigations Handbook* published by ICAC.

### **The NSW Corruption Prevention Committee Inc**

The Committee is an incorporated body comprising elected members from the NSW public sector and ex-officio members from ICAC, Office of the Ombudsman, Audit Office and NSW Police Service. It promotes corruption prevention through publications, seminars and forums. The Committee is also developing a web site and a subscription mailing list to facilitate the dissemination of information and discussion of corruption prevention issues.

### **Public sector ethics curriculum**

The ICAC proposal to the Department of Education and Training to fund the development of ethics curriculum modules for the public sector was approved in August 1998. The ICAC will help guide this initiative through direct consultation with the successful tenderers and also the Ethics Working Party.

## MODEL OF PUBLIC DUTY

(What it *really* means to be a public official in NSW)

- 1 Serving the **public interest** above all else by:
  - not serving own interests
  - managing conflicts of interest
  
- 2 Acting with **integrity** by being:
 

■ **Honest**

■ **Accountable**

- Obeying the law
  - Following the letter and spirit of policies and procedures
  - Fully disclosing actual or potential conflicts of interest
  - Observing codes of conduct
  - Recording reasons for decisions
  - Establishing audit trails
  - Submitting to scrutiny
  - Keeping proper, accessible records

■ **Objective**

■ **Open**

■ **Courageous**

- Being fair to all
  - Considering only relevant matters
  - Being fully informed
  - Dispassionately assessing without fear, favour or deference.
  - Giving reasons for decisions
  - Revealing all avenues available
  - Where authorised, offering all information
  - Communicating with clarity and sensitivity
  - Giving advice fearlessly where required
  - Doing the right thing even in the face of adversity
  - Reporting and dealing with suspected wrongdoing
  - Acting in the public interest above loyalty to colleagues or supervisors

  
- 3 Demonstrating **leadership** by:
  - illustrating the worth of these values by example
  - promoting these values to others
  - striving for excellence

## A model of public duty for New South Wales

In 1999 the ICAC developed and produced a model to help public officials, and the public, understand the principles of public duty within the NSW public sector.

The purpose of the Model of Public Duty is to heighten understanding and acceptance of:

- what it means to be a public official
- the values which should govern public sector ethics and guide decision making by public officials
- the “commitment to ethical practices” requirement in public sector recruitment
- the public’s entitlement to expect ethical standards of behaviour for public officials
- the benefits of using values to underpin the strategic plans in public sector Agencies and Local Councils
- a shared understanding of appropriate and expected behaviours in all public sector Agencies and Local Councils

This Model is part of the ICAC responsibility to raise community awareness about strategies to combat corrupt conduct and to enlist and foster public support to counter corrupt conduct in the public sector.

The five values are statements about the type of behaviour expected of all public officials. Clearly stated and shared values enable consistent decision-making. The five values guide public officials through choices so that it is easy to make ethical decisions and to speak honestly and openly. This is why the model is structured as it is and why values are an essential component.

The elements and values in the Model form the basis of the ethics that should be applied by public officials. The Model draws on a wide range of overseas and Australian sources. It has been designed to fit in the Australian context and with principles promoted by the ICAC.

## The Model helps:

### Public officials

to identify and understand their responsibilities by providing guidance about expected standards of behaviour.

### The public

to understand the behaviour they should expect from public officials and compare it to the conduct observed.

### Job applicants

to meet the NSW public sector requirement “*a commitment to ethical practices*” that appears in all agency position advertisements.

### Agencies/councils

to test potential employees / suppliers / contractors for their understanding and commitment to public sector ethics.

### Suppliers/contractors

to understand their public duty responsibilities when working for government.

### Strategic planners

to ensure plans are based on common sector wide values. The Model provides the opportunity for consistency in service delivery both throughout individual organisations and across the State.

### Managers & supervisors

to describe expected behaviours and assess employee performance.

The Model underpins ICAC materials which assist NSW agencies and local councils to promote ethical conduct and practices. The model should be a common starting point, or base line, for ethical public sector agencies and local councils in NSW.

This Model provides the basis for agencies and councils to tailor their codes of conduct and value statements to their individual needs. Agencies and local councils should require behaviours from their employees that exceed, or at least meet, those identified in this Model.

In the next reporting period the ICAC will be introducing the Model of Public Duty to NSW agencies and local councils as part of a suite of materials to maintain and enhance ethical standards and practices within NSW public institutions.

# Informing the people of NSW

The Commission was established in response to community demand for improved ethical standards in the public sector. Since the ICAC's creation, that demand has translated into broad support for the ICAC. Recent ICAC community attitude surveys have shown that this support is increasing.

Such support is gratifying, but it cannot be taken for granted. The ICAC surveys also revealed that there are widely held misconceptions about the ICAC. If not corrected, these can lead to the formation of false expectations about what the ICAC can do, and dissatisfaction about the ICAC's performance. To ensure it will be understood and supported by the community, the ICAC continually needs to inform the people of NSW accurately about its work.

The public sector is the prime target of the ICAC's education resources. However public servants also belong to NSW communities. The values and standards they bring to work reflect those of the community. By working to influence community attitudes and values, the ICAC is also helping shape public sector standards both now and into the future.

Members of the community can also report possible corruption to the Commission. This is another reason why community education is important. To take responsible action against public sector corruption, individuals need information and guidance about how to report it.

## YEAR IN REVIEW – COMMUNITY EDUCATION

Reacting to increasing community demand for a public sector that behaves ethically, the ICAC responds by:

- informing the community about the ICAC and its work
- helping people take responsible action against corruption by providing information and materials
- giving input into formal and professional education by helping shape ethical attitudes and behaviours
- keeping in touch with international approaches to corruption prevention, education and investigation.

## INFORMING ABOUT THE ICAC AND ITS WORK

The ICAC needs to communicate with the people of NSW—not only to tell them about the ICAC's work, but also to provide the information they may need to act against corruption. In this activity the ICAC is largely reliant on mass communication strategies—in particular using print and electronic news media, and more recently, the internet.

### Internet

The aim of the ICAC's website development is to improve communication of relevant information to public sector and community audiences.

In-house development of the site continued during 1998–99. All major components of the first stage of the ICAC web site plan were completed, but the implementation of further plans was limited to the internal capability available. The ICAC tendered for the further development of the site including:

- re-designing the home page, site structure and site appearance
- advice about hardware and software specifications
- systems for simultaneous internet publication of reports and other publications
- evaluation and feedback systems for the site

- further development of site content and site management procedures.

The development report was received and accepted by Senior Management and planning for further development of the site is proceeding.

## Media

Most media attention is on ICAC public investigation hearings while ICAC initiatives in corruption prevention, education or research tend not to attract interest.

Significant media coverage in 1998–99 included:

- the finding that NSW Fair Trading Minister Brian Langton MP acted corruptly in his use of travel allowances (Mr Langton has lodged an appeal)
- hearings into the relationship between NSW Government MP Paul Gibson and convicted criminal Louis Bayeh
- hearings into the Department of Corrective Services and Corrections Health
- the exposure of expensive tendering irregularities in Liverpool Council.

Good coverage, was received for the release of:

- *Accountable Health & Building Inspections: Recommendations for Local Government*, particularly in regional and suburban press, which were targeted with localised news releases
- *Investigation into Parliamentary & Electorate Travel: Second Report - Analysis of administrative systems & recommendations for reform*
- research into prisoner case management by the NSW Department of Corrective Services.

A series of meetings between senior ICAC staff and cadet journalists from major Sydney metropolitan news organisations was held last year to increase media understanding of the benefits of corruption prevention, education and research in meeting the ICAC's statutory responsibilities. The meetings were suspended during 1998–99 pending Commission research into awareness of the ICAC among more than 100 journalists throughout NSW.

Daily requests from journalists for information about ICAC-related matters are handled by the Media Section, which also arranges comments by the Commissioner or other senior staff.

Basic media training of ICAC officers likely to be exposed to journalists' questions about Commission activities in the community or with

public sector agencies in regional areas continued during 1998–99.

## Publications

Reports and other materials published during the year are listed in Appendix 5.

## HELPING PEOPLE TAKE RESPONSIBLE ACTION AGAINST CORRUPTION

Information is made available to those who want to take action against corruption, including guidance on how to deal with it. In particular, the ICAC targets for assistance those who, because of their lack of information, may be most vulnerable to corruption and least aware of the NSW Government's intolerance of corruption and the capacity of the ICAC to intervene. To this end, long-term projects are being undertaken addressing those whose first language is not English, those who have low literacy levels, and those who are geographically isolated.

### Assistance to those whose first language is not English

A poster in English and a mix of languages and separate brochures were produced in 11 community languages: Arabic, Chinese, Croatian, Greek, Italian, Korean, Russian, Serbian, Spanish, Turkish and Vietnamese, as well as English. The message was 'Bribery = Crime in anyone's language'.

A press release advising NESB community members about the risks of corruption was translated into the 11 community languages and sent to ethnic press outlets. Eighteen newspapers, with a combined readership of over 240,000 people, published the information.

The ICAC also ran workshops with community workers and ethnic agency members to raise awareness of corruption.

### Assistance to members of the public in reporting corruption

The ICAC Act provides for the people of NSW to give information about alleged corruption to the ICAC. An examination of how matters reported by the public are handled, and people's experience of the ICAC revealed the need to better inform potential complainants about the ICAC's jurisdiction.

As a result, new information was produced to send to members of the public who enquire about how to provide information.

### Community advisors

The *Guide for Community Advisors* equips people who work in community advisory roles with information to help enquiries with corruption related problems. During the year the *Guide for Community Advisors* was evaluated. Recipient feedback indicated that the resource complemented the advisors' community work and the level of information was suitable. Dated information was replaced and the resource was again promoted.

### INPUT TO FORMAL AND PROFESSIONAL EDUCATION

Young people are a key audience of the ICAC because they are the citizens, decision-makers and public servants of the future. The ICAC has developed educational resources for schools on ethics.

Resources include:

- *Talk of Toppsville*—Kindergarten to Year 6 Science and Technology
- *Valuing our Work*—Years 7 to 10 Design and Technology
- *Ethics in Design and Technology*—HSC Design and Technology
- *Ethics and Enterprise*—HSC Business Studies
- *The Individual and the State*—HSC Legal Studies.

### Promoting existing schools resources

Rather than developing more resources, the emphasis this year has been on increasing the use of available material.

A promotion of *Ethics and Enterprise* brought in over 175 orders, bringing the kit into about 80 per cent of schools that teach the subjects of business studies and year 10 commerce.

### Minister's Young Designers Award

The *Minister's Young Designers Award* (MYDA) is a joint initiative of the Office of the Board of Studies NSW, NSW Department of Education and the Education Minister's office. It encourages Year 7 and 8 students of Design & Technology in NSW to

achieve the attitude and value outcomes that are strongly aligned with ethical reasoning.

The 1998 winners were Jonathan Bailey and Andrew Park from the Redeemer Baptist School, Sydney, for their 'Attention Seeker!' project which addressed the needs of hearing impaired students in the classroom and on the sports field.

The MYDA Management Committee has recognised the value of ethics education in design and technology and in 1999 will be increasing the profile of the ICAC's ethics judging criteria and resources. As a result, the ICAC has increased its sponsorship from \$5,000 to \$10,000 for this calendar year.

### New masters course on corruption and anti-corruption – Australian National University

The ICAC, for some years, has presented lectures on corruption prevention methodology to graduate students at the Australian National University Asia Pacific School of Economics and Management.

In 1998, the University established a new course on corruption and corruption prevention methodology, basing it on the ICAC corruption prevention approach and using ICAC corruption prevention and investigation officers as lecturers and facilitators.

Presenting ICAC corruption prevention methods in a rigorous academic environment creates discussion and criticism, which can be used for ongoing development of those methods.

The Indonesian Government Auditing Organisation requested a summary version of the course at the Indonesian Anti-Corruption Forum in Jakarta in February 1999.

### INTERNATIONAL LIAISON

#### International visitors

The ICAC is seen as an international leader in the field of corruption prevention, education and investigation. International delegations visiting the ICAC during 1998–99 are shown in the following table:

Table 14: International delegations visiting the ICAC during 1998–99

Visitor/Delegation	Purpose of visit
Senior Thai Public Servant delegation	To discuss a range of issues concerning public sector management, including: <ul style="list-style-type: none"> <li>• performance and accountability in the Australian public sector</li> <li>• the checks and balances of the Australian political system</li> <li>• transparency of decision-making</li> <li>• anti-discrimination and anti-corruption measures in the Australian political system.</li> </ul>
Mr Merhej, Lebanese Minister for Administrative Reform	To discuss a range of public sector management issues, including: <ul style="list-style-type: none"> <li>• corruption, fraud and ethics</li> <li>• public sector reform and privatisation.</li> </ul>
Senior People's Republic of China Public Officials—representing the Chinese Ministry of Foreign Affairs, the Supreme People's Court and the Ministry of Justice	To be briefed on key operational sections of the ICAC (Legal, Investigations and Corruption Prevention).
The Hon Vincenzo Siniscalchi, Deputy President of the Anti-Corruption Commission, Italy, and Member of the Lower House of the Italian Parliament	To discuss anti-corruption measures of the ICAC.
Senior delegates from the South African Public Service Commission	To learn from the reform experience of the Australian Public Service, and selected federal and state agencies.
Joy Hassell, Director Internal Audit, East Tennessee State University	To learn more about current fraud control, corruption, conflict of interest, and code of conduct methods in Australia.
Members of the Irish Parliament's Committee on Members' Interests	To gain a general briefing on the functions of the ICAC; to discuss issues related to the pecuniary interests of MPs.
Bangladesh Public Administration Reform Commission	To study the operations of the ICAC.
Vietnamese Procurator delegation	To study the operations and training techniques of the ICAC's legal and investigations sections.
Mr Aun Moniroth, Secretary-General, Cambodian Ministry of Economy and Finance	To discuss: <ul style="list-style-type: none"> <li>• public financial management</li> <li>• public sector management reform</li> <li>• the role of government in facilitating and supervising appropriate private investment.</li> </ul>
Thai Senior Study Group Mission on Public Sector reform	To study the operations of the ICAC.
Mr Thomaseu Warren, Chief Auditor of Samoa	To discuss the workings of the ICAC's Corruption Prevention & Education, Investigations and Legal sections.
Mr Gerald Zackios Attorney-General of the Marshall Islands	To discuss the impact of corruption on government officials, how Australia is attempting to eradicate corruption, practical measures and good governance.
Vietnamese court judges delegation	To compare the ICAC to institutions such as the PIC, as well as to cover: <ul style="list-style-type: none"> <li>• role and overview of the Commission</li> <li>• powers vested in the ICAC (especially investigations)</li> <li>• how the Commission undertakes investigations</li> <li>• right of the ICAC to investigate, and relationship with, the judiciary.</li> </ul>
Vietnamese prosecutors – first delegation	To gather information on how the ICAC undertakes investigations.
Vietnamese court judges – second delegation	To discuss: <ul style="list-style-type: none"> <li>• role and overview of the Commission</li> <li>• powers vested in the ICAC (especially investigations)</li> <li>• how the Commission undertakes investigations</li> <li>• right of the ICAC to investigate, and relationship with, the judiciary.</li> </ul>



## OVERSEAS VISITS

To keep a breast of new developments in ethics and corruption minimisation, and to share its expertise,

the Commissioner and selected staff attended conferences and visited agencies with cognate and related functions.

Table 15: Overseas visits 1997–98—Purpose and costs

Officer & Dates	Country visited	Purpose	Cost
Hon BSJ O'Keefe, Commissioner August 1998	France	<i>Seminar on Corruption in Public Administration</i> , Nice At the request of the Union Internationale des Avocats, the Commissioner delivered a paper on the objectives and functions of the ICAC and its interaction with government departments	Cost of travel met by Commissioner personally  \$2,372 for accommodation and sustenance met by ICAC
	October 1998	Thailand <i>The Office of the Commission of Counter Corruption (OCCC)</i> Bangkok The Commissioner had discussions with the Deputy Director of that office regarding a proposed training visit by five OCCC officers to the ICAC, to be funded by AusAID.	Cost of trip met by Commissioner personally
	Ireland	<i>Select Committee of the Irish Parliament on the review and implementation of a code of conduct for Irish MPs</i> Addressed the Committee on the experience in NSW. The select committee subsequently sent representatives to NSW to examine the effectiveness of the NSW Code for Parliamentarians.	
November 1998	Hong Kong	The Commissioner returned to Australia via Hong Kong where he consulted with the Commissioner of the Hong Kong ICAC.	
	United Kingdom	Second meeting of an <i>Expert group to formulate reforms to economic management and good governance</i> . Invited to London to participate in the meeting. The group was supported by top level representatives of the World Bank, International Monetary Fund and Organisation for Economic Co-operation and Development.	Primary costs in attending Commonwealth Secretariat met by Secretariat.
	Thailand	<i>Constitutional Office of the Commission of Counter Corruption</i> . Held meetings with the above office in Bangkok.	ICAC met remaining costs of \$3,876
March 1999	Hong Kong	<i>Hong Kong ICAC Silver Jubilee Conference</i> The Commissioner, and the Director Investigations, attended the conference, delivered a paper and chaired a plenary session.	Cost of travel and attendance met by the Commissioner and Director Investigations personally

Officer & Dates	Country Visited	Purpose	Cost
June 1999	Arab Republic of Egypt	<i>Administrative Control Authority (ACA) of the Government of the Arab Republic of Egypt</i> Two presentations were made.	Costs incurred in Egypt met by the Egyptian Government, except for certain incidental expenses.  Accommodation costs in Washington met by Commissioner personally.  Travel undertaken on 'round the world' ticket. Total contribution to travel by ICAC \$33,075
	Israel	<i>4<sup>th</sup> International Jerusalem Conference on Ethics in the Public Sector, Jerusalem</i> Delivered a paper at the conference and participated in a number of other sessions.	
	United States	Made presentations to the US Office of Government Ethics, the US Department of State, The Arms Control and Disarmament Agency, the US Information Agency, the FBI and the World Bank in Washington DC.	
<b>Guy Slater, Director, Investigations</b> September 1998	New Zealand	<i>Annual National Technical Support Unit Conference in Wellington.</i> Attended, with ICAC's Manager, Technical Services, Paul Empson and made presentations on equipment and methodologies to assist the conduct of covert investigations.	\$3,738 (costs for both Guy Slater and Paul Empson)
May 1999	Washington DC	<i>International Group of Experts on Corruption 2nd Working Session</i> Hosted by the FBI Washington and chaired by Interpol. A Mission Statement and Code of Conduct were designed, with a manual on Best Practices which will be developed for anti-corruption agencies throughout the world.	\$3,965
May 1999	United Kingdom	<i>Fourth International Convention on Financial Fraud, London</i> This convention related to fraud or money laundering which pose a threat to both financial institutions and law enforcement agencies.	\$7,565
April 1999		<i>Hong Kong ICAC Silver Jubilee Conference</i> Guy Slater joined the Commissioner at this Conference in a private capacity.	Nil – all costs met by Guy Slater personally
<b>Principal Corruption Prevention Officer, Nick Wolanin and Senior Investigator, Grant McKay</b> February 1999	Indonesia	<i>Indonesian Anti-Corruption Forum in Jakarta.</i> Provided advice on a national anti-corruption strategy and gave a presentation.	Nil – All costs met by Australian National University



**Margaret Brodie, Director, Corporate Services and Research**



# Informing anti-corruption strategies

As outlined in other chapters of this Report, ICAC research is increasingly being used to inform investigation, prevention and education strategy. For example, researchers have participated in the Cadix investigation team and are able to influence outcomes by identifying corruption prevention needs.

ICAC research is also sought by many agencies working to combat corruption within NSW, nationally and internationally.

The ICAC has found that surveys of employees' views give important insight into the effectiveness of efforts to minimise corruption. Employees' beliefs about corruption can perpetuate corrupt practices. Since employees (including private sector contractors undertaking public work) are in the best position to both observe any corruption and to take action, it is important to consider their attitudes and beliefs. Two surveys were completed (*Private contractors' perceptions of the public sector* and *Case management in NSW correctional centres*) and two others were commenced (*Ethical culture project* and *Unravelling corruption II*) during the year.

Focus groups were conducted with public sector managers to identify strategies they found useful for minimising corruption and promoting integrity within their agencies. The lessons from their experiences can then be disseminated to others in the public sector.

Attitudes of the public were also examined to determine community awareness of corruption and support for the minimisation of corruption. The ICAC regards a community that refuses to accept corruption as an important element in the fight against corruption in the public sector.

The *ethical culture project* researched ethics and organisational change literature to examine empirical evidence (as opposed to merely stated opinion) of how ethical culture impacts on the efficient functioning of an organisation as well as to identify which organisational factors impact upon ethical culture.

## YEAR IN REVIEW— RESEARCH

In summary, areas for intervention identified through research included:

- organisational culture, since organisational dynamics appear to have more influence on ethical workplace decisions than the individual's personal values
- the commitment of and example set by management
- management taking, and being seen to take, effective action against corrupt behaviour
- the need to raise awareness within contractors of the public sector's ethical expectations when the contractors are engaged to undertake public sector work
- the role of middle managers in modelling behaviour and promoting values, since middle managers have more regular and direct contact with staff.

## ETHICAL CULTURE PROJECT

The ICAC is looking into ethical culture in the NSW public sector. The research project has two components:

- a literature review which summarises international research
- a survey to explore the relationship between the tendency to behave unethically in an organisation and the perceptions about organisational leadership and values.

The literature review was published in December 1998. *Ethics – The Key to Good Management* examines empirical evidence of how ethical culture affects efficiency in an organisation as well as identifying organisational factors that impact upon ethical culture. The literature showed that emphasising ethical work practices has a positive impact on the efficiency of an organisation. For example, research has shown that the ethical tone of an organisation impacts upon:

- efficiency and effectiveness
- decision-making processes
- employee commitment and job satisfaction

- employee stress
- employee turnover.

Ethical culture has traditionally been considered difficult to understand or measure. The aim of the survey is to take the major findings in the literature, as outlined in *Ethics—the Key to Good Management*, and use them to create a tool to help public sector managers pinpoint problem areas in creating a culture of integrity in their organisations.

## PRIVATE CONTRACTORS' PERCEPTIONS OF THE PUBLIC SECTOR

The NSW public sector is relying more on private sector contractors for the performance of services. As there are different rules governing work practices in these two sectors, it is important that the public sector provides private sector contractors with the appropriate information on its rules and regulations. Accordingly, it is important to understand the knowledge and misconceptions of private sector contractors.

The ICAC conducted a study of private sector perceptions of the public sector. A telephone survey was conducted with more than 200 contractors from private sector organisations that had gained public sector contracts in the previous 12 months.

Key findings from the survey include:

- despite the public sector being considered harder to deal with (by 53 per cent of respondents) and less profitable (62 per cent), 57 per cent had no preference for dealing with either the private or the public sectors
- 64 per cent of respondents said they were aware of specific rules governing NSW public sector contracting
- 57 per cent of respondents thought that many public sector rules and regulations are pointless but private contractors who perceived the public sector to be more ethical were less likely to consider the rules and regulations to be pointless
- 64 per cent of respondents said public sector duty was relevant to them when doing work for the public sector and 63 per cent agreed that they should adopt public sector ethical values when doing public sector work
- 20 per cent said they quote higher prices to the public sector as a result of the added rules and regulations but 33 per cent said they quote less

- respondents believed that the public sector considered 'cost' to be the most important criterion for selecting contractors when compared with 'proven experience', 'proven quality of product or service' or 'honesty and integrity of the contractor'. Honesty was considered the least important of these four criteria
- 55 per cent of respondents said that public sector rules impact on their capacity to deliver work mainly due to decreased flexibility
- 56 per cent of respondents did not think there were different levels of honesty between the public and private sectors
- contractors who perceive public sector duty relevant to them in their public sector work were also more likely to know about public sector rules governing contracting
- private contractors who possess a better understanding of the core values which underpin public sector work may also have a more positive attitude to public sector work.

More information about this research can be found in the report, *Private contractors' perceptions of working for the NSW Public Sector*, published in January 1999.

## DISCUSSION PAPER ON THE CORRUPTION PREVENTION CHALLENGES FACING PUBLIC SECTOR MANAGERS

The ICAC regularly seeks the experiences and opinions of public sector and local government managers (through focus groups and surveys), as they are often the best sources of information about the issues confronting public sector organisations in the fight against corruption and the promotion of ethical behaviour.

The key challenges which public sector managers have identified in their organisations, and the approaches they have employed in their efforts to make workplaces as corruption-free as possible, were identified during two series of focus groups involving 94 senior public sector managers. The challenges and approaches are summarised in *Tips from the Top: Senior NSW Public Sector Managers Discuss the Challenges of Preventing Corruption*, published in April 1999.

This paper is intended to stimulate thought and discussion among managers about how to optimise corruption prevention strategies within their own organisations.

The key issues which managers said were critical to corruption prevention were:

- trust in management
- being able to change the organisation's culture
- taking effective and visible action against corrupt behaviour
- commitment from the top
- effective training.

Issues they thought impacted negatively on trust levels within the organisation mainly related to organisational change. It was suggested that many of the changes in the public sector have resulted in loss of the traditional public sector ethos of working for the community and its replacement with political expediency and a bottom line mentality. It was suggested that, as a consequence, public sector employees have become cynical about what motivates management and trust levels have dropped.

The consistent and overwhelming message from managers was that corruption prevention strategies require thought, effort, and commitment from the top and should form part of an overall integrated management strategy rather than be treated in isolation.

## UNRAVELLING CORRUPTION II

The ICAC is conducting a survey on how perceptions of workplace behaviours and attitudes to reporting corruption have changed over recent years.

In 1993 the ICAC conducted the first large-scale survey of attitudes to corruption in Australia. This survey provided significant insight into the nature and diversity of public sector employees' beliefs about what was considered to be corrupt behaviour in the workplace as well as identifying barriers to taking action about corruption.

The ICAC is now seeking to repeat this survey, with a random sample of approximately 1500 public sector employees across NSW, to find out whether attitudes and perceptions held by NSW public sector employees in 1999 differ from those held in 1993.

## COMMUNITY AND JOURNALIST ATTITUDE SURVEY 1999

One of the goals in the ICAC Corporate Plan 1999–2001 is to monitor and report on community perceptions of the ICAC and its effectiveness.

Community surveys contain data on the public's perceptions of corruption and their understanding of the work of the ICAC, and the public's level of support for that work.

The aims of the 1999 Community Attitude Survey, using a sample of community members and journalists were:

- to gather statistics for comparison with previous years
- to compare journalists' attitudes with community attitudes
- to analyse the misconceptions of journalists which will enable a targeted education strategy to correct them.

The 1999 Community Attitude Survey was conducted with a random sample of 514 people over the age of 18, and 100 journalists from print, radio and television across New South Wales. The survey explored people's attitudes to corruption, their perceptions of the effects of corruption, and how big a problem corruption was for the community. Awareness of and support for the ICAC was also explored.

Two-thirds of the NSW community members interviewed said corruption had a personal, mostly financial impact on them and their families. Along with this view of corruption as a problem went a strong sense of responsibility for reporting corruption (99 per cent of journalists, 87 per cent of community members). Although most people in the community (87 per cent) felt responsible for reporting corruption, almost half of them felt that there was nothing they personally could do about corruption (48 per cent). Journalists had a much stronger belief that they could do something about it (87 per cent).

Although almost half of the NSW population who participated in the survey could spontaneously name the ICAC, they also held misconceptions about the role and jurisdiction of the ICAC. One-third of the community members thought the ICAC had powers to prosecute those found to have acted in a corrupt manner and one-third thought the ICAC had jurisdiction over the private sector even when it did not involve the public sector. Nearly one-third of community members thought the ICAC was the anti-corruption body for the whole of Australia.

ICAC's responsibility to educate the community was the least known function of the organisation (50 per cent of journalists, 47 per cent of community members).



The ICAC was considered successful at exposing corruption in NSW (97 per cent of journalists, 84 per cent of community members) and successful in reducing corruption (70 per cent of journalists, 59 per cent of community members). It was considered the most appropriate organisation, primarily due to its independence, to investigate allegations of corruption about local councillors (100 per cent of journalists, 95 per cent of community members), state politicians (100 per cent of journalists, 97 per cent of community members) and judges and magistrates (95 per cent of journalists, 93 per cent of community members).

An interesting finding was the similarity of attitudes between community members who worked in the public sector and those who worked in the private sector. The only significant difference was their recall of the name of the organisation set up to deal with corruption, with those working in the public sector more likely to be correct.

## **CASE MANAGEMENT IN NSW CORRECTIONAL CENTRES**

Research on case management in NSW correctional centres was completed during the year in conjunction with an ICAC investigation into the Department of Corrective Services that included a segment on improper relationships between some members of staff and inmates in New South Wales correctional institutions. The importance of case management as a method of managing inmates became apparent as the investigation progressed and public hearings were held. The research was undertaken to enable the ICAC to develop a better understanding of the case management method.

The project aimed to provide an overview of the historical context of case management and its contemporary application to corrections in NSW, elsewhere in Australia and overseas. The day-to-day operation of case management in NSW corrections was also explored through interviews with officers and inmates in NSW correctional centres.

Findings indicate that a substantial number of officers and inmates consider case management to be 'a good thing' - officers because it enables them to get to know the inmates better and inmates because it provides them with a specific officer whom they can approach. Inmates were concerned about the confidentiality of any information the

officers had about them. Some officers felt that inmates only engaged in case management because it was expedient. Training of officers and recognition of the pivotal role they have in the delivery of case management was identified as an issue for management consideration.

A report on this research was published in March 1999. To assist with the implementation of the recommendations flowing from this research, an ICAC research officer was assigned to work with the Department of Corrective Services (at their request) for an initial period of six months, commencing in January 1999. At the end of the financial year this assignment was extended for a further three months.



# Supporting Investigations, Prevention, Education and Research

The ICAC is a small agency with unusual and challenging work. The staff of the ICAC accepts this challenge and does so with considerable commitment. An equitable and safe working environment complemented by good accommodation and reliable support services, means that people are able to get on with their jobs. The Commission's operations are supported by the Corporate Services and Research Unit, which provides effective management of staff and resources.

## YEAR IN REVIEW— CORPORATE SERVICES

1998–99 has been an extremely productive year for Corporate Services. Highlights were:

- registration of the ICAC Award in September 1998 and implementation of the associated changes
- redevelopment of the Data Collection System to underpin a more strategic approach to work undertaken by other areas of the Commission
- replacement of the aged PABX and all telephones
- installation of a Defence Signals Directorate E3 rated firewall as the first step towards secure interconnectivity
- placement of over 5,000 closed files in off-site secure storage.

During the year a review of the functions and structure of Corporate Services was commenced to ensure that the greatest possible efficiency and effectiveness in the delivery of services is maintained.

## HUMAN RESOURCE MANAGEMENT

### ICAC Award 1998

Conditions of employment for ICAC staff, including salary arrangements, are established in the ICAC Award 1998. It replaced a 1994 Enterprise Agreement and expires on 31 December 1999.

This Award was a consent Award approved by the Industrial Relations Commission on 18 September 1998. It was negotiated by an ICAC Enterprise Bargaining Committee comprising three staff, a Public Service Association Officer and two management representatives. Staff were consulted throughout negotiations.

Other conditions of employment for ICAC staff are contained within Commission policies and procedures.

### Commission Consultative Group

The ICAC's strong commitment to providing a consultative culture and framework continued

during the year. The ICAC Award 1998 provides for the Commission's Consultative Group (CCG) as the formal mechanism for consultation and communication between staff and management on matters of policy and procedure affecting staff conditions.

The CCG has five elected staff representatives and three senior management representatives appointed by the Commissioner. The major focus for the CCG during 1998–99 has been implementation of matters arising from the new ICAC Award 1998. The CCG met monthly during the year and dealt with the following matters:

- reviewed all Commission policies to ensure consistency with the new ICAC Award
- provided a range of child care resources to assist staff with child care responsibilities
- developed and implemented a new 'three tier' rating scale within the Commission's Individual Performance Management Program (IPMP)
- monitored changes in employment conditions within the public sector
- reviewed Grievance Mediation and Workplace Harassment policy and procedures.

Staff members of the CCG were Jan Daly, Corri Zerebeski, Peter Stathis, John Warburton and Nadja Diessel. Kim Richardson was appointed as a staff representative following Nadja Diessel's resignation. Reserve staff members were Sue Nevin-Taylor and Jan Jones. Management representatives were Margaret Brodie, John Feneley and Peter Gifford. John Shipway, Human Resource Manager, acted as Executive Officer for the CCG.

## Equal Employment Opportunity Committee

The ICAC has an Equal Employment Opportunity [EEO] Committee comprising staff representatives elected every two years and a representative of senior management. This Committee reports to the Commissioner through the CCG and is responsible for drafting the ICAC's Management Plans required under the Ethnic Affairs Commission Act and the Disability Services Act. Although not required by law, the ICAC also has Management Plans which cover EEO and the NSW Government's Action Plan for Women. The Committee advises on the development and introduction of policy related to these four areas.

1998–99 staff members of the Committee were Andrew Biro, Giselle Tocher, Raymond Kwan, Corri

Zerebeski, Kim Richardson and Arianne van der Meer. Margaret Brodie represented senior management on the Committee. John Shipway, Human Resource Manager, was the Committee's Executive Officer.

The distribution of staff by level and employment basis on 30 June 1999 is shown in tables 18 and 19 on page 61.

## Equal Employment Opportunity, Ethnic Affairs Priority Statement, NSW Government Action Plan for Women, and Disability Services Program

### EEO Management Plan

The ICAC is not bound by Part 9A of the Anti-Discrimination Act, however the Commission chooses to comply in a way that will allow comparisons with other public sector agencies. The Commission has developed its EEO Program following the NSW Public Sector principles and guidelines issued by the Office of the Director for Equal Opportunity in Public Employment and the special needs of the Commission.

### NSW Government Action Plan for Woman

The Commission's EEO Management Plan ensures compliance with the NSW Government Action Plan for Women.

### Ethnic Affairs Priority Statement

The Commission is a 'public authority' in terms of Section 5 of the *Ethnic Affairs Commission Act, 1996*. It recognises and values cultural diversity and is committed to ensuring that the principles of cultural diversity are reflected in its corporate and strategic planning. The Commission is not a 'key agency' for reporting purposes under the Act.

### Disability Services

*The Disability Services Act* binds the Crown (Section 24[1]) and the Commission is committed to ensuring that the human rights of persons with a disability are upheld in the services and programs of the Commission that may be available to them.

### Outcomes

The Commission is committed to achieving the following outcomes:

- Diversity
  - a skilled workforce which reflects the diversity of the NSW community

- EEO, ethnic affairs and disability strategies included in Commission planning.
- **Equity**
  - a workplace culture displaying fair practices and behaviours based on known policies and procedures that are fair
  - employee views are heard, considered and, when appropriate, acted upon
  - managers and employees are informed, trained and accountable and assisted by a sound information base.
- **Opportunity**
  - improved employment access and participation for EEO group members
  - development of staff and management practices to improve accessibility to EEO group members as customers and employees.
- a workplace free from discrimination and harassment
- specifying accountabilities for EEO outcomes in the performance agreements of Directors and Managers
- readily available information about EEO and associated policies and programs
- access to Commission developmental opportunities for EEO groups
- all Commission positions are designed and evaluated equitably
- performance management agreements are achieved equally for all staff
- effective monitoring and program evaluation processes inform Commission strategic planning
- opportunities for employment and training are offered to people who have a disability
- improved access for EEO groups to services and materials provided by the Commission.

The Commission's Management Plan aims to achieve the following outcomes:

- a skilled workforce which reflects the diversity of the NSW community
- a range of employee diversity at all Commission salary levels and in all occupations
- pay equity for identified EEO groups
- retention of employees from EEO groups
- selection and appointment to Commission positions based on merit

Highlights in progressing towards these outcomes in 1998–99 are shown in tables 16 and 17:

Table 16: Monitoring numbers of staff belonging to identified EEO groups employed by the Commission

	Women	ATSI	NESB	Disability
Target (2003)	50%	2%		
1996–97	51%	1.4%	14%	8.4%
1997–98	51.4%	0.7%	21.4%	5%
1998–99	52%	0.7%	11.6%	6%

Table 17: Monitoring of wage and other criteria

Criteria monitored	Result 1998–99
Monitoring average weekly full-time gross earnings of women as a percentage of average weekly full-time gross earnings of men.	In 1998–99 women's average weekly full - time gross earnings were 72% of average weekly full-time gross earnings paid to men.
Monitoring average weekly full-time gross earnings of other EEO groups as a percentage of average weekly full-time earnings of all staff.	In 1998–99 people from a non-English speaking background employed at the Commission earned an average 91% of the average amount earned by all staff. The percentage for people from Aboriginal or Torres Strait Island background was 95%.
Monitoring higher duties opportunities for staff from EEO groups against their proportion in the Commission's workforce.	Twenty-four staff received payment for higher duties during the year. Of these, 4 were classified as NESB. As NESB staff represented 11.6% of the Commission's staffing, the 16.7% performing higher duties was substantially greater than their proportion in the whole staff. No ATSI staff or staff with a disability requiring adjustment received payment for higher duties during the year.

Table 18: Total staff by level at 30 June 1999

LEVEL	TOTAL STAFF*	Staff responding to EEO data (Respondents)	Men	Women	Aboriginal & Torres Strait Islander People	People from Racial, Ethnic, Ethno-Religious minority groups	People whose language first spoken as a child was not English	People with a disability	People with a disability requiring adjustment at work
< \$25,761	-	-	-	-	-	-	-	-	-
\$25,761 - \$33,835	5	100%	-	5	-	1	1	1	-
\$33,836 - \$37,825	7	100%	1	6	-	1	-	-	-
\$37,826 - \$47,866	39	100%	6	33	-	8	5	3	-
\$47,867 - \$61,899	35	100%	18	17	1	12	8	1	1
\$61,900 - \$77,374	36	100%	27	9	-	5	3	2	-
> \$77,374 (non Directors)	11	100%	7	4	-	3	-	1	-
> \$77,374 (Directors and Commissioner)	5	100%	4	1	-	-	-	-	-
Other**	8	100%	8	-	-	-	-	1	1
<b>TOTAL</b>	<b>146</b>	<b>100%</b>	<b>71</b>	<b>75</b>	<b>1</b>	<b>30</b>	<b>17</b>	<b>9</b>	<b>2</b>

\* The staff numbers referred to in the tables are actuals, not equivalent full-time

\*\* Assistant Commissioners

Table 19: Total staff by employment basis at 30 June 1999

LEVEL	TOTAL STAFF*	Staff responding to EEO data (Respondents)	Men	Women	Aboriginal & Torres Strait Islander People	People from Racial, Ethnic, Ethno-Religious minority groups	People whose language first spoken as a child was not English	People with a disability	People with a disability requiring adjustment at work
Permanent full-time	112	100%	55	57	1	26	16	7	1
Permanent part-time	12	100%	1	11	-	3	1	1	-
Temporary full-time	8	100%	3	5	-	1	-	-	-
Temporary part-time	1	100%	-	1	-	-	-	-	-
Other**	13	100%	12	1	-	-	-	1	1
<b>TOTAL</b>	<b>146</b>	<b>100%</b>	<b>71</b>	<b>75</b>	<b>1</b>	<b>30</b>	<b>17</b>	<b>9</b>	<b>2</b>

\* The staff numbers referred to in the tables are actuals, not equivalent full-time

\*\* Commissioner, Assistant Commissioners and Senior Management are all on contract.



## Occupational health and safety

The Occupational Health and Safety (OH&S) Committee—established in accordance with the provisions of the *Occupational Health and Safety Act 1984*—met five times during 1998–99. Four workplace inspections were conducted at regular intervals during the year. Staff members on this Committee are elected, as specified in the Act. New appointees to the Committee undertook the mandatory, accredited training during the year. No major problems were identified and minor issues were rectified.

Among issues dealt with during the year were:

- review of workplace injury management and rehabilitation policy and practice arising from the *Workplace Injury Management and Workers Compensation Act 1998*
- consideration of scientific evidence relating to the use of mobile phones
- recommendations for the modification of transcription equipment
- review of the ICAC Occupational Health and Safety Policy.

During the year, there were 18 incidents notified, of which four became workers compensation claims accepted by the GIO. In the light of one of these claims, the Commission, with the assistance of a consultant, reviewed its policy and practice relating to the receipt, handling and distribution of printed materials. The remaining incidents were ‘trips/strains’ and do not indicate any particular safety issue requiring attention. Total lost days arising from workers compensation absences during the year was 117.75 days (representing 49.25 days arising from old or re-occurring claims and 68.5 days from new claims). In respect of the new claims, one related to a journey claim, where lost time was 56 days.

There were no reports that could be categorised as work-related ‘illnesses’.

The Commission received a hindsight adjustment of \$13,663 from the Treasury for the 1995–96 fund year. The hindsight adjustment of premiums after three years is an important incentive in the structure of the Treasury Managed Fund. It provides an opportunity to reward agencies that, through good management, have reduced the costs of claims.

The staff members on the OH&S Committee during 1998–99 were Colin Walmsley (replaced on

resignation by Angela Gorta), Melissa Dryden, Chris Bentley and Jan Daly (Chair). Guy Slater was the senior management representative. John Shipway, Human Resource Manager, acted as the Committee’s Executive Officer.

## Grievance handling

The ICAC’s grievance mediation procedures provide a confidential way for staff to resolve matters of concern in a non-threatening way. Staff and managers can ask qualified mediators to deal with work related disputes.

Grievance mediators for 1998–99 were Melissa Dryden, John Warburton and Margaret Brodie.

## Management of internal protected disclosures

Consistent with the aims and objectives of the *Protected Disclosures Act*, the ICAC has developed internal procedures for reporting and dealing with protected disclosures made by ICAC staff. The ICAC is committed to ensuring that those who make protected disclosures do not suffer detrimental action as a result of providing such information. During 1998–99 no protected disclosures were made by staff.

## Code of Conduct

The ICAC’s Code of Conduct is reproduced as Appendix 2. The Code was amended during the year to reflect minor organisational variations.

## Statutory appointments

The Commissioner is appointed by the Governor under s5 of the ICAC Act for a term or terms not exceeding five years. In addition to exercising the ICAC’s statutory functions and powers, the Commissioner is also the Chief Executive Officer.

The Hon. Barry O’Keefe AM QC is the current Commissioner and was appointed for a five-year term in November 1994. Mr O’Keefe practised as a barrister in NSW from 1957 after graduating in Law from the University of Sydney. He was later admitted to practice in Victoria, Western Australia, the Australian Capital Territory and the Northern Territory.

He was appointed as Queen’s Counsel in NSW in 1974 and served as a member of the NSW Bar Council for eight years and as its President from 1989 to 1991. He was a member of the Legal

Profession Disciplinary Tribunal from 1991 to 1993 and is currently a member of the Curriculum Review Board of the Faculty of Law, University of Technology, Sydney and a Governor of the Advocacy Institute of Australia.

Mr. O'Keefe was appointed Chief Judge of the NSW Supreme Court (Commercial Division) in 1993, a position he held until becoming Commissioner. He has been President of the National Trust of Australia since 1991, served as an Alderman on Mosman Council from 1968 until 1991 and as Mayor for 10 years between 1977 and 1990. He was President of the Local Government Association from 1986 to 1988 and has represented Australian local government in China, Italy, Israel and Norway. He was appointed a member of the Order of Australia in 1989.

The ICAC Act permits the Governor to appoint Assistant Commissioners, with the Commissioner's concurrence, to assist the ICAC as the Commissioner requires. During the year 1998-99, the following Assistant Commissioners were appointed:

- John Stowe, QC – 1 July 1998 to 30 April 1999, to conduct hearings into allegations of corrupt conduct involving employees of the Environment Protection Agency and others, and also hearings into allegations into conduct at local council waste depot weighbridges at St Peters and elsewhere
- Peter Neil, SC – 1 July 1998 to 31 January 1999, to conduct hearings into allegations of corrupt conduct in the Department of Corrective Services
- The Hon. Jeremy Badgery-Parker, QC – 13 July 1998 to 31 December 1998, to conduct hearings into allegations made by Louis Bayeh against the Member for Londonderry, Paul Gibson MP
- John Sackar, QC – 3 March 1999 to 31 July 1999. Mr Sackar did not conduct any hearings
- W.H. Nicholas, QC – 3 March 1999 to 30 June 1999. Mr Nicholas did not conduct any hearings
- John Graves, SC – 28 April 1999 to 30 June 1999, to conduct hearings into allegations of corrupt conduct involving ticket operators at Manly Wharf
- The Hon. Jerrold Sydney Cripps, QC – 17 May 1999 to 30 June 1999, to conduct hearings into allegations of corrupt conduct involving officers of the Roads and Traffic Authority and others
- Michael Cashion, SC – 17 May 1999 to 30 June 1999, to conduct hearings into allegations of corrupt conduct in relation to an officer of Liverpool City Council and others.

## Senior management

Senior Management meets with the Commissioner weekly to assist him in the administration of the ICAC and to discuss strategic, operational and policy matters. The members of the senior management in 1998-99 were:

- **Margaret Brodie**, Director, Corporate Services and Research, appointed in November, 1995. Her responsibilities include the research program, security and all corporate service areas. Before joining the ICAC, Ms. Brodie was for five years Deputy President of the NSW Anti-Discrimination Board. She has held senior positions with Telecom and within the health system. She holds Bachelor of Arts (Sociology and History) degree, plus qualifications in social work, and strategic marketing.
- **John Feneley**, Director, Legal and Solicitor to the Commission, appointed in February, 1995. Mr. Feneley is responsible for Legal Services which provides legal, strategic and policy advice to the ICAC. He oversees the support for the Operations Review Committee, liaises with the Parliamentary Joint Committee and is the ICAC representative on a number of law enforcement committees. He holds a Bachelor of Laws degree. Before joining the ICAC, he worked in private practice in a variety of areas, including commercial and criminal law.
- **Peter Gifford**, Director, Corruption Prevention and Education, appointed in May, 1993. Mr. Gifford, who holds degrees in Arts and Economics, has worked in many areas within the public sector corporate and line management, including five years as foundation Director of the Australian Government Merit Protection and Review Agency. He has considerable experience in liaising and negotiating with the private sector and all levels of government.
- **Guy Slater**, Director, Investigations, appointed temporarily in January, 1996 and confirmed permanently in the position in November, 1996. He is a former Detective Superintendent of the Australian Federal Police. After spending four years in his country's Navy, Canadian-born Mr. Slater emigrated to Australia in 1971 and joined the Commonwealth Police in 1972. During 24

years as a police officer, he gained extensive experience in investigating organised crime, especially serious fraud and illicit drugs. He holds an Associate Diploma in Criminal Justice.

Staff numbers

At the beginning of the financial year, the ICAC employed a total of 127.8 people (equivalent full time), including senior management and the Commissioner. By 30 June 1999, this number was 129.5 with an average figure of 128.80 for the year.

Table 20: Average staff numbers 1994–1999

Year	Average number of staff (equivalent full time)
1994-95	126.7
1995-96	137.6
1996-97	134.8
1997-98	132.2
1998-99	128.8

The ICAC is organised into an Executive and four Units. Each Unit contributes to each of the Commission’s program areas. The average number of staff in each of these Units in 1998-99 is shown in the table:

Table 21: Staff number by area of employment 1998–99

Area of employment	Average number of staff (equivalent full time)
Executive	5.4
Investigations Unit	57.6
Legal Unit	13.6
Corruption Prevention & Education Unit	21.2
Corporate Services & Research Unit	31

Staff turnover and recruitment

Eighteen staff [15 permanent, 1 temporary and 2 on secondment] left the ICAC during 1998-99, with most gaining promotion/appointments to positions in either the public or private sectors.

Seventeen staff [9 permanent, 5 temporary and 3 on secondment] were recruited during 1998–99.

Staff are recruited through a merit-based selection process, which includes a stringent probity assessment. Due to the nature of ICAC work, the Commissioner may appoint employees without recourse to the standard merit selection process. This power was used twice during 1998–99.

Conditions of employment and movements in salaries

The Commissioner’s conditions of employment are contained in his instrument of appointment, with salary linked to that of a puisne judge of the NSW Supreme Court. That rate was increased by the Statutory and Other Offices Remuneration Tribunal from 1 October 1998.

The four Unit Directors with the Commissioner form the senior management of the ICAC. The Directors are appointed on term contracts that include their conditions of service and, although not part of the NSW Senior Executive Service, their remuneration is linked to that Service. Those rates were increased by the Statutory and Other Offices Remuneration Tribunal from 1 October 1998. The Tribunal determination also provided for payment of performance ‘bonuses’ in recognition of superior or most satisfactory performance outcomes. The Commissioner made determinations for performance payments in respect of each of the four Unit Directors.

Other ICAC staff received salary increases of 5 per cent from July, 1998 and 5 per cent from January, 1999.

Staff development

The ICAC has maintained its commitment to staff development through enhancing position-specific competencies and opportunities for supervisory and management training. The Commission is exploring the development of an ‘in-house’ management development program for Commission staff, focussing on management/ supervisory skills and competencies that will contribute to the Commission’s aims and objectives. This review will include the possibility of inviting participation from related agencies.

The focus on staff development was maintained in the following areas:

Training courses

The ICAC actively supported staff in skill acquisition through both internal and external training courses. Functional areas covered included analyst and investigator training, computer skills workshops, corporate management and specialist training courses for Legal and Human Resource staff, induction training for new starters, information technology, security, use of email, electronic file naming and document saving.

### Professional conferences and seminars

ICAC staff attended relevant professional conferences, both as presenters and participants, to maintain contemporary knowledge within their respective areas of expertise.

Conferences attended include:

- Second Annual Case Management Conference
- Leading Continuous Improvement and Change
- Development in the Native Title Era
- Internet Fraud Summit
- Risk Management and Strategic Planning in the Public Sector
- Intel 98 – Meeting the Challenge = The Intelligence Advantage.

### Study time

The ICAC grants up to four hours paid leave per week during each semester for those staff undertaking approved external study at an approved institution. During 1998-99, nine staff were granted leave to undertake certificate, diploma, post-graduate diploma, undergraduate degree and post-graduate degree courses covering information technology, adult education, public affairs, sociology, business administration, law, policy, criminology, communication and psychology.

### Higher duties

Opportunities for staff to act in higher positions provided valuable training for ICAC staff during the year, with 24 staff being paid higher duty allowance. However, there were numerous short-term higher duty opportunities not attracting the allowance, which is paid only for periods of 21 working days or more in the higher position.

### Career development opportunities

One staff member accessed the Career Development Opportunity Policy during the year. The policy enables staff to work in functional areas of the ICAC, other than their own, to develop skills which may lead to a permanent move, whether or not a promotion is involved. These opportunities also equip ICAC staff for subsequent career prospects elsewhere within the public sector.

### Secondments

The ICAC continued to encourage secondments of staff to other agencies. During the year

secondments of Commission staff were approved to the Department of Transport, Department of Health, Australian Federal Police (involving a swap of two officers) and the Department of Corrective Services. Existing secondments continued to the Anti-Corruption Commission in Western Australia and the Roads and Traffic Authority.

Secondments give staff experience of working in other parts of the public sector. Secondments to the Commission of a lawyer from the Office of the Director of Public Prosecutions and a member of the NSW Police Service were arranged.

### Personnel services

The Personnel Section provides policy advice, manages the ICAC's training and development program, oversees the individual performance management program, co-ordinates payroll and administers conditions of employment across the ICAC.

The Section focussed on its Strategic Plan during the year. Its objectives were developed to ensure that they contributed to the Commission's priorities of:

- continuing to develop sound relationships and work collaboratively with public sector agencies, other organisations and individuals
- continue to improve our own skills, systems and practices to advance the achievement of the Commission's priorities
- strengthen all our internal working relationships by managing expectations and promoting effective communication.

Table 22: Performance against strategic plan indicators for 1998-99

Objective	Performance
1. Maintain strategic contacts with central agencies, professional bodies and other relevant agencies to ensure that the Commission is well placed and informed on contemporary human resource issues.	Personnel staff participated in numerous central agency briefings, workshops and seminars. In addition, they attended professional training sessions to maintain a contemporary knowledge base.
2. Support management and staff to develop a working environment and organisational structure that maximises organisational and personal flexibility through a range of work practices, conditions of employment and a culture of consultation and communication.	Staff facilitated the functioning of the Commission's Consultative Group, EEO, OH&S and implemented ICAC Award matters.
3. Manage the Commission's performance management function, incorporating the use of an accredited job evaluation system and appropriate performance assessment techniques to enhance performance outcomes, including management and staff feedback.	Researched and developed proposals for the introduction of multi-rater performance management feedback.
4. Ensure the provision of a comprehensive staff development program to provide staff with the information and skills to undertake the work of the Commission.	Co-ordinated and delivered staff training for new employees; co-ordinated computer skills workshops; researched and developed proposals for an 'in-house' management/supervision training program.
5. Develop, implement and review human resource policies that meet the current and future needs of the Commission.	Systematically reviewed personnel policies and procedures.
6. Develop and promote partnerships with the Commission's senior and other managers which facilitates strategic human resource development skills acquisition.	An on-going process focussing on devolving human resource knowledge and capacity within managers and supervisors was commenced.
7. Deliver timely and quality human resource services directed at meeting the regular and on-going needs of the Commission.	Regularly achieved Guarantee of Service standards.

## INFORMATION AND TECHNOLOGY MANAGEMENT

### Records and property management

The ICAC's records and archives are managed by the Records and Property Section according to principles provided to all public sector agencies by the NSW Records Management Office and, following the assent of the *State Records Act 1998* (NSW) on 1 January 1999, the State Records Authority NSW.

Major activities undertaken in the 1998-99 period have included ensuring familiarity with and implementation of new requirements and recommendations arising from the State Records Act. Core business activities including mail registration, file creation, records induction and advice services were also undertaken this financial year in addition to project work, including the

transfer of large volumes of semi-active records to secondary storage.

The Section has participated in the Corporate Services Efficiencies Review, engaging consultants for a feasibility study on the possible implementation of a joint Library and Records Management Software system, and the upgrade of the current Records Management and Archive information databases of the Commission.

The Section continues to undertake tasks associated with the control of property resulting from the use of the Commission's formal powers and documents volunteered by interested people or disseminated from other organisations. The Property Registration system was incorporated and migrated this year into the new ICAC Corporate System, providing more comprehensive access to, and management of, the Commission's corporate information holdings.



The Section has continued to administer transcript of hearings in a way which protects sensitive information and conforms with suppression orders made by the Commissioner. Action was commenced during the year to let a new contract for the provision of transcript.

### Information technology

The Information Technology Section is responsible for providing a functional and reliable computer service to all ICAC staff. The network is based on client-server architecture and comprises a UNIX-based mini computer and NT servers, personal computers, a database management system, records, library, financial and personnel management systems and specialised desktop publishing equipment.

In 1998–99 the ICAC continued the implementation of a number of projects identified in the 1996 Information Technology and Telecommunications Strategic Plan. These projects included replacement of the PABX and Voicemail systems, installation of a firewall for external access and the completion of major functional enhancements to the ICAC Corporate System.

The new desktops, servers, and LAN Equipment, installed in March 1998, continue to be funded through an operating lease. Recent reviews have allowed for a slight increase in equipment in addition to various software upgrades.

Computer training was provided to all staff on use of the new desktop applications and on the new release of the custom ICAC Corporate System, using in-house facilities. The Information Technology Help Desk continued to provide timely solutions to basic user problems and enquiries by staff, with 85 per cent met within Guarantee of Service. Overall network availability exceeded 99 per cent and unplanned downtime was less than eight hours for the year.

### Year 2000 compliance

The ICAC is taking all action necessary to comply with the Government's Year 2000 Strategy and the Rectification Plan is 78 per cent complete. This plan will be completed by 5 October, 1999. Total cost of rectification is estimated at \$1,700,000

The Audit Office completed an independent review of the ICAC Year 2000 business risk assessment in November 1998, with favourable results.

### Information Services

A full range of library, information and data services, including reference and research, is provided by Information Services, using online and electronic systems and traditional resources. Information Services staff inform, educate and train Commission staff to use all services and resources effectively.

A planned review of the library system and records management system will be completed by the end of the financial year. The review will further develop an information system which is comprehensive, integral to core Commission business and responsive to client needs.

Information Services strengthens working relationships and promotes effective communications. It provides a useful and up-to-date guide to services on the ICAC Intranet as well as a regular newsletter, *Bibliofile*. The newsletter contains reviews of new texts, articles of interest, and tips for electronic searching.

Relationships between the ICAC and a number of other agencies, such as the NSW Police Service, the Roads and Traffic Authority and telecommunications carriers, which provide information to assist in ICAC investigations, continue to be managed effectively.

## FINANCIAL AND FACILITY MANAGEMENT

### Financial management

The Finance Section provides accounting and budgetary services to ensure the ICAC complies with the *Public Finance and Audit Act 1993*, Treasurer's Directions and government accounting practices, and financial information and advice to assist management in the effective and responsible use of the ICAC finances.

The ICAC is funded from the Consolidated Fund. As a body listed under Schedule Three of the *Public Finance and Audit Act*, the ICAC prepares annual financial statements in accordance with the *Annual Reports (Departments) Act*. Audited financial statements, including notes, appear on pages 70–83.

The ICAC received \$13.377 million in recurrent funding and \$221,000 in capital during 1998–99. The actual net cost of service was \$15.268 million.



**Internal audit, risk management and insurance**

The ICAC engages the Auditor-General to conduct an annual internal audit of the ICAC’s operations. Over the past few years the audit coverage has been extended from a broad-based analysis of financial systems to a series of more detailed examinations of critical high-risk areas. For the 1998–99 financial year these have included IT strategic planning and serving of notices during investigations.

The results of the audit review were favourable with no breaches of Government or ICAC policy being detected. Some suggested changes for streamlining processes were made and will be considered during the coming year.

The ICAC’s insurance cover for workers compensation, motor vehicles, public liability, property and miscellaneous items is provided by the NSW Treasury Managed Fund through the GIO. Premiums payable by the ICAC have not risen, reflecting the active management of claims and good management of risk.

**Fraud control**

The ICAC legislation provides that the ICAC, in carrying out its functions is to “regard the protection of the public interest and the prevention of breaches of public trust as its paramount concern”. This is reinforced in the ICAC’s code of conduct, various formal documents and procedures manuals.

**Funds granted to non government community organisations**

The Commission made no grants during the financial year.

**Major assets and acquisitions**

Major assets held by the ICAC consist of leasehold improvements, computer hardware and software, technical plant and equipment. The ICAC spent \$255,382 on capital equipment during the year. These funds were spent on various operational and technical equipment, and the replacement of the Commission’s PABX.

**Leave balances**

The liability of recreation and long service leave for ICAC employees at the end of 1998–99 follows:

Table 23: Leave balances as at 30 June 1999

Leave	Liability
Recreation Leave	\$ 850, 683
Long service leave	\$1,448,165

**Facility management**

The Office Services Section is responsible for managing the Commission’s facilities. During 1998–99 the Section managed building works to the roof arranged by the Lessor. Extensive negotiations were held with the lessor on structural maintenance of the building, resulted in a commitment to waterproofing the roof and facade, providing access to the building for people with disabilities, and replacing carpet at no cost to the Commission. This work will occur in 1999–2000.

The building lease expired in February 1999. The option of a second term as a condition of that lease was not taken up, but negotiations with the lessor resulted in the Commission entering into a new lease for six years. The new lease includes a rental reduction as well as an option to renew for five years.

**Contracting out**

The ICAC contracts out services when internal resources are scarce, cost savings are demonstrated or expertise is required. In contracting out, the Commission’s security requirements are taken into consideration.

In 1998–99, major contracts renewed or entered into included:

- provision of telecommunication equipment and services
- printing of ICAC stationery
- warehousing and distribution services.

Contracts to be market tested in 1999 – 2000 include:

- cleaning services
- recycling services
- air conditioning maintenance
- photocopier services
- printing of ICAC reports
- waste disposal.

## Energy management

During the year, the Commission has worked on the development of an energy management policy to reduce the green house gas equivalents produced by the energy consumed. Key initiatives include:

- purchasing a percentage of green power
- installing automatic turn off on all PCs
- turning out all lights as soon as staff have left.

Future initiatives will include ensuring office equipment meets energy star specifications.

Table 24: Energy consumption as greenhouse gas equivalents (tCO<sub>2</sub>)

	Electricity	Petrol
1995–96	978.7	69.9
1998–99	913.5	59.8
% increase/decrease	6.7% decrease	14.4% decrease

Table 25: Energy utilisation indices

	1995–96	1998–99	Increase/ Decrease
MJ/person/year in the Commission's premises (191 Cleveland Street Redfern)	25,238	26,626	5.5% increase
MJ/m <sup>2</sup> /year in office area at 191 Cleveland Street Redfern	1,123	1,104	1.7% decrease
MJ/km/year for Commission fleet	4.825	4.196	13% decrease

## SUPPORT SERVICES

### Office services

The Office Services Section provides a range of support services to ICAC operations. These services include accommodation management, purchasing, staff travel, fleet management, telecommunications, office equipment and general stores, and arranging maintenance of property and equipment.

The section worked closely with consultants in the design, tender and provision of a new PABX system, including console and handsets, as well as new voice mail and call accounting systems.

During 1998–99 the Section purchased a stores inventory module as part of the Commission's financial system. This involved changes to the way the Commission records receipt, storing and issuing of its stores and stationery.

### Security services

The Security Section protects ICAC staff, property, information, operations and witnesses. The NSW Police Security Management Branch is contracted to provide special constables on a 24-hour roster to assist in this function.

Security vetting of ICAC staff, companies and contract workers forms a large part of the Section's work. A total of 149 requests for vettings was received during 1998–99. The target for provision of this service is to complete 50 per cent of vetting within 15 working days except when external factors intervene. This target was bettered with 55 per cent of vetting requests being completed within 15 days. There were no detected breaches of the security of ICAC premises during the reporting period.

# Financial Statements

The financial statements that follow consist of:

- Independent audit report
- Statement by Commissioner
- Operating statement for year ended 30 June 1999
- Statement of financial position as at 30 June 1999
- Statement of cash flows for year ended 30 June 1999
- Summary of compliance with financial directives
- Notes to and forming part of the financial statements for the year ended 30 June 1999
  1. Summary of significant accounting policies
  2. Expenses
  3. Revenues
  4. Gain /(loss) on sale of non-current assets
  5. Acceptance by the crown entity of employee entitlements and other liabilities
  6. Program / activities of the Commission
  7. Current assets—receivables
  8. Current assets—other
  9. Non current assets—plant and equipment
  10. Current liabilities—accounts payable
  11. Current liabilities—employee entitlements
  12. Changes in equity
  13. Commitments for expenditure
  14. Budget review
  15. Cash and cash equivalents
  16. Reconciliation of net cost of services to net cash flows from operational activities
  17. After balance date events.

# INDEPENDENT AUDIT REPORT



BOX 12 GPO  
SYDNEY NSW 2001

## INDEPENDENT AUDIT REPORT

### INDEPENDENT COMMISSION AGAINST CORRUPTION

To Members of the New South Wales Parliament and the Commissioner

#### Scope

I have audited the accounts of the Independent Commission Against Corruption for the year ended 30 June 1999. The Commissioner is responsible for the financial report consisting of the accompanying statement of financial position, operating statement, statement of cash flows and summary of compliance with financial directives, together with the notes thereto, and information contained therein. My responsibility is to express an opinion on the financial report to Members of the New South Wales Parliament and the Commissioner based on my audit as required by sections 34 and 45F(1) of the *Public Finance and Audit Act 1983*. My responsibility does not extend here to an assessment of the assumptions used in formulating budget figures disclosed in the financial report.

My audit has been conducted in accordance with the provisions of the Act and Australian Auditing Standards to provide reasonable assurance whether the financial report is free of material misstatement. My procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report, and the evaluation of accounting policies and significant accounting estimates.

In addition, other legislative and policy requirements, which could have an impact on the Commission's financial report, have been reviewed on a cyclical basis. For this year, the requirements examined comprised compliance with:

- core business activities being in accordance with *Independent Commission Against Corruption Act 1988*; and
- the time limits set in the *Annual Reports (Departments) Act 1985* for the presentation of the Commission's annual report to Parliament.

These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial report is presented fairly in accordance with the requirements of the *Public Finance and Audit Act 1983*, Accounting Standards and other mandatory professional reporting requirements so as to present a view which is consistent with my understanding of the Commission's financial position, the results of its operations and its cash flows.

The audit opinion expressed in this report has been formed on the above basis.

#### Audit Opinion

In my opinion the financial report of the Independent Commission Against Corruption complies with section 45E of the Act and presents fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements the financial position of the Commission as at 30 June 1999 and the results of its operations and its cash flows for the year then ended.

A. C. HARRIS

SYDNEY  
5 August 1999

## STATEMENT BY COMMISSIONER

### INDEPENDENT COMMISSION AGAINST CORRUPTION

#### FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE, 1999

Pursuant to Section 45F of the Public Finance and Audit Act 1983, I state that:

- (a) the accompanying financial statements have been prepared in accordance with the provisions of the *Public Finance and Audit Act 1983*, the Financial Reporting Code for Budget Dependent Agencies, the applicable clauses of the *Public Finance and Audit (General) Regulation 1995* and the Treasurer's Directions;
- (b) the statements exhibit a true and fair view of the financial position and transactions of the Commission; and
- (c) there are no circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.



The Hon B S J O'Keefe AM QC  
Commissioner

27 July, 1999

## OPERATING STATEMENT FOR THE YEAR ENDED 30 JUNE 1999

	Notes	Actual 1999 \$'000	Budget 1999 \$'000	Actual 1998 \$'000
<b>Expenses</b>				
Operating Expenses				
Employee related	2(a)	10,155	9,506	9,257
Other operating expenses	2(b)	4,418	4,541	4,485
Maintenance	2(c)	247	285	307
Depreciation	2(d)	535	500	534
<b>Total Expenses</b>		<b>15,355</b>	<b>14,832</b>	<b>14,583</b>
Less:				
<b>Retained Revenue</b>				
Sale of goods and services	3(a)	17	25	29
Investment Income	3(b)	15	20	30
Other revenue	3(c)	43	5	32
<b>Total Retained Revenue</b>		<b>75</b>	<b>50</b>	<b>91</b>
<b>Gain/(loss) on sale of non-current assets</b>	4	<b>12</b>	<b>-</b>	<b>11</b>
<b>NET COST OF SERVICES</b>	16	<b>15,268</b>	<b>14,782</b>	<b>14,481</b>
<b>Government Contributions</b>				
Recurrent appropriation		13,377	13,377	12,936
Capital appropriation		221	240	240
Acceptance by the Crown Entity of employee entitlements and other liabilities	5	1,129	905	842
<b>Total Government Contributions</b>		<b>14,727</b>	<b>14,522</b>	<b>14,018</b>
<b>SURPLUS/(DEFICIT) FOR THE YEAR</b>		<b>(541)</b>	<b>(260)</b>	<b>(463)</b>

The accompanying notes form part of these financial statements



## STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 1999

	Notes	Actual 1999 \$'000	Budget 1999 \$'000	Actual 1998 \$'000
<b>ASSETS</b>				
<b>Current Assets</b>				
Cash	15	60	101	9
Receivables	7	33	20	93
Other	8	110	100	179
<b>Total Current Assets</b>		<b>203</b>	<b>221</b>	<b>281</b>
<b>Non-Current Assets</b>				
Plant and equipment	9	2,327	2,348	2,610
<b>Total Non-Current Assets</b>		<b>2,327</b>	<b>2,348</b>	<b>2,610</b>
<b>Total Assets</b>		<b>2,530</b>	<b>2,569</b>	<b>2,891</b>
<b>LIABILITIES</b>				
<b>Current Liabilities</b>				
Accounts payable	10	408	596	414
Employee entitlements	11	928	500	1,040
<b>Total Current Liabilities</b>		<b>1,336</b>	<b>1,096</b>	<b>1,454</b>
<b>Non Current Liabilities</b>				
Employee entitlements	11	298	280	-
<b>Total Liabilities</b>		<b>1,634</b>	<b>1,376</b>	<b>1,454</b>
<b>Net Assets</b>		<b>896</b>	<b>1,193</b>	<b>1,437</b>
<b>EQUITY</b>				
Accumulated funds	12	896	1,193	1,437
<b>Total Equity</b>		<b>896</b>	<b>1,193</b>	<b>1,437</b>

The accompanying notes form part of these financial statements

## STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 1999

	Notes	Actual 1999 \$'000	Budget 1999 \$'000	Actual 1998 \$'000
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>				
<b>Payments</b>				
Employee related		(9,222)	(8,755)	(8,751)
Other		(4,561)	(4,841)	(5,146)
<b>Total Payments</b>		<b>(13,783)</b>	<b>(13,596)</b>	<b>(13,897)</b>
<b>Receipts</b>				
Sale of goods and services		20	25	31
Interest received		22	20	47
Other		72	5	3
<b>Total Receipts</b>		<b>114</b>	<b>50</b>	<b>81</b>
<b>Cash Flows From Government</b>				
Recurrent appropriation		13,377	13,377	12,936
Capital appropriation		221	240	240
Cash reimbursements from the Crown Entity		441	200	366
Cash transfers to the Consolidated Fund		(29)	-	(34)
<b>Net Cash Flows from Government</b>		<b>14,010</b>	<b>13,817</b>	<b>13,508</b>
<b>NET CASH FLOWS FROM OPERATING ACTIVITIES</b>	16	<b>341</b>	<b>271</b>	<b>(308)</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>				
Purchases of plant and equipment		(306)	(240)	(255)
Proceeds from sale of plant and equipment		16	-	23
<b>NET CASH FLOWS FROM INVESTING ACTIVITIES</b>		<b>(290)</b>	<b>(240)</b>	<b>(232)</b>
<b>NET INCREASE/(DECREASE) IN CASH</b>		<b>51</b>	<b>31</b>	<b>(540)</b>
Opening cash and cash equivalents		9	70	549
<b>CLOSING CASH AND CASH EQUIVALENTS</b>	15	<b>60</b>	<b>101</b>	<b>9</b>

The accompanying notes form part of these financial statements

## SUMMARY OF COMPLIANCE WITH FINANCIAL DIRECTIVES FOR THE YEAR ENDED 30 JUNE 1999

	1999				1998			
	Recurrent Appropriation \$'000	Expenditure \$'000	Capital Appropriation \$'000	Expenditure \$'000	Recurrent Appropriation \$'000	Expenditure \$'000	Capital Appropriation \$'000	Expenditure \$'000
<b>Original Budget Appropriation/ Expenditure</b>								
Appropriation Act	13,377	13,377	240	221	12,849	12,849	240	240
BUDGET VARIATION ACTS (IE ADDITIONAL APPROPRIATIONS)	-	-	-	-	-	-	-	-
S21 PF&AA – special appropriation	-	-	-	-	-	-	-	-
S24 PF&AA – transfer of functions between departments	-	-	-	-	-	-	-	-
S26 PF&AA – Commonwealth specific purpose payments	-	-	-	-	-	-	-	-
	13,377	13,377	240	221	12,849	12,849	240	240
<b>Other Appropriations/Expenditure</b>								
Treasurer's Advance	-	-	-	-	87	87	-	-
Section 22 – expenditure for certain works and services	-	-	-	-	-	-	-	-
Transfers from another agency (section 28 of the Appropriation Act)	-	-	-	-	-	-	-	-
	-	-	-	-	87	87	-	-
<b>Total Appropriations/Expenditure (including transfer payments)</b>	13,377	13,377	240	221	12,936	12,936	240	240
<b>Drawdowns from Treasury</b>		13,377		221		12,936		240
<b>Total Unspent Appropriations</b>		-		-		-		-

The accompanying notes form part of these financial statements

## Notes to and forming part of the Financial Statements for the year ended 30 June 1999

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

#### (a) Reporting Entity

The Commission is constituted by the Independent Commission Against Corruption Act 1988. The main objective of the Commission is to minimise corrupt activities and enhance the efficiency and integrity of government administration. These financial statements report on all the operating activities under the control of the Commission.

As the Commission is a single program entity, a separate program statement is not required.

#### (b) Basis of Accounting

The Commission's financial statements are a general purpose financial report which has been prepared on an accruals basis and in accordance with applicable Australian Accounting Standards and other mandatory professional reporting requirements, the requirements of the Public Finance and Audit Act and Regulations and the Financial Reporting Directions published in the Financial Reporting Code for Budget Dependent General Government Sector Agencies or issued by the Treasurer under section 9(2)(n) of the Act.

Where there are inconsistencies between the above requirements, the legislative provisions have prevailed.

Statements of Accounting Concepts are used as guidance in the absence of applicable Accounting Standards, Urgent Issues Group Consensus Views and legislative requirements.

The financial statements are prepared in accordance with the historical cost convention. All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency. The accounting policies adopted are consistent with those of the previous year.

#### (c) Parliamentary Appropriations

Parliamentary appropriations which are controlled by the Commission are recognised as revenues of the financial period in which they are received.

#### (d) Employee Entitlements

##### (i) Wages and Salaries, Annual Leave, Sick Leave and On Costs

Liabilities for wages, salaries and annual leave are recognised and measured as the amount unpaid at the reporting date at current pay rates in respect of employees' services up to that date.

Sick leave does not give rise to a liability, as it is not considered probable that sick leave taken in the future will be greater than the entitlements accrued in the future.

The outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax, which are consequential to employment, are recognised as liabilities and expenses where the employee entitlements to which they relate have been recognised.

##### (ii) Long Service Leave and Superannuation

The Commission's liability for long service leave and superannuation are assumed by the Crown Entity. The Commission accounts for these liabilities as having been extinguished resulting in the amount assumed being shown as part of the non-monetary revenue item described as "Acceptance by the Crown Entity of Employee Entitlements and other liabilities".

Long service leave is measured on a nominal basis. The nominal method is based on the remuneration rates at the year end for all employees with five or more years of service. It is considered that this measurement technique produces results not materially different from the estimate determined by using the present value basis of measurement.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employee's superannuation contribution.

#### (e) Insurance

The Commission's insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self insurance for Government agencies. The expense (premium) is determined by the Fund Manager based on past experience.

## Notes to and forming part of the Financial Statements for the year ended 30 June 1999

### (f) Acquisitions of Assets

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by the Commission. Cost is determined as the fair value of the assets given as consideration plus the costs incidental to the acquisition.

### (g) Plant and Equipment

Plant and equipment acquired with an expected life in excess of one year and with a value of \$5,000 or more are capitalised. Values are determined on an asset-by-asset basis, although items that form part of a network are aggregated as a single asset and depreciated if their total value exceeds \$5,000.

### (h) Depreciation of Non-Current Physical Assets

Depreciation is provided for on a straight line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the Commission. The Commission's leasehold improvements when constructed were projected to have a useful life of fifteen years or the unexpired period of the lease. The Commission's computer equipment, plant and equipment when purchased was projected to have a useful life of five years.

### (i) Leased Assets

A distinction is made between financial leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of the leased assets, and operating leases under which the lessor effectively retains all such risks and benefits.

Where a non-current asset is acquired by means of a finance lease, the asset is recognised at its fair value at the inception of the lease. The corresponding liability is established at the same amount. Lease payments are allocated between the principal component and the interest expense. The Commission has not entered into any finance lease arrangements during the year.

Operating lease payments are charged to the Operating Statement in the periods in which they are incurred.

### (j) Financial Instruments

Financial instruments give rise to positions that are financial assets or liabilities (or equity instruments) of either the Commission or its counterparties. They include Cash at Bank, Receivables and Accounts Payable. Classes of instruments are recorded at cost and are carried at net fair value.

#### (i) Cash

Cash comprises cash on hand and bank balances within the Treasury Banking System. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (TCorp) 11am unofficial cash rate adjusted for a management fee to Treasury. The Commission does not have any bank overdraft facility.

#### (ii) Receivables

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Debts which are known to be uncollectable are written off. A provision for doubtful debts is raised when some doubt as to collection exists. The credit risk is the carrying amount (net of any provision for doubtful debts). No interest is earned on trade debtors. The carrying amount approximates net fair value. Sales are made on 30 day terms.

#### (iii) Accounts Payable

The liabilities are recognised for amounts due to be paid in the future for goods and services received whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in Treasurer's Direction 219.01. If trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. Treasurer's Direction 219.01 allows the Minister to award interest for late payment. No interest was applied during the year.

### (k) Year 2000 Millennium Issue

The year 2000 issue is the result of shortcomings in many electronic data processing systems and other electronic equipment that may adversely affect the Commission's operation on the date change from 1999 to 2000.

The Commission implemented a program to address the potential computer system failures attributable to the date change from 1999 to 2000. The program includes risk analysis, remedial action including internal testing and contingency planning. There is no indication to suggest that the program will not be achieved.

Because of the unprecedented nature of the year 2000 issue, its effects and the success of remedial action will not be fully determinable until the year 2000 and thereafter.

## Notes to and forming part of the Financial Statements for the year ended 30 June 1999

**2. EXPENSES**

	<b>1999 \$'000</b>	<b>1998 \$'000</b>
(a) Employee related expenses comprise the following specific items:		
Salaries and wages (including recreation leave)	8,310	7,762
Superannuation	622	537
Long service leave	464	268
Workers' compensation insurance	46	41
Payroll tax and fringe benefits tax	713	649
<b>Total</b>	<b>10,155</b>	<b>9,257</b>
(b) Other operating expenses		
Auditor's remuneration	15	15
Rental expense relating to operating leases	1,556	1,425
Insurance	43	44
Cleaning	60	57
Electricity	70	78
Travelling, air fares and subsistence	193	242
Motor vehicles	112	110
Consultancies	32	46
External Legal fees	496	534
Transcript fees	78	108
Fees for services	406	493
Contract security services	427	400
Training	102	119
Advertising and publicity	73	80
Books and periodicals	73	77
Postal and telephone	240	247
Printing	193	152
Stores and specialised supplies	108	110
Other	141	148
<b>Total</b>	<b>4,418</b>	<b>4,485</b>
(c) Maintenance expenses		
Repairs and routine maintenance	247	307
<b>Total</b>	<b>247</b>	<b>307</b>
(d) Depreciation and Amortisation expense		
Depreciation		
Computer equipment	88	144
Plant and equipment	98	42
	186	186
Amortisation		
Leasehold improvements	349	348
<b>Total</b>	<b>535</b>	<b>534</b>



## Notes to and forming part of the Financial Statements for the year ended 30 June 1999

**3. REVENUES**

	1999 \$'000	1998 \$'000
(a) Sale of goods and services		
Sale of transcripts	17	29
<b>Total</b>	<b>17</b>	<b>29</b>
(b) Investment Income		
Interest	15	30
<b>Total</b>	<b>15</b>	<b>30</b>
(c) Other Revenue		
Other	43	32
<b>Total</b>	<b>43</b>	<b>32</b>

**4. GAIN / (LOSS) ON SALE OF NON-CURRENT ASSETS**

Gain / (loss) on disposal of property, plant and equipment		
Proceeds from sale	16	21
Less:		
Carrying value of assets sold	4	10
<b>Net gain / (loss) on disposal of plant and equipment</b>	<b>12</b>	<b>11</b>

**5. ACCEPTANCE BY THE CROWN ENTITY OF EMPLOYEE ENTITLEMENTS AND OTHER LIABILITIES**

The following liabilities and/or expenses have been assumed by the Crown Entity:

Superannuation	622	537
Long service leave	464	268
Payroll tax	43	37
<b>Total</b>	<b>1,129</b>	<b>842</b>

**6. PROGRAM / ACTIVITIES OF THE COMMISSION**

The Independent Commission Against Corruption operates under a single program for Treasury reporting purposes. For the 1998 - 99 financial year this program was identified as 5.1.1 Investigation, Community Education and Prevention of Corruption.

**Program Objective**

To minimise corrupt activities and enhance the efficiency and integrity of government administration.

**Program Description**

Investigation of possible corrupt conduct, advice for public authorities on ways in which to prevent corrupt conduct and education of the community about the detrimental effects of corruption.

## Notes to and forming part of the Financial Statements for the year ended 30 June 1999

**7. CURRENT ASSETS – RECEIVABLES**

	<b>1999 \$'000</b>	<b>1998 \$'000</b>
Sale of goods and services	6	9
Other receivables	27	84
<b>Total</b>	<b>33</b>	<b>93</b>

No provision has been made for doubtful debts as all amounts are considered recoverable. There was \$90 in bad debts written off during the year (1998 \$Nil).

**8. CURRENT ASSETS—OTHER**

Prepayments	110	179
<b>Total</b>	<b>110</b>	<b>179</b>

**9. NON-CURRENT ASSETS - PLANT AND EQUIPMENT**

	<b>Leasehold Improvements \$'000</b>	<b>Computer Equipment \$'000</b>	<b>Plant &amp; Equipment \$'000</b>	<b>Total \$'000</b>
<b>Cost</b>				
At 1 July 1998	4,944	1,469	1,903	8,316
Additions	-	71	185	256
Disposals	-	47	29	76
<b>At 30 June 1999</b>	<b>4,944</b>	<b>1,493</b>	<b>2,059</b>	<b>8,496</b>
<b>Depreciation</b>				
At 1 July 1998	2,966	1,241	1,499	5,706
Depreciation for year	349	88	98	535
Write back on disposal	-	43	29	72
<b>At 30 June 1999</b>	<b>3,315</b>	<b>1,286</b>	<b>1,568</b>	<b>6,169</b>
<b>Carrying Value</b>				
<b>At 30 June 1999</b>	<b>1,629</b>	<b>207</b>	<b>491</b>	<b>2,327</b>
<b>At 30 June 1998</b>	<b>1,978</b>	<b>229</b>	<b>403</b>	<b>2,610</b>

Included in the above figures are assets that have been fully depreciated comprising \$1,434 thousand of plant and equipment (1998 \$1,454 thousand) and \$1,036 thousand of computer equipment (1998 \$982 thousand). The Commission continues to derive service potential and economic benefit from these fully depreciated assets.

**10. CURRENT LIABILITIES—ACCOUNTS PAYABLE**

	<b>1999 \$'000</b>	<b>1998 \$'000</b>
Accounts Payable	49	115
Accrued Expenses	359	299
<b>Total</b>	<b>408</b>	<b>414</b>

Notes to and forming part of the Financial Statements for the year ended 30 June 1999

## 11. CURRENT / NON CURRENT LIABILITIES—EMPLOYEE ENTITLEMENTS

	1999 \$'000	1998 \$'000
<b>Current</b>		
Recreational leave	553	717
Accrued salaries and wages	154	136
Payroll tax and fringe benefits tax payable	221	187
Sub - Total	928	1,040
<b>Non Current</b>		
Recreational leave	298	-
Aggregate employee entitlements	1,226	1,040

## 12. CHANGES IN EQUITY

Accumulated funds		
At 1 July 1998	1,437	1,900
Surplus / (Deficit) for the year	(541)	(463)
At 30 June 1999	896	1,437

## 13. COMMITMENTS FOR EXPENDITURE

### (a) Capital Commitments

There was no aggregate capital expenditure contracted for at balance date and not provided for.

### (b) Other Expenditure Commitments

There was no aggregate other expenditure contracted for at balance date and not provided for.

### (c) Operating Lease Commitments

Commitments in relation to non- cancellable operating leases are payable as follows:

Not later than one year	1,501	1,317
Later than one year and not later than 2 years	1,184	663
Later than 2 years and not later than 5 years	807	374
Later than 5 years	538	-
<b>Total</b>	<b>4,030</b>	<b>2,354</b>

These operating lease commitments are not recognised in the financial statements as liabilities.

## 14. BUDGET REVIEW

### *Net cost of services*

The actual net cost of service is \$486 thousand over budget. This is due to an increase in the cost of wages and salaries along with an increase in overtime costs necessary to cope with the increasing workloads experienced during the year.

### *Assets and liabilities*

The actual total current assets are \$18 thousand lower than budget. This is mainly due to a reduction in cash balances as a result of the increase in the net cost of service. There were no major variances in plant and equipment.

The actual current liabilities are \$240 thousand higher than budget. This was due to an increase in the provision of recreation leave, as a result of the salary increases provided during the year and an increase in other accrued salary costs not budgeted for.

**Notes to and forming part of the Financial Statements for the year ended 30 June 1999***Cash flows*

The variance in net cash flows from operating activities is a result of an increase in cash flows from Government offset against an increase in operating activity payments.

**15. CASH AND CASH EQUIVALENTS**

For the purposes of the Statement of Cash Flows, cash includes cash on hand and at bank. The Commission has no financing facilities.

Cash at the end of the financial year as shown in the Statement of Cash Flows is reconciled to the related items in the Statement of Financial Position as follows:

	<b>1999 \$'000</b>	<b>1998 \$'000</b>
Cash at bank	54	3
Cash on hand	6	6
Closing Cash and Cash Equivalents (per Statement of Cash Flows)	60	9

The average interest rate during the period and the period end interest rate were 3.86 percent and 3.79 percent respectively. The respective rates for 1997 – 98 were 4.03 percent and 4.01 percent.

**16. RECONCILIATION OF NET COST OF SERVICES TO NET CASH FLOWS FROM OPERATING ACTIVITIES**

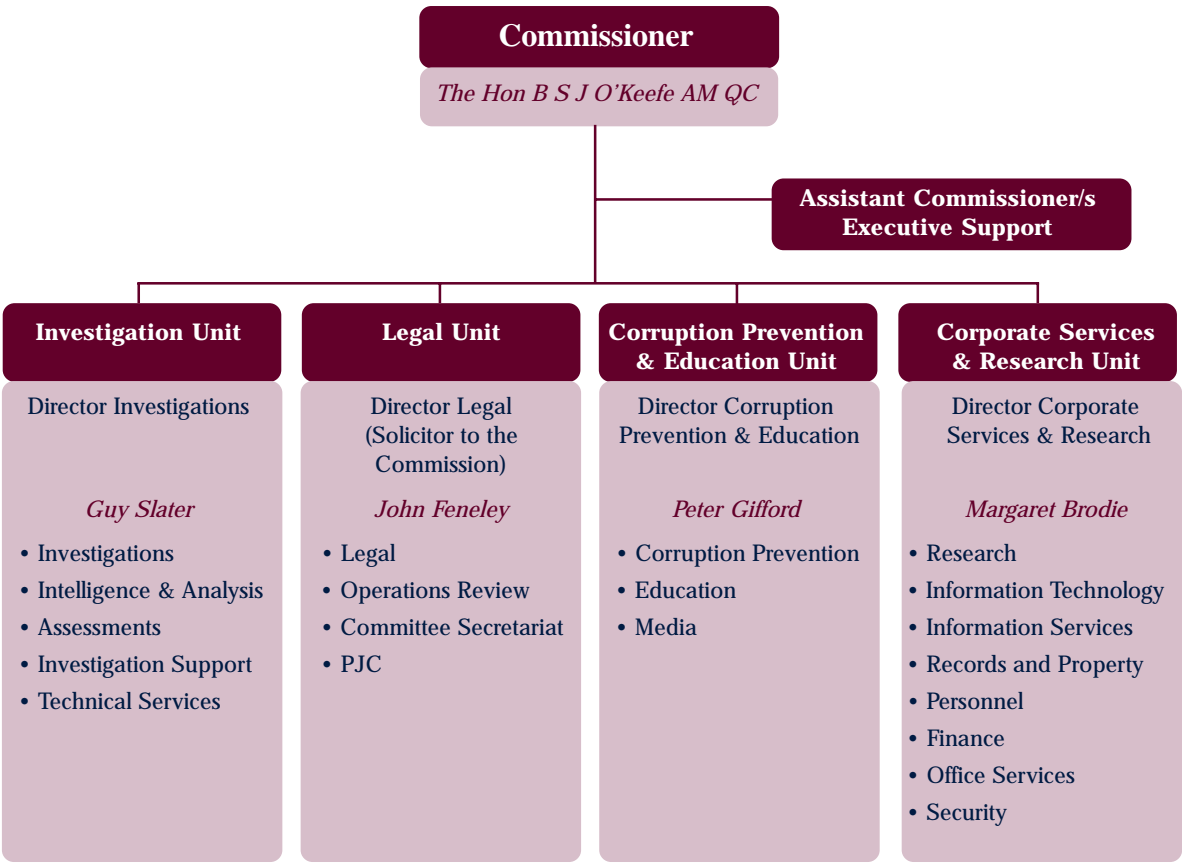
	<b>1999 \$'000</b>	<b>1998 \$'000</b>
<b>Net Cost of Services</b>	(15,268)	(14,481)
Increase/(Decrease) in Liabilities		
- Provision for employee entitlements	134	41
- Accounts Payable	96	(217)
(Increase)/Decrease in Assets		
- Receivables	60	(42)
- Other	69	(150)
Adjustment for Non Cash Items		
- Depreciation	535	534
- Liabilities accept by State	1,129	842
- Net (gain)/loss on disposal of assets	(12)	(11)
Consolidated Fund Recurrent Allocation	13,377	12,936
Consolidated Fund Capital Allocation	221	240
<b>Net Cash Used on Operating Activities</b>	341	(308)

**17. AFTER BALANCE DATE EVENTS**

On the 12th July 1999 an amount of \$85,000 was paid in full settlement in proceedings for defamation brought against the Commissioner by Mr Paul Gibson MP.

**END OF AUDITED FINANCIAL STATEMENTS**

APPENDIX 1: ORGANISATION CHART



## APPENDIX 2: CODE OF CONDUCT

The Independent Commission Against Corruption (the Commission) is constituted under the *Independent Commission Against Corruption Act 1988 (ICAC Act)*. Accountable to the public of New South Wales, through the Parliament, it stands independent of the government of the day.

The Commission has three principal functions under the Act – investigation, corruption prevention and public education. In carrying out their duties, individuals employed as officers of the Commission are obliged to:

*“...regard the protection of the public interest and the prevention of breaches of public trust as (their) paramount concerns.” (s12 ICAC Act)*

The legislation confers extraordinary powers on the Commission. Because of this, Commission staff must seek actively to achieve and retain public trust, if they are to deserve the responsibilities entrusted to them.

The work of the Commission could be seriously undermined if any of its officers was seen to be acting in a way which the Commission itself, or right-thinking members of the community, would find reprehensible in any public organisation.

This Code sets out the principles officers are expected to uphold, and prescribes specific conduct in areas considered central to the exercise of the Commission's functions. It will be reviewed regularly, and updated and expanded to reflect changes both within and outside the Commission.

The Code is not intended to be read as a set of rules, where each word is scrutinised for its legal meaning. It is intended to convey in plain words the obligations placed on, and the behaviour expected of, all officers of the Commission.

This Code applies to every individual engaged as an officer of the Commission, whether by way of employment contract, term employment (appointment or secondment), temporary arrangement or on a fee for service basis.

### Principles

Officers of the Commission must carry out their duties impartially, with integrity and in the best interests of the Commission.

The name and powers of the Commission must be used with restraint and with an awareness of their potential effect on the lives of individuals. They should never be used to gain personal advantage.

The standards of ethical behaviour and accountability which the Commission promotes in its dealings with other government organisations must

be met by its own officers. Officers of the Commission should establish and maintain effective relations with individuals and organisations outside the Commission, recognising their rights as citizens. Discrimination and partiality, either within the Commission or in dealings with people and organisations outside the Commission, are unacceptable.

The work of the Commission must not be compromised or affected by any personal interest.

Public resources must be used efficiently and effectively.

The security of information and the protection of persons working with or dealing with the Commission must be assured.

The following parts of the Code provide detailed guidance on how you are expected to apply these principles in practice.

### Employment

The ICAC Act places all officers under the control of the Commission. Appointment is not under the Public Sector Management Act but is within the terms of s104 of the Independent Commission Against Corruption Act 1988 and the ICAC Award 1988. Conditions of employment with the Commission are similar to those within the NSW State Public Service relating to particular conditions of employment such as allowances and leave.

You should be familiar, and act in accordance, with the provisions of the ICAC Act and Regulations and the Commission's policies as set out in staff circulars and the Commission's operational manuals. Commission policies are available in the library, on the Commission's computerised network or from the Personnel Section. All requirements concerning secrecy, personal and financial disclosures, security and media contact, must be strictly followed. If you perceive conflict between legislative and policy requirements and the Code, you must consult your supervisor.

Officers transferred from the NSW Police Service for a temporary period of employment, who continue to act as constables, are also required to know and abide by the Police Service Act and Regulations and the New South Wales Police Service Rules and Regulations manual. If you perceive any conflict between the legislative or policy requirements of the Commission and the Police Service, you must consult the Director of Investigations.

At induction to the Commission, staff are provided with details of the Commission's Individual Performance Management Program (IPMP). Appraisal takes place six months after commencement and then on an annual basis. For

further information on IPMP consult the Personnel Section. As an employee of the Commission, you have undertaken:

- not to engage in personal or professional conduct which may bring the Commission into disrepute,
- to abide by the strict secrecy provisions of the ICAC Act,
- to make full and open disclosures of your financial interests and personal particulars to the Commission. Significant changes to financial or personal status should be disclosed, when they occur, to a supervisor, a member of Senior Management or a member of the Security Section.

To maintain credibility the Commission must make all efforts to ensure employees have no association with corruption. For this reason, failure to disclose personal or financial particulars may bring serious consequences for both the Commission and individual staff.

### **Personal and professional conduct**

You should carry out your duties with honesty, commitment and diligence, working to the best of your ability. Where a decision or action is based on a statutory power, you must ensure that:

- the legislation under which the decision or action is taken authorises the taking of that decision or action
- you have the authority or delegation to take that decision or action, or that authority has been given
- any procedures required by law have been observed
- all relevant Commission policies and directions are followed
- the decision or action and the reasons for taking it are properly documented
- you have a responsibility to ensure fairness in carrying out the work of the Commission. This means that you should:
  - take all reasonable steps to ensure that the information upon which decisions or actions are based, is factually correct, and that you have obtained all the relevant information
- deal with like situations in a like manner, i.e. be consistent
- take all relevant information into consideration
- not take any irrelevant information or opinions into consideration.

You should not act in any way which is discriminatory, and you should take care that your actions could not reasonably be regarded as

discriminatory, bearing in mind that people may be aggrieved if a decision is not to their liking.

You must not harass or discriminate in your work practices on the grounds of sex, marital status, pregnancy, age, race, colour, nationality, ethnic or national origin, physical or intellectual impairment, sexual preference or religious or political conviction when dealing with your colleagues and members of the public.

You should record, immediately and accurately, verbal communications on sensitive matters, and inform your supervisor if you have any special concerns.

You should not delay unnecessarily or unduly in making decisions or taking action.

You should be honest, but prudent, in your official and other dealings with colleagues and the public.

You should seek and/or offer supervision appropriate to your position and duties.

You must obey any lawful instruction by an officer of the Commission empowered to make such instruction.

The Commission's work involves close co-operation between people from different disciplines. You should make special efforts in your communication with colleagues, providing assistance and offering explanations for your requests and advice.

Loyalty to the Commission and its effectiveness as an organisation should take precedence over loyalty to colleagues.

You should keep up with changes within the Commission particularly as they relate to your duties, and with relevant changes outside the Commission.

### **Accountability**

You are responsible for your own acts and omissions and will be held to account for them. If you are a supervisor or manager at any level, you are responsible also for the work-related acts and omissions of the staff you supervise.

This does not mean that you will be held responsible for every minor fault of your staff.

It means that you will be called to account for unsatisfactory acts or omissions by your staff if they are so serious, repeated or widespread that you should know of them and correct them, if you are exercising the level of leadership, management and supervision appropriate to your position.

Therefore it is your responsibility to make sure, in regard to the staff under your leadership, that they understand:

- what their job entails and what their duties are
- how they are expected to do their job



- what results are expected
- that their performance will be periodically and formally appraised.

### Use of information

Commission work involves access to sensitive and confidential information which may be the subject of inquiry, investigation or consultation. S111 of the ICAC Act prohibits disclosure of this information, except in the exercise of the Commission's functions. Any breach of the requirements could result in your being charged with an offence against the Act.

If you believe that disclosure of information is justified, you must document the details of the information and the reasons you are seeking disclosure. These should be submitted through a Senior Manager to the Commissioner and approval obtained before any disclosure is made.

You must exercise caution and sound judgement in discussing sensitive information with other Commission officers. It should normally be confined to those who require access to that information in order to conduct their duties, or those who can, by reason of their experience, provide useful assistance.

The Commission is entrusted by other agencies with information to assist in analytical work, inquiries, investigations or consultation. You must not access this information or use it for any purpose other than Commission work.

You must not use information gained in the course of your duties:

- in ways which are inconsistent with your obligation to act impartially
- to cause harm or detriment to any person, body or the Commission
- to gain improper advantage for yourself or for any other person or body.

Examples of the use of information for improper advantage could include:

- speculation in property or shares based on information about Government decisions or the affairs of a company
- swapping confidential information with officers of other organisations
- taking advantage for personal reasons of another person on the basis of information about that person held by the Commission
- providing information from official records to any person outside the Commission for reasons not directly related to the work of the Commission.

### Public comment

You must not make official comment on matters relating to the Commission unless you are authorised

to do so by the Commissioner. The Commission's Media Policy requires that you refer all media inquiries to the Media Manager who is the official spokesperson of the Commission.

Except when making authorised comment, discussions about the Commission's work should be confined to material which is in the public domain. You should ensure that others are aware that you are discussing only material in the public domain.

This applies to published reports and discussion papers, annual reports, public relations material, transcripts of public hearings, media releases, and public addresses. No comment should be made about any other material relating to the work of the Commission unless permission has been given by the Commissioner or the Media Manager. If you are uncertain as to whether information is in the public domain you must consult the Media Manager.

You should ensure that your personal views are not presented or interpreted as official comment. Expressing personal views about the Commission's work which might adversely affect its reputation or the exercise of its functions may lead to disciplinary action.

If you are aware that comments you have made socially or inadvertently may be used to undermine or damage the Commission's work, you should notify your supervisor or the Media Manager immediately.

### Financial and other private interests – disclosure and conflicts

To ensure that the Commission's work is impartial and is seen to be so, there must be no opportunity for your personal interests, associations and activities (financial or otherwise) to conflict with the proper exercise of your duties.

All members of staff have made a disclosure of personal particulars prior to commencing duties. The Commissioner, in accordance with the ICAC Regulations, may also, at any time, ask you to disclose your financial interests and those of your partner, dependent children and other persons with whom you are closely associated.

You must submit in writing the details of any changes in your personal particulars and (if you have made a financial disclosure) the financial interests of yourself, your partner, a dependent child or close associate. You should consult the Human Resources or the Security Manager if you are unsure of what matters you should disclose.

If, in the course of your duties, you encounter information which involves people, organisations or activities that you have or had a personal interest in or association with, you must make a written disclosure to a member of Senior Management. A decision will be made whether the matter represents

a conflict of interest and whether your involvement with it should cease.

If you are in doubt whether to disclose a change in financial or personal circumstances or a potential conflict of interest, you should consult a member of Senior Management. As a general rule, disclosure is always preferable. It is confidential and can do no harm, whereas a great deal of damage may be done if you have not made disclosure of an interest, association or activity which may embarrass the Commission.

There are many possible circumstances where a conflict of interest could arise. You have the responsibility to be aware of possible conflicts and bring them to the Commission's attention so that an informed decision can be made about what action to take. Some examples are given below, but you should not regard this as an exhaustive list:

- an inquiry or investigation involves a close relative or work colleague, or a company in which you recently had an interest
- you are involved in calling tenders or organising the purchase of supplies, and you find that a close friend or relative is one of the tenderers
- you are asked to provide corruption prevention advice to a government department where you were recently employed
- an inquiry/investigation relates to a political figure or party and you are a member of the party or an opposing political party.

#### **Public resources**

Public resources include financial, material and human resources. All should be used effectively, without waste and for the work of the Commission.

The financial resources of the Commission are allocated under the Public Finance and Audit Act and officers are bound by the Treasurer's Directions issued under that Act. Procedures for the purchase of stores and equipment are conducted according to Commission policy.

You must be authorised to incur expenditure on behalf of the Commission and you must adhere to the above regulations and policy.

You must not obtain or use any stores items (for example stationery, furniture) for a purpose which is unrelated to the work of the Commission.

You must not use your work time, or the Commission's staff resources, for private purposes. However, there are some reasonable exceptions to this rule. For example:

- you may use the phone for private calls, if they are short, infrequent and do not interfere with work

- you may send or receive facsimile messages providing they are infrequent and do not interfere with work
- you may, with a supervisor's permission, use Commission resources (such as computer equipment) for approved personal purposes
- you may add your mail to the Commission's for posting, but you must not ask anyone to make a special trip for you. You must provide the stamp.

You should exercise care when using equipment, and follow the service requirements, to ensure good condition is maintained.

Some equipment is shared by a number of staff. You should be aware of competing priorities and ensure that your use of the equipment does not needlessly limit access by others. You should not assume that your work has priority simply because you are in a hurry.

Commission vehicles should only be used for official business unless approval has been given for private use. Official use may include overnight garaging at your home. Members of your family and friends should not drive a Commission vehicle unless your terms and conditions of employment permit its private use.

You must seek prior approval from your supervisor if you want to use the Commission's equipment for private purposes, for example using a Commission laptop computer for writing an essay for university studies. When using Commission equipment for authorised private purposes, you must ensure:

- you use it only in your own time
- the equipment is secure and properly cared for
- your use does not prevent colleagues from doing their work
- you provide consumables, for example, paper.

#### **Security**

Security of information and premises is vital to the Commission's effectiveness and to the personal safety of staff.

You should ensure that you are familiar with and follow security procedures for handling and disposing of information and for access of officers and visitors to Commission premises. These and other security procedures are contained in the Commission's Protective Security Program available from Unit and Section Heads or from the Security Manager. If you are unsure of procedures on any occasion, consult the Security Manager.

The removal of confidential documents and information, including Commission files, from the Commission's premises is permitted only in accordance with the Protective Security Program. Where it is not possible to seek permission from a

member of Senior Management to remove confidential documents or information, security staff should be notified of materials removed.

### **Bribes, gifts, benefits, travel and hospitality**

Offences under the ICAC Act include the acceptance by officers of bribes, and the offering of bribes to officers. If you believe yourself or a colleague to have been offered a bribe you must provide a detailed written report to the Commissioner immediately that you become aware of this.

You must never solicit any money gift or benefit, travel or hospitality and you must never accept any offer of money. Accepting gifts or benefits could seriously damage the Commission's position. It is vital that:

- the impartial exercise of the Commission's functions not be influenced in any way
- the appearance not be created that any person or body is securing or attempting to secure the influence or favour of the Commission or any of its officers.

As a general rule, you should decline offers of gifts, benefits, travel or hospitality (accommodation, meals or entertainment). Officers who agree to speak officially at functions should, where possible, notify their hosts that it is inappropriate to offer gifts or rewards. There may be rare occasions when refusing a gift would be perceived as rude or offensive and these occasions require that you exercise sound judgement. For example:

- you must decline any offer from an individual or organisation you know to be the subject of an investigation by the Commission, or the subject or originator of a complaint or report to the Commission
- you must decline any offer which is individually targeted and not available to colleagues or associates who share a common task and purpose. For example, you may accept a modest lunch which is offered to a working group, but should pay for your own when you are the only person to whom an offer is made
- you may accept an item which relates to the work of the Commission, such as a book on a relevant topic, but you must refuse items which are unrelated to your work, for example travel or sporting goods
- you may accept a gift, benefit, travel or hospitality only if it is of a token kind, and when to refuse would be unnecessarily rude.

Do not destroy evidence of unsolicited gift giving. The evidence may be important.

You should ensure that your partner, dependent children and other close personal associates

understand these requirements and are aware that the requirements apply to them also.

If you have been offered or have received a gift, benefit, travel or hospitality you should inform your supervisor as soon as possible. Supervisors should then ensure that Senior Management is in a position to refer to the Commissioner any offers which are substantial, financially or materially, or which may be seen to compromise impartiality.

### **Outside employment**

If you are employed or are considering employment outside the Commission on any basis – full-time, part-time or casual – you must seek the approval of the Commissioner, or delegate, as outlined in the Commission's Private Employment Policy.

Approval will be withheld where the outside employment could compromise your position or your work at the Commission.

Police officers temporarily transferred to the Commission, who are required to attend court hearings concerning matters initiated prior to transfer, must register court commitments in writing immediately following notification. Officers who, in the role of constable, respond to an incident which results in the commencement of police work unrelated to Commission duties, must inform the Director of Investigations in writing promptly after the incident.

### **Notification of corrupt conduct and complaints against staff**

You must report to the Solicitor to the Commission any instance of suspected corrupt conduct:

- revealed in the course of investigation work, even if unrelated to that investigation
- revealed in the course of corruption prevention or education work
- in the course of duties generally.

You must also disclose any instance of suspected corrupt conduct, maladministration or serious and substantial waste occurring within the Commission to your supervisor, the Commission's General Counsel (in the case where the Commission does not have a General Counsel, the Solicitor to the Commission), or the Commissioner. Any such disclosure will be a 'protected disclosure' provided it conforms to the requirements of the 'Protected Disclosure Act, 1994'.

Cases of suspected corruption or maladministration may also be reported direct to the NSW Ombudsman and cases of serious and substantial waste may also be reported to the NSW Auditor-General.

The Protected Disclosures Act, as far as it is relevant to staff at the Commission, makes it an offence to take "detrimental action" against another person in reprisal for making a protected disclosure.

All 'protected disclosures' will be handled in accordance with the Commission's 'Protected Disclosure Reporting Policy'. The Commission is committed to ensuring that there will be no recriminations against those who report suspected corrupt conduct, maladministration and serious and substantial waste. In the case of a 'protected disclosure' recriminations are unlawful. If you feel that you are the subject of recriminations, you should report it directly to the Commissioner.

You must notify the Solicitor to the Commission of any complaint made against a Commission officer by a person not working for the Commission.

Under the Commission's policy on complaints against staff, the Solicitor to the Commission is generally responsible and will report to the Commissioner in respect of each matter. Any matter requiring investigation will be allocated to an appropriate member of Senior Management, and what is proposed after investigation will be reviewed and approved or otherwise by the Commissioner personally.

In respect of any more serious or difficult complaints against a staff member, a person from outside the Commission may be engaged to assist.

If, in the course of your private life, you become aware of any instance of suspected corrupt conduct, you are strongly advised to report it to the Manager, Assessments or to the Solicitor to the Commission.

### Sanctions

Sanctions may be applied if you are involved in:

- unacceptable behaviour, either in the course of your duties or in your private life
- unsatisfactory performance of duties
- breaches of the code of conduct
- actions which can be prosecuted as breaches of the ICAC Act.

The sanction/s to be applied will depend on how serious and/or repeated breaches are considered to be. They may include:

- counselling by your supervisor, a member of Senior Management, or in extreme cases by the Commissioner
- a record of behaviour being documented and placed on your file
- not being recommended for further term of employment
- dismissal
- prosecution.

For example, an officer may be counselled by a supervisor for inadvertently giving confidential information to the media. An officer may be

dismissed for knowingly leaking confidential information to the media.

Clause 6 of the Commission's Award relating to resignations and terminations states employees resigning from employment must provide a minimum of four weeks notice, in writing, to the Commission unless the Commission agrees to a lesser period. Should a decision be made to terminate employment, four weeks notice or payment in lieu will be provided. The Commission will not necessarily give a reason for terminating employment. This provision will not be taken lightly by the Commission, and is likely to be used only for serious cases of gross inefficiency, for misconduct or where a substantial security risk is evident.

In cases where no reason has been given for dismissing an officer of the Commission, you should discount any rumours you may hear, and positively discourage their circulation within or outside the Commission.

### Responsibilities of officers who have left the Commission

In accordance with the general terms and conditions of your employment, you must not without the permission of the Commission:

- make public or otherwise use any confidential knowledge or information gained as a consequence of your employment with the Commission, or
- distribute, publish, mail or otherwise permit to go out of your possession any confidential information gained as a direct or indirect result of your employment with the Commission.

At the end of your employment with the Commission, you must return any documents or items which relate to the Commission's work and which are not otherwise publicly available.

## APPENDIX 3: FREEDOM OF INFORMATION—STATEMENT OF AFFAIRS

Every agency covered by the *Freedom of Information Act 1989* (FOI Act) is required by the Act to publish an Annual Statement of Affairs. The ICAC's administrative, research and educational matters are covered by the FOI Act, while its corruption prevention, complaint handling, investigative and report functions are exempt.

The ICAC is committed to public awareness and involvement in its activities. General inquiries by post, telephone or visit are welcome. Where an inquiry cannot be satisfied through such contact, then formal application can be made to the Director, Corporate Services and Research, who is the ICAC's FOI Co-ordinator.

ICAC contact details are shown at the front of this Report.

### Freedom of information procedures

Arrangements can be made to obtain, or to inspect, copies of available documents at the ICAC by contacting the Director, Corporate Services and Research.

Formal requests made under the FOI Act for access to documents held by the ICAC should be accompanied by a \$30 application fee and be sent to the ICAC's Director, Corporate Services and Research. People wishing to be considered for a reduction in fees should set out reasons with their applications. Those holding a current Health Care Card are eligible for a 50 per cent reduction.

### Structure and functions

The ICAC's organisational structure is shown in Appendix 2.

The functions of the ICAC are broadly to investigate allegations of corruption, to prevent corruption and to educate the public. They are described comprehensively in the body of this Annual Report.

### Effect of functions on the public and arrangements for public participation

The public can participate directly in the ICAC's work by providing information to the ICAC about suspected corrupt conduct in the NSW public sector. That information can be provided by telephone, letter or personal visit.

Four members of the public are appointed to the Operations Review Committee, which has the role of ensuring that the ICAC deals properly with complaints received from the public.

Members of the public can attend and observe the ICAC's public hearings, which are advertised in metropolitan newspapers for Sydney hearings, and

metropolitan and regional or country newspapers for public hearings outside Sydney. Public hearings are also listed in the Sydney Morning Herald law listings.

Members of the public can obtain ICAC reports on investigations, and view most transcript and documentary evidence from hearings. Anyone wishing to read transcripts is welcome to contact the ICAC and make arrangements to visit the premises for this purpose.

The ICAC is accountable to the public through the Parliament, specifically through the Parliamentary Committee on the ICAC. The functions and membership of this Committee are described in this Report. Members of the public can make comments to the Committee about how the ICAC does its work and suggest changes. Members of the public can also make such comments directly to the ICAC by writing to the Commissioner.

### Documents held by the ICAC

The following categories of ICAC documents are covered by the FOI Act:

- research reports
- administrative policy documents (such as personnel policies)
- general administration documents (such as accounts and staff records).

Members of the public may contact the Director, Corporate Services and Research, to clarify which documents may be available under FOI legislation.

ICAC publications produced in 1998–99 are listed in Appendix 6 of this Annual Report. They include investigation reports, corruption prevention reports, research reports and education material. The ICAC also publishes brochures about the ICAC's activities and procedures.

### Freedom of information requests 1998–99

The ICAC was an exempt agency under the FOI Act from 1989 until 1992. Amendments introduced on 1 July 1992 varied that blanket exemption.

The ICAC's operational and related activities including corruption prevention, complaint handling, investigative and report functions remain exempt from the provisions of the FOI Act.

The FOI requests received in 1998–99 are summarised in the tables following:



### Section A: Number of new FOI requests

FOI requests	Personal	Other	Total
A1 New (includes transferred in)	3	7	10
A2 Brought forward	0	0	0
A3 Total to be processed	3	7	10
A4 Completed	1	7	8
A5 Transferred out	0	0	0
A6 Withdrawn	2	0	2
A7 Total processed	3	7	10
A8 Unfinished (carried forward)	0	0	0

### Section B: What happened to completed requests

FOI requests	Personal	Other	Total
B1 Granted in full	0	0	0
B2 Granted in part	0	0	0
B3 Refused	1	7	8
B4 Deferred	0	0	0
B5 Completed	0	0	0

### Section C: Ministerial certificates

FOI requests	Personal	Other	Total
C1 Ministerial certificates issued	0	0	0

### Section D: Formal consultations

Results	Initial	Total
D1 Number of requests requiring formal consultation	6	6

### Section E: Amendment of personal records

Result or amendment request	Total
E1 Result agreed	0
E2 Result refused	0

### Section F: Notation of personal records

Results	Total
F1 Number of requests for notation	0

### Section G: FOI Requests granted in part or refused

Basis of disallowing or restricting access	Personal	Other
G1 s19 (application incomplete, wrongly directed)	0	0
G2 s22 (deposit not paid)	0	0
G3 s25(1)(a1)(diversion of resources)	0	0
G4 s25(1)(a)(exempt)	0	0
G5 s25(1)(b), (c), (d) (otherwise available)	0	0
G6 s28(1)(b) (documents not held)	0	0
G7 Deemed refused – 21 day time limit expired	0	0
G8 s31(4)(released to medical practitioner)	0	0
G9 Totals	0	0

**Note:** All requests refused were exempt under schedule 2 of the FOI Act.

### Section H: Costs and fees of requests processed

Results	Incurred costs	Fees received (application + deposit + refund + review)
H1 All completed requests	Nil	\$15

### SECTION I: Discounts allowed

Type of discount	Personal	Other
I1 Public interest	0	0
I2 Financial hardship – pensioner	1	0
I3 Financial hardship – non-profit	0	0
I4 Under 18 years	0	0
I5 Totals	1	0
I6 Significant correction of records	0	0

### SECTION J: Days to process

Elapsed time (including withdrawn)	Personal	Other
J1 0 to 21 days	2	7
J2 22 to 35 days (consultation period)	1	0
J3 Over 35 days (extended consultation)	0	0
J4 Over 21 days (out of time determination)	0	0
J5 Over 35 days (out of time determinations after consultation)	0	0
Totals	3	7

**SECTION K: Processing time**

Processing hours (including withdrawn)	Personal	Other
K1 0 to 10 hours	3	7
K2 11 to 20 hours	0	0
K3 21 to 40 hours	0	0
K4 Over to 40 hours	0	0

**SECTION L: Review and appeals**

Results	Total
L1 Number of internal reviews finalised	0
L2 Number of Ombudsman reviews finalised	0
L3 Number of District Court actions finalised	0

**Details of internal review results**

Grounds on which requested	Personal upheld	Personal varied	Other upheld	Other varied
L4 Access refused	0	0	0	0
L5 Deferred	0	0	0	0
L6 Exempt matters	0	0	0	0
L7 Unreasonable charges	0	0	0	0
L8 Charge unreasonably incurred	0	0	0	0
L9 Amendment refused	0	0	0	0
Totals	0	0	0	0

**Comparison with 1997–98**

In 1997–98 the ICAC received 9 FOI requests; nil regarding the personal affairs of the requester and 9 others.

In 1998–99 the ICAC received 3 FOI requests concerning the personal affairs of the requester, 1 request concerning other matters and 6 requests for consultation from other Government Departments. No requests were brought forward from 1997–98.

**Impact on the ICAC**

The impact on the ICAC of these requests was minimal.



## APPENDIX 4: EQUAL EMPLOYMENT OPPORTUNITY MANAGEMENT PLAN, ETHNIC AFFAIRS PRIORITY STATEMENT AND DISABILITY SERVICES PROGRAM 1999–2000

### 1. Equal Employment Opportunity Management Plan

The Independent Commission Against Corruption (ICAC) is not bound by Part 9A of the Anti-Discrimination Act. We choose to comply in a way that will allow comparisons with other public sector agencies. The Commission has developed its Equal Employment Opportunity (EEO) Program following to the NSW Public Sector principles and guidelines issued by the Office of the Director for Equal Opportunity in Public Employment as well as considering the special needs of the ICAC.

### 2. Government Action Plan for Women

The Commission's EEO Management Plan ensures compliance with the NSW Government Action Plan for Women.

### 3. Ethnic Affairs Priority Statement

The ICAC is a 'public authority' in terms of Section 5 of the *Ethnic Affairs Commission Act, 1996*. It recognises and values cultural diversity and is committed to ensuring the principles of cultural diversity are reflected in its corporate and strategic planning. The Commission is not a 'key agency' for reporting purposes under the Act.

### 4. Disability Services

The Disability Services Act binds the Crown (Section 24[1]). The ICAC is committed to ensuring that the human rights of persons with disabilities are upheld in making available services and programs of the Commission to persons with disabilities.

The Commission is committed to achieving the following outcomes:

- Diversity
  - A skilled workforce that recognises the diversity of the NSW community
  - EEO, ethnic affairs and disability strategies included in agency planning
- Equity
  - A workplace culture displaying fair practices and behaviours based on known policies and procedures that are fair
  - Staff involvement in decision making
  - Managers and employees who are informed, trained, accountable and assisted by a sound information base
- Opportunity
  - Improved employment access and participation for EEO group members
  - Development of staff and management practices to improve accessibility to EEO group as customers and employees.

What outcomes do we want to achieve?	How will we know we have achieved or are progressing towards achieving the outcomes?	How will we achieve the outcomes?	Who is responsible to monitor and/or ensure that we achieve the outcomes?	Time frame to achieve outcomes?
1. A skilled workforce that recognises the diversity of the NSW community.	Progress towards the following targets within the Commission:	Consider development of specific strategies to assess these targets and to identify Commission positions to accommodate employment of target groups by:	EEO Committee and Commission Consultative Group (CCG) (monitor)	30/6/2000
	- Women to continue to represent 50% of full-time employees by 2003			
	- Aboriginal people and Torres Strait Islanders to represent 2% of full-time employees	- Upon a vacancy occurring, review position and position description to assess whether it would lend itself to being undertaken by people assessed as qualified who may also be members of an EEO group	Directors	As vacancies occur
	- An appropriate percentage of the workforce are people with a disability who require work related adjustments			
	- An appropriate percentage of the workforce are people whose first language was not English	- Review recruitment practices such as advertisement wording, advertising locations and methods of recruitment	Directors	30/6/2000
		- Monitor against EEO Statistics	HR Manager	Annual Report
		- Periodically review policies and practices for flexible work arrangements	HR Manager CCG (monitor)	As determined in each policy
		- Encourage flexible work practice opportunities when advertising positions, consistent with needs and budget	Directors	Include in all advertisements where appropriate
2. Employee diversity at all Commission salary levels and in all occupations	People from each EEO group are distributed across all salary levels and occupations within the Commission	Monitor against collected EEO statistics	Directors	By 2003
3. Pay equity for identified EEO groups	Increase in the average weekly full-time gross earnings of women as a % of the average weekly full-time gross earnings of men, consistent with Outcome 5	Monitor trends, including budget impact, against collected EEO statistics and devise strategies to counter any imbalance	Directors	Annual improvement reported in Annual Report
	Increase in the average weekly full-time gross earnings of each EEO group, other than women, as a % of average weekly full-time earnings of all employees, consistent with Outcome 5	Monitor trends, including budget impact, against collected EEO statistics and devise strategies to counter any imbalance	Directors	Annual improvement reported in Annual Report

What outcomes do we want to achieve?	How will we know we have achieved or are progressing towards achieving the outcomes?	How will we achieve the outcomes?	Who is responsible to monitor and/or ensure that we achieve the outcomes?	Time frame to achieve outcomes?
4. Retention in the Commission's employment of employees, including those from EEO groups.	Separation of EEO group employees from the Commission is proportionally no greater than their representation in its workforce	Review Departure Survey for questions relevant to identified EEO groups	EEO Committee (monitor)	30/6/2000
		Provide annual analysis and statistics of departure questionnaires	HR Manager	Report to Directors and CCG annually
		Review results of analysis and consider development of remedial action where necessary	EEO & CCG Committee (monitor)	30/6/2000
5. Selection and appointment to Commission positions based on merit.	Merit processes are used for selection to positions at all levels, except for acting on higher duties for a short period and/or when staff development opportunities are being considered, in which cases merit will be a consideration, but not necessarily determinative	Undertake regular audits to review application of merit in recruitment	HR Manager	1/2/2000
	Use of staff trained in selection techniques and EEO principles	Selection techniques training for all staff	Directors	1/12/99
6. A workplace, free from discrimination and harassment	Increase in employees' awareness that the Commission's workplace is free of discrimination and harassment and grievance procedures are accessible and fair	Select and train staff and management as Grievance Mediators and Harassment Information Officers	HR Manager	1/2/2000
		Increase staff awareness of Commission policies and procedures and availability of information	Directors, Managers and HR Manager	Ongoing
	Number of grievances.	Monitor and report on statistics	HR Manager and CCG Committee (latter to monitor)	Annually
		Review existing policies	HR Manager and EEO Committee (latter to monitor)	Annually

What outcomes do we want to achieve?	How will we know we have achieved or are progressing towards achieving the outcomes?	How will we achieve the outcomes?	Who is responsible to monitor and/or ensure that we achieve the outcomes?	Time frame to achieve outcomes?
7. Accountabilities for EEO outcomes are specified in the performance agreements of Directors and Managers	All Commission performance agreements have assessable EEO accountabilities	Review EEO accountabilities for directors and managers	Commissioner for directors and directors for all other positions in their respective units	Annually
8. Information about EEO and associated policies and programs is readily available.	Structured processes are in place to keep all Commission employees informed of:  - EEO policies, current EEO priorities, action and outcomes, and  - workplace issues that affect them	Increase staff awareness and access to information by increased use of:  - Notice boards - Commission network including e-mail - HR newsletter - Information stand in library	Directors, managers and HR Manager	Ongoing
9. Access to Commission developmental opportunities for EEO groups.	Subject to appropriate qualifications, the proportion of employees from EEO groups who act in higher duties overall reflects their proportion in the Commission's workforce	Directors required to record all periods of 'higher duty'  Implement strategy	Directors  Directors, managers and HR Manager	Annually  Annually
10. All Commission positions are designed for the best outcomes for the Commission and are evaluated equitably	A systematic and equitable process is used in the design and evaluation of Commission positions	All positions are designed and evaluated using the O 'OCR/ Mercer' job evaluation methodology	HR Manager and Classification Committee	Ongoing
11. Performance management agreements for all staff	Developmental needs of Commission staff are identified through performance management processes and are incorporated into unit and corporate strategies	Analyse training and development agreements to assist in developing training and career development programs  Analyse a sample of the previous 12 month T&D agreements to ascertain the extent to which the agreements contributed to achieving identified unit and corporate needs	Directors and HR Manager  Directors and HR Manager	Annually  30/6/2000
12. Effective monitoring and program evaluation processes inform Commission strategic planning	Outcomes are incorporated in strategic planning processes and documentation	Linked with Outcome 1. Ensure strategic planning processes and documentation is reviewed or structured to include EEO priorities	Commissioner and directors in consultation with Corporate Planning Group	30/6/2000
	All outcomes have measurable performance indicators, specific accountabilities and time frames	Assessment of performance against previous relevant Commission statistical data	EEO Committee (monitor)	30/6/2000

What outcomes do we want to achieve?	How will we know we have achieved or are progressing towards achieving the outcomes?	How will we achieve the outcomes?	Who is responsible to monitor and/or ensure that we achieve the outcomes?	Time frame to achieve outcomes?
13. Opportunities for employment and training are offered to people who have a disability	Identify ways in which representation of staff with a disability can be brought to and maintained at levels that are acceptable, having regard to the needs of the Commission	Review and identify positions that may be filled by a person with a disability and amend position descriptions as required, changing the essential requirements of the particular position/s	Directors and HR Manager	30/6/2000
		Develop career development plans for staff with a disability in line with the Commission's performance management system	Directors, managers, supervisors and HR Manager	30/8/99
		Review the principle of reasonable adjustment, as it applies to the workforce, including position descriptions for new and existing staff	HR Manager	30/6/2000
	Provision of adjusted workplace for staff with a disability	Provide information for managers and supervisors to raise awareness of reasonable adjustment	HR Manager	Ongoing
		Review the implementation of reasonable adjustment with staff who have a disability	HR Manager	Ongoing
		Report on number and cost of workplace adjustments included in Annual Report	HR Manager	30/6/2000
	Appropriate work place technology and equipment is provided within budget constraints for staff who have a disability	Assess the needs of special equipment for staff with a disability	HR Manager	As required
		Staff with a disability to make specialised equipment available to assist in performing their duties	HR Manager	When required

What outcomes do we want to achieve?	How will we know we have achieved or are progressing towards achieving the outcomes?	How will we achieve the outcomes?	Who is responsible to monitor and/or ensure that we achieve the outcomes?	Time frame to achieve outcomes?
14. Improved access for EEO groups to services and materials provided by the Commission	Progress towards improved access to Commission premises, services and materials for people with a disability	Review building access for people with a disability and make recommendations to the owner of the building to improve accessibility	Director, Corporate Services & Research	30/6/2000
	Subject to budget and time constraints, relevant Commission services and materials are more accessible to other EEO group members as customers	Review past materials produced by the Commission and improve access to this material for people with a disability and other EEO group members	Director, Corruption Prevention & Education	Ongoing
		Within budget and time constraints, ensure that future services and materials are more accessible to all EEO group members	Director, Corruption Prevention & Education	Ongoing
		Promote availability of material and services to all EEO group members	Education Section	Ongoing

## APPENDIX 5: ICAC PUBLICATIONS 1998—1999

### Investigation reports

- *Investigation into the Conduct of a Senior Inspector with the Department of Gaming and Racing* – September 1998
- *Report on the Investigation into the Conduct of an Alderman on Fairfield City Council* – November 1998
- *Investigation into the Department of Corrective Services: Second Report – Inappropriate Relationships with Inmates in the Delivery of Health Services* – November 1998
- *Investigation into Parliamentary and Electorate Travel: Second Report – Analysis of administrative systems and recommendations for reform* – December 1998
- *Investigations into allegations made by Louis Bayeh against the Member for Londonderry, Paul Gibson MP* – December 1998
- *Report on Investigation into Aboriginal Land Councils in New South Wales: Investigation Volume*—June 1999
- *Weighing the Waste: An Investigation into Conduct at Local Council Waste Depot Weighbridges at St Peters and Elsewhere*—June 1999
- *Investigation into the Department of Corrective Services Third Report: Betrayal of trust: The activities of two correctional officers*—June 1999

### Corruption prevention reports

- *Strategies for Managing Post Separation Employment Issues* – September 1998
- *Strategies for Corruption Prevention in Government Regulatory Functions* – March 1999
- *Best Practice, Best Person: Integrity in public sector recruitment*—May 1999
- *How to Handle the Effects of an ICAC Investigation: A guide for public sector managers*—June 1999
- *Gifts, Benefits or Just Plain Bribes?: Guidelines for public sector agencies and officials*—June 1999

### Research publications

- *Report on Investigation into Aboriginal Land Councils in New South Wales: Research Evaluation* – July 1998
- *Ethics: the key to good management* – December 1998
- *Private contractors' perceptions of working for the New South Wales Public Sector* – January 1999
- *Case Management in New South Wales Correctional Centres – Report for regional commanders and correctional executive committees in the NSW Department of Correctional Services* – March 1999
- *Tips from the Top: Senior NSW public sector managers discuss the challenges of preventing corruption* – April 1999
- *NSW Journalists: What do they know about corruption and the ICAC?*—June 1999
- *Community and Journalists' Attitudes to Corruption and the ICAC*—June 1999

### Other publications

- Annual Report 1997–98
- Annual Report Summary 1997–98
- ICAC Corporate Plan 1998–2001
- *Corruption Matters* Newspaper—3 issues
- Expanded and improved ethics training resource *Conduct Becoming*
- Updated *Guide for Community Advisers*



## APPENDIX 6: MEDIA STATEMENTS 1998—1999

### 1998

2 July	ICAC Assistant Commissioner appointed to conduct public investigation hearing re Paul Gibson MP– Louis Bayeh
6 July	ICAC Commissioner Barry O’Keefe appears before NSW Parliamentary Committee on the Independent Commission Against Corruption
8 July	Thailand Government and business officials visit ICAC
15 July	Local government urged to check anti-corruption measures for surveyors (this release was localised with the name/s of relevant councils for more than 100 regional/suburban newspapers and radio stations throughout NSW)
17 July	ICAC corruption prevention officers visit Walgett to discuss Aboriginal Land Councils
24 July	Proceedings resume in public investigation hearing re Paul Gibson MP–Louis Bayeh
21 August	Public investigation hearing announced into NSW Environmental Protection Authority officer
2 September	Investigation report released into corrupt NSW Department of Gaming & Racing inspector
9 September	Public investigation hearing announced into Sydney City Council waste disposal depot
18 September	Closing legal submissions re Paul Gibson MP–Louis Bayeh public investigation hearing
10 November	Investigation report released into corruption by former Fairfield Council official
16 November	Innovative school student invention wins ICAC-sponsored ethics award (this news release also issued to media local to the winning school)
24 November	Investigation report released into corrupt behaviour of health officials in NSW gaols
8 December	Corruption prevention report released on need to tighten administration of allowances paid to NSW MPs
15 December	Corruption prevention report released which warns of workplace change creating probity problems
17 December	Investigation report released into relationship between Paul Gibson MP and Louis Bayeh
22 December	ICAC 1997-98 Annual Report released expressing concern at government funding cuts

### 1999

12 January	Corruption prevention report released saying post-separation employment issues need proper management
20 January	ICAC Commissioner warns State election candidates not to “smear” each other to the Commission before the poll
15 February	Research report released which surveys private sector views of the NSW public sector
12 March	ICAC 10 <sup>th</sup> Anniversary
29 March	ICAC corruption prevention officers visit Ivanhoe for Aboriginal Land Councils project
29 March	ICAC corruption prevention officers visit Lake Cargelligo for Aboriginal Land Councils project
29 March	ICAC corruption prevention officers visit Griffith for Aboriginal Land Councils project
30 March	Corruption prevention report released urging ethics testing for NSW public sector workers
9 April	ICAC corruption prevention officers visit Nyngan for Aboriginal Land Council project
9 April	ICAC corruption prevention officers visit Bourke for Aboriginal Land Council project
9 April	ICAC corruption prevention officers visit Cobar for Aboriginal Land Council project

23 April	Research by ICAC shows management of gaol inmates needs improvement to minimise corruption opportunities
3 May	ICAC corruption prevention officers visit Gunnedah for Aboriginal Land Councils project
7 May	ICAC announces public hearing into Wollongong Periodic Detention Centre
7 May	ICAC announces public hearing into Illawarra Development Board
7 May	ICAC announces public hearing into activities of NSW Aboriginal Land Council councillors
14 May	ICAC corruption prevention offices visit Tenterfield for Aboriginal Land Council project
14 May	ICAC corruption prevention officers visit Tingha for Aboriginal Land Council project
14 May	ICAC corruption prevention officers visit Uralla for Aboriginal Land Council project
25 May	ICAC corruption prevention officers visit Walgett, Mungindi & Lightning Ridge for Aboriginal Land Councils project
26 May	Statement on NSW Police Integrity Commission hearing
1 June	ICAC corruption prevention officers visit Narooma, Eden, Cooma and Goulburn for Aboriginal Land Councils project
10 June	ICAC corruption prevention officers visit Broken Hill, Dareton, Balranald and Moama for Aboriginal Land Councils project
28 June	ICAC corruption prevention officers visit Swansea for Aboriginal Land Councils project
30 June	Investigation report released on corruption in Aboriginal Land Councils
Total = 42.	

## APPENDIX 7: CONTRIBUTION TO SEMINARS, CONFERENCES AND WORKSHOPS

### **Community workshops to progress the implementation of recommendations contained in *Report on Investigation into Aboriginal Land Councils in New South Wales: Corruption Prevention and Research Volume – April 1998***

Thirty-two workshops were held in the following locations:

Balranald, Batemans Bay, Bourke, Broken Hill, Casino, Cobar, Coffs Harbour, Cooma, Dareton, Eden, Forster, Goulburn, Grafton, Griffith, Gunnedah, Ivanhoe, Karuah, Lake Cargelligo, Lightning Ridge, Moama, Mungindi, Nyngan, Port Macquarie, Quirindi, Redfern, Rooty Hill, Swansea, Tenterfield, Tinga, Uralla, Walgett and Warren.

### **Better management of protected disclosures**

Seven workshops were held for protected disclosure co-ordinators, senior public sector management members and all staff who have a role in dealing with disclosures.

### **Conduct Becoming workshops**

Twelve sessions to help agencies and councils make best use of *Conduct Becoming* and promote understanding of ethics and public duty. Participating agencies included local government and state public sector agencies in Sydney.

### **Internal investigations training**

Five workshops were conducted in Sydney and regional NSW.

## ICAC SPEAKERS FOR 1998 – 99

EVENT / ORGANISATION	SPEAKER	SUBJECT	DATE	LOCATION
Attorney General's Department	Commissioner	Structure, charter, objectives and operations of the ICAC	20/10/98	Canberra
Attorney General's Department	John Feneley	Legal issues in tendering	8/2/99	Sydney
Audit Office of NSW	John Feneley, Peter Gifford, Nick Wolanin	ICAC - Function and powers and ethics for Senior Managers	13/4/99	Sydney
Audit Office of NSW	Nick Wolanin	Ethics and management	29/6/99	Sydney
Australian and New Zealand Society of Criminology - 13 <sup>th</sup> Annual Conference	Jane Coulter	Community attitudes to corruption and the ICAC 1996	8-10/7/98	Gold Coast, QLD
Australian Defence Force Academy Australian Defence Studies Centre - Australia/PNG Joint Seminar	Commissioner	Corruption and the state: the Australian perspective	11-12/11/98	Canberra
Australian Institute of Criminology	Angela Gorta	Taking an informed approach to minimising corruption	3/3/99	Canberra
Australian Institute of Environmental Health (Western Group)	Peter Gifford	Accountable health and building inspections: ICAC recommendations and beyond	5/3/99	Orange
Australian Institute of Police Management	Commissioner	Graduation ceremony	25/2/99	Sydney
Australian National University	Vicki Klum, Catherine Boardman, Nick Wolanin, John Warburton, Grant Mackay	Masters Course in Anti-Corruption	2-6/11/98	Canberra
Canterbury City Council	Nick Wolanin	Ethics and management	11/12/98	Campsie

EVENT / ORGANISATION	SPEAKER	SUBJECT	DATE	LOCATION
Corrections Health Service - Nurse Unit Managers Conference	Melissa Dryden, Operation Cadix Peter Gifford		20/8/98	Sydney
Corrections Health Service Board	Melissa Dryden	Operation Cadix	23/10/99	Sydney
Department of Agriculture, Fisheries and Forestry	Commissioner	Ethics and values: creating a more accountable public service	21/4/99	Canberra
Energy Australia	Commissioner	Launch of Business Ethics Committee	19/5/99	Sydney
Health and Research Employees Union	David O'Sullivan	Role of the ICAC	8/3/99	Sydney
Health Care Complaints Commission	David O'Sullivan, Anthony Johnson	Role of the ICAC	26/11/98	Sydney
Hong Kong ICAC	Commissioner	25 <sup>th</sup> anniversary celebration	21-27/3/99	Hong Kong
Hurstville City Council	Chris Leeds, Melissa Dryden	Accountable Health and Building Inspections	24/9/98	Sydney
IIR Conferences	Peter Gifford	Fraud, ethics and accountability in the Public Sector	19/4/99	Sydney
IIR Conferences - Managing Service Provider Liabilities and Accountabilities	Peter Gifford	Ensuring accountability by probity	16/2/99	Sydney
Institute of Municipal Management - South Coast Division	Peter Gifford	ICAC and local government	27/5/99	Wollongong
Institute of Municipal Management - Sydney Division	Peter Gifford	ICAC and local government	18/3/99	Croydon
Institute of Municipal Management National Conference	Peter Gifford	Governance and probity	18/5/99	Canberra
International Conference of the Australasian Evaluation Society	Stephanie Cooke	Evaluation of the ICAC enquiry into NSW Aboriginal Land Councils	5-9/10/98	Melbourne
Ku-Ring-Gai Municipal Council	Peter Gifford	Relationships between councillors and staff	15/9/98	Gordon
Legislative Council - Senior Managers	Melissa Dryden	Ethics and management	2/11/99	Sydney
Manly Council	Vicki Klum, Catherine Board man, Peter Gifford	Ethics and Management	15/12/98	Manly
National Investigations Symposium - Checks, Lies and Video Tape	John Feneley  Sue Bolton	Planning and management of investigations: current issues in investigations  Impact of protected disclosures - issues for investigators	22-23/10/98	Manly
National Tertiary Education Union	Melissa Dryden	Role of the ICAC	9/4/99	Sydney
NSW Department of Education and Training	Peter Gifford	Ethics Working Party - ethics framework outlined	11/11/98	Darlinghurst
NSW Government Legal Department Heads	Commissioner	Probity and accountability	23/9/98	Sydney
NSW Health - Senior Executive Officers	David O'Sullivan	ICAC and Conflict of Interest	3/3/99	Sydney
NSW Parliament	Peter Gifford	Parliamentary ethics	24/6/99	Sydney

EVENT / ORGANISATION	SPEAKER	SUBJECT	DATE	LOCATION
NSW Parliament - new Ministers	Peter Gifford John Feneley	Role and powers of ICAC	8/6/99	Sydney
NSW Police Service - Special Constables	Chris Leeds, Giselle Tocher	Role of ICAC	23/7/98	Sydney
Premier's Department Strategic Projects Division	Peter Gifford	Ethics in management	8/12/98	Sydney
Public Service and Merit Protection Commission	Commissioner	Organisational values as a mechanism for performance and accountability	24/2/99	Canberra
Public Transport Union	Melissa Dryden	ICAC and corrupt conduct	10/3/99	Sydney
Queensland University of Technology - Government and Business: Integrity & Accountability Conference	Commissioner	Ethical issues for local government	12/2/99	Brisbane
Roads and Traffic Authority	Commissioner	Ethics for senior managers	1/7/98	Parkes
Roads and Traffic Authority	Commissioner	Ethics for senior managers	8/7/98	Newcastle
Roads and Traffic Authority Regional Seminar	David O'Sullivan	Ethics and management	19/2/99	Broken Hill
Roads and Traffic Authority Registry Managers	Nick Wolanin	Ethics and management	2/2/99	Sydney
Rotary Club, Roseville Chase Inc	Commissioner		7/9/98	Chatswood
Small Agency Chief Executives Committee	Commissioner	CEO forum	16/10/98	Sydney
State Rail Authority	Commissioner	Ethics for senior managers	15/7/98	Petersham
State Rail Authority	Commissioner	Ethics for senior managers	14/7/98	Petersham
State Rail Authority	Commissioner	Ethics for senior managers	15/7/98	Wollongong
Sydney University - Faculty of Commerce	Vicki Klum, Catherine Boardman	ICAC and Corruption Prevention	29/10/98	Sydney
The College of Law	John Feneley	Work of the ICAC, Police Integrity Commission and the Legal Representative Office	25/3/99	Sydney
University of NSW - Planning Law and Practice Short Course	David O'Sullivan	Conflict of Interests	24/9/98	Kensington

## APPENDIX 8: PARTICIPATION IN SIGNIFICANT COMMITTEES

### **Aboriginal and Torres Strait Islander Employment Network (ATSIEN)**

ATSIEN's role is to provide advice to the government of NSW primarily on employment issues. It also provides support to members, and creates a forum to share information on services and programs related to employment, development opportunities and any other issues concerning Aboriginal people.

Jim Sturgeon, Senior Corruption Prevention Officer

### **AUSTRAC Partner Liaison Meetings**

Liaison with financial transactions tracking agency. This meeting is held half-yearly and is organised by the Australian Transaction Reports and Analysis Centre. Representatives from the Commission and other agencies at Federal and State levels attend this meeting to discuss matters in relation to the Financial Transaction Reports Act.

Marilyn Withers, Manager Information Services; Raymond Kwan, Senior Analyst

### **Australian Public Sector Ethics Network (APSEN)**

Public servants and academics working in fraud/corruption prevention and ethics share information and resources.

Sue Bolton, Education Officer; David O'Sullivan, Senior Corruption Prevention Officer

### **Controlled Operations Review Working Party**

Comprises of representatives from a number of law enforcement agencies. It identifies and recommends legislative changes to facilitate the conduct of controlled operations and other covert operations.

Jan Daly, Senior Lawyer

### **Employer Communication Devices Working Party (Premier's Department)**

The purpose of this committee was to assist in the development of policy and guidelines in respect of using employer communication devices. It also resulted in the publication of a protocol to guide state government agencies on the appropriate use of the Internet and e-mail.

Peter Stathis, Corruption Prevention Officer

### **Heads of Criminal Intelligence Agencies Conference**

The Australian Bureau of Criminal Intelligence organises this conference twice each year. Law enforcement officers attend it from Federal and State agencies as well as New Zealand. The Commission participates in this conference to maintain good relations and liaison, and for better exchange of intelligence with these agencies.

Andrew O'Connor, Chief Analyst

### **Information Publishing Benchmarking Group**

The purpose of this group of representatives from several Government agencies is to establish benchmarks for cost effective and efficient publishing of government information.

Yvonne Miles, Manager Education; Helen Wells, Education Officer; Anita Hansen, Education Officer

### **Information Security Committee of the Research Foundation for Information Technology Sydney University**

Committee established to promote information security to academics, students and the public and private sectors.

Colin Walmsley, Assistant Security Manager

### **Inter-Agency Fraud Committee**

A committee of representatives from law enforcement agencies which discusses the incidence of fraud and associated matters, with reference to both criminal and civil issues.

Tim Lowe, Senior Lawyer

### **Interdepartmental Custodial Witness Protection Committee**

Guy Slater, Director Investigations

### **Law and Order Working Group (Office of Information Technology)**

A group of officers responsible for managing internet sites of law and order related agencies meeting to develop the ServiceNSW Law and Order Service Sector.

Helen Wells, Education Officer

### **Law Enforcement Advisory Committee and its technical sub-committees**

A committee of State and Federal agencies that examine issues relating to telecommunications interception.

Paul Empson, Manager, Technical Services; Marie Ryan, Manager, Special Projects

### **Law Society of NSW – Government Solicitors Committee**

The Committee oversees the needs and interests of Government solicitors and administers the Excellence Award in Government Legal service.

Roy Waldon, Principal Lawyer

### **Local Government Aboriginal Network**

This forum allows for the development of networks, promotion of services and programs, and information sharing state wide. The Commission's active involvement in this forum enables greater understanding, in the government and non-government sectors, of the ICAC's role in helping to reduce corruption in local Aboriginal land councils.

Jim Sturgeon, Senior Corruption Prevention Officer

### **NSW Corruption Prevention Committee Inc.**

A committee of public sector officers to promote corruption prevention strategies through Corruption Prevention forums and by encouraging formal and informal networks of practitioners.

David O'Sullivan, Senior Corruption Prevention Officer

### **NSW Law Enforcement Agencies Committee**

This committee identifies and discusses issues relevant to law enforcement agencies.

John Feneley, Solicitor to the Commission

### **NSW Police Service Internal Witness Advisory Council**

This council oversees the new Police Service Internal Witness program. It meets to consider matters relevant to the Internal Witness Support Unit.

Peter Gifford, Director Corruption Prevention and Education; John Feneley, Solicitor to the Commission

### **NSW Public Sector Ethics Working Party**

This group involving the Premier's Department, ICAC and trade unions meets to develop and recommend to the Chief Executives Committee strategies to include ethics into the operation of the NSW public service.

Peter Gifford, Director Corruption Prevention and Education; Sue Bolton, Education Officer

### **Protected Disclosures Act Implementation Steering Committee**

The committee develops strategies to ensure effective implementation of the Act.

Peter Gifford, Director Corruption Prevention and Education; Sue Bolton, Education Officer

### **Quality Control Committee for Review of Olympic Bid Company Records**

Established by the President of SOCOG and the Minister for the Olympics Michael Knight to provide a quality control oversight for the independent examiners review of the Olympic Bid Company records.

John Feneley, Solicitor to the Commission

### **Security Services Spectrum Committee**

Sub-committee of Radio Consultative Council that represents interests of law enforcement in the context of radio-communications frequency requirements

Paul Empson, Manager, Technical Services Manager

### **Special Branch Working Party**

John Feneley, Solicitor to the Commission; Guy Slater, Director Investigations.

### **Western Sydney Koori Interagency**

The Interagency disseminates information about services and provides support to Aboriginal people working in government and non government organisations and to non-Aboriginal people who provide services to the Aboriginal community in South Western Sydney. The interagency encourages the development of formal and informal networks for the continual improvement of services and programs.

Jim Sturgeon, Senior Corruption Prevention Officer



## APPENDIX 9: PROSECUTIONS AND DISCIPLINARY ACTIONS

### PROSECUTION PROCEEDINGS DURING 1998-99

#### Investigation into north coast land development (Operation Barracuda)

Name	CASELL, Barry John
Nature of offences recommended	False or misleading evidence (s87 ICAC Act).
Date of action	18/06/99
Result	Cassell was granted special leave to appeal to the High Court.
Name	HOGAN, Thomas Edward Paul
Nature of offences recommended	Bribery.
Date of action	16/09/98
Result	Attorney General accepted the recommendation of Director of Public Prosecutions that no further proceedings take place.
Name	MUNRO, Roger Gareth
Nature of offences recommended	Bribery.
Date of action	09/03/99
Result	Munro's appeal against conviction and sentence on one count of bribery was heard in Court of Criminal Appeal which allowed his appeal.

#### Investigation into unauthorised release of confidential information (Operation Tamba)

Name	DEVINE, Paul Francis
Nature of offences recommended	False or misleading evidence (s87 ICAC Act).
Date of action	22/02/99
Result	Matter dealt with under s556A Crimes Act. The charged was dismissed without recording a conviction.
Name	STEWART, Kingsley James
Nature of offences recommended	Disclosure of information by Commonwealth Officer and bribery.
Date of action	28/09/98
Result	District Court admitted into evidence material that had been objected to by Stewart. Matter to be set down for trial.
Name	WILSON, Eric Sydney
Nature of offences recommended	False or misleading evidence (s87 ICAC Act) and conspiracy to bribe.
Date of action	04/12/98
Result	Wilson pleaded guilty in relation to two offences under s87 ICAC Act and one offence of conspiracy to bribe. He was dealt with under s556A of the Crimes Act. He was discharged on condition he enter into a good behaviour bond for a period of 12 months in the sum of \$500.

#### Investigation into the conduct of present and former Officers of SRA (Operation Banksia)

Name	DAVIES, Phillip George
Nature of offences recommended	Obtaining money, etc by false or misleading statements.
Date of action	04/05/99
Result	Stood over to date to be fixed.
Name	BELL, David Brian
Nature of offences recommended	Obtaining money, etc by false or misleading statements.
Date of action	04/05/99
Result	Stood over to date to be fixed.

#### Investigation into conduct of Brian Zouch (Operation Dilli)

Name	MERTON, Leslie
Nature of offences recommended	Conspiracy to bribe.
Date of action	27/04/99
Result	Matter set down for a two- week trial commencing 18/10/99.

Name	ZOUCH, Brian
Nature of offences recommended	False or misleading evidence (s87 ICAC Act) and conspiracy to bribe.
Date of action	27/04/99
Result	Set down for a two week trial commencing 18/10/99.

**Investigation into conduct of Giuseppe Morzzi former Mayor of Fairfield City Council (Operation Sturt)**

Name	MARTIN, Alexander Richard
Nature of offences recommended	Breach of ICAC suppression order (s112 ICAC Act).
Date of action	12/04/99
Result	Prosecution discontinued.

**Investigation into conduct of Bathurst City Council public official (Operation Rouse)**

Name	ASTILL, Raymond William
Nature of offences recommended	Bribery.
Date of action	21/07/97
Result	Astill was sentenced to 12 months imprisonment. A notice of appeal was filed by Astill.

**Investigation into Department of Corrective Services (Operation Cadix)**

Name	ATTALLAH, Joseph
Nature of offences recommended	False or misleading evidence (s87 ICAC Act).
Date of action	25/05/99
Result	Attallah entered a plea of not guilty to all charges.

**Investigation into the conduct of Khaled Ghoul, Workcover Authority Inspector (Operation Astra)**

Name	KIM, Myung Ho
Nature of offences recommended	Bribery
Date of action	28/05/99
Result	Kim pleaded guilty and was convicted and fined \$1,000.00 in relation to each of two offences and \$500.00 on third a count. A confiscation order was made in the sum of \$1,000.00.

**Investigation into conduct of George Bertoncello, Building Inspector employed by Lane Cove Council (Operation Cal)**

Name	BECHARA, Nazem
Nature of offences recommended	False or misleading evidence (s87 ICAC Act) and bribery.
Date of action	27/04/99
Result	Bechara pleaded not guilty to all matters. Listed for hearing July 1999.
Name	BERTONCELLO, George
Nature of offences recommended	False or misleading evidence (s87 ICAC Act) and bribery.
Date of action	04/05/99
Result	Bertoncello pleaded not guilty.

## DISCIPLINARY ACTION PROCEEDINGS DURING 1998-99

**Investigation into termination of employment of two officers by Southern Mitchell Electricity (Operation Flax)**

Name	BIRD, Patrick
Nature of offences recommended	Disciplinary (Law Society).
Date of action	25/11/98
Result	Administrative Decisions Tribunal, Legal Services Tribunal Division, made two findings that the practitioner's conduct amounted to unsatisfactory professional conduct. It ordered that he be publicly reprimanded, fined the sum of \$2,000.00 and pay costs of \$12,144.00.

## APPENDIX 10: STATEMENT OF FINANCIAL PERFORMANCE

The Independent Commission Against Corruption (ICAC) is an organisation established by an Act of the New South Wales Parliament. It is independent of the Government of the day.

It is accountable to the people of NSW through the Operations Review Committee and the Parliamentary Committee on the ICAC.

### AIM, PRIORITIES AND KEY STRATEGIES

#### Aim

ICAC will make New South Wales a better place in which to live and do business, by:

- combating corruption affecting the public sector; and
- promoting the highest ethical standards.

#### What ICAC does

ICAC exposes and minimises corruption in the NSW public sector.

It focuses on exposure and minimisation work that public sector agencies are either unable or unwilling to do themselves, or because it is in the public interest for the ICAC to undertake the work.

#### How corruption is exposed

The ICAC targets and investigates serious and systemic corruption and corruption opportunities.

Through investigations, the ICAC establishes the facts and states whether others should consider prosecution, discipline and preventative actions. ICAC recommends changes to prevent similar corruption occurring again.

Hearings are conducted and reports produced on ICAC investigations.

#### How corruption is minimised

ICAC minimises corruption by exposing it and giving public sector agencies advice, guidance and information.

ICAC reinforces with each public sector agency its responsibility for minimising corruption in work practices.

ICAC promotes an ethical climate so that public sector agencies and individuals are encouraged to act against corruption.

#### ICAC priorities

ICAC will:

- select work that brings the greatest benefit to the public sector and the people of NSW
- motivate public sector agencies and their employees to minimise corruption and make sure that they are capable of doing so
- encourage all people in NSW to support the need to combat corruption and to understand ICAC's role in this.

#### Strategies

Carefully assess information to target serious and systemic corruption and corruption opportunities.

Continue to develop sound relationships and work collaboratively with public sector agencies, other organisations and individuals.

Guide and advise the public sector in ways that are practical and relevant, and that enhance the reputation of New South Wales.

Educate selected groups so their responses to corruption and potential corruption contribute to the achievement of our aim.

Encourage public sector agencies to communicate with their staff and clients about corruption.

Recognise and support public sector agencies in their efforts to achieve organisational improvement.

Continue to improve our own skills, systems and practices to advance the achievement of ICAC's priorities.

Strengthen all working relationships by managing expectations and promoting effective communications.

## COMMISSION FUNDING AND FINANCIAL PARAMETERS

	1996-97 Actual	1997-98 Actual	1998-99 Budget
<b>FUNDING</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
Consolidated Fund Recurrent Allocation	13,071	12,936	13,377
Consolidated Fund Capital Allocation	240	240	240
<b>FINANCIAL PARAMETERS</b>			
Net Cost of Service	15,021	14,482	14,982
Capital Authorisation Limit	240	250	250

## PROGRAMS

### Regulatory program – relates to the exposing of corruption

The Regulatory Program of the Commission encompasses the Commission's investigations, legal and various technical areas.

#### Objectives:

- carefully assess information to target serious and systemic corruption and corruption opportunities.
- continue to develop sound relationships and work collaboratively with public sector agencies, other organisations and individuals
- guide and advise the public sector in ways that are practical and relevant, and that enhance the reputation of New South Wales
- continue to improve our own skills, systems and practices to advance the achievement of ICAC's priorities
- strengthen all working relationships by managing expectations and promoting effective communications.

#### Inputs:

	1996-97 Actual	1997-98 Actual	1998-99 Budget
Total Expenditure of Program (\$'000)	8,718	9,140	9,897
Average Staff Number	79.3	79.5	86.0

### Advisory program – relates to the minimisation of corruption

The Advisory Program comprises the Commission's corruption prevention, education and research areas. The objectives of the advisory program are:

#### Objectives:

- carefully assess information to target serious and systemic corruption and corruption opportunities
- continue to develop sound relationships and work collaboratively with public sector agencies, other organisations and individuals
- guide and advise the public sector in ways that are practical and relevant, and that enhance the reputation of New South Wales
- educate selected groups so their responses to corruption and potential corruption contribute to the achievement of our aim
- encourage public sector agencies to communicate with their staff and clients about corruption
- recognise and support public sector agencies in their efforts to achieve organisational improvement
- continue to improve our own skills, systems and practices to advance the achievement of ICAC's priorities
- strengthen all our working relationships by managing expectations and promoting effective communications

#### Inputs:

	1996-97 Actual	1997-98 Actual	1998-99 Budget
Total Expenditure of Program (\$'000)	3,883	3,153	2,987
Average Staff Number	32.0	27.8	26.6

### Corporate services program

The Corporate Services Program encompasses all other areas of the Commission which support the regulatory and advisory program areas.

#### Objectives:

- continue to develop sound relationships and work collaboratively with public sector agencies, other organisations and individuals
- continue to improve our own skills, systems and practices to advance the achievement of ICAC's priorities
- strengthen all working relationships by managing expectations and promoting effective communications

#### Inputs:

	1996-97 Actual	1997-98 Actual	1998-99 Budget
Total cost of program (\$'000)	2,520	2,290	2,148
Average staff number	23.5	23.3	22.9

## PERFORMANCE MEASURES

The ICAC investigation, research and corruption prevention reports, and education products, describe and analyse corruption and corruption opportunities ICAC has identified and addressed.

Measure and report on the extent to which ICAC services, products and advice are used in and beyond NSW.

Public sector agencies evaluate ICAC guidance as timely, practical and relevant.

Community perceptions of the ICAC and its effectiveness continue at highly positive levels.

Recognise and acknowledge, through publications, agencies that implement change strategies designed to minimise corruption.

Monitor and publish examples of products and processes that agencies have developed to inform their staff and clients of their anti-corruption strategies.

Appraise and report on dealings with individuals and groups with whom the ICAC works and affects.

## SERVICE QUALITY STANDARDS

The Commission will:

- advance the public interest at all times.
- always act ethically and with integrity
- be fair, impartial and accountable in all our work
- strive for excellence in everything we do
- be tenacious and professional in pursuing our aim
- respect each other and work collaboratively
- preserve the ICAC's independence

## REPORTING AND MONITORING REQUIREMENTS

The Commission has various reporting and monitoring requirements that assess funding levels, operational areas and the efficiency of the Commission. The following bodies comprise the accountability bodies of the Commission.

The Parliamentary Committee on the ICAC (PJC) is established under the ICAC Act. To review and monitor Commission activities, as well as examining ICAC reports on relevant matters and trends in corrupt conduct. The Committee's role does not include reconsideration of ICAC operational decisions or decisions relating to whether or not particular investigations or complaints should be pursued.

The Operations Review Committee is established by the ICAC Act and is responsible for advising the Commissioner whether the ICAC should discontinue or not commence investigation of a complaint.

The Treasury monitors the Commission funding monthly to assess any forecast changes in the budget result. The focus of the monthly reviews is to identify actual and anticipated variations in expenditure and revenues, the reasons for the variations and the source of funding to meet the identified variations.

## **RISK MANAGEMENT IDENTIFICATION AND STRATEGY**

### **Fraud control**

As highlighted in the Commission's code of conduct the ICAC legislation provides that officers of the Commission, in carrying out their duties, are required to "regard the protection of the public interest and the prevention of breaches of public trust as (their) paramount concerns".

The work of the Commission could be undermined if any of its officers acted or was seen to be acting in a way which the Commission itself, or right thinking members of the community, would find reprehensible in any public organisation.

The Commission relies on various formal documents, including procedures manuals and the code of conduct to provide guidance in the prevention of fraud and internal accounting and like procedures to detect it should it occur. Although these documents will continue to play an integral part in this process, the Commission is in the process of developing a comprehensive Fraud Control Policy which will identify more clearly both the internal and external fraud risks to the Commission, assess the threat of fraud and the possibility of its occurrence, and review the existing internal controls to counter these fraud risks.

### **Internal audit**

In line with Treasury guidelines on 'best practice internal control', the scope of the Commission's internal audit program has moved from a traditional focus on financial controls and compliance to also incorporating assurance that the Commission's operations are being conducted effectively and efficiently. Internal audit for the Commission is performed by the Auditor General.

The continuing move to expanding internal audit activity to other than reviews of financial accounting systems and aspects of financial compliance has been beneficial in improving the efficiency and effectiveness of the Commission's operations.

The internal audit program also reviews the reporting to the Operational Review Committee to determine the accuracy and adequacy of the Commission's reporting performance and compliance with the Committees recommendations.

## **REVIEW**

Over the last few years through the streamlining of corporate services and the more efficient use of contracting out, the Commission has been able reduce its corporate service costs to assist in its move towards a broader approach to combating corruption. This has involved a greater emphasis on collaboration, advice and education while still retaining a strong investigative capacity.

## APPENDIX: 11 PAYMENT PERFORMANCE INDICATORS

### Accounts payable

	Current \$	30 days \$	60 days \$	90 days \$
1st Quarter	182,392	9,597	443	587
2nd Quarter	81,448	10,987	-	1,688
3rd Quarter	117,276	3,545	-	-
4th Quarter	43,518	3,050	-	475

This table relates to payment outstanding at the end of each quarter as recorded in the ICAC's accounting system.

### Payments on time

	Accounts paid on time		Amount paid on time \$	Amount paid \$
	Target %	Actual %		
1st Quarter	95	95	1,574,104	1,658,681
2nd Quarter	95	98	1,400,574	1,417,081
3rd Quarter	95	93	1,325,602	1,370,240
4th Quarter	95	94	2,004,834	2,038,690
<b>Annual Average</b>	<b>95</b>	<b>95</b>	<b>6,305,114</b>	<b>6,484,692</b>

The Commission set targets of 95% and problem level indicators of 90% in relation to the prompt payment of accounts. As reported above the Commission's performance regarding the prompt payment of accounts is in line with established targets and higher than the problem level indicator of 90%.

The Commission did not forfeit any discounts available and there was no interest charged on the payments not made on time.

## APPENDIX: 12 CONSULTANCIES

In 1998–99 the Commission spent a total of \$31,670 for specialised services from six different consultants, each at an individual cost of less than \$30,000. The consultants and services provided are indicated below.

### Consultants engaged by ICAC 1998–99

Consultant	Services provided
The Riches Group	Assisted the Commission with its work on the Institutional Strengthening Project for the Ombudsman Commissioner, Papua New Guinea. The project was principally funded by AUSAID. Cost \$4,200
Conflict Resolution Network Group	Facilitated the establishment of rules and procedures for the Commission Consultative Group. Cost \$2,970
Gutteridge Haskins and Davey P/L	Undertook an audit of the Commission's air conditioning plant and equipment with a view to establishing a new contract for the maintenance of the plant and equipment. Cost \$1,000
Roberts Weaver P/L	Reviewed the Commission's telecommunication with a view to recommending a five year technical solution and assisting in the letting of the tender. Cost \$13,000
Synercon Management Consulting P/L	Assisted in the formulation of specifications for the replacement of the Commission's Library and Records Management systems, including the feasibility of a seamless information management system. Cost \$6,400
Arthur Andersen	Assisted the Commission in identifying opportunities to reduce fringe benefits tax costs which can be practically implemented. Cost \$4,100



## APPENDIX 13: STATUTORY DISCLOSURE REQUIREMENTS REFERENCE

This appendix has been prepared to assist the reader to locate in the report those matters specified by statutory disclosure requirements.

<b>Independent Commission Against Corruption Act 1988</b>		<b>Page No</b>
<b>Section and Detail</b>		
76(1) Report prepared within four months after 30 June and furnished to presiding officers of each House of Parliament		complies
76(2) Report shall include:		
76(2)(a) Description of matters referred to ICAC		27–29
76(2)(b) Description of matters investigated by ICAC		31–33
76(2)(c) Recommendations for changes in the laws of the state or for administrative action		35
76(2)(d) Information furnished to a law enforcement agency		35
76(2)(e) Extent to which investigations have resulted in prosecution or disciplinary action		108–109
76(2)(f) Number of search warrants issued		29–30
76(2)(g) Activities in relation to educative and advising functions		37–44
<b>Annual Reports (Departments) Act 1985</b>		
<b>Section and Detail</b>		
1 – 8		N/A
9(1) The Annual Report shall comprise:		
9(1)(a) –Financial statements		70–83
9(1)(b) –Auditor’s opinion		71
9(1)(b1) –Response from Department Head to Auditor-General’s report		N/A
9(1)(c) –Report of operations		27–70
9(1)(d) –Other prescribed matters		complies
9(2) Treasurer’s directions		N/A
10 Report of operations prepared within 4 months		complies
11(1): Report shall include:		
11(1)(a) – charter		9
11(1)(b) – aims and objectives		110
11(1)(c) – access		ii
11(1)(d) – management and structure		84
11(1)(e) – summary review of operations		2–8
11(1)(f) – legal change		35
11A Letter of submission to include:		
11(a) –submission to Minister		v
11(b) – provisions under which report has been prepared		v
11(c) – if late, length of delay and reason for s16 extension		N/A
11(d) – if no s16 application made, reasons for delay and failure to make application		N/A
11(e) – signed by Department Head		v
12(1) Submission within 4 months to Minister		N/A
12(2) Submission to Treasurer		complies
13 – 20		N/A
<b>Annual Reports (Department) Regulations</b>		
<b>Regulation and Detail</b>		
4 Start and finish of audited financial statements clearly indicated		70–83
5(a) Major assets, other than land holdings, and major acquisitions		
5(c) Code of conduct amendments or new replacement code		62
5(d) Matters significantly affecting reporting in 1997–98 of financial operations, other operations or clientele		complies
5(e) Number of annual report copies printed and average cost of each		ii
6 Identification of any unaudited financial statements or reports		N/A
7 Performance of executive officers		N/A

8 Total number of executive positions, comparison with previous year, the number of females in that total and that comparison with previous year*	complies
10(2) Annual report table of contents and index	complies
12(1) Public availability of annual report	complies

# Matters referred to in Schedule 1

## -Information required in report of operations – to the Annual Reports (Department) Regulations

### Item

Charter: Manner of establishment and purpose	9
Principal legislation	9
Aims & objectives:	
Aims	110
Services provided	iii
Clientele served	iii
Access:	
Address	ii
Telephone number	ii
Business and service hours	ii
Management & structure:	
Names of principal officers, their positions and appropriate qualifications	63–64
Significant committees and members	106–107
Significant committees abolished and established, with functions of the latter	N/A
Organisation chart showing functional responsibilities	84
Summary review of operations:	3–8
Narrative summary of significant operations	26–69
Financial and quantitative information about programs or operations	15–17
Fees granted to non-government community organisations	N/A
Legal change in Acts or subordinate legislation and significant judicial decisions affecting the body or clients	35
Economic or other factors that have affected the achievement of operational objectives	3–8
Management & activities:	
Nature and range of activities	3–8, 26–69
Measures and indicators of performance showing level of efficiency and effectiveness	15–17
Nature and extent of internal and external performance review practices	N/A
Benefits from management and strategy reviews	15–17
Management improvement plans adopted and achievements in reaching previous targets	15–17
Major problems and issues	3–8, 26–69
Major works in progress	26–69
Delays in major works or programs	26–69
Research & development:	
Completed research	53–56
Continuing research and development	53–56
Human resources:	
Number of employees by category and comparison with previous three years	60
Exceptional movement in salaries	61
Personnel policies and practices	58–66, 94–99
Industrial relations policies and practices	58–66, 94–99
Consultancies:	
Costing more than \$30,000	N/A
Costing less than \$30,000	114
Equal employment opportunity:	58–66, 94–99
Achievements	58, 94–99
Strategies for the following year	94–99
Statistics	61
Disability plans	59, 94–99
Statement setting out progress required under the <i>Disability Services Act</i>	59
Land disposal	N/A

Promotion: Publications available to public	100
Overseas visits including purposes	49–50
Consumer response:	
Extent and main features of complaints	23, 53–57
Services improved or changes as a result	23, 53–57
Guarantee of service:	iii, 17
Standard for providing service	iii, 17
Comment on variances from standard and any changes made	17
Payment of accounts:	
Performance details	70–83
Delay in payment of accounts leading to interest being charged	114
Time for payment of accounts:	
All instances where interest has been paid and reason for delay	114
Risk management and insurance activities	68
Controlled entities	N/A
Ethnic affairs priority statement:	
Progress in implementing	59, 94–99
Strategies for the next year	59, 94–99
Agreement with the Ethnic Affairs Commission and progress towards implementation	94

### Other specific requirements

<b>Requirements under <i>Freedom of Information Act 1989</i> and Regulations:</b>	
1. Information is to be provided in the required format	complies
2. An assessment of that information is to be provided	complies
<b>Requirements under <i>Government Pricing Tribunal Act 1992</i>:</b>	
Agency to provide information regarding determination or recommendation of tribunal	N/A
<b>Requirements under Treasury Circular No.13 of 1995</b>	
Annual Reports additional requirements:	
1. Contracting and market testing	68
<b>Requirements under Treasury Circular No. 1997/01</b>	
Equal Employment Opportunity disclosure requirements:	
1. Commentary on Equal Employment Opportunity achievements	59–60
2. Statistical information in the required format	60–61
<b>Requirements under Treasury Circular No. 7 of 1997</b>	
Disability plans	59, 94–99
Ethnic Affairs Priorities Statements and Agreements	59, 94–99
Account payment performance	114
<b>Requirements under Treasury Circular No.10 of 1999</b>	
NSW Government Action Plan for Women	59
Occupational Health & Safety	62
Year 2000 Millennium Bug	67
Government Energy Management Policy	69
<b>Requirement under Treasurer's Memorandum No. TM92/9</b>	
(a) Number of copies printed and cost	ii
(b) Index and table of contents complies	complies
(c) Provided to Parliament in computer-readable form	complies
<b>Requirements under Treasurer's Direction TD 900.01 General Insurance:</b>	
Report on risk management and insurance activities	68
<b>Requirements under Premier's Department Memorandum No 91-27</b>	
Requirements for all NSW Government publications**	complies
<b>Requirements under Premier's Department Circular No. 92/4</b>	
Senior Executive Service – Reporting in annual reports*	
<b>Requirements under Premier's Memorandum 98/4</b>	
Production costs of annual reports	ii
<b>Requirements under Premier's Memorandum PM 98-35</b>	
Government Energy Management Policy	69
<b>Requirements under Premier's Department Memorandum No. 94-28</b>	
Changes to Procedures for Making Statutory Rules	
1. Annual reports to detail any departures from Subordinate Legislation Act	N/A

- Notes** \* ICAC directors are on term contracts, but are not part of the NSW Senior Executive Service, although their remuneration is linked to that service.
- \*\* The report complies with all requirements under Premier’s Department Memorandum No 91-27 except for that which requires inclusion, on the front cover, of the legend: “The New South Wales Government, Putting people first by managing better”. The decision not to include these words is based on the ICAC’s independence of government.
- N/A** Not Applicable

## INDEX

- Aboriginal Land Councils of New South Wales, (see also Zack Operation) 4, 29, 32, 40
- accountability of ICAC, 12–14  
     and disciplinary proceedings, 13, 35, 108–109  
     and Annual Report, 13, 35  
     and ORC, 13
- accounting policies, 77–78
- advice–corruption prevention, iii, 41
- allegations, 19–22
- Aroo Operation—see State Rail Authority
- assessment processes (of allegations of corruption), 29
- assets, 68
- audits (The Audit Office and ORC), 13–14, 34, 68, 71
- Benda Operation (see also Liverpool City Council), 32
- Berdan Operation (see also Sydney Ferries), 32
- Besa Operation (see also Illawarra Development Board), 32
- Cadix Operation (see also Department of Corrective Services), 27–29, 31, 41, 53
- classification of matters, 28
- Code of Conduct, 63, 85–90
- coercive powers, 29–30
- Commissioner  
     letter to Parliament, v  
     overview, 1–7  
     statement by the Commissioner (in relation to financial statements), 72
- committees, 106–107
- Community Attitudes Survey, 55
- community relations, 45–51
- complaints, 23, 28  
     formal investigation, 29–32
- Conduct Becoming*, 41–42
- contracting out of services, 68
- corporate plan, 111
- corporate services and research unit, 58–69
- Corruption Matters*, 41
- corruption–exposing–see investigations
- corruption prevention–see prevention services
- Department of Community Services, 19, 29
- Department of Corrective Services (see also Cadix Operation), 4, 19, 29, 41, 56
- Department of Education and Training, 29
- Department of Health, 19, 29
- disability services program, 94
- disciplinary actions–see prosecutions
- discretion (of ICAC), 9
- education (see also resources), 10, 37–46
- energy management, 69
- Environment Protection Authority (see also Negri Operation), 27
- ethical culture project, 53
- ethics working party, 38
- Ethic Affairs Priority Statement, 94–97
- Equal Employment Opportunity (EEO)  
     committee, 59  
     management plan, 59–60, 94–99
- exposing corruption–see investigations
- financial management, 67–68
- financial performance, 110–113
- financial statement, 70–84
- focus groups, 38, 53
- fraud control, 68
- freedom of information (FOI), 91–93
- guarantee of service, 17
- hearings (public and private), 27–28
- human resources, 58–61
- ICAC's strategic capacity (ICS) (see also Strategic Capacity project), 18–24
- Illawarra Development Board (see also Besa Operation), 32
- independence (of ICAC), 12
- information services, 67
- insurance, 68
- international visitors, 48–49
- internet, iii, 46–47
- investigation services, 26–35
- investigation unit, 27
- investigations,  
     joint, 23, 27  
     overview, 27–32  
     reports of, 32–34  
     strategic capacity project, 18–24
- IT–see technology
- Jommelli Operation (see also Roads and Traffic Authority), 27
- jurisdiction, 10
- legal changes, 35
- liaison,  
     international agencies, 41, 48–51  
     law enforcement agencies, 35
- library–see information services
- litigation, 34–35
- Liverpool City Council (see also Benda Operation), 19
- local government, 4, 29
- media relations, 47
- media statements, 101–102
- Minister's Young Designers Awards (MYDA), 48
- model of public duty, 43–44
- Negri Operation (see also Environment Protection Authority), 27
- NSW State Transit Authority, 19, 29
- obligations (of ICAC), 9
- Occupational Health and Safety (OH&S) Committee, 62
- Operations Review Committee (ORC), 13, 33–34  
     accountability, 13, 33–34  
     role of, 33  
     workload, 34  
     audits, 34
- organisation (of ICAC), 84
- overseas visits, 50–51
- overview (of ICAC), 9–11
- Parliamentary and electoral travel, 3, 40
- Parliamentary Joint Committee, 12–13
- performance measurement, 15–17
- Pitwater Municipal Council, 19
- Police Service (NSW), 29
- preliminary inquiries, 28

- prevention services, 37–44
  - advice, 41
  - complementing investigative work, 40
  - information, 38–41
  - priorities, 38–39
  - reports, 100
  - training, 38–42
- private sector, 11
- prosecutions, 108–109
- protected disclosures, 19, 29
  - Implementation Steering Committee, 37–38
- publications (list), 100
- receipt of matters, 28
- recruitment, 39
- reports
  - overview, 3–8
  - investigation, 32–33
- research, 53–57
- resources
  - research, 53–56
  - schools/education, 48
- risk management, 68
- Roads and Traffic Authority, 19, 27
- seminars, conferences and workshops, 103–105
- special powers (of the ICAC), 29–30
- Strategic Capacity project (see also ICAC's Strategic Capacity (ICS)), 18–24
- staff, 63–66
- staff development, 65–66
- State Rail Authority (former) (see also Aroo Operation), 3
- statutory appointments, 63
- statutory disclosure requirements, 115–118
- Sydney City Council, 40–41
- Sydney Ferries (see also Berdan Operation), 32
- technology (and information management), 18, 39, 46–47, 58, 66–67
- training–prevention services, 41–42
- Year 2000 compliance, 67
- Zack Operation (see also Aboriginal Land Councils of NSW), 32