



LEGISLATIVE ASSEMBLY OF QUEENSLAND

PARLIAMENTARY CRIMINAL JUSTICE COMMITTEE

**A review of the past twelve months operation of the
Parliamentary Criminal Justice Committee of the
47th Parliament.**

**PREVIOUS REPORTS OF THE PARLIAMENTARY
CRIMINAL JUSTICE COMMITTEE**

REPORT	DATE TABLED
1. Progress Report of the Committee being the Minutes of Evidence taken on 16 and 17 July 1990 at a public hearing in relation to the Report of the Criminal Justice Commission entitled "Report on Gaming Machines Concerns and Regulations".	21 August 1990
2. The Committee's Report No. 1 Relating to the Report of the Criminal Justice Commission entitled "Report on Gaming Machine Concerns and Regulations".	4 September 1990
3. Progress Report of the Committee being the Minutes of Evidence taken on 6 and 7 August 1990 at a public hearing in relation to the Report of the Criminal Justice Commission entitled "Reforms in Laws Relating to Homosexuality - An Information Paper".	4 September 1990
4. The Committee's Report No. 2 into the Report of the Criminal Justice Commission entitled "Reforms in Laws Relating to Homosexuality - An Information Paper".	2 October 1990
5. Report Into Allegations made in the South Australian Legislative Council on 10 October 1990 by Mr Ian Gilfillan, Leader of the Australian Democrats against the Criminal Justice Commission's Director of Operations, Commander Carl Mengler.	4 December 1990
6. Report Into the issue of legal representation of witnesses at public hearings of the Parliamentary Criminal Justice Committee.	6 December 1990
7. Minutes of Evidence taken on 15 April 1991 at a public hearing between the Parliamentary Criminal Justice Committee and the Criminal Justice Commission and other material provided by the Commission to the Committee in relation to the roles and functions of the Committee and the Commission.	22 May 1991
8. Minutes of Evidence taken on Friday 24 May 1991 in relation to the Committee's review of its monitoring and reviewing functions and related matters.	17 June 1991
9. Review of the Committee's operations and the operations of the Criminal Justice Commission Part A, Submissions, Volume 1 - Public Submissions, Volume 2 - CJC Submissions and Minutes of Evidence taken on 6 and 13 June 1991; 2(a) and 2(b).	16 July 1991
10. Report of the independent investigation into the allegations made by Robert David Butler and Channel 7 regarding former Inspector John William Huey and the Queensland Criminal Justice Commission.	16 July 1991
11. The Term of Sir Max Bingham QC, Chairman of the Criminal Justice Commission.	2 August 1991
12. Report on Prostitution.	12 November 1991
13. Review of the operations of the Parliamentary Criminal Justice Committee and the Criminal Justice Commission.	3 December 1991
14. Report of the names of the Members of the 1986-1989 Queensland Legislative Assembly referred to in the Criminal Justice Commission's "Report on an investigation into possible misuse of Parliamentary travel entitlements by Members of the 1986-1989 Queensland Legislative Assembly" (December 1991)	7 February 1992
15. Review of the recommendations arising out of the Criminal Justice Commission's <i>Report on an Investigation into Possible Misuse of Parliamentary Travel Entitlements by Members of the 1986-1989 Queensland Legislative Assembly</i> .	13 April 1992
16. Report on the public hearing held on 25 June 1992 into allegations	13 July 1992

	REPORT	DATE TABLED
	made by Mr Richard Chesterman QC (past member of the Misconduct Tribunals), on 23 June 1992 in The Courier-Mail and The Australian newspapers.	
17.	The Committee's recommendations on changes to the method of appointment and conditions of service of members of the Misconduct Tribunals.	28 July 1992
18.	Review of the operations of the Parliamentary Criminal Justice Committee and the Criminal Justice Commission. Part C - A report pursuant to section 4.8(I)(f) of the <i>Criminal Justice Act 1989-1992</i> .	10 November 1992
19.	Review of the Criminal Justice Commission's <i>Report on S.P. Bookmaking and Related Criminal Activities in Queensland (August 1991)</i> .	23 September 1993
20.	Review of the Criminal Justice Commission's use of its powers under section 3.1 of the <i>Criminal Justice Act 1989</i> . Part A - Submissions and Minutes of Evidence taken on 30 April 1993.	12 May 1993
20.	Report of a Review of the CJC's use of its power under section 3.1 of the <i>Criminal Justice Act 1989</i> . Part B - Report, Conclusions and Recommendations	23 September 1993
21.	Report into allegations made by Robert David Butler and Christopher Charles Adams regarding former Superintendent John William Huey and the Criminal Justice Commission.	9 November 1993

COMMITTEE MEMBERS

CHAIRMAN:	Mr K H Davies MLA, Member for Mundingburra
DEPUTY CHAIRMAN:	Hon N J Turner MLA, Member for Nicklin
MEMBERS:	Mr T A Barton MLA, Member for Waterford
	Mrs L R Bird MLA, Member for Whitsunday
	Mr D J Briskey MLA, Member for Cleveland
	Hon V P Lester MLA, Member for Keppel
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CHAIRMAN'S FOREWORD

The Parliamentary Criminal Justice Committee (PCJC) held its first meeting on 11 November 1992. Since that time, the Committee has held 52 formal Committee meetings and 12 joint monthly meetings with the Criminal Justice Commission (CJC). In addition, the Committee for the purpose of briefings and preparation of reports has travelled both interstate and intrastate. At the outset, I would like to thank the Members of the Committee for the time and effort they have expended in ensuring that it properly fulfilled its statutory obligation to monitor and review the functions of the CJC.

The establishment of the Parliamentary Criminal Justice Committee and the Criminal Justice Commission was the direct result of the Inquiry undertaken by Mr Tony Fitzgerald QC (now President of the Queensland Court of Appeal). Fitzgerald recommended that the CJC be independent of the Police, the Judiciary, the Government, and the Opposition. However, the CJC is also an accountable body. Accountable to the Parliament through the all-party Parliamentary Committee. Fitzgerald's reasons for recommending the establishment of a Committee to monitor the CJC are clear and forceful.

The administration of Criminal Justice should be independent of Executive controls. It is an apolitical, vital public function. Such administration must be accountable for its activities and should be open to public review and accountable to the Parliament.

The CJC was always going to be a controversial body because of the nature of the organisation and given the agenda left for it by Mr Fitzgerald. For example, the Criminal Justice Commission has had to deal with such issues as:

- Gaming machines
- Homosexuality
- Prostitution
- Parliamentary Travel Entitlements
- SP Bookmaking

It is anticipated that other controversial issues will be considered by the CJC. These include Cannabis and Police Powers.

The second Parliamentary Committee has been in operation for just over twelve months, it is, therefore, timely that the Committee provide the Parliament with this outline of what it has achieved over the last twelve months and what it hopes to achieve in the forthcoming twelve months.

Finally, the Committee has worked effectively during the last twelve months and has on all occasions adopted a bi-partisan approach in carrying out its functions and responsibilities. I congratulate all Members for the dedication to the task and for their contribution throughout the past twelve months.

Ken Davies MLA
Chairman
9 December 1993

1 COMMITTEE OF THE 47TH PARLIAMENT

The Parliamentary Criminal Justice Committee of the 46th Parliament ceased to exist with the dissolution of the Legislative Assembly on 25 August 1992. Following the State Election on 19 September 1992, the Parliamentary Criminal Justice Committee of the 47th Parliament was appointed on 10 November 1992.

1 CONSTITUTION AND MEMBERSHIP

The Parliamentary Criminal Justice Committee is a seven member all-party committee of the Queensland Parliament which is constituted by and operates under the provisions of the *Criminal Justice Act 1989*. In addition, subject to the provisions of the Act the Standing Rules and Orders of the Legislative Assembly relating to Select Committees apply in relation to the Criminal Justice Committee and the conduct of its business as they apply to any other Select Committee of the Legislative Assembly.

The Parliamentary Criminal Justice Committee is appointed to monitor and review the discharge of the functions of the Criminal Justice Commission.

The Members of the Committee are:

- Mr Ken Davies MLA, Member for Mundingburra (Chairman)
- Honourable Neil Turner MLA, Member for Nicklin (Deputy Chairman)
- Mr Tom Barton MLA, Member for Waterford
- Ms Lorraine Bird MLA, Member for Whitsunday
- Mr Darryl Briskey MLA, Member for Cleveland
- Honourable Vince Lester MLA, Member for Keppel
- Dr David Watson MLA, Member for Moggill

The Committee is staffed by Mr Dan O'Connor, Research Director and Mr Neil Laurie, Senior Research Officer. Further, the Committee receives secretarial and other administrative support and assistance from the Committee Office.

1 FUNCTIONS AND POWERS

1.1 Functions of the Commission

The functions of the Criminal Justice Commission are defined in section 2.14 of the Act as follows:

2.14 Functions. (1) The Commission shall -

- (a) *continually monitor, review, co-ordinate and, if the Commission considers it necessary, initiate reform of the administration of criminal justice;*
- (b) *discharge such functions in the administration of criminal justice as, in the Commission's opinion, are not appropriate to be discharged, or cannot be effectively discharged, by the Police Force or other agencies of the State.*

In discharging its functions the Commission shall -

- (a) *wherever practicable, consult with persons or bodies of persons known to it to have special competence or knowledge in the area of the administration of criminal justice concerned, and seek submissions from the public;*

and

- (b) *in its report thereon, shall present a fair view of all submissions and recommendations made to it on the matter in relation to which it is discharging its functions, whether such submissions and recommendations are supportive of, or contrary to, the Commission's recommendations on the matter.*

(2) *Subject to section 2.18, the Commission shall report to the Parliamentary Committee -*

- (a) *on a regular basis, in relation to the Commission's activities;*
 - (b) *when instructed by the Parliamentary Committee to do so with respect to that matter, in relation to any matter that concerns the administration of criminal justice;*
 - (c) *when the Commission thinks it appropriate to do so with respect to that matter, in relation to any matter that concerns the administration of criminal justice.*
- (3) *The Commission shall monitor, review, co-ordinate and initiate implementation of the recommendations relating to the administration of criminal justice contained in the Report of the Commission of Inquiry, and to that end, having regard to that report, shall prepare a program of priorities.*

The responsibilities of the Commission are defined in section 2.15 of the Act as follows:-

2.15 Responsibilities. *The responsibilities of the Commission include -*

- (a) *the acquisition and maintenance of the resources, skills, training and leadership necessary for the efficient administration of criminal justice;*
- (b) *monitoring and reporting on the use and effectiveness of investigative powers in relation to the administration of criminal justice generally;*
- (c) *monitoring and reporting on the suitability, sufficiency and use of law enforcement resources and the sufficiency of funding for law enforcement and criminal justice agencies including the offices of the Director of Prosecutions and of the Public Defender;*
- (d) *overseeing criminal intelligence matters and managing criminal intelligence with specific significance to major crime, organised crime and official misconduct;*
- (e) *researching, generating and reporting on proposals for reform of the criminal law and the law and practice relating to enforcement of, or*

administration of, criminal justice, including assessment of relevant initiatives and systems outside the State;

- (f) *in discharge of such functions in the administration of criminal justice as, in the Commission's opinion, are not appropriate to be discharged, or cannot be effectively discharged, by the Police Force or other agencies of the State, undertaking -*
 - (i) *research and co-ordination of the processes of criminal law reform;*
 - (ii) *matters of witness protection;*
 - (iii) *investigation of official corruption in units of public administration;*
 - (iv) *investigation of organised or major crime.*
- (g) *monitoring the performance of the Police Force with a view to ensuring that the most appropriate policing methods are being used, consistently with trends in the nature and incidence of crime, and to ensuring the ability of the Police Force to respond to those trends;*
- (h) *providing the Commissioner of Police with policy directives based on the Commission's research, investigation and analysis, including with respect to law enforcement priorities, education and training of police, revised methods of police operation, and the optimum use of law enforcement resources;*
- (i) *overseeing reform of the Police Force;*
- (j) *reporting regularly on the effectiveness of the administration of criminal justice, with particular reference to the incidence and prevention of crime (in particular, organised crime) and the efficiency of law enforcement by the Police Force;*
- (k) *reporting, with a view to advising the Legislative Assembly, on the implementation of the recommendations in the Report of the Commission of Inquiry relating to the administration of criminal justice, and to the Police Force;*
- (l) *taking such action as the Commission considers to be necessary or desirable in respect of such matters as, in the Commission's opinion, are pertinent to the administration of criminal justice.*

1.2 Functions of the Committee

The functions of the Committee are defined in section 4.8 (1) of the Act and are:

- (a) *to monitor and review the discharge of the functions of the Commission as a whole and of the Official Misconduct Division in particular;*
- (b) *to report to the Legislative Assembly, with such comments as it thinks fit, on any matters pertinent to the Commission, the discharge of the Commission's functions or the exercise of the powers of the Commission, a Commissioner, or of officers of the Commission, to which the attention of the Assembly should, in the committee's opinion, be directed;*

- (c) *to examine the annual report and other reports of the Commission and report to the Legislative Assembly on any matter appearing in or arising out of any such report;*
- (d) *to report on any matter pertinent to its functions that is referred to it by the Legislative Assembly;*
- (e) *to participate in the constitution of the Commission and the removal from office of a Commissioner as prescribed;*
- (f) *at a time appropriate to allow tabling of its report under this paragraph in the Legislative Assembly by which it was appointed, being a time near to the expiry of three years from its appointment -*
 - (i) *to review the activities of the Commission during such three years;*
and
 - (ii) *to report to the Legislative Assembly and to the Minister as to further action that should be taken in relation to this Act or the functions, powers and operations of the Commission.*

1.3 Powers of the Committee

Section 4.8(2) of the Act provides that the Committee has such powers as:

- (a) *are necessary to enable or assist the committee in the proper discharge of its functions (see above);*
- (b) *are conferred on it by the Legislative Assembly with a view to the proper discharge by the committee of its functions.*

The Legislative Assembly has empowered the Parliamentary Committee to:

- send for persons, papers and records;
- examine witnesses on oath or affirmation;
- sit during the sitting of the House;
- meet and adjourn from place to place;
- appoint a Chairman and Deputy Chairman.

1 THE HISTORY OF THE CRIMINAL JUSTICE COMMITTEE

1.4 The Fitzgerald Report

The establishment of the Parliamentary Criminal Justice Committee (PCJC) is a result of the Commission of Inquiry conducted by Mr Tony Fitzgerald QC (now President of the Court of Appeal).

The Criminal Justice Commission is the principal remedy prescribed by Fitzgerald to assist the people of Queensland in administering a just and efficient criminal justice system.

Fitzgerald recommended that the CJC be an independent body. This means that the Commission must be independent from the Police, the Judiciary, the Government and the Opposition. However the CJC is also to be an accountable body. The body that the CJC is to be accountable to is THE PARLIAMENT, through an all-party Parliamentary Committee.

The Parliament is the forum for the representation of ALL people in Queensland. It does not just represent the interests of the majority, but by its nature provides a venue for the representation of majority and minority views.

However, the Report recognises that the present structures and resources of Parliament in Queensland are inadequate to deal with modern practices in politics. It observed:

The operation of the party system in an unicameral assembly, the continuing growth in the scale and extent of Government activity, and the complexities of policy making affect the ability of Parliament to review the Government's legislative activity or public administration. (Report,1989:124)

One of the remedies that Fitzgerald proposed is the introduction of "a comprehensive system of Parliamentary Committees to enhance the ability of Parliament to monitor the efficiency of Government" (Report,1989:124). This system is noted to have enhanced the effectiveness of Parliament where it has been established elsewhere. Fitzgerald had in mind both the Federal Parliament in Australia and the House of Commons in the United Kingdom. Fitzgerald believed that the benefits such a system would provide are: a source of information and aid to Parliamentary debate; enhancement to the skills of backbenchers; an increase in the chance that misconduct, incompetence or inefficiency in the public sector will be exposed; and allowing the investigation of complex issues which Parliament does not have the time nor resources to consider itself. (Report,1989:124-5)

Legislation

The Report considers that Parliament is the appropriate forum to test the necessity and worth of new laws. It is in Parliament that persons of differing views can come together to debate in a rational manner the direction that society should take. The combining together of these opinions through the Parliamentary process is the best way of achieving good for society.

However, because of the complexity and volume of new legislation, Parliament is finding this task increasingly difficult. In the field of criminal justice policy and legislation, Fitzgerald saw the need for sound and detailed research, and recommended that a Division of the CJC develop expertise in the area. The Research and Co-ordination Division fills this role. The PCJC can therefore assist

Parliament's function of testing the worth of new criminal laws by reviewing the proposals for reform recommended by the CJC in accordance with the Fitzgerald agenda.

Scrutiny

Fitzgerald found that police accountability in the past had been inadequately carried out by the traditional means of oversight, namely Ministerial control.

Fitzgerald identified failings in the system of police complaints and recommended that oversight of police conduct should be exercised by an independent organisation, external to the Police Service. The Official Misconduct Division fills this role.

Fitzgerald's reasons for recommending that a parliamentary committee be established to monitor the Criminal Justice Commission are clear and forceful.

The administration of criminal justice should be independent of Executive controls. It is an apolitical, vital public function. Such administration must be accountable for its activities and should be open to public review and accountable to the Parliament. (Report, 1989:307)

The only possible body that could achieve such an aim is a parliamentary committee.

The establishment of such a Parliamentary Committee to oversee the activities of the CJC is not unique. However, there are few precedents which offer only minor elucidation on the problems that such a committee faces. Other committees in a similar role are: the NSW Joint Committee on the Independent Commission against Corruption (ICAC); the Federal Joint committee on the National Crime Authority (NCA); and the Federal Committee on Australian Security and Intelligence Operation (ASIO). Analysis of the operations of these committees is very scarce.

1.5 The Criminal Justice Committee

Some of the unique considerations that this Committee must confront are: the relationship between the Committee, Parliament, the Executive and the Commission; maintaining the Commission's independence while at the same time ensuring that it is accountable; and balancing the requirements of confidentiality and openness. These considerations cannot be reconciled absolutely into a perfect system. This was clearly recognised by Fitzgerald. Any system established must be fluid in its operation, continually responding to the requirements of justice in a particular case, but be institutionally stable through the universal requirements of justice.

The framework for this system is alluded to by Fitzgerald in the Report. The system is to be democratic. The Committee guarantees the Commission's responsibility to the people. Particular aspects of the administration of criminal justice should be independent of executive controls. The charging of a parliamentary committee with the sole responsibility for the overseeing of the operations of the CJC protects this independence. The CJC is to be responsible to the Committee; the Committee to Parliament and the Parliament to the people. Fitzgerald envisaged Executive authority and control over the CJC in only one way. The Executive is to be responsible for the financing of the CJC. On many other matters the CJC is to report to the Parliamentary Committee. This does not exclude the fact, however, that the Committee also has a role in monitoring the Commission's finances. The CJC and the Committee have devised an ongoing process of oversight of the CJC through written reports, meetings in private and public, briefings and the inspection of files and documents. It provides the window to the operations of the CJC.

The PCJC is a committee which undertakes a specific role, that of monitoring and reviewing a discreet and independent agency, namely the CJC. The Committee has not seen its role as second guessing the Commission or watching over the day to day minutiae of Commission activity. While the PCJC has a slightly different role to other Committees in that it is the only Committee in Queensland which scrutinises a permanent body which has ongoing investigative functions, the Committee's main focus is on ensuring that the Commission has in place the necessary systems to ensure its own accountability.

The main emphasis of the CJC to date has been a continuation of the Fitzgerald agenda, concentrating on the crisis of administration in the police service. In early September of 1993, the Commission published an overview of the current status of the recommendations in the Fitzgerald Report.

The CJC has also researched issues in the criminal law such as Police Powers, gaming laws, homosexuality and prostitution in accordance with the Fitzgerald recommendations to review and report upon outdated policy and legislation. Further, the CJC has launched an offensive against organised crime through its involvement in the Joint Organised Crime Task Force.

The Committee must consider the above issues on a continuing basis.

1.6 Committee Induction Program

The Chairman, Mr Ken Davies MLA has on numerous occasions, made comment in the Parliament, that he believes that the Members of Parliamentary Committees need proper induction programs. However, as no such formal programs have been developed by the Parliamentary Service Commission, the second Parliamentary Criminal Justice Committee has prepared a full briefing manual for its Members. The manual has been prepared in a loose leaf format, therefore permitting it to be easily updated. The PCJC Briefing Manual is constantly under review and was only recently updated by the Committee's research staff. These periodic updates of the manual will ensure future Committees are able to be briefed quickly in relation to their functions and responsibilities as well as providing them with an overview of what previous Committees and the Commission have done.

1 RELATIONSHIP BETWEEN THE COMMITTEE AND THE COMMISSION
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The Committee has a dual primary role:

- To monitor and review the activities of the Commission to ensure its accountability; and
- To report to Parliament on reports prepared by the Commission and on any other matters upon which the Committee considers desirable to report.

The Committee can refer matters to the Commission for its investigation and can require the Commission to report to it on any matter.

The Committee can also receive complaints from persons who feel aggrieved by the activities or

investigations of the Commission.

Finally, while it is the task of the Committee to carefully scrutinise the CJC's activities and criticise any shortcomings, it is important also for the Committee to assist the Commission in defending against unfounded and unwarranted attacks that may be part of a backlash against a new and independent body such as the CJC. The CJC performs functions that interfere with the traditional methods of accountability, and despite the Fitzgerald findings, the old ways will want to reassert their views and authority. Support for the Commission against unjustified criticism does not mean that the Committee gets too close to the Commission to be objective.

In public and in private, respected people will voice opposition to the CJC. Constructive criticism is to be encouraged. Criticism which ignores the lessons of the Fitzgerald Inquiry or which denigrates appropriate and legitimate processes, such as that which condemns the time taken to investigate complex issues, or the delays which inevitably occur with public consultation and debate, or the time taken with the processes of accountability, also condemns this society to repeat the errors of the past.

1 APPOINTMENT OF CJC COMMISSIONERS

The Commission consists of five members: a Chairperson, and four Commissioners (s2.2).

1.7 Qualifications for Appointment to the Commission

The Act (s.2.3) sets out the following qualifications for the members:

- The Chairperson must be a person who is qualified for appointment as a Judge; (Chairman: Mr R S O'Regan QC.)
- of the four part-time members:
 - a) one is to be a legal practitioner who is currently practicing and is interested in civil liberties (Mr Lew Wyvill QC);
 - b) the other three must have an interest and ability in community affairs (Mr Barry Ffrench and Professor John Western) and one of the three must have proven senior managerial experience in a large organisation (Mr John Kelly).

The Chairperson is appointed on a full-time basis, while the other members are appointed on a part-time basis.

1.8 Criteria for Appointment

The following criteria was suggested by the first Committee in their Report No. 11 titled: "The Term of Sir Max Bingham QC, Chairman of the Criminal Justice Commission" for selection of Chairman. However, they are also applicable to the position of part-time Commissioner:

- a demonstrated capacity to provide leadership and direction both within the Commission Board and to the Commission's staff;

- administrative and organisational skills.

The following further criteria was raised by the current Committee Members:

- a demonstrated ability to act independently;
- demonstrated integrity and probity.

Criteria set by the *Criminal Justice Act 1989-1992*:

- one shall be a person in actual practice as a legal practitioner who has demonstrated an interest and ability in civil liberties (s.2.3(2)(a));
- three shall be persons who have demonstrated an interest and ability in community affairs, of whom at least one has proven senior managerial experience in a large organisation (s.2.3(2)(b)).

The following criteria was suggested by the Honourable Dean Wells MLA, Minister for Justice and Attorney-General and Minister for the Arts, at a meeting with the Committee on Thursday, 11 February 1993:

- that neither of two part-time commissioner positions, to be appointed pursuant to s.2.3(2)(b), be filled by a person with legal qualifications;
- eminence in his or her field with respect to the community.

1.9 Role of the PCJC in Relation to Appointments of Commissioners

Under s.2.5 and 2.6 of the *Criminal Justice Act 1989* the Committee has the responsibility of supporting or not supporting the Attorney-General's nomination for appointment of the CJC Chairman and part-time Commissioners. The Act requires that the Attorney-General must consult with the Parliamentary Committee and a person shall not be recommended for appointment as Chairman or as a part-time Commissioner unless that appointment is supported by Members of the Committee, unanimously or by a majority thereof, other than a majority consisting wholly of Members of the political party or parties in Government in the Legislative Assembly.

Therefore, it is clear from the Criminal Justice Act that the Committee does not have the statutory responsibility for the selection of candidates for appointment. Its sole function being to support or not to support the Attorney-General's nomination.

1.10 Appointment of CJC Chairman

One of the first tasks of the second Parliamentary Committee was to consider the replacement for the former CJC Chairman, Sir Max Bingham QC, who, by any standard would be regarded as a controversial Chairman.

That task commenced the day after the Criminal Justice Committee was formed on 10 November 1992. The Committee firstly adopted the above set of criteria by which the recommended

replacement, Mr Rob O'Regan QC was to be evaluated. Meetings then were held with the responsible Minister (Attorney-General), Sir Max Bingham QC and the other (then) part-time members of the Criminal Justice Commission and the nominee over the next week.

Ten days later, on 20 November 1992, the appointment of Mr O'Regan QC as Chairperson of the Commission was endorsed *unanimously* by the six Members present and the Attorney-General was immediately advised.

The Committee on Tuesday 12 October 1993, resolved to support the appointment of Mr Lewis Francis Wyvill QC to act as Chairperson of the Criminal Justice Commission during all periods the Chairperson is absent from the State or is, for any reason unable to perform the duties of Chairperson.

1.11 Appointment of Part-Time Commissioners

In the past twelve months, the Committee has had to consider the appointment of three part-time Commissioners. It has unanimously endorsed the reappointment of Professor John Western and the appointment of Mr Barry Ffrench. However, in the review process the Committee declined to support two nominees of the Attorney-General.

Following the appointment of Ms Barbara Mason and her subsequent resignation, the Committee has sought and obtained the restructuring of the selection procedure for the appointment of part-time Commissioners. The Committee has presided over the implementation of a new process under which future appointments will be considered. Before the Committee will consider a nomination for appointment of a part-time Commissioner of the CJC, the Attorney-General's office must ensure that each candidate for appointment has completed and furnished for the Committee's consideration, a "Statement of Personal Particulars" and a "Statement of Private Interests". In addition, the Committee now requires that all necessary CJC security and other checks be completed before it considers any nominee.

Finally, the Committee understands that there will be a further two vacancies arising in early 1994. The Committee is conscious that at the present time regional/rural and women Queenslanders are not represented on the Criminal Justice Commission.

Whilst appointment to the position of a part-time Commissioner must be made on the basis of merit, the Committee believes that individuals from regional/rural areas and women with a proven ability in community affairs or large organisations, should be encouraged to apply for the positions of part-time Commissioners.

1 MEETINGS

This Committee has formally met on 52 occasions since the Committee was appointed on 10 November 1993. This number is in addition to the informal meetings with the Research Staff, other Committee Members, attendance at conferences and inspections both intrastate and interstate.

Earlier this year the Committee met with Police Commissioner Jim O'Sullivan APM and Assistant Commissioner Greg Early to discuss matters of interest and concern to the Queensland Police Service. In addition, the Committee received an invitation to attend the Queensland Police Service

Executive Management Conferences. The Committee greatly appreciates the invitation of the Queensland Police Service as these Conferences have proved to be most informative and a valuable learning experience.

At the monthly meetings with the CJC, the Committee receives both written and oral reports from the Commission. The Commissioners, assisted by the Directors of the Divisions, are expected to fully brief the Committee. The Committee further expects that its discussions with the Commission should, on all occasions, be full and frank.

The process of review of policy issues by both the CJC and the Committee encourage public participation in the consideration of issues and formulation of recommendations. This Committee considers community input essential to the reform process. In this regard the Committee has held a number of public meetings and more recently sought public submissions in relation to Volumes I, II and III of the CJC Report on Police Powers in Queensland.

1 MONITOR AND REVIEW

The primary function of the Parliamentary Criminal Justice Committee is to monitor and review the Criminal Justice Commission. The Criminal Justice Commission is responsible to the Parliament and people of Queensland through the Committee. This function is spelt out in section 4.8(1)(a) of the *Criminal Justice Act 1989*.

Fitzgerald QC exposed mal-administration in Queensland public life. Policy formulation was shown to be partial, reactive and unco-ordinated. He recommended the creation of an independent, specialised open and accountable body. The public of Queensland want from the CJC assistance in devising better and more efficient systems for the fair and just administration of criminal justice.

This Committee serves as a check on the CJC through its function to monitor and review the functions of the commission.

The term monitor and review is not defined in the Act, so the Committee has had to develop a system which it considers will enable an effective monitoring and reviewing of the CJC. This system includes, amongst other things:

- holding regular monthly in-camera meetings (private hearings);
- receiving monthly reports from the Commission relating to its activities and the discharge of its functions;
- receiving complaints against the CJC;
- conducting audits of various sections and divisions of the CJC;
- conducting inquiries into the actions of the CJC;
- examining reports of the Commission and reporting to the Legislative Assembly on any matter appearing in or arising out of any such report;
- seeking independent advice of Queens Counsel, Academics and persons with particular

skills and expertise.

The Committee has no statutory function for conducting original investigations. The powers with which it is invested are limited to those necessary to enable or assist it to discharge its functions of monitoring, reviewing and reporting. It may only consider complaints about organisations or individuals to the extent that the receipt of those complaints is relevant to the Committee's function to monitor and review the discharge of the functions of the Commission, or relevant to its function of reporting to the Legislative Assembly on matters pertinent to the Commission, the discharge of the Commission's functions or the exercise of the powers of the Commission, a Commissioner or Officers of the Commission.

Indeed the Committee has continued to redefine its responsibilities to monitor and review the functions of the CJC. In the decision of *Boe v. Criminal Justice Commission*, Mr Justice De Jersey observed that the Commission is not obliged to discharge all of its functions concurrently, and to do so would be impractical. However, he found as a matter of law that the obligation under section 2.15(c) required the Commission to discharge that duty "... *On a more or less continual or regular or recurrent basis*".

In light of that decision, the Committee requested the Criminal Justice Commission to identify those responsibilities which they regarded as having a "continuing character". In addition, the Committee requested regular updates from the Commission (in addition to the monthly reports) addressing what action it was taking to address these duties.

1 REPORTS

The Commission's public research reports are reviewed by the Committee and the Committee has in turn reported on several of these reports to Parliament. For example, reports on SP Bookmaking and the use of the CJC's powers under section 3.1 of the *Criminal Justice Act 1989* have contained important recommendations for policy, procedural and statutory reform.

The following is a brief summary of reports presented to the Parliament by the Committee since its appointment on 10 November 1992.

1.12 Review of the Criminal Justice Commission's Report on S.P. Bookmaking and Related Criminal Activities in Queensland.

The Committee's Report on its "Review of the Criminal Justice Commission's *Report on S.P. Bookmaking and Related Criminal Activities in Queensland (August 1991)*" was tabled by the Chairman in the Legislative Assembly on 10 November 1993.

On 24 November 1992, the Criminal Justice Commission's *Report on S.P. Bookmaking and Related Criminal Activities in Queensland* was tabled and attracted some criticism which was debated in the House and in the media.

Two formal written complaints were subsequently made to the Parliamentary Criminal Justice Committee which related to one specific section of the report (at pp. 99-100) entitled "*Money Laundering via the Casinos*". A decision was then taken by the Committee to review that particular aspect of the CJC report and to report to Parliament thereon.

The Committee report outlines the enquiries undertaken by it and the means by which the matter was resolved to the satisfaction of all parties. An extract of the relevant section of the CJC report, a copy of all relevant correspondence between parties and an extract of the Hansard debates on the matter were appended to the Committee Report.

The Committee was satisfied with the way in which matters were resolved between parties and was reassured by the positive and co-operative way in which the Criminal Justice Commission responded to the Committee's review.

1.13 Review of the CJC's use of its Powers under section 3.1 of the *Criminal Justice Act 1989*. Part A and Part B - Report, Conclusions and Recommendations.

Part A of the Committee's Report on this matter was tabled in the House on 12 May 1993, that part consisted of submissions received by the Committee on the power under review and the minutes of evidence taken at the Committee's public hearing held on Friday 30 April 1993.

Report No. 20 Part B, contains the conclusions and recommendations resulting from the Committee's review.

This review and the subsequent report was deemed necessary by the Committee after the CJC issued notices to produce on staff of the Courier-Mail Newspaper on 12 and 17 February 1993 following a report of that newspaper which detailed the contents of a confidential CJC Report on Italian Organised Crime. The CJC's action caused considerable controversy and the Committee believed that a full review was necessary of the facts surrounding this action and the power of the CJC that facilitated the action, section 3.1 of the Criminal Justice Act 1989.

The Committee took the following steps during the compilation of the report:

- Invited submission's from various persons and organisations, including the Courier-Mail and the CJC.
- Held Public Hearings on 30 April 1993, at which eight individuals gave evidence.
- Received supplementary submissions from the Courier-Mail and the CJC.
- Retained Mr Gerard Carney, Associate Professor of Law at Bond University and Mr Bruce Grundy, Head of the Department of Journalism with the University of Queensland as Consultants.
- Obtained independent legal advice from Mr R V Hanson QC on a number of complex questions of law.

Part B of the report was tabled in the House on 23 September 1993. The major conclusions and recommendations of the report can be summarised as follows:

- That security at the CJC had been remiss which caused the leaking of the Italian organised Crime Report.
- That the Courier-Mail had acted irresponsibly by publishing the details of the Italian Organised Crime Report, especially in the face of a request by the CJC not to do so. The

report had the potential to jeopardise informants.

- That portions of the *Criminal Justice Act 1989* were in need of amendment or repeal. In particular:
 - Section 6.7 was deficient by not extending penalties to former CJC officers.
 - Section 3.7 application was uncertain and should be repealed.
 - Various sections relating to the CJC's coercive powers should be amended to promote consistency and clarity.
- That shield laws should not be introduced to protect journalists from revealing their sources.
- That the security of the CJC be reviewed by an outside body such as ASIO or the NCA.

A review of the CJC's security is now underway and is being conducted by a Senior Officer of the National Crime Authority.

The Committee anticipates that a report, containing the results and recommendations of this review should be available to the Committee in the new year.

1.14 Report into allegations made by Robert David Butler and Christopher Charles Adams regarding former Superintendent John William Huey and the Criminal Justice Commission

This report follows allegations by Mr Robert Butler, a Director of Trial Consultancy Pty Ltd, and Mr Christopher Adams of Channel Seven against former Queensland Police Superintendent, John William Huey and the Criminal Justice Commission.

The conclusion reached by the majority of the Parliamentary Criminal Justice Committee (Messrs Davies, Barton, Briskey Dr Watson and Ms Bird) with the Honourable Neil Turner disagreeing, and the Honourable Vince Lester absent, was as follows:

The Committee has undertaken a detailed and considered examination of the complaints raised by messrs Adams and Butler in their letter of 14 December 1992 and further correspondence of 11 March 1993. In addition, the Committee has been assisted in its deliberations by a senior member of the Criminal Bar.

... The Committee is of the firm view that none of the complaints raised by Messrs Adams and Butler can be substantiated or sustained. The Committee believes that the report of the New South Wales Investigators was thorough, independent and professional.

Finally, the Committee believes that this report will bring this matter to an end.

1 FUTURE REPORTS

1.15 Report on a Review of Police Powers in Queensland - Volumes I-III

An example of the one the Committee's major research projects, is its current review of Volumes I-III of the CJC Report on Police Powers in Queensland.

On 4 June 1993 Mr R O'Regan QC, Chairman of the Criminal Justice Commission, handed to the Honourable The Speaker and the Chairman of the PCJC Volumes I and II of the Report on a Review of Police Powers in Queensland. Volume III comprising the CJC's review of Arrest without Warrant, Demand to Name and Address and Move On Powers was handed to Mr Speaker and the PCJC Chairman on 10 November 1993. The report was subsequently tabled in the Legislative Assembly on the same day.

The Criminal Justice Commission's Report on Police Powers, consisting of a series of volumes, is the direct result of the recommendations of the Commission of Inquiry Pursuant to Orders in Council (Fitzgerald Inquiry). The Fitzgerald Inquiry recommended that Police Powers, as an aspect of Criminal Law enforcement, ought be reviewed for the purposes of reform.

The major areas focused on by the CJC in its Reports are as follows:

- (I) *Overview;*
- (II) *Entry, Search and Seizure;*
- (III) *Powers of Arrest, Demand Name and Address, Move on, Breach of Peace;*
- (IV) *Detention for Questioning and Post Arrest Procedures - Right to Silence, Access to Legal Advice, Time Limits, etc.*
- (V) *Other investigative issues: Body samples, fingerprints, ID parades, electronic surveillance, etc.*

The nature and extent of the powers granted to Police and the manner in which those powers are exercised are issues which are fundamental to the proper administration of Justice in Queensland.

In the review process the Committee must keep in mind the specific recommendations of the Fitzgerald Inquiry that any review must be undertaken in light of the need to maintain a balance between an individuals civil liberties and the public interest. The review process cannot be undertaken without extensive and detailed research.

The Committee has resolved to hold two days of Public Hearings in respect of Volumes I, II and III of the Commission's Report on Police Powers. In addition, to assist in the review of the report, the Committee has called for written submissions relating to Volumes I-III of the report from members of the public and interested parties.

1.16 Report on the Implementation of the Fitzgerald Recommendations relating to the Criminal Justice Commission

The Committee has resolved to review the Report on the Implementation of the Fitzgerald Recommendations relating to the Criminal Justice Commission.

The idea for such a report came during a joint PCJC\CJC meeting held on 3 April 1992. During a discussion concerning the desirability of a formal report relating to the Queensland Police Service, Mr Ken Davies MLA, now Chairman of the Parliamentary Criminal Justice Committee, cited two recommendations from the Fitzgerald Report, namely, B.I.2(b) and (d). Mr Davies indicated that it would be beneficial to have a comprehensive report and overview of how the Fitzgerald Report recommendations had been implemented.

Recommendations B.I.2(b) and (d) referred to the responsibilities of the proposed Criminal Justice Commission. Recommendation B.I.2 (b) was translated into section 2.15(k) of the *Criminal Justice Act 1989*, which provides as follows:

advising the Parliament on the implementation of the recommendations in this report relating to criminal justice, and the Police Force, particularly those matters set out for the CJC's consideration;

Recommendation B.I.2(d), which was translated into section 2.15(j) of the Act, reads as follows:

providing Parliament with regular reports on the effectiveness of criminal justice administration, with particular reference to the incidence and prevention of crime with special emphasis on organised crime and the efficiency of law enforcement by the Police Force;

The Commission submitted a draft report to the PCJC on 30 November 1992. That document corresponded to Recommendation B.I.2(b). However, it did not address the Part C Recommendations.

The Chairman of the CJC, Mr R S O'Regan QC noted in the covering letter to the report that:

The Commission hopes that this document will prove a useful resource to those who, from an independent viewpoint, seek to measure the impact of the Commission's work in implementing the recommendations.

1.17 Regular Reporting to the Legislative Assembly

The Committee is currently evaluating a number of proposals to more effectively report to the Legislative Assembly on a regular basis. The aim of the Committee is to develop a program for reporting to the Parliament on non confidential or security sensitive matters. It is hoped that such reporting will assist the Parliament and ultimately the wider community to develop a greater understanding of the operation and function of the Criminal Justice Committee and the Commission.

1.18 Review of the Operations of the PCJC and the CJC

In order to comply with the provisions of s.4.(1)(f) of the Criminal Justice Act the Committee is required to review the activities of the Commission during its term and table a report in the Legislative Assembly on the functions, powers and operations of the Commission and on further action to be taken in relation to the Act. The section further provides that the report be tabled at a time "... near the expiry of three years from its (the Committee's) appointment".

Therefore, the second Committee will be required to begin a review of the operations and structure

A review of the past twelve months operation of the Parliamentary Criminal Justice Committee of the 47th Parliament.

of the CJC, with a view to recommending possible changes at the end of 1994, beginning of 1995.

1.19 Reports Arising out of Research Agendas

In addition to examining the research reports of the Commission and reporting to the Legislative Assembly on any matters appearing in or arising out of any such report, the Committee may be required to report in relation to additional matters that may arise from time to time.

1 CRIMINAL JUSTICE COMMISSION REPORTS

Since the Committee was formed on 10 November 1992 it has received the following reports from the Commission:

- Report on SP Bookmaking and Related Criminal Activities in Queensland (November 1992)
- Report on the Investigation into Complaints of Kelvin Ronald Condren and Others (November 1992)
- Criminal Justice Commission Corporate Plan 1992-1995 (November 1992)
- First Year Constable Study Summary Report # 2 (January 1993)
- Report on a Review of Police Powers in Queensland Volume 1 - An Overview (May 1993)
- Report on a Review of Police Powers in Queensland Volume 2 - Entry Search and Seizure (May 1993)
- Cannabis and Law in Queensland - A Discussion Paper (July 1993)
- Report by the Honourable W J Carter QC on his Inquiry into the Selection of the Jury for the trial of Sir Johannes Bjelke-Petersen (August 1993)
- Report on the Implementation of the Fitzgerald Recommendations Relating to the Criminal Justice Commission (September 1993)
- Criminal Justice Commission Annual Report 1992/93 (September 1993)
- Report on a Review of Police Powers in Queensland Volume 3 - Arrest without Warrant, Demand Name and Address and Move-On Powers (November 1993)

1 AUDITS

The Committee currently conducts audits of some sections in the CJC. In these audits files are selected at random and inspected to ensure that the CJC is acting in accordance with legal requirements and in accordance with its own internal guidelines.

The Committee is currently exploring methods of expanding the number of sections being audited and methods of improving the efficacy of the audits being conducted.

1 COMPLAINTS

The Committee has resolved to accept and consider complaints from members of the public.

Many of the complaints received by the Committee do not come within the jurisdiction of the CJC. A significant percentage of these complaints are from persons who are dissatisfied with the legal and justice systems and approach the Committee as a last resort. The Committee has no power to act on these complaints.

Some of the complaints are from persons in the Public Service or the Police Service but many are from members of the public at large. The complaints often express dissatisfaction concerning actions or investigations of the CJC while others are complaints against the Police, Units of Public Administration, Prisons Service etc. A significant percentage of complaints concern matters outside the jurisdiction of the CJC and therefore also beyond the powers of the Criminal Justice Committee.

When a complaint is received, it is immediately forwarded to the CJC and a report is requested in relation to the matter before making a decision on it.

When the CJC's report is received, the complaint is assessed as follows:

- If the complaint is unfounded, such as being outside the jurisdiction of the CJC or within jurisdiction, but is dismissed for some other reason within the responsibility of the CJC, the complainant is advised in writing that the Committee concurs with the CJC's decision.
- When the matter is disputable, that is, the Committee is not satisfied with the advice of the CJC, the matter is discussed and the Committee's decision is communicated to the CJC and the complainant, either requiring further action by the Commission or that the Committee concurs with the Commission's decision.

The Committee most often finds no reason to dispute the CJC decisions on complaints. However, in a small percentage of cases, the Committee may request that the Commission reconsider its decision or consider a different aspect of a complaint.

The Committee has succeeded in gaining apologies from the Commission in matters where the CJC had acted inappropriately for example:

- A case where the CJC had decided to interview persons employed in the public service and had informed the person's superiors of its intentions but did not so inform the person concerned until contacted by that person. After an approach from the Committee the CJC apologised to the persons concerned and undertook to alter its policy such that in future persons in the Public Service will be contacted directly, rather than through their superiors;
- The CJC Report on SP Bookmaking failed to accord Natural Justice to Jupiters Casino by publishing a statement to the detriment of the Casino without giving it the opportunity to

respond. The Committee interceded and the CJC ultimately apologised to the Casino, so resolving the dispute.

The complaints mechanism put into place by the Committee is a valuable tool for monitoring and reviewing the operation of the CJC.

The PCJC is presently examining the implementation of a computerised complaint management system to permit more effective and expeditious handling of complaints.

1 RESEARCH

Section 4.8 of the *Criminal Justice Act 1989* provides that it is a function of the PCJC:

- (c) *to examine the annual report and other reports of the Commission and report to the Legislative Assembly on any matter appearing in or arising out of any such report;*

Therefore, in order to fulfil this key function, it is necessary for the Committee to undertake detailed and comprehensive research in order to properly review and report to the Legislative Assembly on the reports of the CJC.

Accordingly, the Committee undertook a series of meetings, with the Committee visiting Canberra, Wellington, Perth, Hobart, Melbourne and Sydney. The extensive and various meetings held in those cities proved to be both comprehensive and informative. Research visits are an invaluable tool as they assist the Committee greatly to properly carry out its function of reporting to the Parliament.

The Committee is mindful of the need to be accountable and has upon its return from all research visits presented a full report to the Parliament.

1.20 Research Visit to Canberra

Since its inception the second Parliamentary Criminal Justice Committee has been particularly interested in the Criminal Justice Commission's function and operations relating to organised crime and the intelligence backup provided to that function. The Committee resolved soon after its formation to inform itself more fully in relation to this topic and in furtherance of this aim a decision was made to travel to Canberra in mid-December to meet with various committees, organisations and persons involved in this area.

Before the Committee departed for Canberra, however, meetings were held with officers from three Divisions of the Criminal Justice Commission to brief the Committee on the organised crime and intelligence functions of the Commission and to provide some information on the local situation in Queensland. Specifically, the Committee was briefed by an officer from the Research and Co-ordination Division who provided an overview of various approaches to organised crime by academics in the field as well as those adopted by operational agencies. The Committee was then briefed by the Directors of the Intelligence and Official Misconduct Divisions who provided information on the philosophy of and approach adopted by the Criminal Justice Commission and the specific problems encountered within Queensland.

The Committee then travelled to Canberra late on Monday 14 December 1992 and during the following three days met with various organisations, agencies and persons involved in the field of organised crime.

While in Canberra the Committee also took the opportunity to meet with the Chief Inspector and members of the Canberra Casino Surveillance Authority. The Committee, at the time, was reviewing the Criminal Justice Commission's Report on SP Bookmaking and Related Activities. In particular, the Committee was concerned with complaints that it had received concerning the section in the SP Report on Money Laundering through Casinos. The Committee met with members of the Canberra Casino Surveillance Authority and discussed the implications of the SP Report, their understanding of the functioning of the Queensland Casino Control Division, and their operations in ensuring opportunities for money laundering through the Canberra Casino are minimised.

Whilst in Canberra the Committee was also invited to lunch as guests of the ACT Select Committee on Drugs (formally the Select Committee on HIV, Illegal Drugs and Prostitution). Discussions were held between the two Committees on matters of mutual interest, namely, the ACT committee's work and final recommendations in relation to illegal drugs and prostitution in the ACT. [See Appendix 1]

1.21 Research Visits to Wellington, Perth, Hobart, Melbourne and Sydney - Police Powers Report

Volumes I-III of the Commission's Report is the direct result of the recommendations of the Fitzgerald Commission of Inquiry. The Fitzgerald Inquiry recommended that Police Powers, as an aspect of Criminal Law enforcement, ought be reviewed for the purposes of reform.

The main areas focused on by the CJC in its Report are as follows:

- (i) Entry, Search and Seizure;
- (ii) Arrest, Demand Name and Address, Move on, Breach of Peace;
- (iii) Detention for Questioning and Post Arrest Procedures (Volume IV);
- (iv) Other investigative issues: body samples, fingerprinting, ID parades, electronic surveillance etc. (Volume V)

In the review process the Committee must keep in mind the specific recommendations of the Fitzgerald Inquiry that any review must be undertaken in light of the need to maintain a balance between an individuals civil liberties and the public interest. The review process cannot be undertaken without extensive and detailed research.

Therefore, in order to undertake a detailed Report to Parliament, the Committee visited Wellington, Perth, Hobart, Melbourne and Sydney. The Committee is attempting to formulate the practicality of a consolidation of legislation concerning Police Powers and to make a comparative assessment of Police Powers between Queensland and other jurisdictions, both within and outside Australia.

The various meetings held in those cities proved to be both comprehensive and informative and will assist the committee greatly in the preparation of its report to the Parliament as well as serving as an excellent forerunner to the public hearings to be held by the Committee in mid December. [See Appendix 2]

1 CONFIDENTIALITY UNDER THE <i>CRIMINAL JUSTICE ACT</i> 1989
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Section 6.7(2) of the *Criminal Justice Act 1989* provides that:

A member of the Parliamentary Committee who wilfully discloses information that has come to his knowledge from the Commission because he is a member of the committee, except where -

- (a) *the disclosure is in discharge of a function of the committee under this Act;*
or
- (b) *the information is contained in a report of the Commission that has been ordered by the Legislative Assembly to be printed or is deemed to have been so ordered,*

commits an offence against this Act.

The maintenance of trust between the PCJC and the CJC is essential for the effective discharge of the Committee's responsibilities and therefore for accountability of the Commission to the Parliament and the people.

In the past, the Commission has provided to the Committee and individual Members of the Committee sensitive information, which has enabled the Committee to understand the operations of the Commission as well as be apprised of important criminal justice issues.

The release of any information provided to the Committee by the Commission may not only be in breach of the *Criminal Justice Act 1989*, but could also jeopardise the open relationship which the Committee and CJC enjoy.

While the terms of the Act specifically relate to information provided by the CJC to the Committee, the Committee should also be mindful of the rights of individual complainants to privacy in any information provided to the Commission, the Committee or to any individual Members.

Otherwise, the Committee has maintained a policy of openness in all its activities. Indeed, the Committee has made themselves available for interview in relation to the Professional Standards Unit (PSU) investigation into the leak of confidential material concerning Mr Stuart Tait.

1.22 Committee Confidentiality

Under the *Standing Rules and Orders of the Legislative Assembly 1992*, Members of Parliament can sit in on Committee meetings (SO201), but the Committee must deliberate in private (SO200). It follows that the record of those private meetings are also private unless the Committee resolves by majority to make its decisions public. This principle is based on the fact that a decision, whether unanimous or by majority, is a decision of the Committee and it would be improper for a Member to unilaterally divulge the contents of the Committee's deliberations.

Committee minutes and discussions are confidential and cannot be made public without the approval of the Committee.

It was the practice of the former Committee not to table its minutes because at times they included resolutions which related to confidential matters. The minutes of the first Committee have been archived. This Committee endorses that practice and will only provide the minutes of its meetings for archival purposes.

1 STATEMENT BY THE CHAIRMAN IN RELATION TO THE SUNDAY MAIL ARTICLE - SECRET GAG ON COPS
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On September 1993, the Chairman, Mr Ken Davies MLA laid upon the table of the House two (2) transcripts provided to the Committee by the Criminal Justice Commission in relation to a report written by Mr Stephen Lamble and published in the Sunday Mail of 29 August 1993 under the headline "SECRET GAG ON COPS".

The Sunday Mail report alleged that "A SECRET deal was done by the Queensland Police Union and the Criminal Justice Commission to buy the silence of two controversial detectives ..."

Whilst no specific complaint was made against the Criminal Justice Commission, the Sunday Mail report inferred some wrongdoing by the CJC. Accordingly, the Committee's Research Director was instructed to write to the Chairman of the CJC on behalf of the Committee in relation to the allegation, seeking a complete and detailed report from the Commission outlining the facts, matters and circumstances surrounding the alleged "deal". The letter was forwarded to the CJC Chairman, Mr R S O'Regan QC on 30 August 1993.

The central questions the Committee asked the CJC to address was whether:

(i) *"An extraordinary deal was hammered out by the Police Union with the Criminal Justice Commission to grant two former detectives early retirement from the police service in return for their silence.";*

and

(ii) *On 2 June 1993 were Messrs Harris and Reynolds "... offered a CJC clearance for early retirement if Harris withdraws his court action against the CJC."*

On 30 August 1993 the Chairman of the Criminal Justice Commission, Mr R S O'Regan QC responded in the following terms:

I am unable to furnish you with a "complete and detailed report from the Commission outlining the facts, matters and circumstances surrounding the alleged "deal" referred to in the Sunday Mail article because no "deal" was done. An approach by the President and Secretary of the Police Union was made to me seeking settlement of the Supreme Court action with each party bearing his or its own costs and this was rejected. In the event, as the Court record shows, the applicant withdrew his application unconditionally and was ordered to pay the Commission's costs. Furthermore, there is no substance in the suggestion in the article that Harris and Reynolds were "offered a CJC clearance for early retirement if Harris withdraws his court action against the CJC".

In short, the Sunday Mail report is incorrect and mischievous.

The Committee resolved at its meeting on Tuesday 31 August 1993 that it was in the public interest to place the matter on the agenda for the joint meeting of the PCJC/CJC on Friday 10 September 1993.

At the meeting of 10 September 1993 the Commission provided the Committee with a complete transcript of a meeting held at Queensland Police Union of Employees Offices on June 2 1993. The Commission further provided a copy of a transcript of the article produced in the Sunday Mail of 29 August 1993.

A detailed examination was made of the transcripts, with those sections of the transcript which did not appear in the Sunday Mail article being marked. It was evident after reading the transcripts that the majority of the transcript was not reproduced in the newspaper article published in the Sunday-Mail. Further, the transcript was some 26 pages in length; the newspaper article was condensed to about a page and half of newsprint.

The transcript published in the Sunday-Mail was incomplete and contrived. The published transcript had been heavily edited in order to give it a certain flavour and to suggest, contrary to fact, that some deal had been worked out involving the CJC pertaining to Messrs Harris and Reynolds.

The Committee considers it important that in circumstance where the Commission's position has been misrepresented that the Parliamentary Criminal Justice Committee ensure that the public record is set straight.

1 COMPLAINT RE SIR MAX BINGHAM QC

1.23 The Complaint and the Allegations

By letter dated 3 December 1992, the Leader of the Opposition, Rob Borbidge MLA, outlined four "extremely serious allegations about the Premier's conduct" by former CJC Chairman Sir Max Bingham QC. Mr Borbidge urged the Committee "to support calls for an inquiry", and suggested that the Committee is "uniquely responsible for this task". Further, he asked the Committee to resolve whether the first Committee "was aware of concerns of Sir Max in relation to any of the matters dealt with and, if so, what it did about those concerns".

Mr Borbidge conveyed to the Committee that:

... *Sir Max has accused the Premier:*

- *Of participating in a dirty tricks campaign to undermine his position and credibility as CJC chief, including personally promoting the drivers licence affair in the media.*
- *Of an "improper" demand to sack a member of the Commissions's staff, which was described as "just one of the attempts made, he (Sir Max) says, to bring the CJC to heel."*
- *Of misleading the public over statements by Sir Max in relation to the status of Ministers after the CJC report into travel entitlements.*
- *Of threats by him, and Ministers, in relation to the travel entitlements*

matter, in order "to have it finished as quickly as possible, without any adverse consequences for the Government.

1.24 Communication of the Allegations

In an interview with Mr Rod Henshaw of ABC Radio on 30 November 1992, Sir Max stated that "the details of all these things have been around for a long time. All the relevant people have known about them for along time" (Transcript:2). Later in the interview, Sir Max remarked "I think the evidence is around, I think the evidence speaks for itself and I think people can judge about that." (Transcript:3)

All transcripts of private and public hearings conducted between the first Committee and the CJC, as well as all written reports provided to the Committee by the CJC prior to the monthly private hearings were reviewed. These written reports are confidential briefings to the Committee on the activities of the Commission generally and on the five Divisions generally.

All references in the transcripts that in any way bear on the subject matter of Sir Max's allegations were considered in depth. In addition, a fifth allegation which was reported upon in the media, but not included in Mr Borbidge's letter, was also considered by the Committee. This issue relates to Sir Max's complaint that the Premier pre-empted the CJC's consideration of prostitution and illicit drugs.

The Committee took seriously the allegations of Sir Max Bingham QC, former Chairman of the CJC, as conveyed to it by the Leader of the Opposition, Mr Rob Borbidge MLA.

The Committee reviewed all the transcripts of hearings between the Committee and the CJC, written reports from the CJC to the Committee, and it was satisfied that, with respect to the allegations before it, there was no evidence that the previous Chairman of the CJC, Sir Max Bingham QC, raised with the first Committee any issues regarding the independence of the CJC, and therefore this Committee resolved to close the matter.

Because it is the Committee's statutory function to monitor and review the discharge of the CJC's functions, it is incumbent upon the Criminal Justice Commission to report to the Committee when it perceives that its independence is threatened. The Committee notes the assurance of the current Chairman of the CJC, Mr Rob O'Regan QC, that any concerns of the Commission has concerning perceived threats to its independence will be raised with the PCJC.

The Committee was surprised and disappointed that Sir Max Bingham QC did not raise any complaint with it concerning any perceived threat to the independence of the CJC. It is the Committee's view that Sir Max should have had a greater understanding of the responsibilities, roles and functions played by the all-party Parliamentary Criminal Justice Committee. Instead of reporting his concerns to the PCJC for its consideration, Sir Max Bingham QC chose to raise these matters via the electronic and print media. The course taken by Sir Max Bingham of raising his concerns in the media was, in the Committee's belief, inappropriate.

1 JOINT ORGANISED CRIME TASK FORCE

The idea of a joint organised crime facility arose in the course of discussions on 27 November 1990 between the Commission and the then Acting Commissioner (Operations) of the Police Service, Mr

R Kirkpatrick. The purpose of the proposal was to target, on a continuing basis, identified organised criminal elements within the State. From the outset, the Commission was mindful of the recommendations of Mr Tony Fitzgerald QC contained at page 164 of his Report namely:

Organised crime has never, anywhere in the world, been brought under control by a piecemeal process. An integrated, comprehensive and wide range of corrective measures have to be made available.

The views of Mr Fitzgerald has manifested itself in the provisions of section 2.15(f) of the *Criminal Justice Act 1989*:

... discharge of such functions in the administration of criminal justice as, in the Commission's opinion, are not appropriate to be discharged, or cannot be effectively discharged, by the Police Force or other agencies of the State, undertaking -

...

(iv) investigation of organised or major crime.

The Commission has adopted a policy since its formation on 22 April, 1990 of discharging its functions in this area wherever possible conjointly with other agencies, in particular the Queensland Police Service.

A formal proposal for a joint facility to be called the Organised Crime Task Force (JOCTF) was forwarded to then Acting Commissioner Kirkpatrick by letter dated 7 December 1990. In that letter the then Chairman of the Commission, Sir Max Bingham QC described the CJC's approach in the following terms:

It is the philosophy of the Criminal Justice Commission to discharge its functions wherever possible conjointly with other agencies, in particular the Queensland Police Service. The Criminal Justice Commission sees its role as one analogous to a pathfinder, that is to assist the standing police agencies to initiate the function, to achieve the necessary resources and expertise and to thereafter withdraw gracefully and pathfind in some other area of serious law enforcement interest. It is not the philosophy of the CJC to seek exclusive jurisdiction or to act in isolation save and except where it is enjoined by its legislation to do so.

The practical application of this philosophy is met by the following proposal, namely that it make available the whole of the staff of one of its multi-disciplinary investigators drawn from the Queensland Police Service to undertake the targeting of specific organised crime areas.

There was a number of meetings between December 1990 and April 1991 at which the issue of the JOCTF was discussed. On 4 April 1991, a meeting was held at the Commission's premises to discuss the CJC proposal. The then Commissioner of Police Mr N R Newnham produced at the meeting a redrafted version of the memorandum of understanding which deleted the reference to the Organised Crime Task Force and substituted an arrangement for ad hoc joint operation groups.

The matter was again raised directly with the Queensland Police Service in a letter from Sir Max Bingham dated 12 June 1991. In that letter Sir Max made the following comments:

... that the Commission was unsuccessful in proposing the establishment of a Standing Organised Crime Task Force to provide a progressive response to the

challenge of organised crime...

At our meeting on 4 April, 1991 the approach proposed by the Commission was rejected by your service in favour of ad hoc task forces to address particular operations. The Commission will continue to urge that the Queensland Police Service reconsider its position in this regard.

The Commission did indeed urge the Queensland Police Service to reconsider its approach during a number of direct contacts between April 1991 and October 1992. On 1 October, 1992 a further meeting was held in the office of Mr Newnham to finalise arrangements for the JOCTF. Those present included Mr Newnham, Sir Max Bingham, Assistant Commissioners Comrie, Mengler and Mr Le Grand. Even though agreement was reached on this occasion, it was not until the appointment of Mr O'Sullivan as Commissioner that the JOCTF was established on 1 December 1992.

It is a matter of regret that former Commissioner Newnham did not give greater consideration and priority to the establishment of the JOCTF. The Committee believes that the JOCTF is a vital tool in the fight against organised crime. The delay brought about by the Queensland Police Service to become involved in a joint organised crime facility has no doubt impeded the Commissions work in targeting organised crime in this State.

As this brief historical overview clearly demonstrates, the CJC has tried repeatedly since November 1990 to have law enforcement operate jointly against organised crime. Indeed, until Mr Jim O'Sullivan became Commissioner of Police in this State, there was no joint organised crime task force. Since the establishment of that joint facility and since Mr John Adams took over the operation of the National Crime Authority in Queensland, there have been unprecedented co-operation and unprecedented results in law enforcement terms.

Finally, the Criminal Justice Commission should be congratulated for its determination to see the implementation of the JOCTF. In addition, Commissioner O'Sullivan should also be congratulated for his efforts in assisting the establishment of this important law enforcement mechanism. [See Appendix 3]

1 COMMUNITY POLICING PROJECTS

The Criminal Justice Committee has viewed with interest the developments which are being made in relation to Community Policing. The Commissions work in this area stems from the Fitzgerald Report where it was observed that:

The traditional operating methods of police are dominated by patrol duties and detective functions.

Patrol duties consume most of police force resources and are a common occupational experience for the members of the Force. Patrol operations are usually carried out by pairs of officers in vehicles or on foot. They patrol randomly or in a predetermined pattern observing citizens, monitoring hazards or risks and responding to calls for help. Patrols are based on the theory that the visible presence of police prevents crime and reassures citizens ...

... In the past decade, it has become apparent that these methods have not stemmed the growth of crime, especially violent crime, essentially because they are reactive.

Police respond to events rather than pre-empting and preventing them...

... The success of measures such as "Crime Stoppers" and "Australia's Most Wanted" have demonstrated the effectiveness of involving the public in the apprehension of offenders. These programs are primarily reactive, in that they take place after crime has been committed. They may help prevention if the people apprehended are habitual criminals who are thereby prevented from continuing their lives of crime...

... To be successful, community policing and crime prevention must focus on the needs of particular communities and involve the community in meeting those needs...

... Successful introduction of community policing requires basic changes in the orientation of the Police Force, its staff and its operations. They must move away from the concept of policing based on inflexible strategies and towards the delivery of services dictated by the needs of the community...

... Policing must again become a neighbourhood affair, where members of the community are familiar with locally based police officers and the officers and their families become part of the community which they serve. Community policing should become the primary policing strategy. Local officers must be uniformed to assist in community identification and familiarity... [Fitzgerald Report pp. 230-233]

1.25 Toowoomba Beat Area Patrol Pilot Project

The project was launched by the Honourable Paul Braddy MLA, Minister for Police and Emergency Services on 5 May 1993. The project has been developed in co-operation with the Queensland Police Service and will run for two years, during which time the Commission will undertake a systematic evaluation. The evaluation will measure as far as possible the impact the beat area policing on crime levels, public fear of crime and community attitudes towards police.

The Commission selected Toowoomba for its Beat Area Patrol after analysing police calls for service data with census information and other relevant social data. During the pilot project the two beat officers will live and work exclusively within the beat areas for which they have been assigned.

The Committee has continued to monitor the progress of this project through the regular monthly meetings with the Commission. The Committee hopes that this project will prove to be successful and that it may be ultimately adapted to other parts of the State.

1.26 The Inala Project

The Commission's Research and Co-ordination Division has been involved with the Inala Community/Police Network since it was established in the Inala Plaza/Civic Centre on 5 May 1992. The Project is a joint venture of the CJC, the University of Queensland and the Queensland Police Service.

The project is staffed by two serving police officers, an administrative assistant, and several community volunteers. The project provides a community information and referral service during shopping hours. In addition, the project staff play an active role in developing juvenile diversionary programs targeted towards school aged youth in the area, the Juvenile Aid Bureau, the Police Youth Club and the Inala Station. In addition, the project has developed a working relationship with other government and non-government organisations.

The objective of the project is to develop and evaluate alternatives to traditional methods of policing. As with the Toowoomba Beat Area Patrol, the Committee will continue to monitor this project.

1 CRIMINAL JUSTICE COMMISSION - VISION FOR FUTURE AND RESEARCH PROGRAMS

The Committee from time to time reviews the Commission in a holistic way. In the process of reporting to the Committee, the Commission has spelt out in detail, its short and long term agendas. Indeed, at the specific request of the Committee, the Commission Chairman, Mr Rob O'Regan QC produced a document entitled "CJC - Vision for the Future". [See Appendix 4] That document did not traverse issues covered in the Commission's submission to the former Committee. Instead, Mr O'Regan referred to changes made since his appointment and gives his opinion on matters of significance. Further, Dr Brereton, the CJC's Director of Research and Co-ordination, has recently reported to the Committee on the CJC Research Agenda. The Chairman, the PCJC Research Director and the Senior Research Officer have met with Dr Brereton and Mrs Susan Johnson, Principal Research Officer, of the Commission to discuss that agenda. [See Appendix 5]

1 STAFF

The last 12 months saw the departure of Mr Tony Woodyatt, Research Director and Ms Luisa Pink, Senior Research Officer. The Committee thanks both Mr Woodyatt and Ms Pink for the valuable contribution they made to the Criminal Justice Committee.

On 21 June 1993, Mr Dan O'Connor commenced duties as the Committee's Research Director. He is a Barrister-at-Law of the Supreme Courts of Queensland, New South Wales, Victoria and the High Court of Australia. Mr O'Connor served as Clerk to His Honour Judge G S Forno QC and practiced at the Private Bar before joining the Committee. Mr Neil Laurie is a Barrister-at-Law of the Supreme Court of Queensland and was formally with the Office of the Special Prosecutor. Mr Laurie commenced duties with the Committee on 28 June 1993.

1 PCJC MEDIA POLICY

Since the appointment of the second Committee on 10 November 1992 it has adopted a deliberate and considered policy in relation to its dealings with the print and electronic media.

The Committee has not and does not, as a general rule, seek publicity for its day to day work. However, in appropriate cases the Chairman, as the spokesman for the Committee, has held press conferences, given interviews with representatives of the media and issued press releases. Such a course has been adopted to correct the public record, to seek community input in the Committee's review process or to ensure that the public are made aware of the Committee's functions and responsibilities. In all other circumstances the Committee has been content to report to the Parliament.

In the PCJC Report No. 20 B, the Committee expressed its concern that the Courier-Mail had reported in an unbalanced and inaccurate manner and had used emotive language in its reporting of the events following the serving by the CJC of notices to produce certain documents and records on the Courier-Mail in February 1993.

It is not the function of this Committee to act as the watchdog on the media. However, the Committee is of the view that it is important to our system that its institutions, such as the media, maintain credibility. Such credibility cannot be maintained when the media is not perceived to be acting impartially.

It is generally accepted that there are three principle duties of a journalist, namely that a:

- (i) Journalist should report fairly;
- (ii) Journalist should report accurately;
- (iii) Journalist should report responsibly.

The Committee trusts that all future media reports concerning the CJC will be balanced, impartial and accurate.

1 ACKNOWLEDGMENTS

The process of review of policy issues by the Committee encourages public participation in the consideration of issues and formulation of recommendations. This Committee considers community input essential to the reform process. The Committee wishes to acknowledge the various members of the community and the organisations which have so readily given of their time and expertise.

The Committee wishes to thank its Research Director, Mr Dan O'Connor, and its Senior Research Officer, Mr Neil Laurie, for their contribution to the Committee's work. The Committee also takes this opportunity to thank the Secretariat of the Committee Office, in particular Ms Sandy Rowse and the Clerk-Assistant (Committees), Mr Rex Klein, for their administrative and procedural support.

The PCJC has been informed that both Mr John Kelly and Professor John Western, part-time Commissioners of the CJC, have indicated an intention not to seek re-appointment when their terms expire in early 1994. The Committee wish to acknowledge the outstanding contribution made by these two Commissioners and extend to them best wishes for the future.

1 AMENDMENTS TO THE CJC ACT

The Act to amend the *Criminal Justice Act 1989-1992* was passed in the Legislative Assembly on 8 December 1993 and assented to by Her Excellency the Governor on 9 December 1993. The amendment to the Criminal Justice Act arose largely out of a number of reports released by the PCJC. The majority of the amendments in the first phase of the review of the Act are technical in

nature. The principal objectives of the amending Act are as follows:

- to provide for a number of technical amendments to the *Criminal Justice Act 1989* which have been recommended by the Parliamentary Criminal Justice Committee and the Criminal Justice Commission which will clarify the Act and facilitate its administration;
- to extend the confidentiality provision of s.6.7 of the Act to former Commissioners and Officers of the Commission and former Members of the Parliamentary Committee;
- to authorise the legally qualified Commissioner to preside at hearings in his or her own right;
- to authorise former Judges and other eminent members of the legal profession to preside at hearings without having to make them officers of the Commission; and
- to make it an offence for a person to make a false allegation, causing a Commission investigation.

It is anticipated by the Committee that the second phase of amendments, which incorporate many of the PCJC recommendations, will be introduced into the Legislative Assembly during 1994.

1 CONCLUSION

In providing the Parliament with this report of how the Committee has operated in the past twelve months, it is hoped that Members of Parliament and the wider community will be able to recognise that the PCJC operates as a check on the CJC which is answerable to Parliament through the Criminal Justice Committee.

In the coming year the Committee plans a new initiative of reporting regularly to Parliament on both the work of the Committee and of the Commission.

The Committee does not seek a high media profile. It sees its primary responsibility as reporting to Parliament and carrying out its responsibilities under the Act.

The Committee will be content to be regarded at end of the three year term as a quiet achiever. For operational and security reasons and because of the Committee's statutory obligation to maintain strict confidence, many of the matters considered by it can never be addressed in an open forum. Nevertheless, the second PCJC has achieved much since its appointment in November 1992. But, the Committee recognises that there are still many challenges ahead and the Committee and looks forward with enthusiasm to continue the reform process put in train by Mr Fitzgerald QC.

APPENDIX 1

THE COMMITTEE'S STUDY TOUR OF CANBERRA

In Canberra the Committee met with the representatives of agencies operating in the intelligence community; representatives of the Federal Police Service and the Minister responsible for the AFP (Australian Federal Police); Federal Committees with functions similar to those of the PCJC; the Inspector-General charged with a review role of the Intelligence Agencies and an Academic with a continuing involvement and interest in the fields of intelligence and organised crime.

1. Intelligence Agencies

During the briefings to the Committee by the Director-General of ASIO (Australian Security Intelligence Organisation) and another senior officer within ASIO, and the briefings by several senior officers within the ABCI (Australian Bureau of Criminal Intelligence), the Committee gained an invaluable insight into the operation of intelligence agencies. Information was gathered not only on how agencies collect, process and store intelligence, but also on who has access to the subject information. Access to intelligence was of considerable interest to the Committee which learned about the methods employed to ensure, as far as possible, that access is gained only by authorised persons who are subject to "audit trails".

The Committee was also informed about how information and intelligence is shared, which agencies can access what types of intelligence, and what procedures are in place to ensure that intelligence is shared with relevant agencies with a legitimate interest in the subject matter. This last aspect of the operations of the intelligence agencies nationally was a cause of concern to the Committee which became acutely aware of the fact that although there is a plethora of intelligence agencies operating within Australia, the sharing of intelligence amongst them may not yet have reached an optimum level. The Committee was particularly concerned that agencies should commit themselves to achieving the optimum results for enforcement agencies, thereby taking away the advantages that are enjoyed by those benefiting from organised crime for whom state and national boundaries are no obstacle and in some cases even provide a benefit.

The Committee also discussed with ABCI and ASIO representatives the state of their relations with the Criminal Justice Commission and the operation of their memoranda of understanding with the CJC Intelligence Division. Both agencies reported positively on their dealings with the CJC.

Upon its return from Canberra the Committee has sought to consolidate its knowledge of the operation of intelligence agencies at a state level by meeting with the Queensland Regional Director of ASIO together with the Deputy Director General of ASIO. The Committee has also had further, more detailed briefings from the Director of the CJC Intelligence Division during which it was apprised of the philosophy and function of the division, and its operational objectives and achievements within Queensland. During these briefings Committee Members were able to have specific issues of interest addressed, could raise specific concerns and discuss possible solutions.

2. The National Enforcement Agencies

In pursuit of further knowledge on other agencies operating in the enforcement area against

A review of the past twelve months operation of the Parliamentary Criminal Justice Committee of the 47th Parliament.

organised crime, the Committee determined to meet with representatives of the National Crime Authority and the Australian Federal Police.

In Canberra, the Committee met with the Australian Federal Police Commissioner and several Assistant and Deputy Commissioners and was informed on the function of the AFP with respect to organised crime.

The AFP also provided the Committee with information on the operation of its intelligence network, how intelligence is processed, stored and accessed. Again, in relation to access to intelligence, the Committee was informed about the procedures in place for sharing intelligence with other agencies and police forces and the limitations placed upon such sharing arrangements.

A subsequent meeting in Canberra with the Federal Police Minister, Senator Michael Tate, provided the forum for Committee Members to follow up on issues raised during discussions with the AFP.

When the Committee had returned to Brisbane, a follow up meeting was held with the AFP Assistant Commissioner for the northern region and another senior AFP staffer. During this session the Committee gathered information on the operation of the AFP in Queensland, its relationship with the CJC and Queensland Police.

In Brisbane the Committee also arranged to meet with the Chairman of the NCA (National Crime Authority) and the newly appointed head of the NCA in Queensland. These discussions were particularly fruitful as the Committee had already gained considerable knowledge on the subject matter and were able to have constructive discussions concerning organised crime, the NCA, inter-agency relations and the efficacy of the national effort against organised crime.

3. Consultation with Federal Parliamentary Joint Committees

Since its formation, the second Parliamentary Criminal Justice Committee has been re-evaluating the method by which the Committee performs its "monitor and review" role with respect to the Criminal Justice Commission. In the early days of its formation, Committee Members were also developing an awareness of their role, the powers and responsibilities of the Committee and its relationship with the Commission.

In this respect the Committee was fortunate enough to have the opportunity to meet with both the Parliamentary Joint Committee on ASIO and the Parliamentary Joint Committee on the NCA, whilst in Canberra. During meetings with members of those committees PCJC Members were able to discuss the comparative roles played by the committees and the relationships enjoyed with the agency/body being monitored. PCJC Members also benefited considerably from discussions about the problems that the ASIO and NCA Committees had encountered, having been in existence for a considerably longer period than the PCJC.

4. The Inspector General of Intelligence and Security

The Committee's meeting with the Inspector General of Intelligence and Security and the Assistant Inspector General provided a unique opportunity for the Committee to explore the functioning of an agency which has many parallels to the functions of the PCJC on an administrative level.

The role of the Inspector General is broadly to assist Ministers to oversee and review the activities of five of Australia's Intelligence and Security Agencies - to ensure that they act legally and with propriety, comply with ministerial guidelines and respect human rights. The role of the PCJC in monitoring and reviewing the functioning of the CJC has been interpreted by the Committee (in the absence of any definition of this role) to include a duty to ensure that the Commission acts legally and with propriety and that it acts in accordance with the rules of natural justice.

The methods employed by the office of the Inspector General to carry out its functions were discussed with interest. The Committee was able to gather useful information which can be implemented by the Committee to improve the effectiveness of its functions with respect to the Commission.

Follow up meetings upon the Committee's return from Canberra

As has already been mentioned, the Committee has built upon the knowledge gained in Canberra by meeting with relevant persons and authorities based in Queensland. In this context, the Committee met with the Regional Director and Deputy Director-General of ASIO; the Chairman of the National Crime Authority and the newly appointed Regional Manager of Operations for the NCA in Queensland; and Assistant Commissioner for the Australian Federal Police in the northern region and a senior staffer.

In addition, the Committee has received further detailed briefings from the Directors of the Intelligence and Official Misconduct Divisions of the Criminal Justice Commission. The Committee has also met with the Commissioner of Police and an Assistant Commissioner to discuss the Organised Crime Task Force which has been set up with the CJC and the police service's relationship with the CJC.

The Committee has also met with the Chairman of the New South Wales Crime Commission. The Crime Commission's main aim is to combat illegal drug trafficking and organised and other crime in New South Wales. This meeting has further expanded the knowledge of Members on enforcement agencies operating within Australia against organised crime.

Conclusions

Within a comparatively short period of time Committee Members have been able to build a fairly comprehensive picture of the Intelligence and Enforcement Agencies operating in Australia against organised crime. Members have been able to form views on how effective the national effort is and the obstacles to an effective effort across the states.

The Committee is now in a very sound position from which to evaluate the CJC program against organised crime and its part in the national effort.

As stated by the Criminal Justice Commission in its 1991 - 1992 Annual Report and by the last Committee in its Report Number 13, the Committee remains of the view that as the Criminal Justice Commission completes the tasks that were set for it by the "Fitzgerald Report", resources can be diverted to enhancing the Commission's contribution to the effort against organised crime in Queensland. The Committee remains cognisant, however, of the enormity of the task being carried out by the CJC with respect to its primary responsibility of investigating official misconduct, its anti-corruption function, its reform of the Criminal Justice system and of the continued importance of these roles.

The Committee will be observing this transition with interest and secure in the knowledge that its Members are now better prepared to make judgements on this area of the Commission's function.

Program of Meetings

- Meeting with Chief Inspector Ian Manning of the Casino Surveillance Authority, other members of the Authority and Casino Canberra Ltd Management representatives
- ACT Select Committee on Drugs (formerly the Select Committee on HIV, Illegal Drugs and Prostitution) Committee Members: Mr M Moore (Presiding Member); Mrs K Carnell; Mrs E Grassby; The Speaker, Ms Roberta McCrae
- Meeting with representatives of the ABCI (Australian Bureau of Criminal Intelligence). Executive Officer; Steve Dickson, Associate Director; Bob Mills and Chief Intelligence Officer; Greg Roberts.
- Meeting with the Director General of Security, ASIO, Mr David Sadleir.
- Parliamentary Joint Committee on ASIO at Parliament House.
- Meeting with Australian Federal Police Commissioner, Commissioner McAulay and senior officers.
- Meeting with the Hon Senator Michael Tate, the Federal Minister for Justice.
- Meeting with Michael Bersten - Academic perspective on Organised Crime.
- Meeting with the Inspector-General of Intelligence and Security, Mr Roger Holdich and the Assistant Inspector-General, Mr Philip Moss.
- Parliamentary Joint Committee on the National Crime Authority.

APPENDIX 2

COMMITTEE'S VISIT TO WELLINGTON AND PERTH

The objectives of the Committee's visit to New Zealand and Western Australia were as follows:

- To gain a greater understanding of the nature and extent of Police Powers in New Zealand and Western Australia.
- To make a comparative assessment of Police Powers between Queensland, New Zealand and Western Australia.
- To examine and evaluate Police Powers in relation to detention for questioning and post arrest procedures in New Zealand and Western Australia.
- To gain an understanding of the legislative basis for the exercise by Police of their powers in relation to entry, search and seizure.
- To gain an understanding of the legislative basis for the exercise by Police of their powers in relation to arrest, demand name and address, move on and breach of the peace.
- To understand the perspective of New Zealand and Western Australian authorities to the nature and extent of Police powers.
- To evaluate legislative reform in relation to Police powers in both New Zealand and Western Australia.
- To forge links between the Committee and its counterparts in New Zealand and Western Australia.

The visit to New Zealand as required by the Parliament was approved by the Parliamentary Services Commission. The program for the visits was as follows:

- Police Complaints Authority - Meeting with Sir John Jefferies (Former High Court Judge).
- NZ Select Committee - Justice and Law Reform.
- New Zealand Law Society - Meeting with representatives of Criminal Law sub-committee and members of the legal profession.
- New Zealand Police Service - Meeting with Deputy Commissioner Ian Bird, Assistant Commissioner Allan Galbraith (Crime and Operations) and David Kerr (Chief Legal Adviser).
- Professor Warren Young - Faculty of Law, Victoria University Wellington.
- NZ Law Commission - Meeting with Commissioner Les Atkins QC and The Hon Mr Justice Wallace in relation to recommendations on Police Questioning.

- Chief Judge Dame Sylvia Cartwright and Judges of District Courts of New Zealand.
- Law Reform Commission (WA) - Meeting with Dr Peter Handford (Ex Officer).
- Law Society of WA - Meeting with Mr Ted Sharp (President), Mr Michael McPhee (Vice President), Mr Peter Martino (Vice President), Mr Pino Monaco (Treasurer), Mr Peter Fitzpatrick (Executive Director), Ms Gillian Braddock (Convenor - Criminal Law Committee), Ms Judith Fordham (Criminal Law Committee), Mr John Cameron (Criminal Law Committee).
- Hon Mr Justice David Malcolm AC and Chief Justice of WA and Judges' of the Supreme Court.
- Hon Bob Wiese MLA, Minister for Police.
- Director and Staff of the Legal Aid Commission (WA).
- Richard Utting, Barrister-at-Law.
- His Honour Chief Judge Keenan and Judges' of District Courts.
- Commissioner of Police, Mr Brian Bull, the Deputy Commissioner of Police, Mr Frank Zanetti and Assistant Commissioner (Policy, Planning and Evaluation), Mr Peter Skehan.
- The Director of Public Prosecutions, Mr JR McKechnie QC.
- The Civil Liberties Council WA.

COMMITTEE'S VISIT TO HOBART, MELBOURNE AND SYDNEY - POLICE POWERS REPORT

In order to prepare a comprehensive report in relation to Volumes I-III of the Police Powers Report for presentation to the Parliament, the Committee visited Hobart, Melbourne and Sydney between 25-29 November 1993.

The program for the visit to Hobart, Melbourne and Sydney was as follows:

Hobart

- Office of the Director of Public Prosecutions, Tasmania;
- Hon Henry Cosgrove QC - Former Chairman of Law Reform Commission and Supreme Court Judge;
- Professor Don Charmers - Dean, Faculty of Law, University of Tasmania;
- Ms Therese Heaning - Faculty of Law, University of Tasmania.
- Commissioner John Johnston - Commissioner of Police for Tasmania.

- The Law Society of Tasmania

Melbourne

- Legal Aid Commission of Victoria
- Victorian Police Association
- Law Institute of Victoria, Criminal Law Sub-Committee
- Commissioner Neil Comrie - Commissioner of Police, Victoria

Sydney

- Director of Public Prosecutions (NSW) - Mr R Blanch QC
- Associate Professor Mark Findlay, Institute of Criminology - Faculty of Law University of Sydney
- Acting Commissioner Taylor - NSW Police Service and representatives of the NSW Police.
- Mr Ken Horler QC - NSW Council for Civil Liberties
- Hon Mr Justice Kirby AC CMG - President of the Court of Appeal - Supreme Court of NSW.
- Aboriginal Legal Service (NSW)
- Members of the Executive of the Law Society of New South Wales and Criminal Law Sub-Committee.

APPENDIX 3

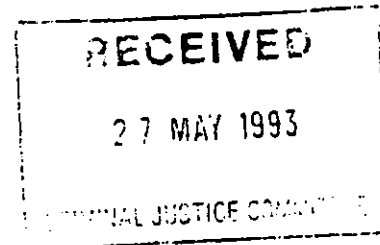


CRIMINAL JUSTICE COMMISSION
QUEENSLAND

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Your Ref.:
Our Ref.:
Contact Officer:

26 May 1993



Mr Ken Davies MLA
Chairman
Parliamentary Criminal Justice Committee
Parliament House
BRISBANE QLD 4000

Dear Mr Davies

Shortly after taking up my current appointment, your Committee requested that I provide a report setting out my vision for the future of the Commission.

In August 1992 the former Committee published its Report No 18 entitled 'Review of the Operations of the Parliamentary Criminal Justice Committee and the Criminal Justice Commission'.

The submission which the Commission had made to the Committee for the purpose of assisting that review constituted Appendix C to the Report and it included a Chapter headed 'Future Directions' (Chapter 9). This contained a comprehensive discussion of anticipated developments in the Commission's work for the next five years.

I agree generally with the contents of that document. For that reason I do not consider it would be useful to go over all that discussion again. It would, I suggest, be more helpful to the Committee for me to point to changes made since I became Chairman in December 1992 and to specify developments which may well occur in the future.

Official Misconduct Division

Organised Crime

I strongly reinforce the need for the Commission's continued endeavours in the investigation of major or organised crime. The philosophy adopted by the Commission in fulfilling its statutory charter on organised crime has been:

- To undertake this function as far as possible in co-operation with the Queensland Police Service (QPS) or other investigatory agencies, so as to enhance the capacity of law enforcement to deal with the challenge of organised crime and to provide Queensland Police personnel with opportunities to acquire relevant techniques and experience.
- To act as a catalyst for the undertaking of more sophisticated investigations, using intelligence collection and analysis and target profiling, surveillance, undercover agents, co-operating witnesses and the long-term commitment of resources in an attempt to bring to justice major participants in organised crime.

It is pleasing to be able to report the success of the recently established CJC/QPS Joint Organised Crime Task Force. Specific examples of its operations are reported to the Committee in monthly Commission Reports. However the ongoing commitment of the current Commissioner of Police to a number of joint operations augers well for the future of this joint initiative.

This is clearly consistent with the tenor of the recommendations of the Fitzgerald Report and also the former Parliamentary Committee's Report Number 18 of August 1992 which stated :

The Parliamentary Committee is strongly of the view that because of the importance and the global nature of organised crime, it is a matter that can be dealt with jointly by the Criminal Justice Commission and the Queensland Police Service and recommends accordingly'.

Informal Dispute Resolution

As has been previously reported to the Committee, emphasis has been placed on informal dispute resolution of minor complaints against police. The first initiative was the mediation of complaints through the auspices of the Alternative Dispute Resolution Division of the Department of Justice and Attorney-General. More recently the introduction of a procedure for the informal resolution of minor complaints against police has been enacted. This latter initiative involved the engagement of a consultant who is a former Superintendent from the Hampshire Constabulary who has had extensive experience with similar systems in the United Kingdom.

The consultant has established an appropriate resolution procedure and is at present travelling throughout the State training commissioned police officers, who deal with complaints, in this new process. Current indications are that this initiative is being very well received. Certainly its implementation will enable the Commission to devote more of its resources to the investigation of really serious complaints.

Corruption Prevention Division

The corruption prevention program commenced in August 1991 with the appointment of a Corruption Prevention Officer in the Official Misconduct Division. This program has made a significant impact both throughout the public sector and also in a number of areas in the private sector, through workshops, speaking engagements and the dissemination of written material.

Having regard to the Commission's legislative charter, I believe this program deserves greater recognition and on 26 March 1993, the Commission formally established it as a Division. Details of the Division's key responsibilities and proposed structure were outlined, to the Committee, in the Commission's April 1993 monthly report.

Research & Co-ordination Division

Upon the new Director taking up duty in July, the Commission will meet with the Committee to discuss this Division's research agenda for the next twelve months. I believe Queensland needs an independent criminal justice research facility and the Commission will continue to provide this resource.

I should like the Division to give more emphasis to its role of co-ordination as distinct from research. This will involve more liaison with other law reform agencies and also with the other organisational units in the Commission. I shall discuss these matters with the new Director as soon as possible.

Special Adviser to the Chairman

The office of Special Adviser to the Chairman existed when I commenced duty. It was a position created by my predecessor soon after his appointment, presumably to assist him in understanding the Queensland scene. As I have quite a different background I really do not require that sort of assistance. As the incumbent of the office of Special Adviser has also been engaged in a continuing research project, he has been transferred to the Research & Co-ordination Division for the time being.

Intelligence Division

I expect that the emphasis in this Division's work will be in providing intelligence data to support the investigations of the CJC/QPS Joint Organised Crime Task Force.

Office of General Counsel

I envisage that General Counsel and his professional staff will continue to provide legal advice and legal representation to the Commission and to its various organisational units. However, I anticipate that fewer matters will be referred to the Office from within the Commission. There are many lawyers in other Divisions and as a general rule they should take decisions on legal matters themselves.

Attachment One

RESEARCH AND CO-ORDINATION DIVISION

RESEARCH PROGRAM

PROJECT TITLE	COMMENCEMENT DATE (IF NEW PROJECT)	ESTIMATED FINALISATION DATE
Homicide in Queensland		Sept. 1993
Public Attitudes to Queensland Police Service		Sept. 1993
Profiling Police Districts		Oct. 1993
Review of Police Recruitment and Training		Oct. 1993
Review of Police Powers		
Vol III		Oct. 1993
Vol IV		April 1994
Vol V		May 1994
Queensland Police Service Implementation of Fitzgerald Reform		Nov. 1993
Analysis of 1991 Crime Victims Survey		Jan. 1994
Funding of Criminal Justice Agencies	Aug. 1993	Feb. 1994
Cannabis and the Law in Queensland		Feb. 1994
Queensland Criminal Justice System Monitor	Nov. 1993	March 1994
Analysis of CJC Complaints Data	Nov. 1993	May 1994
Evaluation of Queensland Police Service Informal Dispute Resolution	Sept. 1993	June 1994
Toowoomba Beat Area Patrol Pilot Project		1995
Youth Crime Study	Jan. 1994 (subject to funding)	1995

Attachment Two

RESEARCH AND CO-ORDINATION DIVISION

GUIDELINES FOR SELECTING AND CONDUCTING RESEARCH PROJECTS

Criteria for Determining Research Priorities

In determining its research priorities, the Research and Co-ordination Division will apply the following general criteria:

1. The proposed project must fall within the Commission's, and more particularly the Division's, statutory terms of reference, as set down in ss. 2.15 and 2.45 of the *Criminal Justice Act 1989*.
2. The proposed project should relate to one or more of the basic goals set down in the Commission's Mission Statement.
3. The proposed project should normally be one which the Commission is clearly better placed to undertake than some other agency or research body. Examples of projects which might satisfy this criterion include:
 - projects relating to the activities and operations of the Queensland Police Service. The CJC's statutory responsibilities in relation to the QPS mean that it is likely to have better access to - and an understanding of - the QPS than are other bodies;
 - projects relating to the activities of the CJC itself, especially those of a confidential nature. For instance, due to confidentiality requirements no other body would be able to carry out research on the Commission's complaints files;
 - projects focusing on issues or problems which cut across the boundaries and interests of particular criminal justice agencies. Unlike other agencies, the CJC is not bound to any one part of the system and so can apply a broader perspective to many issues. Moreover, under the Act it has an obligation to work in areas where co-ordination of the activities of other agencies is required;
 - projects which require resources and/or expertise not available to other criminal justice agencies or research bodies in Queensland.
4. The proposed project should not substantially overlap with any other research projects which have been, or are being, undertaken in Queensland or other Australian jurisdictions. Where there is prima facie evidence of overlap, a strong case must be made for why the Commission should conduct further research in the area. This could be done, for example, by showing that: there are significant methodological flaws in the other

studies(s), there is a need to replicate earlier studies, or there are sound theoretical reasons for expecting that the proposed study will produce findings significantly different from those previously reported.

5. The project must be technically feasible and able to be completed within a reasonable time frame. It must be capable of being accommodated within the Division's budget and must not require the investment of resources disproportionate to the likely benefits to be derived from the research.
6. The project should directly assist in the development, implementation and/or evaluation of policies and practices in the area of criminal justice. It is not the Division's function to undertake 'pure' or basic research for its own sake.
7. Subject to the above criteria being satisfied, preference should be given to projects which can be undertaken in conjunction with other criminal justice agencies.

Evaluation of Project Proposals

Specific project proposals will be evaluated using the following checklist:

1. What are the objectives of the project? What do we want to find out, and why? In particular, in what ways will the proposed project assist in the development, implementation and/or evaluation of criminal justice policy and practices in Queensland?
2. Does the project fall within the statutory terms of reference of the CJC and the goals set down in the CJC's mission statement?
3. Has related research been undertaken in Australia or comparable overseas jurisdictions? If so, why should the proposed project proceed?
4. Why is the CJC better suited to undertaking the proposed research than some other agency or research body?
5. Which other criminal justice agencies are likely to have an interest in the research? Has contact been made with them to discuss the proposal? Are they doing any related work in the area? Would they be willing to cooperate in the study?
6. Has the proposal been discussed with other divisions of the Commission which might have an interest in this area? Have they identified any problems or issues and, if so, how is it proposed to deal with these matters?
7. What data are required for the project? What method(s) will be used to collect these data: for example, textual analysis, interviews, large-scale

surveys, quantitative analysis of agency records? Are the methods appropriate to the objectives of the proposed study?

8. Where access is required to data or records held by other agencies, or agency cooperation is otherwise needed (eg. to interview agency employees) have the necessary approvals been obtained? If not, are there likely to be any problems in obtaining approval?
9. Where basic data collection is required (as opposed to secondary analysis of an existing data-base) approximately how many person days will it take to collect the data? What is the basis for this estimate?
10. Where it is proposed to use another agency's data-base, how difficult will it be to analyse the data using our machines and software? Does the data-base contain the required information? How reliable and comprehensive is this information?
11. Does the proposed study raise any significant ethical issues, such as possible breaches of confidentiality? If so, how is it proposed to deal with these issues?
12. Does the study methodology have the potential to cause undue embarrassment to the CJC, or to create difficulties in our relations with other agencies (eg. by using intrusive questionnaires, or accessing sensitive information)? How is it proposed to deal with these problems?
13. Are there any possible external developments (eg. legislative amendments, organisational changes, release of a report by some other agency) which could impact on the project and the validity and/or relevance of its findings?

Ethical Research Standards

Research will be conducted according to ethical research guidelines similar to those employed by universities and other research institutions. This means, amongst other things, that confidentiality will be protected at all times, the purpose of the research will be clearly explained to subjects, and the methods used will be as non-intrusive as possible. The Division is currently developing a manual which will include a section setting out procedures for conducting ethical research.

Consultation Procedures

Interested agencies and organisations will be consulted at an early stage of project development on matters such as the focus of the project, the methodology employed, and the use which can be made of findings arising out of the project. Wherever possible, the Division will establish an advisory group to assist in the project.

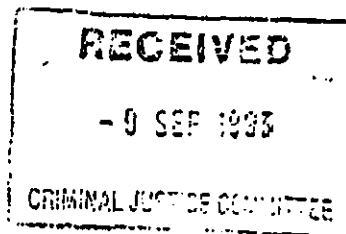
APPENDIX 4



**CRIMINAL JUSTICE COMMISSION
QUEENSLAND**

Telephone: (07) 360 6060
Facsimile: (07) 360 6333

Your Ref.:
Our Ref.: **tlb**
Contact Officer: **David Brereton**



9 September 1993

**Mr K. Davies, MLA
Chairman
Parliamentary Criminal Justice Committee
Parliament House
George Street
BRISBANE QLD 4000**

Dear Mr Davies

Please find enclosed a report on the current work program of the Research and Co-ordination Division. The report has been prepared by Dr David Brereton, the new Director of the Division. He would be happy to discuss it with the Parliamentary Committee at a time convenient to yourself and the Committee.

Yours sincerely

**R.S. O'REGAN QC
Chairman**

RESEARCH AND CO-ORDINATION DIVISION REPORT ON WORK PROGRAM

Since taking up the position of Director of the Research and Co-ordination Division, I have reviewed the work program, developed a set of criteria for determining research priorities, and given consideration to possible future research projects.

The Work Program

Our current work program is set out in Attachment One. This document shows anticipated completion dates and, in the case of new projects, anticipated commencement dates. The work program shows only major projects. A substantial part of the work of the Division involves providing advice and assistance to other agencies - the Queensland Police Service (QPS) in particular - serving on committees and working groups, and preparing responses on behalf of the Commission to reports, discussion papers, legislative proposals, etc. generated by other agencies.

In developing the work program, my main priority has been to finalise those projects which had already been commenced by the Division. These projects are:

- Implementation by the QPS of the Fitzgerald recommendations ('Status Report')
- Police Recruitment and Training
- Volumes 3-5 of the Police Powers Report
- Homicide in Queensland
- Analysis of 1991 Crime Victims Survey
- Cannabis and the Law
- Profiling Police Districts
- Public Attitudes towards the QPS
- Review of funding for Legal Aid Office and Director of Prosecutions.

Apart from these projects, the Division has an on-going responsibility to oversee the Toowoomba Community Beat Policing pilot project. This requires the resources of approximately one full-time staff member. The Division is also a joint applicant for an Australian Research Council grant to conduct a longitudinal study of juvenile offenders in Queensland. If this application is successful, we will need to make a staff member available on a 50% basis from January 1994 onwards.

New Projects

In addition to completing our current projects, we plan to commence work on three new projects within the next few months. These are:

- a detailed statistical analysis of complaints of official misconduct received by the Commission;

- an evaluation of the informal dispute resolution procedures recently adopted by the QPS to deal with minor complaints of misconduct against police;
- preparation of a publication entitled *Queensland Criminal Justice System Monitor*, which will summarise key statistical trends and events of significance in the criminal justice system that occurred over the last year.

The Division's research project on domestic violence legislation will also be re-activated, following further consultation with representatives of relevant agencies and interest groups.

Over the next few months, we will be identifying other projects which might be commenced once space on the work program is available. The Committee will be provided with details of these projects in due course. On current projections, the Division will not be able to undertake work on any additional projects, other than those referred to above, until at least April 1994.

Discontinued Projects

As a consequence of the work program review I have decided, with the approval of the Commission, to formally *discontinue* two projects currently listed in the Division's monthly report to the PCJC. These projects and the reasons for their discontinuance are:

Community Service Orders: This project was first flagged in the 1990/91 Annual Report. According to this report, the purpose of the study was to 'examine the use of community service orders during the last 10 years...[and] compare the use of community service orders with other types of sentences, e.g. imprisonment, probation, fines, etc.' Work on the project ceased in 1992 when the researcher responsible for it left the Commission. Due to the competing demands of other projects, it was not possible to allocate another staff member to complete the work. By this stage, it had also been established that there were considerable problems with the data. In my assessment, it would be an inefficient use of Division resources to re-activate this project, especially as the research could just as well be undertaken by the Corrective Services Commission.

Police Involvement in the Fabrication of Evidence. This project was originally instigated at the request of the previous PCJC. The Committee indicated that it wished the Commission to prepare a report which would address the issue of police verballing and provide some specific case studies of where this had occurred. It was proposed that the material would be drawn from Fitzgerald Inquiry files and/or the Commission's own complaints records. In June/July 1992, one of our researchers reviewed a number of files of cases where verballing had been alleged. The review established that either these allegations had not been investigated, had not been substantiated, or were still under investigation. These findings were subsequently referred

back to the then Research Director of the PCJC, Mr Tony Woodyatt for 'further instruction'. No formal response was received from the Committee, but given the lack of reliable data there seems little point in investing further resources in this project.

Another project which has been regularly listed in the Division's monthly report is *Police/Aboriginal Relations*. This project refers to a survey of QPS members about their attitudes to Aborigines and Torres Strait Islanders, which the Division undertook in 1991 for the Royal Commission into Aboriginal Deaths in Custody. At one point it was envisaged that the Division would release the results of the survey as a separate report. However, due to various production and presentation problems, this did not occur. The survey is now substantially dated, especially in light of the fact that the QPS has now adopted most of the recommendations arising out of the Royal Commission's report. We propose to finalise this matter by providing the Commissioner of Police with a summary of the findings and relevant statistical tables. It will then be up to the QPS to decide what use to make of the survey. If the Commission or the QPS decides to undertake further work in the area, the survey will be a useful source of base-line data.

Guidelines for Future Projects

For effective project planning to take place, there needs to be a framework for determining future research priorities. The Division has developed a preliminary set of guidelines for this purpose (see Attachment Two). These guidelines have been approved by the Commission. However, in formulating and applying these criteria, we recognise that the Parliamentary Committee retains the authority, under s.2.18, to require the Commission to report to it 'on any matter which concerns the administration of criminal justice'.

David Brereton
Director
Research and Co-ordination

7 September 1993

APPENDIX 5

CRIMINAL JUSTICE COMMISSION
QUEENSLAND

Your Ref.:
Our Ref.: MLG:rass
Contact Officer: Mr. Le Grand

Telephone: (07) 360 6060
Facsimile: (07) 360 6333

ANNEXURE "A"

COPY

7 December 1990

Acting Commissioner R. Kirkpatrick
Queensland Police Service
Police Headquarters
100 Roma Street
BRISBANE QLD 4000

STRICTLY CONFIDENTIAL

Dear Acting Commissioner

Re: PROPOSAL - ORGANISED CRIME TASK FORCE

Further to our discussions of 27 November, 1990 I desire to place before you for your consideration a proposal for a joint organised crime task force. The purpose of the proposal is to target on a continuing basis identified organised criminal elements in this State. In suggesting the form which this proposal should take I am mindful of and take comfort from the recommendations of Mr. G.E. Fitzgerald Q.C. contained at page 164 of his Report namely:

"Organised crime has never, anywhere in the world, been brought under control by a piecemeal process. An integrated, comprehensive and wide range of corrective measures have to be made available".

The essence of Mr. Fitzgerald's views would appear to be the need for continuity of approach. Mr. Fitzgerald's comments in this regard have borne fruit in the provisions contained within the Criminal Justice Act which place upon the Criminal Justice Commission the responsibility to:

"in discharge of such functions in the administration of Criminal Justice as, in the Commission's opinion, are not appropriate to be

discharged or cannot be effectively discharged by the Police force or other agencies of the State, undertaking -

(iv) investigation of organised or major crime".
[Section 2.15(f)].

It is the philosophy of the Criminal Justice Commission to discharge its functions wherever possible conjointly with other agencies, in particular the Queensland Police Service. The Criminal Justice Commission sees its role as one analogous to a pathfinder, that is to assist the standing police agencies to initiate the function, to achieve the necessary resources and expertise and to thereafter withdraw gracefully and pathfind in some other area of serious law enforcement interest. It is not the philosophy of the CJC to seek exclusive jurisdiction or to act in isolation save and except where it is enjoined by its legislation to do so.

The practical application of this philosophy is met by the following proposal, namely that it make available the whole of the staff of one of its multi-disciplinary investigative teams to join with an equal number of investigators drawn from the Queensland Police Service to undertake the targeting of specific organised crime areas, for example:

- * Italian organised crime - La Cosa Nostra, N'Drangheta, Camorra etc.
- * Asian crime syndicates - Yakuza, Triads and Tongs, Vietnamese Gangs etc.
- * Other ethnically based crime syndicates
- * Australian crime syndicates - drug trafficking, money laundering, investor fraud and other white collar crime.

Typically a multi-disciplinary team is composed of the following staff:

6 - 8 police investigators
1 senior and 1 junior lawyer
1 financial analyst
2 support personnel

therefore a total staff of approximately 13. (In the CJC the senior lawyer acts as the Team Leader and day to day control of the team).

The team has access to computer support and mobile and electronic surveillance and the compulsory powers of the

CJC, for example the power to summon and examine on oath, to require the production of documents, the seizure of passports, the search without warrant of public records, etc.

I would suggest that QPOL give consideration to a matching complement of police investigators and support officers, (i.e. say 8 investigators and 2 support staff).

The unit should be housed either at the new CJC premises in Coronation Drive, Toowong or at some other suitable location where all personnel could be co-located.

The team would be led turn and turn about by CJC and QPOL personnel and would report to and be supervised by a management committee consisting of yourself, myself, Commander Task Force QPOL and Director of Operations CJC. The management committee would meet as required but no less than once per month.

The operations of the organised crime task force would be the subject of a memorandum of understanding between the CJC and QPOL and each operation would be the subject of an operational plan which would specify targets, duration, resources, personnel, funding and objectives.

The ultimate aim would be to target a cross-section of organised crime syndicates. It is hoped that the Intelligence Division of the CJC together with the B.C.I.Q. would provide a list of available targets together with detailed analyses and target profiles to the management committee for consideration. In respect of the initial target the Commission would be assisted by QPOL's thoughts on the matter, in particular you may care to give consideration to intractable crimes which exhibit the indicia of organised criminal activity and which remain current.

Mr. G.E. Fitzgerald Q.C. in his report at page 161 defines "organised crime" in terms which provide a useful starting point in determining the indicia of organised criminal activity:

"'Organised crime', is a term frequently used but rarely defined. It embraces serious crime committed in a systematic way involving a number of people and substantial planning and organisation, sophisticated methods and techniques.

Offences commonly associated with organised crime include theft, fraud, tax evasion, currency violations, illegal drug dealings, illegal gambling, getting money from vice activities engaged in by others, extortion, violence, corruption of or by officials, bankruptcy and company violations,

harbouring of criminals, forging of passports, armament dealings or illegal trafficking of fauna into or out of Australia.

In modern organised crime, theft and fraud have included systematic robbery, organised shoplifting, wharf and cargo theft, motor car theft and credit card theft, arson/insurance fraud, bankruptcy/insolvency fraud and public fiscal fraud, for example, fraud of health insurance and social security and tax evasion.

An exhaustive definition of organised crime is both impossible and unnecessary. A working definition might focus on the destination of the proceeds of crime. If they stay with and are used on 'legitimate' expenses by the people directly engaged in misconduct, then the crime is usually local. If a 'cut' goes to others, remote from the misconduct, then the crime is clearly 'organised'."

I stress that the above discourse reflects a CJC proposal only. I look forward to meeting with you on Tuesday 11 December, 1990 at 11.00 a.m. and continuing the discussions on this matter.

Yours sincerely

SIR MAX BINGHAM D C
Chairman

MEMORANDUM :-

ANNEXURE B

MLG:RASS

T O: DIRECTOR OF INTELLIGENCE

FROM: CHAIRMAN

DATE: 17 December 1990

RE: TARGET PROPOSALS - ORGANISED
CRIME TASK FORCE

The Criminal Justice Commission has entered into a dialogue with the Queensland Police Service to establish a standing Organised Crime Task Force jointly staffed and resourced by the CJC and QPOL. My letter to Acting Commissioner Bob Kirkpatrick of QPOL setting forth the proposal in broad terms is attached for your information.

At a meeting held with Mr. Kirkpatrick on Tuesday 11 December, 1990 the proposals set forth in the matter were accepted by him and a further meeting was set for 17 January, 1991 at which the Management Committee of the Task Force would come together and determine, inter alia:

1. The personnel and resources to be allocated to the Task Force;
2. The accommodation of the Task Force;
3. The initial investigations to be undertaken by the Task Force.

It was agreed that, to aid discussion and decision making on the initial investigations of the Task Force, both the Intelligence Division of the CJC and the Bureau of Criminal Intelligence of QPOL would jointly prepare for consideration at that meeting three investigation proposals in the area of organised criminal activity. The broad aims and objectives of the Task Force are set forth in my letter of 16th 7 December, 1990.

I would be grateful if you would task your staff, as a priority matter, to prepare three investigation proposals in consultation with the B.C.I.Q. Acting

Commissioner Kirkpatrick will make a similar request of Superintendent K. Scanlon of the B.C.I.Q.

The three investigation proposals should provide sufficient particulars to enable the Management Committee to determine the personnel and resources required, the parameters and duration of the operation and the funding required. The investigation proposals should occupy not more than four pages each and should contain, inter alia, the elements as set forth in your memorandum to the Director of the Official Misconduct Division of 19 April, 1990, a copy of which is also attached to this memorandum.

I would be grateful if I could have the results of these endeavours some days before the meeting so that I can give consideration to the proposals; I suggest by close of business on Friday 11 January, 1991.

If, as I apprehend may be the case, you are not able to provide proposals in sufficient detail for immediate investigation, you should produce collection plans so that the investigators can have detailed instructions as to material required to develop those proposals in the shortest possible time.

(SIR MAX BINGHAM Q.C.)
Chairman

M-TARGET.PROP

1. JPM
2. EMB
3. RECORDS

M E M O R A N D U M :

TO: MARK LE GRAND, DIRECTOR
FROM: JACK MORRIS
DATE: 19 April 1990
RE: DISCUSSIONS REGARDING FORMAT OF TARGET PROPOSALS

The covering sheet for future target proposals as proposed was accepted and is attached. The following items were suggested and discussed as desirable elements of target proposals to be generated by the Intelligence Division for possible use by the Official Misconduct Division.

- Item 1. An executive summary consisting of not more than one page which should be a precis of the main activities of the proposed target.
- Item 2. A profile of the subject or organization consisting of a photo, personal details or organizational details. It will include the main items of supporting information in chronological order.
- Item 3. To describe the current criminal activities of the proposed target. It will be factual and tend to be proactive rather than reactive. Only significant activities will be included.
- Item 4. To consist of an assessment of the known activities of the proposed target and will concentrate on the future significance of those activities. It will include conclusions which may be inferred from these activities.
- Item 5. To give indication, wherever possible, as to both open and closed sources which could be of use to the Official Misconduct Division and should include vulnerable associates or ex-associates or any other weaknesses which may be explored by investigators.
- Item 6. To set out the Intelligence Division's intelligence requirements specifically as they relate to surveillance support or investigative support. This support will be used to fill information voids in the development of the target proposal.
- Item 7. To include one or more recommendations to assist the Official Misconduct Division with its planning and will include an indication of priority to be given to the proposed target.

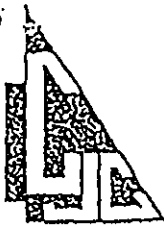
Any charting used as part of the target proposal will, wherever possible, be limited to confirmed or supported information and not extend further than second level links without good reason.

Supporting information of a more detailed nature such as specific dates and times of subject activity will not be provided in the target proposal but will be available to the Official Misconduct Division for later consideration.

JACK MORRIS
Acting Director
Intelligence Division

1. MLG
2. SIR MAX
3. MPI
4. LJW
5. JM
6. RECORDS

M-JM-11
rn



CRIMINAL JUSTICE COMMISSION
QUEENSLAND

Telephone: (07) 360 6060
Facsimile: (07) 360 6333

Your Ref.:
Our Ref.: MLG:rass
Contact Officer: Mr. Le Grand

ANNEXURE C

17 December 1990

STRICTLY CONFIDENTIAL

Deputy Commissioner R. C. Kirkpatrick
Queensland Police Service
Commissioner's Office
100 Roma Street
BRISBANE QLD 4000

Dear Deputy Commissioner

Re: ORGANISED CRIME TASK FORCE

Further to our meeting of Tuesday 11 December, 1990 I enclose, as arranged therein, a copy of a memorandum I have forwarded to the Director of Intelligence of the Criminal Justice Commission requesting the preparation of three investigation proposals to assist the Management Committee of the Organised Crime Task Force in determining the initial investigations of the Task Force. I would be grateful if you could forward a similar request to the Officer in Charge of the B.C.I.Q. as agreed.

I also enclose for your consideration a draft memorandum of understanding between the Queensland Police Service and the Criminal Justice Commission.

I confirm that the next meeting has been fixed for Thursday 17 January, 1991 at 11.00 a.m.

Mark Le Grand is currently drafting up a concise Task Force Manual for consideration at that meeting.

Yours sincerely

SIR MAX BINGHAM Q.C.
Chairman

Encls.

DRAFT

ANNEXURE D

MEMORANDUM OF UNDERSTANDING
BETWEEN
CRIMINAL JUSTICE COMMISSION (QUEENSLAND)
AND
QUEENSLAND POLICE SERVICE

1. CRIMINAL JUSTICE COMMISSION, QUEENSLAND

1.1 Establishment

The Criminal Justice Commission (hereinafter referred to as the "CJC") was established by the Government of Queensland on 4 November 1989 under the provisions of the Criminal Justice Act 1989-1990. That Act states, inter alia, that the CJC shall discharge such functions in the administration of criminal justice as in the CJC's opinion are not appropriate to be discharged, or cannot be effectively discharged, by the Queensland Police Service or other agencies of the State of Queensland (section 2.14(b)). Further the CJC's responsibilities include, inter alia, the discharge of such functions in the administration of criminal justice as in the CJC's opinion are not appropriate to be discharged, or cannot be effectively discharged by the Queensland Police Service or other agencies of the State undertaking the investigation of official corruption in units of public administration and the investigation of organised or major crime (section 2.15(f)).

1.2 Role

The primary aim of the CJC is the effective administration of criminal justice in the State of Queensland.

1.3 Relevant Functions

The CJC is charged with the investigation of official corruption in units of public administration including the Queensland Police Service and investigation of organised or major crime in so far as such investigations are not appropriate to, or cannot be effectively discharged by, the Queensland Police Service or other agencies of the State of Queensland.

1.4 Dissemination of Information

The CJC is empowered to disseminate information to such persons, authorities and agencies, and in such manner as the CJC considers appropriate to the discharge of its functions and responsibilities (section 2.47(2)(a)).

2. QUEENSLAND POLICE SERVICE

The Queensland Police Service (hereinafter referred to as "QPS") is maintained by the State of Queensland under the provisions of the Police Service Administration Act 1990. That Act states, inter alia, that the QPS has functions such as the preservation of peace and good order, the prevention of crime, the detection of offenders and bringing of offenders to justice and the upholding of the law generally (section 2.3).

2.1 Role

The primary aim of the QPS is to provide police services for the State of Queensland and to undertake matters incidental thereto.

2.2 Relevant Functions

By virtue of section 2.3 of the Police Service Administration Act 1990, the QPS may, in connection with its principle function to provide police services for the State of

Queensland, participate in joint operations into criminal activity that is multi-jurisdictional, or which involves the investigation of organised or major crime or of official corruption in units of public administration.

3. MUTUAL CO-OPERATION

The CJC and the QPS recognise that an effective attack upon organised criminal activity requires mutual co-operation between law enforcement agencies. Both parties recognise that from time to time, they will be called upon to act in aid of investigations being undertaken by one party where investigators from that party would be better equipped and more familiar with differing areas of investigation and where offences traverse areas of law normally investigated by that party. Where this position exists both parties recognise, accept and undertake to advise, inform and consult with the other party, and subject only to current investigational priorities and resource availability, to assist the first party with the investigation of those criminal activities.

4. INFORMATION SHARING

If upon consultation the other party requests access to information relevant to the performance of its functions, the first party will, subject to the due observance of its statutory processes and procedures, and any other relevant legislation, disseminate all relevant information to the other party subject to any caveats which the first party might place upon the use to be made of the information or its dissemination.

5. OPERATIONAL ASSISTANCE

Both parties agree that in determining whether the other party will assist the first party in a joint operation, including the provision of resources, the first party will provide to the other party an advice which explains to the other party the background to the request for assistance, objectives and the approximate duration of the requirement for operational assistance.

6. JOINT OPERATIONS

Where both parties agree to take part in a joint operation, an agreed Operational Plan will be prepared between the parties setting out the background, objectives, expected duration, funding arrangements and command, control and management of the joint operation.

7. ORGANISED CRIME TASK FORCE

That there be established jointly by the CJC and the QPS a task force to identify and investigate on a continuing basis organised criminal elements operating in the State of Queensland, such task force to be known as the Organised Crime Task Force. To this end, the CJC is to make available the full complement of one of its multi-disciplinary investigative teams, to be matched by a similar dedication of resources by the QPS. The task force is to have access to computer support, mobile and electronic surveillance and, in conformity with law at the sole discretion of the CJC, the compulsory powers of the CJC as provided for by the Criminal Justice Act 1989-1990, in particular the power to summon persons and examine them on oath and to require the production of documents. The task force is to be housed conjointly and to be supervised by a Management Committee consisting of the occupiers of the following positions:

- ✱ Deputy Commissioner (Operations) - QPS
- ✱ Commander, Task Force - QPS
- ✱ Director of the Official Misconduct Division - CJC
- ✱ Director of Operations - CJC.

The Management Committee is to meet as required, but no less than once per month. Each operation by the task force is to be the subject of an Operational Plan which is to specify targets, duration, resources, personnel, funding and objectives.

Dated this _____ day of _____
1990.

.....
Sir Max BINGHAM Q.C.
Chairman
Criminal Justice Commission

.....
N. R. NEWNHAM APM
Commissioner
Queensland Police Service

REFIND

PROPOSED AGENDA

ANNEXURE E

MEETING AT CJC OFFICE - 4 APRIL 1991

In attendance from Queensland Police Service:

- . Commissioner N.R. Nawnham
- . Deputy Commissioner R.C. Kirkpatrick
- . Assistant Commissioner M.N. Comria
- . Mr. G. Weeks, Deputy Director, ABCI

1. Implementation of Morris recommendations on BCIQ.
2. Position of Second-in-Charge, BCIQ.
3. Japanese Organised Crime - CJC proposal for an Intelligence Task Force.
4. CJC proposal on supply of BCIQ information to CJC.
5. CJC proposal for continuing Joint Task Force.
6. Witness protection costs.

MEMORANDUM OF UNDERSTANDING
BETWEEN
CRIMINAL JUSTICE COMMISSION (QUEENSLAND)
AND
QUEENSLAND POLICE SERVICE

1. CRIMINAL JUSTICE COMMISSION, QUEENSLAND

1.1 Establishment

The Criminal Justice Commission (hereinafter referred to as the "CJC" was established by the Government of Queensland on 4 November 1989 under the provisions of the Criminal Justice Act 1989-1990. That Act states, inter alia, that the CJC shall discharge such functions in the administration of criminal justice as in the CJC's opinion are not appropriate to be discharged, or cannot be effectively discharged, by the Queensland Police Service or other agencies of the State of Queensland (section 2.14(b)). Further the CJC's responsibilities include, inter alia, the discharge of such functions in the administration of criminal justice as in the CJC's opinion are not appropriate to be discharged, or cannot be effectively discharged by the Queensland Police Service or other agencies of the State undertaking the investigation of official corruption in units of public administration and the investigation of organised or major crime (section 2.15(f)).

1.2 Role

The primary aim of the CJC is the effective administration of criminal justice in the State of Queensland.

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1.3 Relevant Functions

The CJC is charged with the investigation of official corruption in units of public administration including the Queensland Police Service and investigation of organised or major crime in so far as such investigations are not appropriate to, or cannot be effectively discharged by, the Queensland Police Service or other agencies of the State of Queensland.

1.4 Dissemination of Information

The CJC is empowered to disseminate information to such persons, authorities and agencies, and in such manner as the CJC considers appropriate to discharge of its functions and responsibilities (section 2.47(2)(a)).

2. QUEENSLAND POLICE SERVICE

The Queensland Police Service (hereinafter referred to as "QPS") is maintained by the State of Queensland under the provisions of the Police Service Administration Act 1990. That Act states, inter alia, that the QPS has functions such as the preservation of peace and good order, the prevention of crime, the detection of offenders and bringing of offenders to justice and the upholding of the law generally (section 2.3).

2.1 Role

The aim of the QPS is to assume the primary role in the investigation of organised or major crime, pursuant to its statutory functions.

Get
- 2 -

2.2 Relevant Functions

By virtue of section 2.3 of the Police Service Administration Act 1990, the QPS already, in connection with its principal function to provide police services for the State of Queensland, participate in joint operations into criminal activity that is multi-jurisdictional, or which involves the investigation of organised or major crime or of official corruption in units of public administration. It now operates a Committee, with CJC representation, to identify targets of police investigations into major or organised crime.

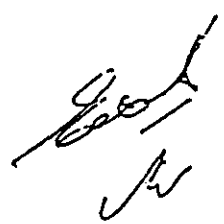
3. MUTUAL CO-OPERATION

The CJC and the QPS recognise that an effective attack upon organised criminal activity sometimes requires mutual co-operation between law enforcement agencies. Both parties recognise that from time to time, one will be called upon to act in aid of investigations being undertaken by the other party for various reasons.

Both parties recognise the need to advise and consult with the other party, and (subject to current investigational priorities and resource availability) to assist the other party with the investigation of those criminal activities.

4. INFORMATION SHARING

If upon consultation one party requests access to information relevant to the performance of its functions, the other party will, subject to the due observance of its statutory processes and procedures, and any other relevant legislation, provide all relevant information to the requesting party subject to any caveats which the providing party might place upon the use to be made of the information or its dissemination.

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to consist of several overlapping loops and lines, possibly representing the initials of a person.

5. OPERATIONAL ASSISTANCE

Both parties agree that in determining whether to assist the other party in a joint operation, including the provision of resources, the requesting party will provide to the other party an advice which explains to the other party the background to the request for assistance, objectives and the approximate duration of the requirement for operational assistance.

6. JOINT OPERATIONS

Where both parties agree to take in a joint operation, an Operational Plan will be prepared between the parties setting out the background, objectives and expected duration of the joint operation, to be accepted (or rejected) by the Chairman of the CJC and the Commissioner of the QPS.

7. JOINT OPERATION GROUPS

Where agreement is reached between the Chairman of the CJC and Commissioner, Queensland Police Service, to conduct a joint operation for a specific purpose, a Joint Operation Group may then be established.

A Joint Operation Group is to be housed conjointly and be supervised by a Management Committee consisted of the occupiers of the following positions:-

- Deputy Commissioner (Operations) - QPS
- Assistant Commissioner, Task Force - QPS
- Director of the Official Misconduct Division - CJC
- Director of Operations - CJC



The Management Committee is, in each case, to agree upon the budgetary, management and supervision arrangements to apply to the operation, and upon the composition of the Joint Operation Group.

Each such Group will be given a name.

Each Group is to have access to computer support, mobile and electronic surveillance and, in conformity with law at the sole discretion of the CJC, the compulsory powers of the CJC as provided for by the Criminal Justice Act 1989-1990, in particular the power to summon persons and examine them on oath and to require the production of documents.

The Management Committee is to meet as required, but at least once per month. Each operation by the Group is to be the subject of an Operational Plan which is to specify targets, duration, resources, personnel, funding and objectives.

Dated this 28th day of June
1991.

.....
Sir Max BINGHAM QC
Chairman
Criminal Justice Commission

.....
N. R. NEWNHAM APM
Commissioner
Queensland Police Service

P / 01-11-74

ANNEXURE G

New South Wales State Drugs Crime Commission.

The Organised Crime Task Force Proposal

As mentioned above, the Commission is empowered to perform such investigations to the extent that the Queensland Police Service and other agencies are unable to do so. As the capability of the Police Service is extended, the Commission's current responsibilities are intended to accrue to that body. Accordingly, wherever possible, the Commission conducts such investigations as far as possible on a co-operative basis.

To this end the Commission proposed to the Queensland Police Service that a Standing Organised Crime Task Force be created to provide a progressive response to the challenge of organised crime, with its expertise growing with its exposure to the task. In this regard the Commission was conscious of the experience of leading overseas crime fighting organisations such as the US Federal Bureau of Investigation, the Organised Crime Division of which has substantially destroyed the effectiveness of the Italian organised crime group La Cosa Nostra over a period of two decades.

To the Commission's knowledge, a number of ethnically-based and other organised crime groups are active in Queensland but have not previously been the subject of dedicated targeting on any continuing basis.

Overseas experience indicates that there is a long lead time in developing within law enforcement the expertise necessary to tackle such groups. The basic steps are:

- the collection and analysis of all information available throughout the law enforcement community;
- the establishment of an intelligence collection plan which actively seeks to capture intelligence on current criminal activities and to identify the principals involved in that activity;
- the design of an operational plan for the pro-active investigation of the organisation, in particular by the use of surveillance (mobile and electronic), undercover penetration (by police agent - a very difficult long term endeavour), the discovery of informants and attempts to encourage co-operation by peripherally involved persons to gather evidence, the pursuit of the money trail by financial investigators, and the conduct of secret hearings.
- the leap-frogging from operation to operation, widening the net by targeting the organisation rather than individuals, gradually working to the top of the tree.

Although the whole endeavour can be simply stated, it is anything but simple in practice. It requires an understanding of the culture involved, including the language, the organisation, the attitudes, strengths and weaknesses of the principal players, infinite patience and a preparedness to commit resources for the long term. It is expensive of resources for no immediate return and therefore requires the understanding, support and commitment of the supervising body such as the Parliamentary Criminal Justice Committee.

When the FBI decided to undertake organisation based rather than individually based targeting, it was concerned that the necessary reduction in the "kill rate" would not be tolerated by its political masters. However the US Congress showed great maturity in accepting the change in direction as a necessary step, as a result of which the long term viability of the program was guaranteed.

As mentioned above, the Commission has the philosophy of acting wherever appropriate in combination with other law enforcement agencies, both local and interstate. It has formalised those arrangements with the AFP, Victoria Police and the State Drug Crime Commission of New South Wales through the execution of Memoranda of Understanding. The Commission is currently negotiating with the Queensland Police Service to enter a similar arrangement with that body for the investigation of organised crime.

The typical Memorandum of Understanding requires the participating parties to act in support of each other wherever possible, to share intelligence material, and to provide for management of joint operations by the constitution of management and operational committees.

Complexity of Investigations

A few examples of the range and complexity of matters handled by the multi-disciplinary teams and the resources required follow:

Complaint of Excessive Force

Complaints were received by the Commission of the use of excessive force by police in dispersing a gathering of aboriginals who attended a function at Inala. Further allegations were made concerning violence in the watchhouse towards arrested persons, victimisation of persons involved in the incident and a complaint related to a separate incident involving alleged violence by police towards aboriginals.

A Multi-disciplinary Team devoted four investigators headed by an inspector for in excess of three months. Over 2,300 man hours (approximately one working year) were required to interview over 140 people. All interviews were tape recorded, transcribed and summarised, with signed statements being obtained from some persons. Apart from the initial complainants, aboriginal persons were not interviewed by the Commission at Commission premises, or a police station, or Government offices, to minimise the chance of witnesses being intimidated by their surroundings, although such a course was more time consuming than other forms of investigation. The final report with recommendations is in the process of being written.

Corrupt Conduct by Local Authority Employee

An investigation into allegations against a council employee for corrupt conduct required simultaneous approaches to be made to a council and a business to obtain documents relating to the purchasing of goods and services. Documentation from both the council and the business for a period of 26 months was taken. From this 1,200 records were generated by computer, each record encompassed plant and equipment details, order details, invoice and other details. Over 220 hours were required for entry and analysis of

this information and extended over three day investigative h devoted to this inve

The "D" List

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A senior lawyer and senior financial analyst are working in conjunction with QPS and Telecom employees in this investigation, which has been under way for approximately five months. This operation entails the use of surveillance and extensive financial investigation.

Operation H

The Commission received information of possible police involvement in corrupt activities with persons operating in an industry which cannot be mentioned for operational security. After prolonged investigation which continued for approximately 12 months, the evidence gathered, although significant, was insufficient to enable prosecution action to be undertaken. The QPS was advised of the details of the racket and took steps to tighten procedures to prevent a repetition of this conduct. Information has come to the attention of the Commission that the illegal activity has recommenced, involving other police officers who apparently have overcome the safeguards put in place. The investigation has been re-activated.

Operation I

The Commission received information of a leading crime figure being involved in arms and drugs trafficking. A sophisticated operation was undertaken involving the use of surveillance and a co-operating informant to gather evidence for the purposes of prosecution. After intensive investigation extending over several months, the investigation was aborted because of a development external to the Commission which risked exposing the informant and jeopardizing his security.

Operation J

The Commission was approached by the AFP and the QPS to participate in a joint operation concerning the blackmail of a prominent businessman to raise money to finance a drug importation. The Commission agreed to support the operation by the commitment of its surveillance resources. The operation continued for nine months. Twenty-five arrests were made involving 70 charges including:

- Conspiracy to murder;
- Theft;
- Fraud;
- Importation of narcotics;
- Extortion.

Operation K

The Commission is presently involved with an interstate law enforcement agency in the conduct of a national investigation. The targets are well

known criminals from interstate, who have connections in Queensland. They each have a long and notorious criminal history. They have been the subject of numerous previous operations which have failed. The operation is likely to continue for some time. It is drug related. No further details can be given because security is of paramount importance.

The Organised Crime Task Force Proposal

As mentioned above, the Commission is empowered to perform such investigations to the extent that the QPS and other agencies are unable to do so. As the capability of the Police Service is extended, the Commission's current responsibilities are intended to accrue to that body. Accordingly, wherever possible, the Commission conducts such investigations on a co-operative basis.

To this end the Commission proposed to the QPS that a Standing Organised Crime Task Force be created to provide a progressive response to the challenge of organised crime, with its expertise growing with its exposure to the task. In this regard the Commission was conscious of the experience of leading overseas crime fighting organisations such as the US Federal Bureau of Investigation (FBI), the Organised Crime Division of which has made substantial inroads on the effectiveness of the Italian organised crime group La Cosa Nostra over a period of two decades.

To the Commission's knowledge, a number of ethnically-based and other organised crime groups are active in Queensland but have not previously been the subject of dedicated targeting on any continuing basis.

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- The progression from operation to operation, widening the net by targeting the organisation rather than individuals, gradually working to the top of the tree.

Although the whole endeavour can be simply stated, it is anything but simple in practice. It requires an understanding of the culture involved, including the language, the organisation, the attitudes, strengths and weaknesses of the principal players, infinite patience and a preparedness to commit resources for the long term. It is expensive of resources for no immediate return and therefore requires the understanding, support and commitment of the supervising body such as the Parliamentary Criminal Justice Committee and the Parliament.

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Corrupt Conduct by Local Authority Employee

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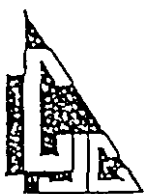
The "D" List

At the conclusion of the Fitzgerald Inquiry there were a substantial number of Police Officers against whom adverse allegations had been made. Some were the subject of investigation by the Special Prosecutor, others faced an uncertain future. The list of persons adversely mentioned who were not the subject of inquiry by the Special Prosecutor became known as the "D" list.

With the establishment of the Commission the holdings with respect to all police officers mentioned during the Fitzgerald Inquiry were passed to the new Commission.

It was unsatisfactory both from the point of view of the individuals concerned and the QPS that these officers should continue to serve in the Police Service whilst they were under a cloud.

Reviews were undertaken into the Commission holdings with a view to either clearing those police officers so they could serve in the Police Service



CRIMINAL JUSTICE COMMISSION
QUEENSLAND

RECEIVED

Telephone: (07) 360 6060

Facsimile: (07) 360 6333

Your Ref.:
Our Ref.: MLG:asb
Contact Officer: Mr. Le Grand

ANNEXURE I

12 June 1991

Mr N R Newnham APM
Commissioner of the Police Service
Queensland Police Headquarters
100 Roma Street
BRISBANE Q 4000

Dear Mr Newnham

Re: MEMORANDUM OF UNDERSTANDING

As you are aware, the Commission has the philosophy in major and organised crime matters of acting where appropriate in conjunction with other law enforcement agencies, both local and interstate, in particular with the Queensland Police Service. It has formalised these arrangements with the Australian Federal Police, Victoria Police and the State Crime Commission of New South Wales through the execution of Memoranda of Understanding. It is a matter of some embarrassment to the Commission that no such Memorandum of Understanding has yet been concluded with the Queensland Police Service.

In this regard, I note that the Commission was unsuccessful in proposing the establishment of a Standing Organised Crime Task Force to provide a progressive response to the challenge of organised crime.

The Commission is conscious of the experience of leading overseas crime fighting organisations such as the US Federal Bureau of Investigation, the Organised Crime Division of which has substantially destroyed the effectiveness of the Italian organised crime group La Cosa Nostra over a period of two decades.

To the Commission's knowledge, a number of ethnically-based and other organised crime groups are active in Queensland but have not previously been the subject of dedicated targeting on any continuing basis.

Overseas experience indicates that there is a long lead time in developing within law enforcement the expertise necessary to tackle such groups. The basic steps are:

- the collection and analysis of all information available throughout the law enforcement community;
- the establishment of an intelligence collection plan which actively seeks to capture intelligence on current criminal activities and to identify the principals involved in that activity;
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- the progression from operation to operation, widening the net by targeting the organisation rather than individuals, gradually working to the top of the tree.

Although the whole endeavour can be simply stated, it is anything but simple in practice. It requires an understanding of the culture involved, including the language, the organisation, the attitudes, strengths and weaknesses of the principal players, infinite patience and a preparedness to commit resources for the long term.

At our meeting on 4 April 1991, the approach proposed by the Commission was rejected by your service in favour of ad hoc task forces to address particular operations. The Commission will continue to urge that the Queensland Police Service re-consider its position in this regard.

In the event, in the Commission's view there is a clear requirement for a Memorandum of Understanding to be concluded to provide an umbrella for joint operations with the Queensland Police Service, in particular to provide for the sharing of intelligence material and to provide for the management of such operations by the constitution of management and operational committees. I advise that the draft Memorandum which you left with the Commission on 4 April 1991 is satisfactory for this purpose. I would be grateful if you would give consideration to its execution, whereupon I will do the same.

Yours sincerely

SIR MAX BINGHAM QC
Chairman



CRIMINAL JUSTICE COMMISSION
QUEENSLAND

Telephone: (07) 360 6060
Facsimile: (07) 360 6333

Your Ref.: MLG:rass
Our Ref.: Mr Le Grand
Contact Officer:

ANNEXURE J

23 September 1992

Commissioner N R Newnham APM
Queensland Police Service
100 Roma Street
BRISBANE QLD 4000

Dear Mr Newnham

Re: THE ORGANISED CRIME TASK FORCE

Thank you for the discussions of 16 September, 1992. Hopefully any lingering misunderstanding about the nature and aims of the proposal for a joint organised crime task force have now been dispelled.

As agreed, I renew my request to you that the Queensland Police Service join with the Criminal Justice Commission in this endeavour. The proposal remains substantially that put forward in my letter to Acting Commissioner R Kirkpatrick of 7 December, 1990 and renewed in my letter of 12 June, 1991 (copies of which are attached).

Shortly after its establishment, the Commission identified the need for a more innovative approach to the organised crime problem consistent with the observations that Fitzgerald QC made at page 164 of his Report, namely:

Organised crime has never, anywhere in the world, been brought under control by a piecemeal process. An integrated, comprehensive and wide range of corrective measures have to be made available.

Fitzgerald QC clearly saw the need for continuity and co-operation. The Commission has adopted Mr Fitzgerald's view as its philosophy in discharging its functions in the area of organised crime, that is, co-operation with other agencies, in particular the QPS, and the dedication of resources. It has not, and has never, been the philosophy of the Commission to seek exclusive jurisdiction or to act in isolation, save and except where it is enjoined by its legislation to do so.

To the Commission's knowledge, a number of organised crime groups, some based on particular ethnic groups, are active in Queensland but have not previously been the subject of dedicated targeting on any continuing basis.

Overseas experience indicates that there is a long lead time in developing within law enforcement the expertise necessary to tackle such groups.

The Commission has adopted the US Federal Bureau of Intelligence (FBI) model of "Racketeering Enterprise Investigation" (REI). The Commission is attempting to discover the whole structure of a criminal organisation rather than simply those targets who represent the tips of the iceberg.

In undertaking the REI approach to the investigation of organised crime, the Commission is adopting the practices and procedures which the FBI has successfully used in the fight against organised crime in the United States, in particular against the American variant of the Mafia known as La Cosa Nostra. In doing so it seemed to the Commission that there was logical reason to obtain the assistance of the FBI. Several entreaties to the Director of the FBI, Judge Sessions, ultimately bore fruit when Judge Sessions nominated a former head of the FBI's Drug and Organised Crime Programs, Sean McWeeney, as a person who had the relevant expertise and experience to assist the Commission. Mr McWeeney attended upon the Commission in May 1992 and audited this phase of its organised crime program. After an intense review, Mr McWeeney reported:

My general conclusions are that the Criminal Justice Commission Organised Crime Investigative and Data Collection (Intelligence) Programs are very well directed and thought out. I am particularly impressed with your data collection plans and the awareness by the investigators that to be successful, the battle plans must be pro-active and geared for the long haul . . . I would encourage the Criminal Justice Commission to stick to the plans and not opt for the quick and easy 'score', unless same is part of the larger plan, to wit, the development of an informant to lead to more important Organised Crime figures.

These comments have confirmed that the Commission is on the right track. Furthermore, its confidence in this regard was reinforced when, as a result of a conference on Italian Organised Crime recently held with senior representatives of the National Crime Authority (the Authority), (which organisation is seeking to re-involve itself in the investigation of organised crime), the Authority wrote to the Commission on 24 July, 1992 conceding that the directions being pursued by the Commission in this area are correct. These concessions were made by the Acting Chairperson of the Authority against a background of the innate

conservatism within law enforcement to the adoption of a novel approach. The Acting Chairperson said in part:

While a detailed national assessment of the type you are conducting in Queensland with Project . . . may have been a desirable path to pursue, I am not certain that it would have received the support of the contributing law enforcement agencies.

. . . The Authority is of the view that a national strategic intelligence analysis of IOC (Italian Organised Crime) in Australia should continue to be developed during the currency of this investigation.

When the Commission was unsuccessful in obtaining the participation of QPS, it undertook its own investigation of three of the nominated groups per medium of an in-house team composed of personnel from the Intelligence and Official Misconduct Divisions. This entailed the dedication of resources to the following areas, namely:

- Italian organised crime (Operation Bradman);
- Chinese organised crime (Operation Shamrock); and
- Japanese organised crime (Operation Tara).

To these three areas, the Commission has recently added a fourth, namely outlaw motorcycle clubs (Operation Hastings).

The Commission determined that it should focus its endeavours on these organised crime areas after taking into account the experience of other advanced Western countries, the history of organised crime in Australia, Australia's immigration and ethnic mix and Australia's geographic location.

Italian organised crime and Chinese organised crime have been the subject of substantial, albeit ad hoc, law enforcement attention in recent years by federal authorities and the police forces of Victoria, New South Wales and South Australia. Further, groups such as the Yakuza stand out as being of interest to Australian, in particular Queensland, law enforcement through their connection to Japanese business, tourism and investment.

The outlaw motorcycle clubs are now regarded as an organised crime threat, second only to La Cosa Nostra in the United States. Such clubs are well represented in Australia and, indeed, several have connections with "mother clubs" in the United States (see for instance the recent Federal Court challenge by the Hell's Angels Motorcycle Club against the Minister for Immigration and Ethnic Affairs refusal to grant visas for the 1991 Hell's Angels World Run). An ongoing project being undertaken by the Intelligence Division based in part on information gathered by the BCIQ indicates that such gangs have a large representation in Queensland.

Further, recent operations by the Task Force and the Commission provide clear evidence of the involvement of such gangs in drug manufacture and distribution, arms trafficking and crimes of violence.

The rationale of the Commission's joint task force proposal is to provide a progressive response to the challenge of organised crime, with expertise growing with exposure to the task. The basic program which the Commission had adopted is:

- the collection and analysis of all information available throughout the law enforcement community relative to the chosen areas;
- the establishment of an intelligence collection plan which actively seeks to identify relevant organised criminal groups, their structure, membership, principals, criminal activities, finances, associations, interstate and overseas connections;
- the design of an operational plan for the proactive investigation of the organisation, in particular by the use of surveillance (mobile and electronic), undercover penetration (by police agent - a very difficult long term endeavour), the recruitment of informants and attempts to encourage co-operation by peripherally involved persons, the pursuit of the money trail by financial investigators, and by conducting closed hearings;
- the progression from operation to operation building upon the experience and intelligence gained, gradually working to the top of the organisation.

The Commission has been in a position to commit the full-time resources of only one team to this work: nine investigators (one of whom is fluent in Italian, another Mandarin and Cantonese), four intelligence analysts, two financial analysts, one lawyer and support staff. Surveillance and technical support has been provided.

The starting point was the collection, collation and analysis of all available material, in particular that contained in the Information Bureau of QPS. Thereafter, the Commission set about the active collection of additional information pursuant to a collection plan agreed between the Official Misconduct Division and the Intelligence Division.

Recently in the most advanced of the projects, namely the Italian organised crime operation (Operation Bradman), field investigations have been undertaken in North Queensland. The progress to date is very encouraging.

Within the organised crime team resources are allocated to each of the three areas. To this time, the pursuit of outlaw motorcycle gangs has been made the subject of investigation by another multi-disciplinary team.

In the light of our recent discussions, I therefore propose that there be established jointly by the Commission and QPS a task force to identify and investigate on a continuing basis organised criminal elements operating in the State of Queensland, such task force to be known as the Organised Crime Task Force. To this end, the Commission will make available

the full complement of its organised crime team, and propose that those resources be matched by a similar dedication of investigators by QPS. The task force has access to computer support, mobile and electronic surveillance and, in conformity with law and at the discretion of the Commission, the compulsory powers of the Commission as provided for by the Criminal Justice Act 1989, in particular the power to summon persons and examine them on oath and to require the production of documents. The task force should be housed jointly and be supervised by a Management Committee consisting of the occupants of the following positions:

- Deputy Commissioner (Operations) - QPS
- Assistant Commissioner, Task Force - QPS
- Director of the Official Misconduct Division - CJC
- Director of Operations - CJC.

The Management Committee should meet as required, but no less than once per month. Each operation by the task force would be the subject of an Operational Plan which would specify targets, duration, resources, personnel, funding and objectives. The unit could be housed at the Commission premises in Coronation Drive, Toowong.

The team would be lead by a Commission Team Leader with a QPS deputy and would report to and be supervised by the management committee. The operations of the organised crime task force would be the subject of a memorandum of understanding between the Commission and QPS.

The Commission is conscious that since the organised crime task force was originally mooted, the National Crime Authority under its new leadership, has re-involved itself in the investigation of organised crime, in particular it has obtained national references to pursue Italian and Chinese organised crime.

Further, it has moved to establish an office in Queensland by the end of this year. In the Commission's view; this development does not compromise the initial proposal, rather it enhances the Queensland contribution to this national initiative. The NCA has stated that its role will be limited to national co-ordination and the support of the intelligence collection and investigative effort. The organised crime task force would reflect the pattern of investigation which the NCA is seeking to establish across jurisdictions.

I look forward to your consideration of the above.

Yours sincerely

SIR MAX BINGHAM QC
Chairman

**PARLIAMENTARY CRIMINAL JUSTICE COMMITTEE
COMMITTEE MEETINGS ATTENDANCE RECORD
47TH PARLIAMENT**

Meeting Date	Barton	Bird	Briskey	Davies	Lester	Turner	Watson
11 November 1992	x	x	x	x	x	x	x
12 November	x	x	x	x	x	x	x
13 November	x	x	x	x	x	x	x
20 November	x	x	x	x		x	x
23 November	x	x	x	x	x	x	x
26 November		x	x	x	x		x
4 December	x	x	x	x	x	x	x
14 December	x	x	x	x	x	x	x
15 December	x	x	x	x	x	x	x
18 January 1993	x	x	x	x	x	x	x
11 February	x	x	x	x	x	x	x
12 February	x	x	x	x	x	x	x
22 February	x	x	x	x	x	x	x
23 February	x	x	x	x	x	x	x
2 March		x	x	x	x	x	x
5 March	x	x	x	x	x	x	x
12 March	x	x	x	x	x	x	x
16 March	x		x	x	x	x	x
2 April	x	x	x	x	x	x	x
16 April	x	x	x	x	x	x	x
29 April	x	x	x	x		x	x
7 May	x	x	x	x	x	x	x
11 May	x	x	x	x	x	x	x
13 May	x	x	x	x	x	x	x
18 May	x	x	x	x	x	x	x
11 June	x	x	x	x	x	x	x
30 June	x	x	x	x	x	x	x
12 July (am)	x	x	x	x		x	x
12 July (pm)	x	x	x	x	x	x	x

Meeting Date	Barton	Bird	Briskey	Davies	Lester	Turner	Watson
13 July	x	x	x	x	x	x	x
15 July	x		x	x	x	x	x
16 July	x	x	x	x	x	x	x
10 August	x	x	x	x	x	x	x
24 August	x	x	x	x	x	x	x
31 August	x	x	x	x	x	x	x
10 September	x	x	x	x		x	x
14 September	x	x	x	x	x	x	x
17 September		x	x	x	x	x	x
23 September	x		x	x	x	x	x
4 October		x	x	x		x	x
7 October	x	x	x	x		x	x
12 October	x	x	x	x		x	x
25 October	x	x		x			x
8 November	x			x		x	x
9 November	x	x		x	x	x	
16 November	x	x		x	x	x	x
25 November	x		x	x			x
26 November	x		x	x			x
30 November	x		x	x	x	x	x
7 December (am)	x	x	x	x	x		x
7 December (pm)	x	x	x	x	x		x
9 December	x	x	x	x	x	x	x