SPECIAL REPORT TO PARLIAMENT

PROJECT DRESDEN

AN AUDIT OF THE QUALITY OF NSW POLICE SERVICE INTERNAL INVESTIGATIONS

April 2000

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

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

Dear Madam President and Mr Speaker

In accordance with section 98 of the *Police Integrity Commission Act 1996*, the Commission hereby furnishes to you a special report on a matter relating to the functions of the Commission, being an audit conducted by the Commission of the quality of NSW Police Service internal investigations. Codenamed Project Dresden, this audit was carried out in accordance with section 14(b) of the Act.

I draw your attention to section 103(2) of the Act, pursuant to which I recommend that this report be made public forthwith.

Yours faithfully

Judge P D Urquhart QC
Commissioner

April 2000

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EXECUTIVE SUMMARY

Under section 14(b) of the *Police Integrity Commission Act 1996*, one of the functions of the Police Integrity Commission is to 'monitor the quality and management of investigations conducted within the Police Service and to undertake audits of those investigations'.

Project Dresden is the first comprehensive audit, conducted by the Commission, of NSW Police Service internal investigations into complaints of police misconduct. The aim of this audit was to:

- assess whether there have been any demonstrable improvements in the conduct of investigations by the Police Service into the more serious complaints made against police officers (known as Category 1 complaints) since the Royal Commission into the NSW Police Service;

- recommend such remedial action as may be necessary in the light of the audit findings, noting the legislative and policy changes made since the final report of the Royal Commission; and

- establish a benchmark against which future reports by the Commission on the standard of Police Service investigations into Category 1 complaints might be assessed.

The Royal Commission identified a number of factors that contributed to the limited success of internal investigations into complaints of police misconduct. Seven of these applied particularly to the investigation of Category 1 complaints. The audit used these factors to assist in measuring the performance of the Police Service. The seven factors were:

- the reactive focus of the complaints system on single instances of misconduct, which tended to conceal the discovery of links and patterns indicative of organised corruption;

- the limited resources given to the Professional Responsibility Command (now known as Internal Affairs);

- the failure to utilise intelligence, covert techniques, surveillance and the like, or to attempt the roll over of individual officers able to expose a wider net of corruption;

- the failure to use broad-based financial and intelligence analysis, the lack of communication between regional and central Internal Affairs units, and the failure to involve commanders in the management of, and responsibility for, misconduct within their command;

- an inherent bias in investigations as the result of which the Police Service has failed to carry out impartial investigations, or to pursue allegations with the same rigour or approach seen in ordinary criminal inquiries;

- the use of ineffective investigative techniques, for example, the issue of directive memoranda calling for an explanation in writing; and

- the imposition of penalties which were not always commensurate with the misconduct found.

The outcome of the audit revealed that these shortcomings and deficiencies are, to a substantial degree, still adversely affecting Police Service internal investigations. Other shortcomings were also identified during the course of the audit. This is a disappointing result, and indicates that in this area the Police Service has some distance to travel before it can be considered to have met the standards set by the Royal Commission.

The main findings of the audit are set out below. They are discussed in detail in the body of this Report.

- The level of pre-investigative checking of officers' complaints history and other relevant information was extremely low. The audit revealed that pre-investigative research was conducted in only seven percent of investigations.

- Investigative methods, other than interviews, were used in only 15.7 percent of the investigations reviewed in the audit. Only limited use was made of electronic surveillance and strategies such as attempting to persuade police officers to roll-over.

- Investigative techniques such as directive memoranda were used too often and without sufficient thought being given to the purpose of their use.

- The nature and level of involvement by supervisors of officers conducting internal investigations was inadequate. The audit revealed that there was evidence of involvement by an investigator's supervisor in only 3.8 percent of investigations.

- 25.1 percent of investigations examined during the audit were assessed as being unsatisfactory or very unsatisfactory. Factors contributing to this included bias and lack of rigour, conflicts of interest on the part of investigators (such as investigating complaints about colleagues in the same work area) and junior officers investigating more senior officers.

- When misconduct was established, the recommended penalty was not always commensurate with the offence. In 8.8 percent of investigations where the complaint was 'sustained' the recommended penalty was not commensurate with the misconduct established.

- In 37 (43.5 percent) of the 85 investigations examined, where the decision was not to investigate the complaint, the Commission considered that the decision was unreasonable.

- In six (22 percent) of the 27 investigations examined, where the decision was to take no further action on complaints that were withdrawn or not proceeded with, the Commission considered that the decision was unreasonable.

- Fewer than four percent of the investigations examined used investigative planning.

- The use made of Internal Affairs Consultants in investigations was likewise rare. There was evidence of active involvement by such Consultants in only 23 investigations (4.9 percent).

- Despite the fact that it was at the time prohibited by law, conciliation was attempted in eight investigations where the complaint involved an indictable offence.

- Completed investigations took on average 39 days longer than they should have done.

- The nature and level of resources allocated to Internal Affairs appeared to be inadequate.

- The incidence of complaints in Northern Region was substantially higher than in any other region.

- There appear to be a number of deficiencies in the Police Service's Complaints Information System.

Based on the above information and assessments, the Commission is of the opinion that a common underlying problem with those investigations examined during the audit was a lack of rigour by the investigating officers and their managers. It seems likely that a higher level of rigour would be applied by police investigators in pursuing allegations of criminal activity other than serious police misconduct. As there is no valid reason for investigators to apply such different standards of rigour, the Commission is concerned that this may reflect a lack of will on the part of investigators within the Police Service to thoroughly pursue complaints of serious misconduct against their own officers.

As a means of overcoming these shortcomings, the Commission has made a number of recommendations throughout the Report. These recommendations, which are consolidated in Chapter 7, relate to, amongst other things:

- the nature and level of preparatory work done before investigations begin;

- real or potential conflicts of interest by investigators conducting internal investigations;

- the investigative methods used in internal investigations;

- the application of penalties when complaints are sustained;

- the nature of the role performed by investigators' supervisors with regard to investigative planning, the investigative process and the outcome;

- the role by played Internal Affairs Consultants in the investigation of Category 1 complaints; and

- the staffing of Internal Affairs.

It should be acknowledged that the Police Service has recognised some of the deficiencies in its internal investigations, and is developing strategies to overcome them. These strategies are also referred to in the body of this Report.

1. INTRODUCTION

One of the functions of the Police Integrity Commission is 'to monitor the quality of the management of investigations conducted within the Police Service and to undertake audits of those investigations'.[1]

This Report presents the results of an audit by the Commission of the action taken by the NSW Police Service on 620 of the more serious complaints made against police officers between January 1997 and June 1998. The great majority were investigated. The purpose of the audit was:

- to assess whether there have been any demonstrable improvements in the conduct of investigations by the Police Service into the more serious complaints made against police officers (known as Category 1 complaints) since the Royal Commission into the NSW Police Service;

- to recommend remedial action, where necessary, in light of the Report's findings, noting the legislative and policy changes made since the Royal Commission's report; and

- to establish a quantitative benchmark against which future reports by the Commission on the standard of Police Service investigations into Category 1 complaints might be assessed.

This Report had its genesis in work done by the Commission, beginning in 1997-1998, on investigations carried out by the Police Service into 81 Category 1 complaints (see the Commission's 1997-1998 Annual Report, pages 18-19). The initial results of this work, described in Chapter 3, suggested that a broader more systematic audit of such investigations would be worthwhile.

Chapter 2 sets out the system for dealing with complaints against police, in particular Category 1 complaints. It deals with the relevant findings and recommendations of the Royal Commission concerning the handling of complaints against police, and the subsequent legislative and policy changes made until June 1998. It also describes, in summary form, the legislative basis for dealing with Category 1 complaints against police officers.

Chapter 3 gives an overview of the audit, the selection of investigations for the audit, and how the audit was carried out. Chapter 4 presents the results of the audit, including the Commission's recommendations for change. Chapter 5 discusses the distinguishing features of very satisfactory investigations. Chapter 6 deals with legislative and policy changes that have occurred since June 1998. The final chapter presents, in summary form, the Commission's recommendations.

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1 *Police Integrity Commission Act 1996*, s. 14(b).

1. Introduction

This Report is made pursuant to section 98 of the *Police Integrity Commission Act 1996*, which provides that:

> The Commission may, at any time, make a special report to the Presiding Officer of each House of Parliament on any administrative or general policy matter relating to the functions of the Commission.

2. DEALING WITH COMPLAINTS

The purpose of this chapter is to discuss the relevant Royal Commission recommendations concerning the handling of complaints against police officers, the outcomes of those recommendations, and the consequences, up to June 1998, of those recommendations which were accepted and implemented. This chapter also considers the legislative regime for handling such complaints. The Commission believes that such information is necessary for a proper appreciation of the audit.

THE ROYAL COMMISSION AND AFTER

ROYAL COMMISSION RECOMMENDATIONS AND SUGGESTIONS

In its February 1996 Interim Report, the Royal Commission recommended that the existing complaints system be replaced by one in which four categories of complaints would be established. For the purposes of this report, the only category of interest was Category 1 complaints, which the Royal Commission described as follows:

> ***Category 1: Serious Misconduct and Corruption***
>
> - behaviour which constitutes corruption and other serious criminality;
> - matters warranting dismissal from the Police Service;
> - matters in which it is unlikely that there will be public confidence in an internal police investigation.[2]

This recommendation was accepted by the Government. Section 67 of the *Police Integrity Commission Act 1996* (which also established the Police Integrity Commission), enabled the Commissioner of the Police Integrity Commission and the Ombudsman to agree on the class or kind of police complaint which should be referred to the Commission as Category 1 complaints.

On 20 December 1996, the Commissioner and the Ombudsman entered into the first agreement (which came into effect on 1 January 1997, the date on which the *Police Integrity Commission Act 1996* came fully into operation) classifying as Category 1 complaints:

> 1. A complaint that a police officer has or may have sought to pervert the course of justice by giving false evidence, by destroying or interfering with evidence, by withholding or refraining from giving evidence, by fabricating evidence or by influencing another to so act.

[2] RCPS, *First Interim Report*, February 1996, p. 111.

2. A complaint that a police officer has or may have committed a crime punishable on conviction on indictment by a maximum sentence of not less than 3 years imprisonment or 3 years penal servitude.

3. A complaint that a police officer has or may have solicited or accepted a benefit for himself / herself or for another in return for failing to carry out his / her duties.

4. A complaint that a police officer has or may have sought to interfere improperly in the investigation by another police officer of an alleged offence.

5. A complaint that a police officer investigating an offence alleged to have been committed by another officer, has or may have failed to carry out his / her duties in the course of that investigation.

6. A complaint that a police officer has or may have disseminated to a person not authorised to receive it or has or may have used for an unauthorised purpose any information of which he / she has become aware through proper or improper use of an information storage system of the Police Service or of any unit or part of the Police Service or of a system to which the Police Service or any unit or part of the Police Service has access.

7. A complaint that a police officer has or may have manufactured a prohibited drug, cultivated a prohibited plant, or supplied a prohibited drug or a prohibited plant unless the amount or number of such drug or plant is less than the indictable quantity therefor as specified in the *Drug Misuse and Trafficking Act 1985*.

8. A complaint made against a police officer who is of or above the rank of Superintendent or who holds a position referred in Schedule 2 to the *Police Service Act 1990*.[3]

On 15 January 1998, this agreement was amended. As from 1 February 1998, Category 1 complaints consist of:

A. A complaint that a police officer has or may have sought or may seek to pervert the course of justice by giving false evidence, by destroying or interfering with evidence, by withholding or refraining from giving evidence, by fabricating evidence or by influencing another to so act.

B. A complaint that a police officer has or may have committed or may commit

   (i) an assault which has caused or may cause a serious injury and which could lead to a charge or maliciously wounding or inflicting grievous bodily harm upon a person pursuant to section 35 of the *Crimes Act 1900*; or

   (ii) an offence (including larceny) relating to property where the value exceeds $5000; or

   (iii) any offence (other than assault occasioning actual bodily harm) punishable on conviction on indictment by a maximum sentence of imprisonment or penal servitude for five years or more.

[3] PIC, *Annual Report 1996-1997*, October 1997, p. 68.

C. A complaint that a police officer has or may have solicited or accepted, or may solicit or accept, a benefit for himself / herself or for another in return for failing to carry out his / her duties.

D. A complaint that a police officer has or may have sought or may seek to interfere improperly in the investigation by another police officer of an alleged offence.

E. A complaint that a police officer investigating an offence alleged to have been committed by another police officer has or may have improperly failed to carry out, or may improperly fail to carry out, his / her duties in the course of that investigation.

F. A complaint that a police officer has or may manufactured, or may manufacture, a prohibited drug, cultivated or may cultivate a prohibied plant, or supplied or may supply a prohibited drug or a prohibited plant, unless the amount or number of such drug or plant is less than the indictable quantity therefor as specified in the *Drug Misuse and Trafficking Act 1985*.[4]

It will be seen that the new agreement removed two classes of complaint - improperly gaining access to or releasing official information, and complaints involving very senior officers (numbers 6 and 8). A third class (number 2) was modified, so that only the more serious assaults, larcenies and other indictable offences were deemed to be Category 1 complaints.[5]

In Volume II of its Final Report in May 1997, the Royal Commission returned to the question of Category 1 complaints and the agencies responsible for their investigation. It said that:

> matters within Category 1 will be entrusted to the PIC, or the Office of Internal Affairs (subject to PIC oversight, or joint management) for investigation [6]

Later the Royal Commission identified one of the tasks of the Police Service Office of Internal Affairs as being to 'deal with Category 1 investigations not taken over by the PIC'.[7]

In its relevant formal recommendation (number 77), the Royal Commission did, however, envisage that some Category 1 complaints would be investigated by Local Commanders (now called Local Area Commanders). It said that the role of Internal Affairs should extend to among other matters:

> the investigation of category 1 complaints deemed unsuitable for the Police Integrity Commission and the relevant Local Commander[8]

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4 PIC, *Annual Report 1997-1998*, December 1998, p. 72.

5 Two matters should be noted here: the first is that the Commission may investigate a matter nothwithstanding that it is a not a Category 1 complaint within the terms of this agreement – see the *Police Integrity Commission Act 1996*, ss. 13, 23, 24 and 68; the second is that Category 1 complaints are viewed by the Commission primarily as sources of information to assist it in the pursuit of its statutory functions – see the section later in this chapter entitled 'The Legislative Basis'.

6 RCPS, *Final Report Volume II: Reform*, May 1997, para. 4.24.

7 ibid, para. 4.78.

8 ibid, p. 547.

The Royal Commission also made a number of suggestions (but not formal recommendations) concerning the functions and powers of Internal Affairs. It said that:

> ...it is vital that the Office of Internal affairs be staffed by persons of the highest skill and integrity, and it should have priority in the selection of officers transferred to it. An important element in the reform process will be to foster the view that service in this office involves important work, and is a positive step in promotion to any high leadership position.[9]

It also said that:

> The Office of Internal Affairs would also benefit by employing staff seconded from other organisations, including police officers of high calibre from other Services, lawyers from the DPP or elsewhere, and accountants experienced in financial analysis, from both public and private sectors. This staff should work in multi-disciplinary teams.[10]

The Royal Commission also dealt with the role of Internal Affairs at the regional level. At the time of the Royal Commission report there were four regions in the Police Service, each containing a Regional Internal Affairs Unit. The Royal Commission suggested that Internal Affairs should continue to provide support where appropriate for the investigation of (non-Category 1) complaints being dealt with at the regional level. Its preference however was that such support be provided by the central Internal Affairs unit rather than by local Internal Affairs units. The Royal Commission noted, however, that if this option were to be adopted, 'it will be necessary to maintain regional liaison officers and intelligence co-ordinators'.[11]

It is also relevant to note here that in its February 1996 Interim Report, the Royal Commission recommended that Internal Affairs should have:

> a capacity ... to deploy sophisticated investigative methods, including covert techniques for the matters involving serious misconduct and corruption which are assigned to it.[12]

THE OUTCOME

From 1 January 1997, the Commission began to receive from the Police Service and the Office of the Ombudsman copies of Category 1 complaints made to those agencies, as well as complaints made directly to it mainly by members of the public. It rapidly became clear that the volume of such complaints meant that it was not possible for the Commission and Internal Affairs between them to investigate all or even most complaints. The Commission noted in its first Annual Report (1996-1997) that it had considered and decided upon 440 Category 1 complaints in the period from January to June 1997, averaging 73 per month. There was also a backlog of complaints received but not dealt with during that

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9 RCPS, *Final Report Volume II: Reform*, May 1997, para. 4.79.

10 ibid, para. 4.80.

11 ibid, para. 4.77.

12 RCPS, *First Interim Report*, February 1996, p. 112.

period. As indicated in the Commission's second Annual Report (1997-1998), during the next seven months, until the second Category 1 agreement came into effect on 1 February 1998, the monthly rate of complaints received and dealt with by the Commission doubled to 146.

Under the second Category 1 agreement, the monthly rate of complaints received and dealt with by the Commission in February-June 1998 fell to 83. In the following 12 months, to the end of June 1999, the monthly rate was 49.

The Commission's Annual Reports also indicate that in the period January-June 1997, the Commission began 36 investigations, not all of them emanating from Category 1 complaints. In 1997-1998 it began a further 81 investigations, again not all of them emanating from Category 1 complaints. It is also worth noting that in June 1997, Internal Affairs was dealing with about 50 matters, and in June 1998 about 100 matters - again, not all of them arising from Category 1 complaints. It follows that under the present arrangements, investigations of the great majority of Category 1 complaints are carried out by the regions. The consequences of this are dealt with in Chapter 4.

As to the Royal Commission's recommendations and suggestions concerning the functions and powers of Internal Affairs, the Commission recently sought formal advice from Internal Affairs as to their adoption. The response indicated that no consideration seems to have been given in 1997 to those suggestions concerning the priority to be accorded to the selection of Internal Affairs staff and the creation of multi-disciplinary teams. Two legal officer positions were created in May 1997, but for the Quality Control and Review area rather than the Investigations area of Internal Affairs. They were not, however, funded until recently. Further consideration is given to Internal Affairs staffing in Chapter 4.

Following the restructure of the Police Service in 1997, the four regions were replaced by 11. The Royal Commission's suggestion that the Internal Affairs support function be transferred to a central unit was adopted. In keeping with the Royal Commission's suggestion regarding regional liaison officers, in each region a position known as the Internal Affairs Consultant was established. The role of these officers is also considered in Chapter 4.

THE LEGISLATIVE BASIS

The principal legislative basis for dealing with police complaints is Part 8A of the *Police Service Act 1990*, which is entitled 'Complaints about conduct of police officers'. In the period covered by the audit, it comprised some eight divisions and 76 sections. Part 8A is supplemented, and where appropriate overridden,[13] by Part 4 of the *Police Integrity Commission Act 1996*, which is entitled 'Police complaints' and comprises only nine sections. It deals with Category 1 complaints and as noted, it is only with these complaints

[13] The *Police Integrity Commission Act 1996*, s. 68(2), provides that 'This Part has effect despite Part 8A, or any other provision, of the *Police Service Act 1990*.'

that this Report is concerned. Some appreciation of these two Parts is necessary to understand the following chapters in this Report.

Both Part 4 and Part 8A require the Ombudsman and the Police Service to send to the Commission copies of all Category 1 complaints they receive. These are described as 'referred' complaints, as distinct from those Category 1 complaints received by the Commission from any source other than the Ombudsman and the Police Service, which are known as 'non-referred' complaints.

Part 4 requires the Commission to notify the Ombudsman of its decision on each referred complaint as soon as practicable after the Commission receives it. Under Part 4, and other relevant provisions of the *Police Integrity Commission Act 1996*, the Commission may make one of the following decisions:

- to take over the investigation of the complaint (sections 70(3) and 23(1)), in which case the complaint ceases to be a complaint under the *Police Service Act 1990* - the Commission may request the Ombudsman to direct the Commissioner of Police not to investigate the complaint;

- to conduct a preliminary investigation with the purpose of, for example, discovering or identifying conduct that might be made the subject of a more complete investigation, or deciding whether to make particular conduct the subject of a more complete investigation (section 24); or

- to refer the complaint back to be dealt with in accordance with Part 8A (section 70(3)(b)) - in doing so the Commission may indicate that, with regard to the investigation of the complaint by the Police Service, it wishes to do one of the following:

  – manage the investigation - section 13(1)(b) provides that one of the principal functions of the Commission is 'to detect or investigate, or manage other agencies in the detection or investigation of, serious police misconduct', and section 13(3) describes managing as 'the provision by the Commission of detailed guidance in the planning and execution of such detection or investigation';

  – oversee the investigation - section 13(1)(c) provides that one of the principal functions of the Commission is 'to detect or investigate, or oversee other agencies in the detection or investigation of, serious police misconduct', and section 13(4) describes overseeing as 'the provision by the Commission of a lower level of such guidance, relying rather on a system of guidelines prepared by it and progress reports and final reports furnished to it';

  – monitor the investigation - as already noted, one of the other functions of the Commission as described in section 14 is 'to monitor the quality of the management of investigations conducted within the Police Service and to conduct audits of those investigations'; or

  – audit the investigation - section 14, as quoted above.

The Commission has thus far not found it necessary to explicitly manage or oversee any investigation by the Police Service into a Category 1 complaint. During most of the period covered by this Report (January 1997 to June 1998), the Commission was content to monitor or audit investigations by the Police Service into Category 1 complaints. The terms 'monitor' and 'audit' came to have the following meanings:

- when the Commission monitored an investigation, it sought regular reports from the Police Service during the course of the investigation, which gave it the opportunity to affect the investigation - while the Commission has been monitoring investigations throughout the audit period, it began to do so more systematically in late 1997 and early 1998 when it monitored a group of 37 investigations by the Police Service (see pages 18-19 of the Commission's 1997-1998 Annual Report); and

- when the Commission audited an investigation, it obtained from the Police Service (or the Ombudsman) a copy of the final report on the investigation - as indicated in the Commission's 1997-1998 Annual Report, the Commission undertook its first systematic audit in 1997-1998 when it examined a sample of 44 cases from the Category 1 complaints it had dealt with during the period January-June 1997.

The term 'monitor' has since come to have a more complex usage, and this will be described in Chapter 6.

As to non-referred Category 1 complaints, under Part 4 the Commission may but need not notify the Ombudsman of its decisions. During the period covered by the audit the Commission was in practice either notifying the Ombudsman of such complaints and its decisions on them (anonymous complaints, for example), or referring complainants to the Ombudsman. Any such complaints then made to the Ombudsman became referred complaints and were subject to the process described above.

For the purposes of the following chapters, it is also necessary to note that apart from the complaints which it is investigating, or with which it is otherwise associated, the great majority of progress and final reports on investigations being carried out under Part 8A are not seen by Internal Affairs. The majority of such investigations, as noted, are carried out in the Police Service regions, and the line of communication is direct from the regions to the Office of the Ombudsman.

In exercising its monitoring and auditing functions, the Commission has been conscious that as the relevant investigations were being carried out under Part 8A, it was the Office of the Ombudsman, not the Commission, that had the final say as to the disposition of the complaint. There have been discussions between the Office of the Ombudsman and the Commission on the point, and there are informal co-operative arrangements in place. These are described in more detail in Chapter 6.

It is worth emphasising here that, because of differences in the legislation governing their activities, the Commission's approach to complaints differs from the approach taken by the Ombudsman and the Police Service.

Part 8A of the *Police Service Act 1990* sets out in considerable detail the role and functions of the Ombudsman and the Police Service with regard to complaints of various kinds against police officers. These complaints may be:

- excluded from Part 8A if they relate to intelligence matters;

- conciliated, unless they appear to have involved the commission of an indictable offence, or the Commissioner of Police has decided, or the Ombudsman has directed, that they be investigated;

- dealt with by managerial action, where they relate to matters of management or administration; or

- investigated by the Police Service or the Ombudsman - where they are investigated by the Police Service, a report on the investigation must be provided to the Ombudsman within specified time limits.

Although not specifically provided for in Part 8A, where complaints are being investigated by the Police Service, the practice has evolved of the Police Service conducting preliminary inquiries into some complaints. Depending on the outcome, the Police Service may recommend to the Ombudsman that a particular matter be taken no further or that it become a full investigation.

All complaints received by the Police Service, whether directly or from the Ombudsman or the Commission, are entered upon the Complaints Information System (CIS), a database which records a range of information about the complaint, how it is dealt with and the outcome. The CIS is also governed by Part 8A.

In general, the position with regard to Part 8A during the period of the audit was that the Police Service proposed, and the Ombudsman disposed. Thus the Ombudsman could require the Police Service to investigate a complaint, even though the Police Service had recommended otherwise, and the Police Service could discontinue an investigation into a complaint only if the Ombudsman agreed.[14]

The Commission has no comparable role with regard to Category 1 complaints. The investigation of complaints is not one of the statutory functions of the Commission, and there are no provisions in its Act similar to the detail in Part 8A of the *Police Service Act 1990*. Like the Royal Commission, the Commission is notified of serious complaints about police officers so that it might take over the investigation of particular complaints,

[14] With the commencement in March 1999 of the *Police Service Amendment (Complaints and Management Reform) Act 1998*, this situation has changed - see Chapter 6.

should it so wish, and generally to help it to discharge its principal function of preventing, detecting and investigating serious police misconduct. Category 1 complaints are for the Commission but one source of information on serious police misconduct. The fact that they are complaints adds no extra dimension to their usefulness. The information they contain is treated in the same way as other sources of information about serious police misconduct, whether they be reports of such misconduct received from other law enforcement agencies, informant material, or information arising from Commission investigations.[15]

While the Commission does not deal with complaints in the same way as the Ombudsman and the Police Service, it does have an obligation under section 14(b) of its Act (as noted in the Introduction to this Report) to undertake audits of investigations into complaints conducted by the Police Service. This Report is the result of such an audit.

[15] Thus the *Police Integrity Commission Act 1996*, s. 23(1) provides that 'The Commission may conduct an investigation on its own initiative, on a police complaint made or referred to it, on a police complaint of which it has become aware, or on a report made to it.'

3. OVERVIEW OF AUDIT

THE SELECTION OF THE INVESTIGATIONS FOR THE AUDIT

The investigations assessed for the audit fell into three groups:

- Group 1 - the 198 complaints in this group were made in the period between 1 February and 30 June 1998, and comprise *all* the complaints referred back by the Commission during that period;

- Group 2 - the 97 complaints in this group were made in the period between 1 January and 30 June 1997, and comprise a 25 percent *sample* of the complaints referred back by the Commission during that period; and

- Group 3 - the 325 complaints in this group were made in the period between 1 January 1997 and 31 January 1998; unlike the previous two groups, these 325 complaints were not selected systematically.

From a statistical point of view, these three groups are a mixed bag. As Group 1 comprises the entire population of Category 1 complaints referred back in the period, the findings made in relation to that group can be relied upon with some confidence. Group 2 is a 25 percent sample of the matters dealt with in the relevant period and, whilst substantial, is nonetheless a sample.

The complaints in Group 3 (which include the 37 complaints monitored by the Commission in 1997-1998) were not selected, statistically speaking, in a systematic way. Some looked interesting because the complaint was particularly cogent, or because it was made by a judicial officer or a police officer. Others were selected because the officers who were the subject of the complaint had come to the notice of the Royal Commission. Still others were selected because the Commission wished to see how the Police Service (including Internal Affairs) went about investigating them. That they were not selected systematically means that least reliance can be placed on the findings from this group. The Commission notes, however, that the number of investigations in this group, and the proportion they form of all Category 1 complaints referred back in that 13 month period - more than 30 percent - offset to some extent the manner in which they were selected. As the tables in Appendix 3 indicate, there were in fact few differences between the three groups.

The results of the audit, as set out in Chapter 4, are aggregated to cover all groups. The results for each group and in aggregate are contained in Appendix 3 to this Report.

AUDIT METHODOLOGY

The material for the audit was drawn from two sources. The first was material from the CIS, which contains a large amount of data on each complaint. Data from the CIS for the period 1 January 1997 to 31 December 1998 was obtained from Internal Affairs. Details

of the 597 complaints covered by the audit which had corresponding entries in the CIS were then extracted to form the initial source. As noted in more detail below in Chapter 4, one result of the audit was to raise doubts about the reliability of some of the information on the CIS.

The second source was an assessment made by the Commission of the available reports on the investigations, or other action taken, on each of the 620 complaints by the Police Service. The assessment focused on some important factual matters not covered by the CIS data, and issues on which the Police Service had made judgments, the purpose of the assessment being to ascertain if these judgments were reasonable.

Before describing this assessment process in more detail two preliminary comments need to be made. The first is that the Commission, in settling the assessment process, relied a good deal on its examination of the 44 matters it had audited and the 37 matters it had monitored in 1997-1998. These 81 matters, to consider them together, had been analysed in some depth by the Commission, in particular by the Screening Committee which comprised the Assistant Commissioner, the Director of Operations, the two Team Leaders and the Assistant Information Manager. This Committee was involved in the initial assessments of all 81 matters and continues to be involved in the actions being taken on those which were still active when this report was written. The Commission's assessments of these 81 matters are at Table E2 in Appendix 3.

The second preliminary comment is that, notwithstanding that the Ombudsman was involved in the great majority of these investigations (as described in Chapter 2), the Commission, in making its assessment, took no account of the action taken by the Ombudsman, but confined its assessments to the actions taken by the Police Service.

To return to the assessments, the points at which the Police Service made judgments in each investigation, or factual matters which the Commission wished to examine, were identified as:

- Was the complaint investigated, and if not, was the decision not to investigate it reasonable?

- If the complaint was withdrawn or not proceeded with and no further action taken by the Police Service, was this decision reasonable?

- Where complaints were investigated, was there evidence of:

  i) investigative planning;

  ii) pre-investigative research (the complaints history of the officer for example);

  iii) appropriate measures other than interviews of the complainant and the officer concerned (e.g. use of surveillance)?

- Was there evidence of active involvement by:

  i) the investigator's supervisor;

  ii) the Internal Affairs Consultant;

  iii) Internal Affairs Central?

- Where the investigator's finding was adverse (that is, the complaint or some of the issues were 'sustained') was the action recommended appropriate?

- General conclusions on the investigation: four classifications were used, very satisfactory, satisfactory, unsatisfactory, and very unsatisfactory; brief reasons were sought for the first, third and fourth categories.

In making its assessments, the Commission concentrated on the process rather than the product. Good investigations are the aim, whether or not they lead to criminal or disciplinary charges being preferred, or to other action being taken. As the list of matters indicates, at each stage of the process the Commission also sought to apply the standard of what is reasonable, and whether, in the circumstances of the matter, the investigator acted reasonably.

While what is reasonable in a particular case depends in part on the circumstances of the case, some general considerations warrant mention. The first is that these are (with few exceptions) Category 1 complaints, the most serious class of complaint that can be levelled at police officers, and that can, if proved, lead to criminal charges or dismissal from the Police Service. Such complaints thus deserve to be treated seriously - as seriously as (in some cases, arguably more so than) investigations into matters not involving police officers, that may lead to criminal charges.

What is reasonable needs also to take into account the resources available to investigators. Internal Affairs investigators have at their disposal, at least potentially, an array of investigative techniques including electronic and physical surveillance. An investigator in a rural Local Area Command is much more limited.

As noted, the Commission's assessments dealt with some matters of fact (whether a complaint was investigated or not, for example), as well as matters calling for the exercise of judgment by the assessors. There were four assessors - two solicitors, a former police officer and an administrator with experience in assessing investigations of police complaints. In an effort to seek a uniform approach, the Commission issued notes to the assessors before they began examining investigation reports. The notes said that 'standards can and need to be applied at each stage of the investigative process, with the test of reasonableness being applied at each stage'.

The notes also dealt with particular standards to be applied at various stages of the investigative process, for example:

- as to whether a complaint should have been investigated, the standard here is, is the complaint reasonably able to be investigated?:
  - if the answer is 'yes' then it should be investigated, but not otherwise;
  - an anonymous complaint that 'all detectives in region x are on the take' with no further details would not meet this test, nor would an anonymous complaint of the kind 'one detective in region x is on the take' with no further details;
- as to judging the quality of an investigation, the matters which were taken into account included:
  - whether all reasonable avenues of enquiry had been explored, including interviewing relevant witnesses, examining relevant police records, basic checks on financial status where complaints involved allegations of accepting significant amounts of money;
  - whether investigators avoided immediately confronting the subject of the investigation with details of the complaint, without first making reasonable enquiries, unless there were valid and clearly documented reasons for doing so;
  - whether investigators interviewed the complainant, and then wrote off the complaint on the basis that the complainant was unable to provide further details, without making reasonable enquiries or indicating clear reasons why the investigation was not feasible; and
  - whether all relevant options for action were considered at the conclusion of the investigation and the reasons for any decision documented.

In assessing whether investigations were satisfactory or otherwise, assessors were also asked to give the investigator the benefit of the doubt where doubt existed. The assessors were also asked to give brief reasons for their decisions to classify investigations as being very satisfactory, unsatisfactory or very unsatisfactory. Samples of these reasons appear after Table E1 in Appendix 3, and illustrate how the test of reasonableness was applied. There is also further discussion of very satisfactory investigations in Chapter 5. Notwithstanding these precautions, matters of judgment cannot be wholly objective, and this constitutes a further limitation on the audit.

When reading this Report, care should be taken in determining whether the discussion refers to complaints, investigations, officers who were the subject of complaints, or allegations, as these figures all vary. This Report considers a total of 620 *complaints*, of which 597 corresponding records in the CIS were located. These recorded 1370 *allegations* against 854 *officers*. Some officers were involved in more than one complaint, and likewise

some complaints involved more than one officer. There were 520 *investigators*, of whom some investigated more than one complaint, and some complaints were investigated by more than one investigator. The review conducted by the Commission's assessors obtained reports for 555 of the original 620 complaints, of which 470 had been investigated and are thus referred to as *investigations*.

4. RESULTS OF THE AUDIT

This chapter presents the results of the Commission's audit. It presents information and assessments concerning the following issues:

- levels of pre-investigation research;
- types of investigative methods employed;
- level of involvement by supervisors;
- the degree of impartiality and level of rigour displayed in internal investigations;
- penalties for misconduct;
- the nature and level of responses to complaints warranting investigation;
- complaints withdrawn or not proceeded with;
- investigative planning;
- the role of Internal Affairs Consultants;
- conciliations or attempted conciliations;
- the time taken to complete investigations;
- resources allocated to Internal Affairs; and
- other matters arising from the audit.

The results within this chapter are based on:

- statistical research and analysis regarding CIS data; and
- the review by the Commission's assessors based on investigation reports and other information furnished by the Police Service.

These two forms of information collection and analysis were referred to at length in Chapter 3 of this Report. This chapter also draws on information obtained through:

- observations of the Commission on aspects of the Police Service's performance in terms of internal investigations; and

- other inquiries made by the Commission.

LEVEL OF PRE-INVESTIGATION RESEARCH

The audit revealed that the Police Service carried out pre-investigation research in only seven percent of investigations, most of them conducted by Internal Affairs.[16] In the vast majority of investigations, therefore, only the present complaint was dealt with as a single instance of misconduct with no reference to, or consideration of, the complaints history of the officer concerned.

No well-conducted criminal investigation into allegations involving persons other than police officers would proceed in this way. In such investigations, one of the first actions taken is to check the available information on the person against whom the allegations are made. The same approach should be taken with allegations against police officers. A fresh allegation or complaint, particularly when it is similar in kind to previous complaints, increases the need for that matter to be investigated, and perhaps also points to the need for some of the previous 'not sustained' allegations to be re-investigated. The Commission has confirmed with Internal Affairs that complaints histories of officers under their command are available to local area commanders.

Some of the consequences of not conducting pre-investigation research can include the following:

- patterns of complaints against individual officers may not be identified - in turn this may influence the nature and level of operational planning undertaken, the priority applied to the investigation and whether or not applications for operational resources (such as physical surveillance) are made;

- an officer's recurring personal problems that impact upon their performance and professional integrity may not be identified - the Police Service may not, therefore, be able to carry out its duty of care with regard to some officers; and

- networks of corrupt officers may not be identified - as the work of the Royal Commission showed, corruption may affect not just individual officers, but whole squads or task forces.

Investigators of Category 1 complaints might accordingly check also on the existence of similar complaints about other officers in the same local area command or work unit. As noted above, such information is available to local area commanders and their equivalents. Again, the audit revealed that this was overwhelmingly not done[17] except in some Internal Affairs investigations.

[16] Appendix 3, Table E1, item 5.

[17] ibid.

It is worth noting that in the cases examined in the audit, 65 officers (7.6 percent) appeared in more than one case. As the audit data is only a sample of Category 1 complaints made over a period of 18 months, the possibility exists that officers who were the subjects of Category 1 complaints may have had other such complaints lodged against them previously.

Two cases came to the attention of the Commission which illustrate the consequences of failing to conduct some level of pre-investigation research:

- 1993 - 1997 During a period of three and a half years, a police officer was the subject of no fewer than nine complaints that he - alone or in the company of other officers - had stolen money, and in one case valuables, while executing search warrants at various premises. All the complaints were investigated but none was sustained. As they would all have been investigated as 'one off' offences, and no checks would have been carried out by the investigator in each case on the officer's complaints history, this result is perhaps not surprising. The officer concerned has since left the Service.

- 1997 In a case examined by the Commission's assessors, it was alleged that an officer had a drinking problem which affected his work in various ways. Although the allegations were anonymous, it was clear from their nature and detail that they had been made by one or more police officers who worked at the same location. The investigator was unaware that similar allegations had been made against the officer during his previous posting. These earlier complaints were anonymous but had also clearly come from fellow officers.

Shortcomings of the kind highlighted above were drawn to the attention of the Police Service by the Royal Commission. The Final Report of the Royal Commission concluded that:

> ... the reactive focus of the complaints system on single instances of misconduct, and their fragmentation within a rigid formula, a system which has not allowed for a classification of complaints in a way reflecting their different levels of seriousness, tended to conceal the discovery of links and patterns indicative of organised corruption, and overlooked the broader management and intelligence considerations and opportunities for early remedial intervention.[18]

Some of these issues were also dealt with by the Ombudsman in a special report to Parliament in 1998 entitled 'Risk Assessment of Police Officers'. That report noted, amongst other things, that some Police Service managers were refusing to consider allegations of misconduct against officers under their command in the context of the officers' complaint profiles.[19]

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[18] RCPS, *Final Report Volume I: Corruption*, May 1997, para. 6.39.

[19] The matter is also discussed in the Ombudsman's 1997-98 Annual Report, pp. 49-50.

The Commission recommends that:

- **investigators of Category 1 complaints should review the complaints histories of officers who are the subject of complaints, and the complaints histories of the work units to which those officers belonged at the relevant time.**

TYPES OF INVESTIGATIVE METHODS EMPLOYED

The Royal Commission noted that one of the shortcomings of internal investigations within the Police Service was a failure to use a range of investigative methods to collect information and evidence on serious misconduct. The Final Report of that Commission noted that this included the failure to successfully utilise intelligence, covert techniques, surveillance and the like, or to attempt the roll-over of individual officers able to expose a wider net of corruption.[20]

The audit revealed that only 15.7 percent of investigations used investigative measures other than interviews.[21] Clearly this factor identified by the Royal Commission is still adversely affecting Police Service investigations. Other information obtained by the Commission adds support to this conclusion.

ELECTRONIC SURVEILLANCE

The Commission is aware of the numbers of warrants obtained by the Police Service under the *Telecommunications (Interception) Act 1979* (Cth) and the *Listening Devices Act 1984* (NSW) in the year ending 30 June 1998, and in the period 1 July 1998 to 18 June 1999. The Commission is also aware of the numbers of each which were used by Internal Affairs in those periods.

While it is undesirable and unnecessary for the purposes of this Report to quote the figures, what can be said is that the rate of usage by Internal Affairs of telecommunications interceptions is low, although it did increase both absolutely and as a proportion of all Police Service interceptions in 1998-1999 when compared with the previous year. The rate of usage by Internal Affairs of listening devices is also low, and actually decreased both absolutely and proportionately over the two periods.

[20] RCPS, *Final Report Volume I*, May 1997, para. 6.39.

[21] Appendix 3,Table E1, item 5.

The effectiveness of electronic surveillance as a means of identifying corrupt activities is well established. The Final Report of the Royal Commission said on the subject that it:

> ... found that its use of electronic surveillance was the single most important factor in achieving a breakthrough in its investigations.[22]

The experience of this Commission has been the same, as evidence at its public hearings has indicated.

ROLL-OVER ATTEMPTS

While the extent to which the Police Service attempts the roll-over of individual officers able to expose a wider net of corruption was not specifically measured during the audit, it is noted the Commission is unaware of any such attempts being made by the Police Service in the cases examined during the audit.

The Commission noted one recent case where no apparent consideration was given to attempting to roll-over the officer, even though this course of action seemed appropriate in the circumstances:

- 1997-1998 An officer suspected of corruption was the subject of an effective investigation which indicated that the suspicions were soundly based. Confronted with the relevant material, the officer denied serious wrong doing and there being insufficient evidence, without admissions, to bring criminal charges, it was recommended that action be taken to dismiss him from the Police Service pursuant to section 181D of the *Police Service Act 1990*. There was no indication of any consideration having been given to a roll-over, nor to passing the material gathered to another unit in the Police Service that may have been interested in such activities (the inquiries having indicated that persons other than police officers were involved).

INEFFECTIVE INVESTIGATIVE TECHNIQUES

In addition to criticising the Police Service for failing to employ a wide range of investigative methods, the Royal Commission also criticised the Police Service for its use of ineffective investigative techniques. By way of example, the Final Report mentioned the use of directive memoranda, which allowed groups of police under investigation to be forewarned of the inquiry, and to manufacture a watertight defence in collaboration.[23]

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[22] RCPS, *Final Report Volume II: Reform*, May 1997, para. 7.82.

[23] RCPS, *Final Report Volume I: Corruption*, May 1997, para. 6.39.

A directive memorandum derives its authority from clause 9(1) of the *Police Service Regulation 1990*, which requires police officers to 'promptly obey all lawful orders from those in authority over them'. Responses may not however be used against an officer in criminal proceedings, thereby preserving the common law privilege against self-incrimination.[24]

Based on cases reviewed by the Commission's assessors, the Commission is of the view that such memoranda are used too often and without sufficient thought being given to the purpose of their use. Corrupt officers would be unconcerned about adding to their list of corrupt acts by giving false answers to such memoranda, and may well form the view that the investigator has little to go on when he or she resorts to such a technique.

Alternatively, if officers who are the subject of an investigation into a Category 1 complaint do admit to criminal activities, having been served with such a document (the Commission noted no case of this occurring during the audit), they may be dismissed from the Police Service, but their admissions cannot otherwise be used against them. There may well be difficulty in the future in bringing the relevant charges if other investigative measures are subsequently used.

The Commission sought advice from the Police Service as to whether a policy existed on the use of directive memoranda. The response received noted that there was no mention of it in the current 'Police Handbook', nor in the Handbook's predecessor document, the 'Commissioner's Instructions'. It was mentioned in a May 1995 Internal Affairs' training document entitled 'Preliminary Inquiry and Internal Investigation Study Guide', where its use was described as 'the usual Departmental procedure of obtaining reports about a complaint or a disciplinary investigation'. The response also noted that the usual procedure is now the recorded interview. The Police Service subsequently notified the Commission that some work is being done in Internal Affairs on a policy concerning directive memoranda.

The Commission recommends that:

- **Internal Affairs should review its current level of usage of electronic surveillance;**
- **the Police Service, particularly Internal Affairs, should give closer consideration in appropriate cases to 'rolling-over' officers who may able to expose a wider net of corruption;**
- **the Police Service should continue to develop, and promulgate, a policy concerning directive memoranda, with a view to confining their use to particular situations.**

[24] *Police Service Act 1990*, s. 170.

LEVEL OF INVOLVEMENT BY SUPERVISORS

The Royal Commission concluded that the failure to sufficiently involve commanders in the management of, and responsibility for, misconduct within their commands contributed to the limited success of internal investigations.[25]

The audit revealed that in only 3.8 percent of investigations was there evidence of the involvement of an investigator's supervisor, including local area commanders and regional commanders.[26] The Commission's team of assessors observed that in many cases the supervisor's report consisted of summarising the investigator's report and agreeing with the conclusions.

In many ways, the responsibility for unsatisfactory and very unsatisfactory investigations belongs more to the supervisor than to the investigator. Supervisors have more experience than investigators, including in many cases in criminal investigations, but on the evidence of the audit are disposed in too many cases to act as a rubber stamp. In some cases the responsibility is inappropriately delegated. The Commission has seen reports prepared for commanders signed by their civilian executive officers.

The Commission's team of assessors noted that some commanders and supervisors gave character references for their subordinates who were the subject of complaints. The Commission is concerned that this may be a reflection of a lack of impartiality on the part of the commander or supervisor with regard to the complaints made against their staff members. A careful reading of the Royal Commission report by those minded to give such character references might induce caution. The Royal Commission identified one of the problems in the area of 'Command Accountability and Effective Supervision' (under the heading 'The Reasons Corruption Went Unexposed') as being 'the blind trust many supervisors and commanders have placed in the integrity of their staff'.[27] This was accompanied by the following footnote:

> Several commanders and supervisors denied any knowledge of the corrupt activities of their staff and expressed amazement at the revelations about officers under their command.[27]

[25] RCPS, *Final Report Volume I: Corruption*, May 1997, para. 6.39.

[26] Appendix 3, Table E1, item 6.

[27] RCPS, *Final Report Volume I: Corruption*, May 1997, para. 6.34 and footnote 1054.

The Commission recommends that the Police Service should take steps to ensure that investigators' supervisors play a greater role in investigations, including that supervisors ensure that:

- **investigators have reviewed the complaints histories of relevant officers and units;**
- **satisfactory investigation plans have been drawn up;**
- **appropriate investigative techniques are being deployed;**
- **investigations are being conducted rigorously and impartially;**
- **investigators have no conflict of interest in particular investigations.**

The Commission will itself be taking a closer interest in the role of supervisors in monitoring or auditing internal investigations in the future.

DEGREE OF IMPARTIALITY AND LEVEL OF RIGOUR

Inherent bias, resulting in a failure to carry out impartial investigations, and a failure to pursue allegations of misconduct with the same rigour or approach applied to criminal investigations, were both identified by the Royal Commission as having contributed to the failure of internal investigations. The Final Report noted that it often seemed that the innocence of the officer under investigation was assumed, with the inquiry being directed more towards finding justification for his or her conduct, rather than searching for information which might corroborate the complaint.[28]

The review by the Commission's assessors found that 25.1 percent of investigations examined during the audit were assessed as being unsatisfactory or very unsatisfactory.[29] In many investigations, the bias and lack of rigour identified by the Royal Commission were reflected by the insufficiency of inquiries undertaken. The Commission's assessors found that a recurring theme in many of the cases examined in the audit was that after a few perfunctory inquiries, or an interview of the officer concerned, the investigator concluded that there was 'no evidence' to support the allegation.

Variations on this theme included:

- seeking to write off the complaint on the basis that as the complaint was anonymous, no further information about it could be obtained (without seeking to check or corroborate such information as was provided); and

[28] RCPS, *Final Report Volume I: Corruption*, May 1997, para. 6.39.

[29] Appendix 3, Table E1, item 8. Samples of assessors' comments on unsatisfactory and very unsatisfactory investigations may be found after Table E1. See also Tables D3-D7 and D9, which compare the Commission's assessments of investigations with the investigation results obtained by the Police Service.

- where there is an identifiable complainant, interviewing him or her and then seeking to write off the complaint on the basis that the complainant could provide no further information (again without seeking to check or corroborate such information as was provided).

The Commission's assessors also found that in many cases investigators, in their written investigation reports, sought to justify the conduct of the officer in question. In one case examined during the audit, a judicial officer said of a police officer 'I think there was a deliberate attempt ... to mislead this Court.' In finding the matter 'not sustained', the investigator felt it necessary to say that the police officer had not had 'extensive experience in giving evidence' and had difficulty in remembering matters considered by the officer to be trivial. The relevance of the both observations was dubious, while the second appeared to be contradicted by other evidence given by the officer. At the Commission's request the matter was referred to the Director of Public Prosecutions on the question of whether a charge of perverting the course of justice should be brought. The Director found that there was insufficient evidence to prosecute.

In another case involving very senior officers, the officer of comparable rank who investigated the allegations offered a number of approving observations on some aspects of their conduct which were not the subject of the investigation. Such observations were irrelevant and thus gratuitous. They also called his own impartiality into question.

INVESTIGATIONS CONDUCTED WITHIN THE SAME WORK AREA

The Commission's concerns regarding the issue of impartiality are also relevant because of the conflict of interest between the investigator's public duty to conduct a thorough and impartial investigation, and his or her possible private interest that the complaint against a fellow officer be 'not sustained'.[30] The appearance of conflict is heightened when the investigating officers and the officers who were the subject of the complaint work in close proximity to each other.

The Commission examined this aspect during the audit. At the regional level, more than 50 percent of investigations were carried out by officers who came from the same region as the officers the subject of the complaint.[31] When the matter was taken down to the local area command level, in about one-third of the cases examined, the two officers were from the same local area command.[32]

[30] In a previous report, the Commission recommended that 'the Commissioner of Police undertake a review of current training and procedures relating to conflict of interest recognition, avoidance and management, especially in terms of the senior ranks, with a view to developing training and procedures that accord with the world's best practice' (PIC, *Report to Parliament on Operation Warsaw*, February 1999, p. 63). The Commissioner's response of June 1999 indicated that a review of current management courses had established that there was no curriculum relating to conflict of interest resolution, but that the matter was being considered in the process of re-establishing a continuing programme of supervisory and management training for first-line team leaders.

[31] Appendix 3, Table D6.

[32] ibid, Table D7.

No matter how impartial an investigator might be or might strive to be when investigating a colleague in the same work area, the appearance of such investigations is sufficient in the eyes of many complainants to render them biased. This Commission, like the Royal Commission before it, receives correspondence from complainants expressing dissatisfaction with such investigations and the lack of trust in their outcome where the complaints are 'not sustained'. As part of the audit, the Commission sought to ascertain whether this dissatisfaction was well-founded.

At the regional level, the results for all groups taken together were broadly similar, whether the investigators came from the same or a different region as the officers who were the subjects of the complaints.[33] The differences were, however, more marked at the local area command level. For all groups, 8.7 percent of allegations were 'sustained' when the investigations were carried out by officers from the same local area command as the officers who were the subject of the complaints. By contrast 15.6 percent were 'sustained' when they were from different local area commands.[34]

It should be noted, however, that the audit also indicated that there were significantly more satisfactory or very satisfactory investigations where the officers were from the same region or local area command than if they were from different regions or local area commands.[35]

The Commission is aware from other cases that particularly in smaller country local area commands, it is not unusual for investigators to be called upon to examine complaints about officers with whom they have worked for many years.

Problems of impartiality and rigour are compounded by the nature of policing. Like many other occupational groups, police tend to make friends among colleagues. This natural association is strengthened by the fact that officers may be together in dangerous or difficult situations and thus, again naturally, form very close associations based on such shared experiences. Such developments cannot be prevented - indeed in such situations they are an important part of effective and efficient policing. That said, they also make it impossible to achieve the necessary impartiality in internal investigations.

JUNIOR OFFICERS INVESTIGATING MORE SENIOR OFFICERS

Partiality, or its appearance, might be removed or reduced if the practice of junior officers investigating complaints against more senior officers was to cease. The audit indicated that in 11.1 percent of investigations, officers who were the subject of complaints were investigated by more junior officers.[36] The more extreme cases were of two sergeants and a senior constable investigating a complaint against a deputy commissioner, two senior

[33] Appendix 3, Table D4.

[34] ibid, Table D5.

[35] ibid,Tables D6 and D7.

[36] ibid, Table D1.

constables investigating a superintendent, a senior constable investigating a chief superintendent, and a sergeant investigating an assistant commissioner. Again this places the investigator in a very difficult position where the public duty to conduct a professional investigation may conflict with the private interest in advancing in the Police Service, an interest which may be put at risk should an adverse report be made on a senior officer.

While the Commission recognises that it is not always easy to get an officer of at least equal rank to investigate the complaint, particularly when the officer who was the subject of the complaint is of commissioned rank, every effort should be made to do so. This is particularly important where officers of commissioned rank are concerned, as it is just those cases which need very thorough investigation.

On a related aspect, the Commission examined whether the rank of the investigating officer appeared to have any bearing on the standard of the investigation. There were no significant differences among the three ranks (sergeant, senior sergeant and inspector) that between them were responsible for more than 85 percent of the investigations in the sample, except that inspectors had more very satisfactory (and correspondingly fewer satisfactory) investigations.[37]

COMPLAINTS IDENTIFYING LOCAL AREA COMMAND OR REGION BUT NOT THE OFFICER

There is a final reason to put some distance between the investigating officer and his subject. In eight cases identified during the audit, the officer who was the subject of the complaint was not identified, but his region or local area command or unit was identified. In four cases where only the unit was identified, the complaint was investigated by an officer from the same unit. In two cases where only the local area command was identified, the complaint was investigated by an officer from the same local area command (in one case, the rank of the unidentified officer was nominated as sergeant, and the complaint was investigated by a sergeant). In two cases where only the region was identified, the complaint was investigated by an officer from the same region. The possibility thus exists that some of these officers were investigating complaints against themselves. The results of the eight cases - one was successfully conciliated, but the remainder were either not investigated, discontinued, 'not sustained' or had no further action taken - do nothing to diminish that possibility.

[37] Appendix 3, Table D9.

The Commission recommends that:

- **Category 1 complaints against an officer should always be investigated by an officer of at least the same rank;**
- **to guard against the possibility of officers investigating complaints against themselves, complaints against unidentified officers should always be investigated by officers from another region, local area command, or unit, as appropriate;**
- **conflicts of interest by investigators should be countered by making it mandatory that a Category 1 complaint about an officer in a particular local area command or unit be investigated by an officer from another local area command or unit:**
  - **where the officer who is the subject of a complaint is of the rank of senior sergeant or below, an officer from another local area command of the same region (or another central agency where appropriate) should be sufficient, subject to the general safeguard mentioned below; and**
  - **where the officer who is the subject of the complaint is of the rank of inspector or above, however, the investigator should come from another region (or another central agency where appropriate), again subject to the general safeguard mentioned below;**[38]
- **as a general safeguard (against the possibility that the investigator and the officer who is the subject of the complaint may be or have been close associates) investigators should be required to set out in writing before the investigation begins the nature and degree of any association they have or have had with the other officer and to declare, if it be the case, that they have no conflict of interest in conducting the investigation.**[39]

PENALTIES FOR MISCONDUCT

The Royal Commission concluded that the imposition of penalties that were not always commensurate with the misconduct found had contributed to the limited success of internal investigations. These included 'penalty transfers' without sufficient significance being

[38] It should be noted, in fairness, that of the investigations examined during the audit where the officer who was the subject of the complaint was of the rank of Inspector or above, 3.7 percent had a 'sustained' result where the investigator was from a different region; but where the investigator was from the same region, 16.7 percent had a 'sustained' result. Given the relatively small numbers of complaints against officers at these ranks, however, the Commission does not consider that an exception should be made to the recommendation above.

[39] It is worth pointing out here that this is another substantial difference in the approach taken to the investigation of Category 1 and Category 2 complaints, the latter, by and large, being investigated by the manager or commander of the officer the subject of the complaint. This is a manifestation of the Employee Management Scheme - see also Chapter 6.

given to questions of personal dishonesty, or to the danger of moving a problem officer elsewhere within the Police Service.

In 8.8 percent of cases examined during the audit where the complaint was 'sustained', the Commission found that the recommended penalty was not commensurate with the misconduct established.[40] In one case, where an accident investigator was found to be at fault and the recommendation was that he be admonished and reminded of the need for care, his supervisor declined to impose even that modest penalty on the basis that the accident investigator had already learnt from his mistakes. The Commission did not during the audit observe any instances of 'penalty transfers'.

The Commission has been informed by the Police Service that a review is being undertaken of possible penalty indicators where complaints are 'sustained'.

The Commission recommends that:

- **the Police Service should continue its review of, and draw up and circulate guidelines concerning, penalties which might be imposed where complaints are 'sustained'.**

RESPONSE TO COMPLAINTS WARRANTING INVESTIGATION

As noted, it is open to the Police Service under Part 8A of the *Police Service Act 1990* to recommend, on various grounds, that a complaint not be investigated. During the audit, the Commission examined those 85 cases where a decision had been made not to investigate a complaint, and assessed the reasonableness of that decision. In 37 of these cases (43.5 percent), the Commission considered that the decision not to investigate a complaint was unreasonable.[41]

Two cases in particular came to the attention of the Commission's assessors:

- 1997 The Police Service received a complaint that drugs were being dealt by two persons from a house where their stepfather, who was a senior police officer, also lived. The Police Service indicated that it would follow up the drug dealing aspect, but not the allegation about the senior police officer. Struck by the unexplained difference between the courses of action proposed, the Commission requested that the allegation about

[40] Appendix 3, Table E1, item 7.

[41] ibid, item 3.

the senior police officer also be investigated. It turned out that the stepfather (who had in the meantime moved out of the house) was not and never had been a police officer, but may at one time have been employed by the Police Service and may have claimed to be a police officer.

♦ 1997 — An officer who was charged with drug offences alleged, on being questioned, that three other officers - two of whom he clearly identified and the third he partly identified - may have been involved in drugs at identified night clubs. The officer who took the information checked the complaints history of the two named officers and noted that there were no prior allegations of drug involvement. He made no attempt to identify the third officer and recorded no information about the two night clubs. He went on to say that the officer who had been charged did not provide any evidence and that his 'suspicions' were insufficient to form the basis of a complaint. At the Commission's request, the matter is now being investigated.

COMPLAINTS WITHDRAWN OR NOT PROCEEDED WITH

During the audit, the Commission's assessors identified 27 cases of a complaint being withdrawn or not proceeded with, and no further action being taken. The Commission considered that further action might reasonably have been taken in six cases. The failure to do so in some cases arises from the misconception that investigating serious police misconduct is only complaint-driven, so that where there is no complaint there can be no investigation. Such an approach is mistaken. A person may withdraw a complaint for a number of reasons, one of which may be that he or she has been persuaded or coerced into doing so by the officer who was the subject of the complaint. In other cases, having found that he or she may be caught up in the criminal justice system and may be faced with giving evidence in court, the complainant may think twice about the whole matter and not take it further. Whatever the reason for the withdrawal, the information provided should still be tested where it is reasonable to do so. To repeat what has been said before, these matters are by their nature serious.

INVESTIGATIVE PLANNING

The audit examined the extent to which investigations made use of investigative planning, and found that less than four percent did so.[42] The consequences of not engaging in investigative planning may include:

- failure to consider a variety of operational strategies that are open to the investigator;

[42] Appendix 3, Table E1, item 5.

- an appropriate level of priority not being applied to an investigation;
- objectives and time frames not being considered; and
- inefficient investigations that lack focus, directions and goals.

As indicated in Chapter 5, investigative planning is one of the matters to which Internal Affairs is giving attention in the Category 1 Investigation Standards Project.

The Commission recommends that:

- **investigative planning should be mandatory for Category 1 investigations - it should be part of the responsibility of supervisors to ensure that such plans are approved by them before the investigation begins.**

ROLE OF INTERNAL AFFAIRS CONSULTANTS

The audit revealed that there was evidence of active involvement by Internal Affairs Consultants in only 23 (4.9 percent) of all investigations.[43] These figures suggest that, at least in the audit cases, the Consultants were less prominent than they might have been. Some of these cases showed, however, that the Consultants could perform a useful role in complaint investigations. In one such case, the existence of an unsatisfactory investigation was drawn to the attention of a Consultant, who was able to get the matter re-investigated with a quite different outcome.

The Commission sought advice from Internal Affairs on the role of Consultants. The advice indicated that consideration is being given to changing their title to Professional Standards Manager, and to changing their role to give more emphasis to the Employee Management function. The Commission has no wish to do anything which might inhibit the implementation of the Employee Management Scheme, which was strongly recommended by the Royal Commission.[44] It nonetheless has reservations about giving other responsibilities to the Consultants. The evidence of the audit is that they should be playing a much greater role in the investigation of Category 1 complaints.

[43] Appendix 3, Table E1, item 6.

[44] RCPS, *Final Report Volume II: Reform*, May 1997, Chapter 4, passim.

The Commission recommends that:

- **the role of Internal Affairs Consultants in the investigation of Category 1 complaints should be reviewed, with a view to giving them more influence in the planning and conduct of such investigations.**

CONCILIATIONS OR ATTEMPTED CONCILIATIONS

Part 8A of the *Police Service Act 1990* provided, during the period covered by the audit, that some complaints about the conduct of police officers might be conciliated, and set out the procedure to be followed. Section 134 in that Part relevantly provided that:

> A complaint about the conduct of a police officer may not be dealt with by conciliation if
>
> (a) the conduct appears to have involved the commission of an indictable offence

Since Category 1 complaints deal mainly with indictable offences, the Commission was concerned to see during the audit that there were 17 complaints where conciliation had been undertaken or attempted. On closer inspection, nine of the entries in the CIS were incorrect, no conciliation having been undertaken or attempted. In the remaining eight complaints, however, where the allegations concerned bribery, perverting the course of justice, unlawful release of information or grievous bodily harm - all indictable matters - conciliation had unlawfully been undertaken or attempted. In two cases, where the complaints had been withdrawn, the use of conciliation as a further step was even more inexplicable.

TIME TAKEN TO COMPLETE INVESTIGATIONS

During the audit, the Commission examined the time taken to complete investigations and found that these took on average 39 days longer than they should have done.[45] On closer examination, it appears that there was considerable deviation between the three groups: those in Group 1 were on average 21 days overdue, those in Group 2 four days overdue, and those in Group 3, 55 days overdue. The delay in completing investigations in Group 3 may be partly due to the fact that some were selected on the basis that they looked interesting, and this in itself might have contributed to the investigations taking longer than expected. As against this, there were still 28 Group 1 investigation reports outstanding at the date of writing this report, these complaints having been received at least 12 months previously.

[45] Appendix 3, Table D2 and the accompanying note.

The Commission also examined the delays which occurred between the date a complaint was received and the date it was allocated to an investigator. While 116 (19.4 percent) of the 597 complaints were allocated on the day they were received, and just over 50 percent within five days of receipt, the remainder took longer. The five slowest cases took between 130 and 854 days to be allocated. As a further indication of the unreliability of some of the CIS data, five cases were shown as having been allocated before they were received.

The Commission is aware of developments which will require that investigations into Category 1 complaints be completed within 29 days after they have been allocated to an investigator. The Commission will be keeping a close watch on this aspect, and also on the time taken to allocate complaints.

RESOURCES ALLOCATED TO INTERNAL AFFAIRS

The Final Report of the Royal Commission noted that the following factor contributed to the limited success of internal investigations:

> ... the limited resources given to the Professional Responsibility Command, and the downgraded, unpopular status of holding office within that command, in some quarters regarded as a 'retirement haven' for those who did not otherwise fit the mould, or, alternatively, as a mere stepping stone to promotion (without commitment to the job)[46]

As indicated in Chapter 2, some of the suggestions of the Royal Commission in relation to the need for Internal Affairs (prior to 1997 it was known as the Professional Responsibility Command) to be made up of multi-disciplinary teams have not been implemented. The additional resources deemed necessary in 1997 by Internal Affairs were not fully met; some additional positions were created but not then funded. The further resources sought by Internal Affairs since that time, arising from the new functions given to it in the interim, have likewise not been fully met.

From the information obtained by the Commission, it is plain that Internal Affairs believes that it continues to have inadequate resources. In April 1999, Internal Affairs estimated that it needed at that point 29 new positions, as well as funding to fill another 13 existing positions, three of which were then being filled on a temporary basis. One of the reasons for seeking some of the new positions was 'the poor quality of investigations' in two areas (other than internal investigations) which had resulted in new roles being given to Internal Affairs. This estimate did not take into account additional responsibilities which had been foreshadowed for Internal Affairs - one of them being quality control of Category 1 investigations (see the section entitled 'The Category 1 Investigations Standards Project'). Internal Affairs reported further in June 1999 that while approval had been given for an additional 22 police positions, there had been no approval at that point for additional funding.

[46] RCPS, *Final Report Volume I: Corruption*, May 1997, para. 6.39.

In addition, Internal Affairs reported that in April 1999 'the majority of the (police officer) positions within the Investigations Unit are filled by way of temporary appointment' and urged that more positions be filled substantively. A number of the officers currently filling those positions are eligible for substantive promotion, and clearly if they do not achieve it in Internal Affairs they will seek it in other parts of the Police Service.

In December 1999, Internal Affairs informed the Commission that, in October 1999, 23 police officer positions were transferred to it from Crime Agencies. While fewer than half that number were allotted to Internal Affairs' core functions, it does represent a sizable increase in investigative resources. Internal Affairs continues to believe, however, that it is under-resourced. One section reported in December 1999 that it had 26 staff, that it needed to have 37 to provide the 'minimum' level of service, and that it needed to have 48 for the 'optimum' level of service.

As to the Royal Commission's observation that 'An important element in the reform process will be to foster the view that service in this office involves important work, and is a positive step in promotion to any high leadership position', a policy for 'Recognition for Internal Affairs Service' was, according to Internal Affairs, 'apparently approved in principle by the Commissioner's Executive Team' in 1997 but 'has not been enacted'. The policy envisaged 'Offers of reward in terms of accelerated promotion, better remuneration and other work conditions'. The enactment of the policy becomes more important in the light of recent advice from Internal Affairs that feedback from its officers applying for promotion elsewhere in the Service indicates that 'spending time in Internal Affairs is a disadvantage rather than an advantage in terms of the current system'.

In summary, it is surely unnecessary to labour the point that Internal Affairs should be fully and properly staffed to carry out its present and projected functions. Internal Affairs is the sharp end of the Police Service's efforts to clean itself up, and to the extent that it is blunted by inadequate or inappropriate resources it will be less than effective.

The Commission recommends that:

- **the staffing of Internal Affairs should be reviewed within six months of the release of this Report and, to the extent possible, the necessary funding approvals should be provided for such substantive police and civilian positions as are identified as being necessary; as part of this review, the Police Service should re-examine the Royal Commission's suggestions concerning the creation of multi-disciplinary teams in Internal Affairs; and**
- **the policy on 'Recognition for Internal Affairs Service' should be enacted and publicised.**

OTHER MATTERS ARISING FROM THE AUDIT

INCIDENCE OF COMPLAINTS IN NORTHERN REGION

The highest incidence of Category 1 complaints in all three groups was in the Northern Region, which has its headquarters at Port Macquarie and takes in the local area commands of Coffs / Clarence, Mid North Coast (Port Macquarie), New England, Oxley (Tamworth), Richmond (Lismore) and Tweed / Byron. It attracts a substantially higher proportion of complaints than any other region, which are clustered together in a band of between four percent and nine percent for all groups, compared with 13.5 percent for the Northern Region.[47] The Commission also looked at the results of investigations in the Northern Region when compared with all results. While 12.4 percent of all investigations had 'sustained' results,[48] the figure for the Northern Region was 9.8 percent. The combined rates of 'no further action', 'discontinued' and 'not investigated' for all investigations were 41.2 percent[49] but the comparable figure for the Northern Region was 48.2 percent.

The Commission recommends that:

- **Internal Affairs and Northern Region should jointly commission a study to determine the reasons for the high incidence of complaints in that region and the atypical outcomes, and what might be done to address them.**

THE COMPLAINTS INFORMATION SYSTEM

As is apparent from some of the tables in Appendix 3 (Tables A5 and C1 are good examples), there are many incomplete entries on the CIS - so many in some cases as to raise the question of whether the information sought is worth recording. Table C1 records, or seeks to record, the occupation of complainants. There are 180 recorded in various categories, but 173 are recorded under 'other' or 'unknown' or are not recorded at all.

As noted at Table C4, it was not possible to use the CIS to arrive at an accurate description of the types of Category 1 complaints dealt with in the sample. Such information should be recorded using the descriptions set out in the Category 1 agreement, or even the numbers of such descriptions.

[47] Appendix 3, Table A3.

[48] ibid, Table D3.

[49] ibid.

The Commission also noted during the audit a range of other problems which affect the reliability of the CIS. One is the tendency to diminish the severity of the complaint when recording the category to which it belongs. Most of the 17 complaints which were listed on the CIS as having been conciliated (see the section entitled 'Conciliation and Attempted Conciliations') were wrongly described. Only two of the 24 allegations in this group were described in such a way as to indicate that they were Category 1 complaints, the remaining 22 having been entered in such a way as to suggest that they were of lesser consequence. One example was an allegation of assault causing grievous bodily harm, which was classified on the CIS as 'customer service'. On the Commission's assessment, there should have been at least 22 Category 1 allegations entered for these 17 complaints.

Many complaints were also recorded as a single allegation when several allegations should have been recorded – sometimes in conjunction with the wrong descriptions discussed above. An example was one complaint which was entered as 'exhibits – retention' when the actual allegations were pervert of the course of justice, assault and larceny.

While a detailed analysis of all 620 complaints along these lines was beyond the scope of the audit, sufficient cases were noted to identify incorrect recording as a problem with the CIS. Great care was taken by the Commission to ensure that all cases included in the audit were Category 1 complaints (with a very few identified exceptions), based on assessments of the complaints themselves. Yet despite these efforts, only 360 complaints (60.3 percent) were categorised in the CIS in a manner which indicated that they were of this level of seriousness. During the period covered by the audit, the CIS had no method for recording Category 1 complaints as such – as a result of recent developments, it now has such a method.

The Commission does not suggest that most of this incorrect recording is due to any factor other than lack of training or lack of attention to detail by the recorders. It does however have some serious consequences. On any analysis of CIS data, possible serious police misconduct appears to be a smaller problem than it actually is, as there are fewer Category 1 complaints in the system than there should be. Recording a complaint wrongly may lead to it being investigated by a more junior officer or less thoroughly than would otherwise be the case. It may also lead to officers being wrongly assessed as not being at risk.

Some of these problems would be minimised were it to become part of the pre-investigation preparatory work for the investigator's supervisor to verify that the investigator has correctly identified and recorded the allegations.

The Police Service is currently engaged on a project (the Police Complaints / Case Management System)[50] the objective of which is to review existing complaints and case management systems, to determine the requirements for new and improved systems, and to acquire and develop those systems.

[50] For further details, see the Commission's 1997-1998 Annual Report, p. 60, and the Commission's 1998-1999 Annual Report, p. 74.

The Commission recommends that:

- **it should be part of the responsibility of the investigator's supervisor to verify that the investigator has correctly identified and recorded the allegations; and**
- **the work presently being undertaken on the Police Complaints / Case Management System should take into account the Commission's observations on the CIS.**

PUBLICISING INTERNAL AFFAIRS RESULTS

Notwithstanding the criticisms made of it earlier in this Report, Internal Affairs does achieve impressive results in some of its investigations and in its other activities such as integrity testing. These results should be better publicised, both to lift the reputation of Internal Affairs throughout the Police Service, and to act as a deterrent to any officers who may be contemplating engaging in serious misconduct.

There is a useful model in Victoria, where Internal Affairs' counterpart - the Victoria Police Ethical Standards Department - periodically publishes discipline case summaries in 'The Gazette', an internal police publication. These are summaries of matters dealt with before hearing officers who are able to impose or recommend penalties ranging from a reprimand to dismissal. No names or locations are published. 'The Gazette' of 12 April 1999 contained 32 such summaries for the period from July to September 1998, and 'The Gazette' of 26 April 1999 contained 24 summaries for the period October to December 1998. There can be little doubt that the publication of such summaries has a salutary effect on Victoria Police officers.

While there are no disciplinary procedures of a similar kind in New South Wales, the principle remains. Similar summaries of cases where as a result of Internal Affairs investigations action is taken against officers might be periodically published in say, the 'Police Service Weekly'. Such summaries might encompass investigations which lead to criminal charges, successful integrity tests, the summary removal of officers in whom the Commissioner does not have confidence, and other action taken with respect to police officers who engage in misconduct.

The Commission recommends that:

- **the Police Service should give consideration to publicising internally the results of Internal Affairs investigations, integrity tests and other action taken with regard to officers who engage in misconduct.**

ASSESSMENT OF THE RESULTS

It is apparent from the information presented in this chapter that many of the shortcomings and deficiencies which in the past impaired internal investigations, and which were identified through the Royal Commission, have persisted within the Police Service. Of the factors identified by the Royal Commission as contributing to the limited success of internal investigations, the audit outcomes showed that the seven that applied particularly to Category 1 complaints were still, to a substantial degree, adversely affecting such investigations. This is a disappointing result, and indicates that in this area the Police Service has some distance to travel before it can be considered to have met the standards set by the Royal Commission. Those seven factors are:

- the reactive focus of the complaints system on single instances of misconduct, and their fragmentation within a rigid formula, a system which has not allowed for a classification of complaints in a way reflecting their different levels of seriousness, tended to conceal the discovery of links and patterns indicative of organised corruption, and overlooked the broader management and intelligence considerations and opportunities for early remedial intervention;

- the limited resources given to the Professional Responsibility Command [now known as Internal Affairs], and the downgraded, unpopular status of holding office within that Command, in some quarters regarded as a 'retirement haven' for those who did not otherwise fit the mould, or, alternatively, as a mere stepping stone to promotion (without commitment to the job);

- the failure to successfully utilise intelligence, covert techniques, surveillance and the like, or to attempt the rollover of individual officers able to expose a wider net of corruption (because of the perceived need to immediately prosecute or discipline any individual caught out in corruption);

- the failure to use broad-based financial and intelligence analysis, the lack of communication between regional and central Internal Affairs Units, and the failure to sufficiently involve commanders in the management of, and responsibility for, misconduct within their command;

- an inherent bias in investigations as the result of which the Service has failed to carry out impartial investigations, or to pursue allegations with the same rigour or approach seen in ordinary criminal inquiries (it often seemingly having been the case that the innocence of the officer in question was assumed, with the inquiry being directed more towards finding justification for his or her conduct, rather than a search for matters which might corroborate the complaint);

- the use of ineffective investigative techniques, for example, the issue of directive memoranda calling for an explanation in writing which allowed groups of police under investigation to be forewarned of the inquiry, and to manufacture a watertight defence in collaboration;

- the imposition of penalties which were not always commensurate with the misconduct found, including 'penalty transfers' without sufficient significance being given to questions of personal dishonesty or to the danger of moving a problem officer elsewhere within the Service.[51]

This Commission also identified during the audit a further six factors which contributed to the limited success of internal investigations. Those factors are:

- the failure to investigate complaints which should have been investigated;
- complaints withdrawn or not proceeded with, and no further action taken by the Police Service in circumstances where further inquiries might reasonably have been made;
- the lack of investigative planning;
- the lack of involvement by Internal Affairs Consultants;
- the unlawful conciliations or attempted conciliations; and
- the excessive time taken to complete investigations.

The Commission is of the opinion that a common underlying problem with those investigations examined during the audit has been a lack of rigour on the part of the investigating officers and their managers. This view is supported by the following points highlighted in this chapter:

- the level of preliminary checking and investigative planning was found by the audit to be low. In only seven percent of investigations was preliminary research conducted, while in only four percent of investigations was an investigation plan prepared;
- only a small proportion (15.7 percent) of the investigations reviewed in the audit used investigative methods other than interviews; and
- investigators' supervisors have only rarely been involved in internal investigations - the results of the audit indicate that there was evidence of involvement by supervisors in only 3.8 percent of investigations.

The Commission considers that a higher level of rigour would be applied by investigators within the Police Service to complaints or allegations of criminal conduct by non-police officers. There is no valid reason for different standards of rigour being applied to investigations of allegations of criminal conduct by police officers as opposed to non-police officers. The Commission is concerned that this is reflective of a lack of will on the

[51] RCPS, *Final Report Volume I: Corruption*, May 1997, para. 6.39.

part of investigators within the Police Service to pursue thoroughly complaints of serious misconduct against their own officers.

At the same time, it should be acknowledged that the Police Service has recognised the nature and extent of some of the deficiencies in these investigations, and is moving to overcome them - see the sections in Chapter 6 entitled ‘The Category 1 Investigation Standards Project’ and ‘The Police Service’s Complaints and Management Reform Resource Kit’.

5. WHAT DISTINGUISHES A VERY SATISFACTORY INVESTIGATION?

The Commission believes that it should give some balance to the report by outlining some investigations which were identified as being very satisfactory, and by seeking to distinguish those features or approaches which caused them to be given that classification. Some such features are noted after Table E1 in the context of very satisfactory investigations identified during the audit.

The first such investigation was complex, involving complaints from a police officer which were in part complaints about a previous internal investigation, and in part fresh complaints concerning events which allegedly occurred up to ten years previously. The investigator carefully identified each part of the first group of complaints (about the previous internal investigation) and examined them before concluding that they were not sustained.

The major part of the investigation concerned the fresh complaints, of which there were five. Some of the officers concerned had left the Service, while one of the matters alleged had occurred too long ago and the relevant Police Service documents had, in the meantime, been (quite properly) destroyed. An allegedly similar event had however occurred seven years previously and despite the absence of some documents the investigator was able to make more headway.

The allegation was that an identified officer had been involved in an accident while driving a police car under the influence of alcohol, and had been issued only with an infringement notice for negligent driving which was subsequently reduced to a caution. The investigator found the witnesses to the accident - as noted, seven years after the event - and concluded, having spoken to them, that the officer involved should also have been charged with leaving the scene of an accident. As it was much too late for such a charge to be brought at the time of the investigation, the investigator could only recommend that the officer be counselled, and this recommendation was put into effect.

Another officer was the subject of a similar allegation, with an additional allegation that his superior officer covered the matter up and arranged to have the vehicle repaired in an unorthodox fashion. These matters were four years old, and both officers had left the Service. Many internal investigators are reluctant to approach former police officers, particularly those who are the subject of complaints. The investigator in this case, however, got in touch with both, and discovered that the incident had been the subject of a successful inquiry by another agency. He also spoke to other relevant officers so that he was in a position to assess the responses of the two ex-officers involved, who denied at least part of the events uncovered.

A second investigation which was very satisfactory involved an officer (Officer A) who received a succession of anonymous threatening letters, culminating in a death threat, in circumstances which suggested that a fellow-officer may have been the author. Video surveillance was arranged at one of the delivery points for the letters, but no further letters were left there. No fingerprints were found on the letters. The investigators made

arrangements for the letters to be examined by a linguistics expert, together with other documents prepared by officers suspected of being the author of the threatening letters. The examination pointed to a specific officer (Officer B) as being the most likely suspect. He was interviewed but denied being the author. Relevant computers were examined but there were no records of the anonymous letters. A special report was obtained from another agency which suggested that Officer B had been deceptive when interviewed. A psychologist was also consulted, and his view was that Officer B may have been withholding information. A further linguistics expert was also consulted, and came to the same conclusion as the first expert. Officer B was then interviewed again and confronted with some of the expert evidence. He again denied being the author of the letters, and the matter could not be taken further so far as criminal charges were concerned. In the judgment of the Commissioner of Police, however, the material was sufficient for him to decide that he did not have confidence in Officer B, and to remove Officer B from the Police Service under the provisions of section 181D of the *Police Service Act 1990.*

Given the seriousness of the matter, the efforts made to ascertain the identity of the author were entirely reasonable and appropriate.

It is worth noting the elements of these two investigations which distinguish them from the general run of internal investigations:

- neither investigator went directly to the officers the subject (or likely subject) of the complaint;

- instead, both sought out information which would tend to corroborate, or not, the validity of the allegations made;

- one investigator was able to do this using the very considerable amount of data held by the Police Service on police officers and past events involving them;

- the other was able to use other sources available in the community to test the validity of his information;

- neither investigator was put off at an early stage when certain leads or tests came to nothing;

- only when each had some ammunition, so to speak, did he approach the officers the subject of the complaint; it seems a reasonable conclusion that had they made such approaches without the ammunition, the outcome of both investigations would have been less satisfactory.

It is worth noting here that this approach is not dissimilar to that followed by the Royal Commission and this Commission.

The Commission recommends that:

- **Police Education Services should review these examples and give consideration to their inclusion in training courses for internal investigators; and**
- **examples of very satisfactory investigations should be brought regularly to the attention of internal investigators in the field by regional and local area commanders and other supervisors, and Internal Affairs Consultants.**

6. LEGISLATIVE AND POLICY CHANGES MADE SINCE JUNE 1998

THE PROPOSED NEW MONITORING ARRANGEMENTS

As noted in Chapter 2, with the commencement of the new Category 1 agreement on 1 February 1998, the Commission decided that it would, at least, audit the Police Service investigations of all Category 1 complaints referred back to the Ombudsman to be dealt with under Part 8A of the *Police Service Act 1990*.

In subsequent discussions between the Commission and the Office of the Ombudsman, the question arose of avoiding duplication between the two agencies in dealing with reports of investigations. It was noted that the *Police Integrity Commission Act 1996* made specific provision for Category 1 complaints which are taken over by the Commission. Such complaints become matters to which Part 8A does not apply. After discussion, it was agreed that where the Commission wished to manage, oversee or monitor a Police Service investigation, the powers of the Ombudsman under Part 8A might be exercised, and a decision made that the complaint would not be investigated under the *Police Service Act 1990*. Where the Commission wished to audit a Police Service investigation, however, (that is, only to receive a final report on the investigation) the matter would continue to be dealt with under Part 8A.

A subsidiary question then arose: if a Category 1 complaint was not to be dealt with under Part 8A of the *Police Service Act 1990*, under what Act was it to be dealt with? The answer seemed to lie in Part 5 of the *Police Integrity Commission Act 1996*, which is entitled 'Referral of matters by Commission'. Division 1 of this Part (entitled 'Referral to police') enables the Commission to:

- refer a matter to a police authority (Internal Affairs being an example of such an authority) for investigation after appropriate consultation with that authority;

- recommend what action should be taken by the police authority and the time within which it should be taken;

- require the police authority to submit to the Commission reports in relation to the matter and the action taken; and

- make a report to Parliament if the Commission is not satisfied with the action taken, is not satisfied with the comments of the Commissioner of Police on the matter, and has given the Minister for Police an opportunity to comment.

This Division also states:

> It is the duty of a police authority to comply with any requirement or direction of the Commission under this Division.[52]

It was also agreed that these arrangements might be formalised by Memoranda of Understanding between the Commission and the Ombudsman on the one hand, and the Commission and the Commissioner of Police on the other. Memoranda were drafted and sent to the Commissioner of Police for consideration in January 1999.

The draft Memoranda also contained details of the new usages of 'monitor' which had already been adopted by the Commission. There are now three levels of monitoring:

- Monitor Level 1 - in such cases, the Commission requires the provision of an investigation plan and a final report on the investigation.

- Monitor Level 2 - in such cases, the Commission requires the provision of an investigation plan, reports at such intervals as are specified and a final report on the investigation.

- Monitor Level 3 - in such cases, the Commission requires the provision of an investigation plan, reports at such intervals as are specified and a final report on the investigation; in addition, the Commission monitors the Police Service's contacts with the complainant.

In his reply, the Commissioner referred to another development which had occurred in the meantime, the Category 1 Investigation Standards Project.

THE CATEGORY 1 INVESTIGATION STANDARDS PROJECT

Based on its auditing and monitoring of the 81 matters referred to in Chapters 1 and 2, the Commission, in its 1997-1998 Annual Report, expressed some reservations about Police Service investigations of Category 1 complaints. Internal Affairs was well aware of the details of these reservations, having received the Commission's analysis of the 81 matters. Subsequently, the Commissioner of Police decided that Internal Affairs would be responsible for monitoring and evaluating the quality of such investigations, and for developing strategies to improve their standard. As a preliminary to assuming this responsibility, Internal Affairs resolved - sensibly in the Commission's view - to conduct a pilot project in a region so as to assess accurately the procedures which needed to be developed and resources required.

Internal Affairs has produced a document entitled 'Guidelines for Managing Category 1 Investigations' and associated material, including draft investigation plans and status reports

[52] s. 80.

on investigations, all of which are being tested in the pilot project. The pilot project includes the following aspects which were identified earlier in this report as being deficiencies in internal investigations:

- preparation of investigation plans;
- provision of regular status reports on the investigation;
- a clearer role for Internal Affairs Consultants;
- better management of investigations, for example by the establishment in local area commands of a Police Complaints Management Team and a Case Manager; and
- the development of quality standards to deal with matters such as
  - unexplained decisions not to investigate complaints;
  - complaints being put to officers without sufficient initial inquiries;
  - conflicts of interest; and
  - insufficient inquiries made during investigations.

The Commission is represented on the Steering Committee for the Project, as is the Ombudsman.

Consideration of the Memoranda of Understanding has accordingly been deferred pending the outcome of the pilot project, which was expected to be completed by the end of January 2000.

THE OMBUDSMAN'S CATEGORY 1 TEAM

In October 1998, the Office of the Ombudsman created a Category 1 Team, headed by a Principal Investigation Officer, that now deals with all Category 1 complaints being handled by that Office. A close liaison has been established between that Team and the Commission.

THE POLICE SERVICE (COMPLAINTS AND MANAGEMENT REFORM) ACT 1998

As noted, this Act came into operation in March 1999. So far as Category 1 complaints are concerned, there were only two changes which may impact on the investigation of the complaints that are being audited by the Commission. These are:

- the Ombudsman no longer has the power to direct that a further investigation be conducted if the Ombudsman is not satisfied that the initial investigation was properly

conducted - the obligation is on the Police Service to respond to inquiries from the Ombudsman as it sees fit, although the Ombudsman may issue a special report to Parliament if an investigation is seen to be deficient;

- there is no longer an obligation on the Commissioner of Police to seek the consent of the Ombudsman to defer or discontinue an investigation - again, the Ombudsman may report to Parliament on this aspect.

The Commission will be monitoring the effect of these changes on investigations into Category 1 complaints.

COMPLAINTS AND MANAGEMENT REFORM RESOURCE KIT

In the same month as the *Police Service (Complaints and Management Reform) Act 1998* came into operation, the Employee Management Unit of the Police Service produced the Complaints and Management Reform Resource Kit, which is described as being 'for the information of Police Service Personnel concerned with the management and investigation of complaints and conduct matters. It is provided as a guide only and is subject to further review and amendment'.

The Kit contains more than 180 pages, and so far as Category 1 complaints are concerned, draws on the comments made in the Commission's 1997-1998 Annual Report regarding the 81 matters referred to earlier in this Report. It includes the 'Guidelines for Managing Category 1 Investigations' prepared by Internal Affairs. The guidelines also deal with the preparation of investigation plans and the use of chronologies.

The preparation and publication of guidelines such as these are further indications of the Police Service's willingness to recognise and respond to constructive criticisms of its internal investigations of Category 1 complaints. The Commission looks forward to future editions of the Kit, which will hopefully include the relevant recommendations made in this Report.

7. SUMMARY OF RECOMMENDATIONS

The recommendations made in this Report are that:

- investigators of Category 1 complaints should review the complaints histories of officers who are the subject of complaints, and the complaints histories of the work units to which those officers belonged at the relevant time;

- Internal Affairs should review its current level of usage of electronic surveillance;

- the Police Service, particularly Internal Affairs, should give closer consideration in appropriate cases to 'rolling-over' officers who may be able to expose a wider net of corruption;

- the Police Service should continue to develop, and promulgate, a policy concerning directive memoranda, with a view to confining their use to particular situations;

- the Police Service should take steps to ensure that investigators' supervisors play a greater role in investigations, including that supervisors ensure that:

  – investigators have reviewed the complaints histories of relevant officers and units;

  – satisfactory investigation plans have been drawn up;

  – appropriate investigative techniques are being deployed;

  – investigations are being conducted rigorously and impartially; and

  – investigators have no conflict of interest in particular investigations;

- Category 1 complaints against an officer should always be investigated by an officer of at least the same rank;

- to guard against the possibility of officers investigating complaints against themselves, complaints against unidentified officers should always be investigated by officers from another region, local area command, or unit, as appropriate;

- conflicts of interest by investigators should be countered by making it mandatory that a Category 1 complaint about an officer in a particular local area command or unit be investigated by an officer from another local area command or unit:

  – where the officer who is the subject of a complaint is of the rank of senior sergeant or below, an officer from another local area command of the same region (or another central agency where appropriate) should be sufficient, subject to the general safeguard mentioned below; and

  - where the officer who is the subject of the complaint is of the rank of inspector or above, however, the investigator should come from another region (or another central agency where appropriate), again subject to the general safeguard mentioned below;

- as a general safeguard (against the possibility that the investigator and the officer who is the subject of the complaint may be or have been close associates) investigators should be required to set out in writing before the investigation begins the nature and degree of any association they have or have had with the other officer and to declare, if it be the case, that they have no conflict of interest in conducting the investigation;

- the Police Service should continue its review of, and draw up and circulate guidelines concerning, penalties which might be imposed where complaints are 'sustained';

- investigative planning should be mandatory for Category 1 investigations - it should be part of the responsibility of supervisors to ensure that such plans are approved by them before the investigation begins;

- the role of Internal Affairs Consultants in the investigation of Category 1 complaints should be reviewed, with a view to giving them more influence in the planning and conduct of such investigations;

- the staffing of Internal Affairs should be reviewed within six months of the release of this Report and, to the extent possible, the necessary funding approvals should be provided for such substantive police and civilian positions as are identified as being necessary; as part of this review, the Police Service should re-examine the Royal Commission's suggestions concerning the creation of multi-disciplinary teams in Internal Affairs;

- the policy on 'Recognition for Internal Affairs Service' should be enacted and publicised;

- Internal Affairs and Northern Region should jointly commission a study as to the reasons for the high incidence of complaints in that region and the atypical outcomes, and what might be done to address them;

- it should be part of the responsibility of the investigator's supervisor to verify that the investigator has correctly identified and recorded the allegations;

- the work presently being undertaken on the Police Complaints / Case Management System should take into account the Commission's observations on the CIS;

- the Police Service should give consideration to publicising internally the results of Internal Affairs investigations, integrity tests and other action taken with regard to officers who engage in misconduct;

- Police Education Services should review the examples of very satisfactory investigations in Chapter 5 and give consideration to their inclusion in training courses for internal investigators; and

- examples of very satisfactory investigations should be brought regularly to the attention of internal investigators in the field by regional and local area commanders and other supervisors, and Internal Affairs Consultants.

8. APPENDICES

APPENDIX 1 - ACKNOWLEDGEMENTS

The Commission wishes to acknowledge the assistance received from the following persons and agencies in the preparation of this Report:

- the Internal Affairs Command of the Police Service, for arranging the provision of the CIS data used in the report, for obtaining other information which was sought by the Commission, and for providing comments on matters of fact on the final draft of the Report;

- Ms Miriam Wiggers de Vries, for her work on the statistical aspects of the Report and the production of nearly all the statistical tables in Appendix 3; and

- the Queensland Criminal Justice Commission, for initial advice on the audit generally, and for providing comment on the statistical and methodological aspects of the final draft.

That having been said, the Report is a document produced by the Commission, and the Commission accepts responsibility for its contents.

APPENDIX 2 - A NOTE ON STATISTICAL METHODOLOGY

As noted in Chapter 3, the material for the audit was drawn from the Police Service's Complaints Information System and from assessments made by the Commission.

The data which was retrieved from the CIS comprised four tables. Two of these reflected information about the complaints as a whole, such as a brief description, where and when it occurred, which unit of the Police Service received the complaint and which was to investigate it, and whether the complaint was anonymous, an internal police complaint, etc. The third table listed details of all people involved, categorising them by whether they were investigators, involved officers, witnesses, complainants etc. It gave their names and address details, age group, sex, racial appearance, occupation etc. If the person was a police officer, it also provided space for their registered number, duty type, location etc. The final table listed the involved officers and the specific complaints against them, together with the results of the investigation (ie 'sustained', 'not sustained', etc) and the dates when this result was recorded. It also allowed space for the investigator to record any associated factors, to make a determination about the root cause of the matter, recorded whether the officer was on or off duty, and whether the complainant was under arrest at the time. All four tables also contained a range of date fields to record when various things happen - ie the start of the investigation, when it should have finished, when the result was recorded etc.

The assessments made by the Commission were entered directly on to the Commission's computer systems by the assessors via a simple Microsoft Access database, generally as 'yes' / 'no' options. A copy of the relevant form follows this Appendix.

The data was then imported into another database, also created in MS Access, which contained the CIS data. The two were linked by a central table which contained the full list of CIS numbers and the Commission's file numbers, enabling a connection between the two groups of data and thus joint analysis.

Once this integration of data from the two sources was complete, it was possible to analyse it in various ways to extract meaningful information, by, for instance, linking data on the CIS number, and then selecting cases where the location for both the officer who was the subject of the complaint and the investigator was the same, giving a list of apparently close colleagues where one was investigating the other. This was then linked with the Commission's assessment of whether these investigations were conducted satisfactorily, giving an indication of whether investigators were as rigorous in investigating close colleagues as they were when investigating officers from other regions etc.

For ease of use, these new groupings of data were then exported to SPSS (a statistical processing package) to produce simple statistical data in the form of percentages, both on the whole sample and the three groups previously described.

Category 1 Complaint Investigations: Assessments

DetrakNo: ☐ (even if no further data available, please enter detrak number) Assessor: ☐ (please put your initials here)

1. Were there reports? ☐ If not, go to next case (tick box for yes, leave blank for no)

2. Was the case investigated? ☐ If not, was the decision to do this reasonable? (and go to next case) ☐

3. Was the complaint withdrawn or not proceeded with AND no further action was taken? ☐ If yes, was the decision to do this reasonable? ☐

4. Did the investigation make use
   - ☐ investigative planning
   - ☐ preliminary research (complaints history of officer, similar complaints in same LAC, use of other intelligence)
   - ☐ appropriate measures other than interviews of complainant and officer concerned (physical surveillance, electronic surveillance, CCRs, property checks, financial analysis, other)

5. Any evidence of active involvement by:
   - ☐ investigators
   - ☐ supervisor
   - ☐ IA Consultant
   - ☐ IA Central

6. Was finding adverse? ☐ If so, is action recommended appropriate? ☐

7. General Conclusions (please choose one)
   - Very Satisfactory, (give brief reasons below)
   - Satisfactory
   - Unsatisfactory, (give brief reasons below)
   - Very Unsatisfactory, (give brief reasons below)

Reasons

APPENDIX 3 - STATISTICAL TABLES

INDEX TO TABLES

INTRODUCTION

The tables should be read with the following comments in mind.

The audit began with 620 complaints. As 25 of these could not be matched with the corresponding entry on the CIS, and one case had three entries in the CIS, the number was reduced to 597.

These 597 complaints affected 1051 officers who were the subjects of complaints, and involved 1370 allegations. Each complaint thus involved nearly two officers on average, and between two and three allegations. In what follows, care should be taken in interpreting the tables, depending on whether they are about *complaints*, *officers who were the subjects of complaints*, or *allegations.*

Section A has details of the officers the subject of complaints. Section B has details of the investigating officers. Section C has details of the complainants and complaints. Section D has details of the investigations. Section E has details of the Commission's assessments of the 620 complaints. Except where otherwise indicated, the figures in Sections A to D are taken from the CIS, while the figures in Section E were produced by the Commission.

Not all the tables are the subject of comment in the Report. They are included here for two reasons - they are a baseline for such further audits as the Commission may undertake, that may include research on matters in these tables, and they may be of use to other agencies or individuals undertaking research on police internal investigations.

A. DETAILS OF OFFICERS WHO WERE THE SUBJECT OF CATEGORY 1 COMPLAINTS

Table A1: Rank of Officers Who Were the Subject of Complaints

Rank	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
Senior Constable	469	50.3	144	56.7	61	53.0	264	46.9
Sergeant	197	21.1	45	17.7	24	20.9	128	22.7
Constable	105	11.3	30	11.8	12	10.4	63	11.2
Senior Sergeant	50	5.4	11	4.3	5	4.3	34	6.0
Inspector	37	4.0	11	4.3	4	3.5	22	3.9
Superintendent	18	1.9	6	2.4	1	0.9	11	2.0
Probationary Constable	16	1.7	1	0.4	1	0.9	14	2.5
Chief Inspector	9	1.0	1	0.4	1	0.9	7	1.2
Chief Superintendent	9	1.0	2	0.8	1	0.9	6	1.1
Administrative Officer	7	0.8	0	0.0	1	0.9	6	1.1
Constable 1st Class	7	0.8	0	0.0	1	0.9	6	1.1
Asst Commissioner	5	0.5	2	0.8	2	1.7	1	0.2
Dep Commissioner	3	0.3	1	0.4	1	0.9	1	0.2
Totals	*932*	*100*	*254*	*100*	*115*	*100*	*563*	*100*

Note: The number of officers who were the subject of complaints exceeds the number of complaints audited because many complaints involved more than one officer. Not included in this table are 119 complaints where the rank of the officer who was the subject of the complaint was not recorded - 46 in Group 1, 20 in Group 2, and 53 in Group 3. Administrative officers are not police officers, but they are included here because they were working with police officers who were the subject of complaints.

Table A2: Gender of Officers Who Were the Subject of Complaints

Gender	Frequency	Percent
Male	838	89.8
Female	95	10.2
Totals	*933*	*100*

Note: Not included in this table are 118 complaints where the gender of the officer who was the subject of the complaint was not recorded.

Table A3: Region / Unit of Officers Who Were the Subject of Complaints

Region / Unit	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
Northern Region	125	13.5	52	20.2	18	16.1	55	9.9
Greater Hume Region	83	9.0	16	6.2	15	13.4	52	9.3

Region / Unit	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
City East Region	75	8.1	30	11.6	8	7.1	37	6.6
North Metropolitan Region	74	8.0	13	5.1	18	16.1	43	7.7
Endeavour Region	72	7.8	18	7.0	6	5.4	48	8.6
Western Region	66	7.1	11	4.3	11	9.8	44	7.9
Georges River Region	63	6.8	18	7.0	5	4.5	40	7.2
Hunter Region	62	6.7	20	7.8	7	6.3	35	6.3
Macquarie Region	55	5.9	11	4.3	2	1.8	42	7.5
South East Region	53	5.7	17	6.6	4	3.6	32	5.7
Southern Rivers Region	43	4.6	16	6.2	4	3.6	23	4.1
(Former) Drug Enforcement Agency	25	2.7	2	0.8	1	0.9	22	3.9
(Former) SW Region	21	2.3	6	2.3	2	1.8	13	2.3
(Former) South Region	19	2.1	4	1.6	3	2.7	12	2.1
Crime Agencies (Admin)	10	1.1	2	0.8	1	0.9	7	1.3
Educational Services	10	1.1	1	0.4	0	0.0	9	1.6
(Former) North Region	8	0.9	3	1.2	1	0.9	4	0.7
Communications Group	7	0.8	1	0.4	2	1.8	4	0.7
Crime Agencies	7	0.8	1	0.4	1	0.9	5	0.9
Forensic Services Group	7	0.8	0	0.0	0	0.0	7	1.3
Internal Affairs	7	0.8	3	1.2	0	0.0	4	0.7
Police Youth Clubs &Community Support Groups	5	0.5	3	1.2	0	0.0	2	0.4
State Protection Group	4	0.4	1	0.4	0	0.0	3	0.5
State Major Incident Group	1	0.1	1	0.4	0	0.0	0	0.0
(Former) Professional Integrity Command	3	0.3	0	0.0	1	0.9	2	0.4
Deputy Commissioner	3	0.3	1	0.4	1	0.9	1	0.2
Special Services	3	0.3	0	0.0	0	0.0	3	0.5
External Locations	2	0.2	1	0.4	0	0.0	1	0.2
Infringement Processing Bureau	2	0.2	0	0.0	0	0.0	2	0.4
Field Training	2	0.2	1	0.4	0	0.0	1	0.2
(Former) North Region Major Crime Squad	2	0.2	1	0.4	0	0.0	1	0.2
Human Resources	2	0.2	2	0.8	0	0.0	0	0.0
Audit & Evaluation	1	0.1	1	0.4	0	0.0	0	0.0
Firearms Registry	1	0.1	0	0.0	0	0.0	1	0.2
State Intelligence Group	1	0.1	0	0.0	0	0.0	1	0.2
Establishment Control	1	0.1	0	0.0	0	0.0	1	0.2
Personnel	1	0.1	0	0.0	1	0.9	0	0.0
Totals	*926*	*100*	*257*	*100*	*112*	*100*	*557*	*100*

Note: Not included in this table are 122 complaints where the region / unit of the officer who was the subject of the complaint was not recorded: 43 in Group 1, 23 in Group 2 and 56 in Group 3.

Table A4: Age Groups of Officers Who Were the Subject of Complaints

Age Range (years)	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
26 - 30	190	20.4	50	19.7	18	15.9	122	21.6
31 - 35	186	19.9	54	21.3	26	23.0	106	18.7
36 - 40	159	17.0	36	14.2	21	18.6	102	18.0
41 - 45	136	14.6	47	18.5	12	10.6	77	13.6
46 - 50	99	10.6	27	10.6	11	9.7	61	10.8
21 - 25	76	8.1	22	8.7	13	11.5	41	7.2
51 - 55	66	7.1	16	6.3	11	9.7	39	6.9
16 - 20	9	1.0	1	0.4	0	0.0	8	1.4
56 - 60	9	1.0	0	0.0	1	0.9	8	1.4
61 - 65	3	0.3	1	0.4	0	0.0	2	0.4
Totals	*933*	*100*	*254*	*100*	*113*	*100*	*566*	*100*

Note: The table does not include 118 complaints where the age of the officer who was the subject of a complaint was not recorded: 46 in Group 1, 22 in Group 2 and 50 in Group 3.

Table A5: Duty Type of Officers Who Were the Subject of Complaints

Duty Type	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
General Duties	391	42.9	101	40.6	54	49.5	236	42.6
Investigations	180	19.7	49	19.7	17	15.6	114	20.6
Detectives	110	12.1	23	9.2	8	7.3	79	14.3
Highway Patrol	43	4.7	10	4.0	9	8.3	24	4.3
Commander	34	3.7	14	5.6	3	2.8	17	3.1
Administrative	11	1.2	0	0.0	1	0.9	10	1.8
Beat	4	0.4	3	1.2	0	0.0	1	0.2
Transit	4	0.4	2	0.8	1	0.9	1	0.2
Fingerprints	2	0.2	0	0.0	0	0.0	2	0.4
Intelligence	2	0.2	0	0.0	0	0.0	2	0.4
Internal Affairs	1	0.1	0	0.0	0	0.0	1	0.2
Other	122	13.4	45	18.1	14	12.8	63	11.4
Unknown	8	0.9	2	0.8	2	1.8	4	0.7
Totals	*912*	*100*	*249*	*100*	*109*	*100*	*554*	*100*

Note: Not included are 139 complaints where the duty type of the officer who was the subject of the complaint was not recorded (notwithstanding the presence of the 'other' and 'unknown' categories): 51 in Group 1, 26 in Group 2 and 62 in Group 3.

B. DETAILS OF INVESTIGATING OFFICERS

Table B1: Rank of Investigating Officers

Rank	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
Sergeant	273	36.8	85	44.0	37	30.3	151	35.4
Senior Sergeant	193	26.0	44	22.8	31	25.4	118	27.6
Inspector	141	19.0	31	16.1	31	25.4	79	18.5
Senior Constable	90	12.1	26	13.5	16	13.1	48	11.2
Chief Inspector	22	3.0	4	2.1	5	4.1	13	3.0
Superintendent	14	1.9	1	0.5	2	1.6	11	2.6
Chief Superintendent	7	0.9	1	0.5	0	0.0	6	1.4
Constable	1	0.1	0	0.0	0	0.0	1	0.2
Probationary Constable	1	0.1	1	0.5	0	0.0	0	0.0
Totals	*742*	*100*	*193*	*100*	*122*	*100*	*427*	*100*

Note: The number of investigating officers exceeds the number of complaints audited because some matters were investigated by more than one officer, and other complaints did not have an investigator assigned. Not included in this table are 17 complaints where the rank of the investigating officer was not recorded, of which eight were in Group 1, two in Group 2 and seven in Group 3.

Table B2: Gender of Investigating Officers

Gender	Frequency	Percent
Male	710	93.5
Female	49	6.5
Totals	*759*	*100*

Table B3: Region / Unit of Investigating Officers

Region / Unit	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
Internal Affairs	103	13.6	16	8.1	24	19.4	63	14.5
Hunter Region	60	7.9	15	7.6	12	9.7	33	7.6
Northern Region	58	7.7	22	11.1	7	5.6	29	6.7
North Metropolitan Region	57	7.5	9	4.5	17	13.7	31	7.1
Greater Hume Region	56	7.4	24	12.1	6	4.8	26	6.0
City East Region	52	6.9	21	10.6	4	3.2	27	6.2
Endeavour Region	49	6.5	14	7.1	4	3.2	31	7.2
Georges River Region	48	6.3	15	7.6	3	2.4	30	6.9
South East Region	46	6.1	15	7.6	6	4.8	25	5.8
Macquarie Region	39	5.2	9	4.5	6	4.8	24	5.5
Western Region	39	5.2	9	4.5	9	7.3	21	4.8
(Former) Professional Integrity Branch	30	4.0	0	0.0	11	8.9	19	4.4
Southern Rivers Region	29	3.8	9	4.5	4	3.2	16	3.7
Specialist Operations Response Team	18	2.4	6	3.0	1	0.8	11	2.5
(Former) North Region	11	1.5	3	1.5	2	1.6	6	1.4
(Former) Drug Enforcement Agency	10	1.3	0	0.0	1	0.8	9	2.1
Crime Agencies	7	0.9	2	1.0	2	1.6	3	0.7
(Former) SW Region	6	0.8	0	0.0	0	0.0	6	1.4
Field Training	5	0.7	2	1.0	2	1.6	1	0.2
(Former) NW Region	5	0.7	0	0.0	0	0.0	5	1.2
Crime Agencies (Admin)	4	0.5	1	0.5	1	0.8	2	0.5
(Former) South Region	4	0.5	1	0.5	0	0.0	3	0.7
State Major Incident Group	4	0.5	2	1.0	0	0.0	2	0.5
Educational Services	3	0.4	2	1.0	0	0.0	1	0.2
Police Youth Clubs &Community Support Groups	3	0.4	0	0.0	0	0.0	3	0.7
Communications Group	2	0.3	0	0.0	2	1.6	0	0.0
Forensic Services Group	2	0.3	0	0.0	0	0.0	2	0.5
State Protection Group	2	0.3	0	0.0	0	0.0	2	0.5
External Locations	1	0.1	0	0.0	0	0.0	1	0.2
Specialist Operations	1	0.1	1	0.5	0	0.0	0	0.0
Special Services	1	0.1	0	0.0	0	0.0	1	0.2
Totals	*755*	*100*	*198*	*100*	*124*	*100*	*433*	*100*

Note: Not included in this table are five complaints where the region / unit of the investigating officer was not recorded: three in Group 1, and two in Group 3.

While the CIS records the age group and the duty type of officers who were the subject of complaints (see tables A4 and A5), it does not record similar information on investigating officers.

C. DETAILS OF COMPLAINANTS AND COMPLAINTS

Table C1: Occupation of Complainants

Occupation	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
Unemployed	27	8.5	14	15.2	4	7.3	9	5.3
Pensioner	22	7.0	11	12.0	2	3.6	9	5.3
Solicitor	16	5.1	7	7.6	2	3.6	7	4.1
Domestic Duties	16	5.1	3	3.3	3	5.5	10	5.9
Prisoner	12	3.8	4	4.3	2	3.6	6	3.6
Self-Employed	12	3.8	2	2.2	2	3.6	8	4.7
Admin / Clerical	8	2.5	1	1.1	3	5.5	4	2.4
Police Officer	8	2.5	2	2.2	0	0.0	6	3.6
Trade	8	2.5	3	3.3	0	0.0	5	3.0
Driver (taxi etc)	6	1.9	2	2.2	2	3.6	2	1.2
Unskilled	6	1.9	1	1.1	2	3.6	3	1.8
Hotel / Barstaff	5	1.6	0	0.0	2	3.6	3	1.8
Student	5	1.6	1	1.1	1	1.8	3	1.8
Managerial	5	1.6	3	3.3	1	1.8	1	0.6
Judicial	4	1.3	2	2.2	0	0.0	2	1.2
Education	3	0.9	1	1.1	0	0.0	2	1.2
Agriculture	2	0.6	0	0.0	0	0.0	2	1.2
Finance	2	0.6	1	1.1	0	0.0	1	0.6
Medical	2	0.6	1	1.1	1	1.8	0	0.0
MP	2	0.6	0	0.0	0	0.0	2	1.2
Security Industry	2	0.6	1	1.1	0	0.0	1	0.6
Sex Worker	2	0.6	1	1.1	0	0.0	1	0.6
Emergency Services	1	0.3	0	0.0	0	0.0	1	0.6
Entertainer	1	0.3	1	1.1	0	0.0	0	0.0
Sales	1	0.3	1	1.1	0	0.0	0	0.0
Sport / Recreation	1	0.3	1	1.1	0	0.0	0	0.0
Transit Officer	1	0.3	1	1.1	0	0.0	0	0.0
Other	24	7.6	7	7.6	5	9.1	12	7.1
Unknown	112	35.4	20	21.7	23	41.8	69	40.8
Totals	*316*	*100*	*92*	*100*	*55*	*100*	*169*	*100*

Note: Not included in this table are 37 complaints where the complainant's occupation was not recorded: 16 in Group 1, six in Group 2 and 15 in Group 3.

Table C2: Age Groups of Complainants

Age Range (years)	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
11 - 15	1	0.3	0	0.0	0	0.0	1	0.6
16 - 20	20	6.3	3	3.3	6	10.9	11	6.5
21 - 25	16	5.0	5	5.4	4	7.3	7	4.1
26 - 30	24	7.6	9	9.8	5	9.1	10	5.9
31 - 35	20	6.3	7	7.6	6	10.9	7	4.1
36 - 40	22	6.9	8	8.7	1	1.8	13	7.6
41 - 45	21	6.6	4	4.3	4	7.3	13	7.6
46 - 50	23	7.3	9	9.8	2	3.6	12	7.1
51 - 55	9	2.8	9	9.8	0	0.0	0	0.0
56 - 60	19	6.0	10	10.9	1	1.8	8	4.7
61 - 65	6	1.9	2	2.2	1	1.8	3	1.8
66 - 70	3	0.9	1	1.1	0	0.0	2	1.2
Unknown	133	42.0	25	27.2	25	45.5	83	48.8
Totals	*317*	*100*	*92*	*100*	*55*	*100*	*170*	*100*

Note: Not included in this table are 36 complaints where the complainant's age was not recorded: 16 in Group 1, six in Group 2 and 14 in Group 3.

Table C3: Gender of Complainants

Gender	Frequency	Percent
Male	216	63.9
Female	111	32.8
Not known	11	3.3
Totals	*338*	*100*

Note: Not included in this table are 15 complaints where the complainant's gender was not recorded.

Table C4: Details of Complaints

The various descriptions of Category 1 complaints which appear in the CIS are such as to make that an unreliable source of data for details of the complaints which appear in the sample. The following data are reproduced from the Commission's 1996-1997 and 1997-1998 Annual Reports and cover referred Category 1 complaints dealt with by the Commission during the periods covered by the three groups. As such they can only be a guide to the types of complaints dealt with in the sample.

(a) Group 2 (Jan - Jun 1997) & Group 3 (Jul 1997 - Jan 1998)

Complaint Type	Group 2 (No)	Group 3 (No)
1. Pervert the course of justice	44	200
2. Indictable offence, minimum of three years imprisonment	153	406
3. Bribery	32	22
4. Improper interference in an investigation	1	23
5. Failure to investigate offence by another officer	4	11
6. Improper access / release of official information	63	188
7. Involvement in manufacture / cultivation / supply of probihited drugs	84	72
8. Very senior officer	9	49

(b) Group 1 (Feb-June 1998)

Complaint Type	Group 1 (No)
1. Pervert the course of justice	140
2. Indictable offence - malicious wounding / grievous bodily harm / serious larceny / other offences, minimum of five years imprisonment	102
3. Bribery	42
4. Improper interference in an investigation	17
5. Failure to investigate offence by another officer	5
6. Involvement in manufacture / cultivation / supply of prohibited drugs	42

D. DETAILS OF INVESTIGATIONS

Table D1: Differences in Rank Between Officers, who were the Subjects of Complaints, and Investigating Officers

Note: In the following table

- the line 0 indicates the numbers of cases where the ranks of the officers who were the subject of the complaint, and the ranks of the investigating officers, were the same;
- the positive numbers in the lines below the line 0 indicate that the investigating officer was senior in rank (by one rank, two ranks and so on) to the officer he or she was investigating - the 'half rank' is constable first class, between constable and senior constable;
- the negative numbers above the line 0 indicate that the investigating officer was junior in rank (by one rank, two ranks and so on) to the officer he or she was investigating; and
- not included in the table are details of 160 cases where either or both ranks were not recorded - 47 in Group 1, 29 in Group 2 and 84 in Group 3.

Difference in Rank	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
-8	1	0.1	0	0.0	0	0.0	1	0.1
-7	2	0.2	0	0.0	0	0.0	2	0.2
-6	3	0.2	0	0.0	1	0.7	2	0.2
-5	2	0.2	0	0.0	0	0.0	2	0.2
-4	9	0.7	0	0.0	0	0.0	9	1.1
-3	11	0.9	3	1.1	0	0.0	8	0.9
-2	33	2.6	8	2.8	1	0.7	24	2.8
-1	79	6.2	13	4.6	8	5.6	58	6.8
0	194	15.2	30	10.6	20	14.0	144	17.0
+0.5	3	0.2	0	0.0	0	0.0	3	0.4
+1	363	28.5	117	41.5	39	27.3	207	24.4
+1.5	7	0.5	0	0.0	0	0.0	7	0.8
+2	302	23.7	65	23.0	36	25.2	201	23.7
+2.5	3	0.2	0	0.0	0	0.0	3	0.4
+3	194	15.2	37	13.1	31	21.7	126	14.9
+3.5	2	0.2	0	0.0	0	0.0	2	0.2
+4	54	4.2	8	2.8	7	4.9	39	4.6
+5	8	0.6	1	0.4	0	0.0	7	0.8
+6	3	0.2	0	0.0	0	0.0	3	0.4
Totals	*1273*	*100*	*282*	*100*	*143*	*100*	*848*	*100*

Table D2: Time Taken to Complete Investigations (by Allegations), using the 1248 (out of 1370) Allegations which had Valid Result Times and Valid Durations

Time Taken	All Groups (days)	Group 1 (days)	Group 2 (days)	Group 3 (days)
Days Taken				
Mean	127.54	108.43	95.14	143.93
Minimum	0	0	0	0
Maximum	752	346	588	752
Over Duration				
Mean	39.06	21.36	4.60	55.24
Minimum	-180	-154	-179	-180
Maximum	572	286	528	572
Number Of Allegations	*1248*	*348*	*166*	*734*

Note: The mean of the 'days taken' is the average number of days taken for each investigation. This was calculated by taking the difference between the initiation date (the date the investigation was started) and the date the result was recorded on the CIS. A standard length of time is allowed for an investigation, depending on the severity of the complaint. This can vary between 14 - 180 days. The time 'over duration' is the time taken beyond this stipulated period. If the figure is negative, the investigator took less than the standard length of time.

As indicated elsewhere with regard to tables drawn from the CIS, some of the results cast doubt on the accuracy of the figures - 34 investigations were recorded as having been completed before they were begun.

Table D3: Comparison of Investigation Results (by Numbers of Allegations) with Commission's Assessment Outcomes (see Table E)

Result	Totals		Very Satisfactory		Satisfactory		Unsatisfactory		Very Unsatisfactory	
	No	%	No	%	No	%	No	%	No	%
Not sustained	518	43.1	29	5.6	321	62.0	160	30.9	8	1.5
No further action	394	32.8	61	15.5	236	59.9	78	19.8	19	4.8
Sustained	149	12.4	19	12.8	99	66.4	28	18.8	3	2.0
Discontinued	60	5.0	2	3.3	48	80.0	10	16.7	0	0.0
Not investigated	41	3.4	3	7.3	30	73.2	8	19.5	0	0.0
Managerial action	20	1.7	1	5.0	16	80.0	3	15.0	0	0.0
Conciliation - successful	14	1.2	4	28.6	8	57.1	2	14.3	0	0.0
Conciliation unsuccessful but investigated	6	0.5	0	0.0	6	100.0	0	0.0	0	0.0
Conciliation unsuccessful not investigated	1	0.1	0	0.0	0	0.0	1	100.0	0	0.0
Totals	*1203*	*100*	119	9.9	759	63.1	295	24.5	30	2.5

Note: Not included in this table are 167 allegations where the result was not shown.

The table should be read thus - in the first row 'Not sustained', there were 518 allegations of 'not sustained', or 43.1 percent of all allegations. Of the 518, investigations into 29 allegations (5.6 percent of the 518) were assessed by the Commission as very satisfactory, 321 (62 percent of the 518) as satisfactory, 160 (30.9 percent of the 518) as unsatisfactory, and eight (1.5 percent of the 518) as very unsatisfactory. In the final row, 'Totals', the numbers and percentages in the columns representing each category of assessment are fractions of the total number of allegations (1203). For example, 119 (9.9 percent of the 1203) of all the investigation results were assessed as very satisfactory.

Table D4: Comparison of Investigation Results (by Numbers of Allegations) when:

(a) Officers who were the Subject of Complaints and the Investigating Officers were from the Same Region; and

(b) Officers who were the Subject of Complaints and Investigating Officers were from Different Regions.

(a) From the Same Region

Result	All Groups		Group1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
No further action	187	35.0	59	34.7	37	56.9	91	30.4
Not sustained	180	33.7	60	35.3	12	18.5	108	36.1
Sustained	70	13.1	13	7.6	7	10.8	50	16.7
Discontinued	37	6.9	19	11.2	6	9.2	12	4.0
Not investigated	23	4.3	6	3.5	1	1.5	16	5.4
Conciliation - successful	20	3.7	3	1.8	1	1.5	16	5.4
Managerial action	9	1.7	4	2.4	0	0.0	5	1.7
Conciliation unsuccessful but investigated	6	1.1	6	3.5	0	0.0	0	0.0
Conciliation unsuccessful not investigated	2	0.4	0	0.0	1	1.5	1	0.3
Totals	*534*	*100*	*170*	*100*	*65*	*100*	*299*	*100*

Note: Not included in this table are eight investigations where the result was not shown: six in Group 1, and two in Group 3.

(b) From Different Regions

Result	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
No further action	161	32.7	29	29.6	18	22.2	114	36.3
Not sustained	176	35.7	35	35.7	24	29.6	117	37.3
Sustained	69	14.0	17	17.3	13	16.0	39	12.4
Discontinued	34	6.9	11	11.2	8	9.9	15	4.8
Not investigated	34	6.9	3	3.1	17	21.0	14	4.5
Conciliation - successful	4	0.8	0	0.0	1	1.2	3	1.0
Managerial action	10	2.0	3	3.1	0	0.0	7	2.2
Conciliation unsuccessful but investigated	5	1.0	0	0.0	0	0.0	5	1.6
Conciliation unsuccessful not investigated	0	0.0	0	0.0	0	0.0	0	0.0
Totals	*493*	*100*	*98*	*100*	*81*	*100*	*314*	*100*

Note: Not included in this table are three investigations where the result was not shown: one in Group 1, and two in Group 3.

As noted, 1370 allegations were examined in the audit. These two tables deal with 1038 allegations; the balance of 332 either:

(1) were investigated by more than one investigator, at least one of whom was from a different region than the officer the subject of the complaint; or

(2) involved more than one officer as the subject of the complaint, and such officers were not from the same region.

Table D5: Comparison of Investigation Results (by Numbers of Allegations) when:

(a) Officers who were the Subject of Complaints and the Investigating Officers were from the Same Local Area Command; and

(b) Officers who were the Subject of Complaints and the Investigating Officers were from Different Local Area Commands.

(a) From the Same Local Area Command

Result	All Groups		Group1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
No further action	121	38.9	39	34.8	20	55.6	62	38.0
Not sustained	107	34.4	39	34.8	6	16.7	62	38.0
Discontinued	24	7.7	12	10.7	3	8.3	9	5.5
Sustained	27	8.7	8	7.1	5	13.9	14	8.6

Result	All Groups		Group1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
Not investigated	9	2.9	5	4.5	0	0.0	4	2.5
Conciliation - successful	9	2.9	0	0.0	1	2.8	8	4.9
Managerial action	6	1.9	3	2.7	0	0.0	3	1.8
Conciliation unsuccessful but investigated	6	1.9	6	5.4	0	0.0	0	0.0
Conciliation unsuccessful not investigated	2	0.6	0	0.0	1	2.8	1	0.6
Totals	*311*	*100*	*112*	*100*	*36*	*100*	*163*	*100*

Note: Not included in this table are four investigations where the result was not shown: three in Group 1, and one in Group 3.

(b) From Different Local Area Commands

Result	All Groups		Group1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
No further action	220	31.2	45	27.6	32	30.5	143	32.6
Not sustained	262	37.1	70	42.9	30	28.6	162	37.0
Discontinued	42	5.9	15	9.2	11	10.5	16	3.7
Sustained	110	15.6	22	13.5	13	12.4	75	17.1
Not investigated	42	5.9	3	1.8	18	17.1	21	4.8
Conciliation - successful	11	1.6	3	1.8	1	1.0	7	1.6
Managerial action	14	2.0	5	3.0	0	0.0	9	2.1
Conciliation unsuccessful but investigated	5	0.7	0	0.0	0	0.0	5	1.1
Conciliation unsuccessful not investigated	0	0.0	0	0.0	0	0.0	0	0.0
Totals	*706*	*100*	*163*	*100*	*105*	*100*	*438*	*100*

Note: Not included in this table are three investigations where the result was not shown: one in Group 1, and two in Group 3.

The balance of 346 allegations either:

(1) were investigated by more than one investigator, at least one of whom was from a different local area command than the officer who was the subject of the complaint; or

(2) involved more than one officer as the subject of the complaint, and such officers were not from the same local area command.

Table D6: Comparison of Investigation Results (by Number of Complaints) using the Commission's Assessment Outcomes (see Table E) when:

(a) Officers who were the Subject of Complaints and the Investigating Officers were from the Same Region; and

(b) Officers who were the Subject of Complaints and Investigating Officers were from Different Regions.

(a) From the Same Region

Outcome	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
Very Satisfactory	14	6.8	4	6.5	1	3.1	9	8.0
Satisfactory	151	72.9	49	79.0	25	78.1	77	68.1
Unsatisfactory	40	19.3	9	14.5	5	15.6	26	23.0
Very Unsatisfactory	2	1.0	0	0.0	1	3.1	1	0.9
Totals	*207*	*100*	*62*	*100*	*32*	*100*	*113*	*100*

Note: Not included in this table are 40 complaints which were not investigated or where there were no reports: 16 in Group 1, eight in Group 2 and 16 in Group 3.

(b) From Different Regions

Outcome	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
Very Satisfactory	16	7.9	6	10.3	3	8.3	7	6.5
Satisfactory	126	62.4	39	67.2	22	61.1	65	60.2
Unsatisfactory	45	22.3	12	20.7	7	19.4	26	24.1
Very Unsatisfactory	15	7.4	1	1.7	4	11.1	10	9.3
Totals	*202*	*100*	*58*	*100*	*36*	*100*	*108*	*100*

Note: Not included in this table are 99 complaints which were not investigated or where there were no reports: 43 in Group 1, 13 in Group 2 and 43 in Group 3.

As indicated, the Commission assessed 470 complaints, the remaining 61 complaints either:

(1) were investigated by more than one investigator, at least one of whom was from a different region than the officer who was the subject of the complaint; or

(2) involved more than one officer as the subject of the complaint, and such officers were not from the same region.

Table D7: Comparison of Investigation Results (by Numbers of Cases) using the Commission's Assessment Outcomes (see Table E) when:

(a) Officers who were the Subject of Complaints and the Investigating Officers were from the Same Local Area Command; and

(b) Officers who were the Subject of Complaints and Investigating Officers were from Different Local Area Commands.

(a) From the Same Local Area Command

Outcome	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
Very Satisfactory	12	9.2	4	9.8	1	5.0	7	10.1
Satisfactory	93	71.5	33	80.5	14	70.0	46	66.7
Unsatisfactory	24	18.5	4	9.8	4	20.0	16	23.2
Very Unsatisfactory	1	0.8	0	0.0	1	5.0	0	0.0
Totals	*130*	*100*	*41*	*100*	*20*	*100*	*69*	*100*

Note: Not included in this table are 23 complaints which were not investigated or where there were no reports: eight in Group 1, four in Group 2 and 11 in Group 3.

(b) From Different Local Area Commands

Outcome	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
Very Satisfactory	18	6.6	6	7.5	3	6.4	9	6.1
Satisfactory	180	65.7	57	71.3	32	68.1	91	61.9
Unsatisfactory	61	22.3	16	20.0	8	17.0	37	25.2
Very Unsatisfactory	15	5.5	1	1.3	4	8.5	10	6.8
Totals	*274*	*100*	*80*	*100*	*47*	*100*	*147*	*100*

Note: Not included in this table are 114 complaints which were not investigated or where there were no reports: 49 in Group 1, 15 in Group 2 and 50 in Group 3.

As with table D6, the remaining 66 cases either:

(1) were investigated by more than one investigator, at least one of whom was from a different local area command than the officer who was the subject of the complaint; or

(2) involved more than one officer as the subject of the complaint, and such officers were not from the same local area command.

Table D8: Comparison of Internal Affairs' Investigation Results (Complaints) with Commission's Assessment Outcomes (see Table E)

Outcome	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
Very Satisfactory	9	11.1	0	0.0	4	21.1	5	9.8
Satisfactory	46	56.8	9	81.8	7	36.8	30	58.8
Unsatisfactory	22	27.2	1	9.1	6	31.6	15	29.4
Very Unsatisfactory	4	4.9	1	9.1	2	10.5	1	2.0
Totals	*81*	*100*	*11*	*100*	*19*	*100*	*51*	*100*

Note: Not included in this table are 19 complaints for which no investigation result was shown: three in Group 1, five in Group 2 and 11 in Group 3.

Table D9: Comparison of Investigation Results (Complaints) by Rank of Most Senior (or Only) Investigator with Commission's Assessment Outcomes

Rank	Totals		Very Satisfactory		Satisfactory		Unsatisfactory		Very Unsatisfactory	
	No	%	No	%	No	%	No	%	No	%
Sergeant	147	33.7	9	6.1	101	68.7	34	23.1	3	2.0
Senior Sergeant	119	27.3	6	5.0	82	68.9	29	24.4	2	1.7
Inspector	113	25.9	14	12.4	68	60.2	27	23.9	4	3.5
Chief Inspector	20	4.6	0	0.0	16	80.0	4	20.0	0	0.0
Senior Constable	20	4.6	2	10.0	14	70.0	1	5.0	3	15.0
Superintendent	12	2.8	0	0.0	8	66.7	2	16.7	2	16.7
Chief Superintendent	4	0.9	0	0.0	4	100.0	0	0.0	0	0.0
Probationary Constable	1	0.2	0	0.0	1	100.0	0	0.0	0	0.0
Totals	*436*	*100*	31	7.1	294	67.4	97	22.2	14	3.2

Note: Not included in this table are 92 complaints where the result or the rank of the most senior investigator was not shown.

The table should be read thus - in the first row 'Sergeant', there were 147 complaints where a sergeant was the most senior (or only) investigator, or 33.7 percent of all complaints. Of the 147, investigations into nine complaints (6.1 percent of the 147) were assessed by the Commission as very satisfactory, 101 (68.7 percent of the 147) as satisfactory, 34 (23.1 percent of the 147) as unsatisfactory, and three (two percent of the 147) as very unsatisfactory. In the final row, 'Totals', the numbers and percentages in the columns representing each category of assessment are fractions of the total number of complaints (436). For example, 31 (7.1 percent of the 436) of all the investigation results were assessed as very satisfactory.

E. THE COMMISSION'S ASSESSMENT OF THE INVESTIGATIONS

Table E1: The Commission's Assessment of the Sample Complaints

This table uses different data to the earlier tables, as it does not rely at all on CIS data. Thus the Commission was able to begin with the 620 complaints selected for the audit. As there were no investigation reports available on 65 of them, the number was accordingly reduced to 555 and these were assessed in various ways as shown in the table below.

Item	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
1. Reports	555	89.5	170	85.9	88	90.7	297	91.4
No Reports	65	10.5	28	14.1	9	9.3	28	8.6
Total Complaints	620	100	198	100	97	100	325	100
2. Investigated	470	84.7	136	80.0	74	84.1	260	87.5
Not investigated	85	15.3	34	20.0	14	15.9	37	12.5
Total Complaints where Reports were Provided	555	100	170	100	88	100	297	100
3. Decision not to investigate reasonable								
• Yes	48	56.5	22	64.7	7	50.0	19	51.4
• No	37	43.5	12	35.3	7	50.0	18	48.6
Total Complaints Not Investigated	85	100	34	100	14	100	37	100
4. When complaint withdrawn or not proceeded with, decision to take no further action reasonable								
• Yes	21	77.8	7	70.0	6	85.7	8	80.0
• No	6	22.2	3	30.0	1	14.3	2	20.0
Total Complaints where Complaint was Withdrawn / Not Proceeded With	27	100	10	100	7	100	10	100
5. Number of investigations making use of								
• investigative planning	17	3.6	6	4.4	0	0.0	11	4.2
• pre-investigative research	33	7.0	14	10.3	3	4.1	16	6.2
• measures other than interviews	74	15.7	23	16.9	9	12.2	42	16.2

Item	All Groups		Group 1		Group 2		Group 3	
	No	%	No	%	No	%	No	%
6. Number of investigations showing active involvement by								
• supervisor	18	3.8	10	7.4	0	0.0	8	3.1
• IA consultant	23	4.9	9	6.6	4	5.4	10	3.8
• IA Central	45	9.6	10	7.4	5	6.8	30	11.5
7. Where finding adverse, appropriate action recommended								
• Yes	83	91.2	20	95.2	11	100.0	52	88.1
• No	8	8.8	1	4.8	0	0.0	7	11.9
Totals Complaints where Finding was Adverse	91	100	21	100	11	100	59	100
8. General conclusions on matters investigated								
• Very satisfactory	33	7.0	11	8.1	5	6.8	17	6.5
• Satisfactory	319	67.9	102	75.0	50	67.6	167	64.2
• Unsatisfactory	103	21.9	22	16.2	14	18.9	67	25.8
• Very unsatisfactory	15	3.2	1	0.7	5	6.8	9	3.5
Total Complaints Investigated	470	100	136	100	74	100	260	100

As noted in Chapter 3, brief reasons were sought from the assessors where they found an investigation to be very satisfactory, unsatisfactory or very unsatisfactory. Following are samples of the reasons provided for each category:

- very satisfactory investigations were characterised by such comments as ‘excellent investigation using a range of strategies not normally used’, ‘extensive inquiries’, ‘very thorough investigation’, and ‘all avenues pursued’;

- unsatisfactory investigations drew comments such as ‘insufficient / inadequate / minimal inquiries’, ‘issues not identified, ‘issues not addressed’, ‘investigation done by former colleague of officer involved’, ‘junior officer investigating senior officer’, and ‘pre-occupation with informant to exclusion of other methodologies’; and

- very unsatisfactory investigations attracted such comments as ‘grossly insufficient inquiries’, ‘complaint re member of task force investigated by another member of the same task force’, ‘conflict of interest by investigator’, and ‘one issue ignored, despite requests by PIC for investigation’.

Table E2: The Commission's Assessment of the 81 Complaints

As indicated in Chapter 2, the Commission analysed in some depth the 44 complaints from the January - July 1997 period that were audited, and the 37 complaints from the July 1997 - January 1998 period that were monitored. The Commission's assessments of those complaints are presented here for purposes of comparison. The percentages refer only to complaints investigated (ie excluding 'other').

	Very Satisfactory		Satisfactory		Unsatisfactory		Very Unsatisfactory		Other	
	No	%	No	%	No	%	No	%	No	%
44 complaints	5	13.9	15	41.7	11	30.6	5	13.9	8[(a)]	-
37 complaints	4	14.8	13	48.1	9	33.3	1	3.7	10[(b)]	-
Totals	*9*	*14.3*	*28*	*44.4*	*20*	*31.7*	*6*	*9.5*	*18*	-

Note:

(a) five of the eight complaints were not investigated, the decision in two of those complaints being unreasonable; in two complaints, no further action was taken after the complaint was withdrawn or not proceeded with, one of those decisions being unreasonable; and there was no report for one complaint.

(b) the investigations into six of the 10 complaints were still continuing; three were not investigated after the complaints were withdrawn at various stages; and one complaint was later determined not to be a Category 1 complaint.


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