



Inspector of the New South Wales Crime Commission

ANNUAL REPORT
of
The Inspector of the
New South Wales Crime Commission

For the year ended
30 June 2013



Inspector of the New South Wales Crime Commission

The Hon Donald Harwin MLC
President
Legislative Council
Parliament House
Sydney NSW 2000

The Hon Shelley Hancock MP
Speaker
Legislative Assembly
Parliament House
Sydney NSW 2000

Dear Mr President and Madam Speaker

In accordance with section 68 of the *Crime Commission Act 2012*, I, as the Inspector of the New South Wales Crime Commission (the Inspector), hereby furnish to each of you for presentation to the Parliament the Annual Report of the Inspector for the year ended 30 June 2013.

This report has been prepared in accordance with the requirements of the *Crime Commission Act 2012*. I recommend that the report be made public forthwith.

Yours sincerely

A handwritten signature in black ink, appearing to be "G Barr".

The Hon Graham Barr QC
Inspector, New South Wales Crime Commission
30 October 2013

TABLE OF CONTENTS

PART 1

THE INSPECTOR'S ROLE AND FUNCTIONS	4
1.1 PRELIMINARY OBSERVATIONS.....	4
1.2 THE INSPECTOR	4
1.3 FUNCTIONS OF THE INSPECTOR	5
1.4 THE POWERS OF THE INSPECTOR	5
1.5 GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009.....	6
1.6 THE PUBLIC INTEREST DISCLOSURES ACT 1994.....	6

PART 2

THE OFFICE OF THE INSPECTOR OF THE CRIME COMMISSION	7
2.1 STAFF	7
2.2 PREMISES.....	7
2.3 BUDGET AND FINANCE	8
2.4 LIAISON WITH THE CRIME COMMISSION.....	8
2.5 MEETINGS/CONFERENCES UNDERTAKEN BY THE INSPECTOR.....	8
2.6 WEBSITE.....	8

PART 3

THE WORK OF THE INSPECTORATE DURING THE REPORTING PERIOD.....	9
3.1 PERIOD 22 APRIL 2013 TO 30 JUNE 2013	9

PART 4

AUDITING OF THE CRIME COMMISSION BY THE INSPECTOR	9
4.1 PERIOD 22 APRIL 2013 TO 30 JUNE 2013	9

PART 1

THE INSPECTOR'S ROLE AND FUNCTIONS

1.1 PRELIMINARY OBSERVATIONS

As the first Inspector of the New South Wales Crime Commission (the Crime Commission) I am charged with holding the Crime Commission accountable in the way it carries out its function. However, before the Inspectorate can work effectively it is necessary to establish furniture, resources, information and communication technology facilities and support, staff, etc. I was appointed on 22 April 2013 and at 30 June 2013 this was not complete. I hope to achieve this to a satisfactory level by the end of the 2013 calendar year.

I have conferred widely since commencing in my role as Inspector, including many conferences with members of staff of the New South Wales Crime Commission and the Chair of the Management Committee of the Crime Commission. I also attended the Internal Audit and Risk Committee meeting of the Crime Commission and will attend all quarterly meetings of this Committee as an invited observer.

Other consultations that have taken place, to assist in my consideration of the requirements and responsibilities of the Inspectorate, include conferences with senior staff from the Ministry for Police and Emergency Services, the Commissioner of the Police Integrity Commission, Inspector of the Police Integrity Commission and Inspector of the Independent Commission Against Corruption

Two complaints were registered during the period April-June 2013. Both remained open at 30 June 2013.

In summary, in addition to the inquiries conducted with regard to the two complaints registered during the period, the work of the Inspectorate has been principally concerned with the establishment of the premises within which the Inspectorate is located, the policies and procedures with which the Inspectorate will subscribe, and the inquiries conducted of various entities regarding the fundamentals and operation of the Inspectorate.

1.2 THE INSPECTOR

Pursuant to section 61 (1) of the *Crime Commission Act 2012*, Her Excellency the Governor appointed the Hon Graham Barr QC to the position of the Inspector of the Crime Commission on 22 April 2013. The appointment was also approved by Cabinet and the Parliamentary Joint Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission, the body empowered to veto the proposed appointment (cl 9 (1) of Sch 3 of the *Crime Commission Act 2012*).

The Inspector holds office for such term (not exceeding 5 years) as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment. The Hon Graham Barr QC was appointed in a part-time capacity for a period of 5 years.

The Inspector derives authority from the *Crime Commission Act 2012* and is accountable through a reporting requirement to both Houses of Parliament. The Parliamentary Joint Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission is authorised to examine each annual and other report of the Inspector and to report to both Houses of Parliament with such comments as it thinks fit on any matter concerning the Inspector.

1.3 FUNCTIONS OF THE INSPECTOR

The principal functions of the Inspector are:

- to audit the operations of the Crime Commission for the purpose of monitoring compliance with the law of the State,
- to deal with (by reports and recommendations) complaints of abuse of power, impropriety and other forms of misconduct on the part of the Crime Commission or officers of the Crime Commission,
- to deal with (by reports and recommendations) conduct amounting to maladministration (including, without limitation, delay in the conduct of investigations and unreasonable invasions of privacy) by the Crime Commission or officers of the Crime Commission, and
- to assess the effectiveness and appropriateness of the procedures of the Crime Commission relating to the legality or propriety of its activities.

In order to carry out these functions, the Inspector may hold inquiries and has the powers, authorities, protections and immunities conferred on a commissioner under the *Royal Commissions Act 1923* for the purpose of such inquiries.

The functions of the Inspector may be exercised on the Inspector's own initiative, at the request of the Minister, in response to a complaint made to the Inspector or in response to a reference by the Parliamentary Joint Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission.

1.4 THE POWERS OF THE INSPECTOR

The Inspector:

- may investigate any aspect of the Crime Commission's operations or any conduct of officers of the Crime Commission,
- is entitled to full access to the records of the Crime Commission and to take or have copies made of any of them,
- may require officers of the Crime Commission to supply information or produce documents or other things about any matter, or any class or kind of matters, relating to the Crime Commission's operations or any conduct of officers of the Crime Commission,
- may require officers of the Crime Commission to attend before the Inspector to answer questions or produce documents or other things relating to the Crime Commission's operations or any conduct of officers of the Crime Commission,
- may investigate and assess complaints about the Crime Commission or officers of the Crime Commission,
- may refer matters relating to the Crime Commission or officers of the Crime Commission to other public authorities or public officials for consideration or action, and
- may recommend disciplinary action or criminal prosecution against officers of the Crime Commission.

During the reporting year, formal inquiry hearings into complaints received were conducted, as appropriate.

1.5 GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009

The *Government Information (Public Access) Act 2009* (GIPA Act) came into force on 1 July 2010. The GIPA Act replaces the *Freedom of Information Act 1989*. The object of the GIPA Act is to open government information to the public by:

- authorising and encouraging the proactive public release of government information by agencies,
- giving members of the public an enforceable right to access government information, and
- providing that access to government information is restricted only where there is an overriding public interest against disclosure.

The GIPA Act requires government agencies to make certain information easily available to the public without requiring a specific application for such information to be made. This is known as open access information and includes:

- information about who an agency is, what it does and the information it holds (known as its publication guide),
- information about the agency which has been tabled in Parliament,
- an agency's policy documents, and
- a log of all of the information released in response to applications (known as a disclosure log) and information about any contracts valued at over \$150,000.

Agencies are also required to provide an explanation if they do not make any of the information listed above publicly available.

The Inspector is exempt from the GIPA Act in not having to provide information relevant to his statutory functions. The Inspector will therefore not provide any information concerning individual details of complaints, investigations, audits and reporting functions which have not already been made publicly available by way of a report or in another publication.

The Inspector will not provide information concerning the Crime Commission's complaints, investigations and reporting role which have not already been made publicly available.

The Inspectorate did not receive any requests for information pursuant to the GIPA Act during the period.

1.6 THE PUBLIC INTEREST DISCLOSURES ACT 1994

The *Public Interest Disclosures Act 1994* (PID Act) provides that public officials who wish to report serious wrongdoing in public sector agencies can do so on a confidential basis. Under the PID Act, complaints or allegations made by public servants or public officials are called disclosures. The PID Act also provides for such persons to be protected against reprisals for making such disclosures.

The *PID Act* requires and emphasises that public agencies be pro-active in fulfilling their obligations under the PID Act. Heads of public authorities must therefore ensure that their staff know how to report serious wrongdoing to someone who can do something about it. Action can be taken against those who threaten or carry out reprisals against reporters.

Monitoring and enforcement of the PID Act has been assigned to the NSW Ombudsman. The Ombudsman is responsible for ensuring that the NSW public service agencies implement the PID Act effectively.

Under the PID Act the Inspector of the Crime Commission is a public official to whom a complaint can be made only about serious wrongdoing by the Crime Commission or its officers.

The Inspector is an investigating authority under the PID Act and pursuant to section 6D (1) of the Act. The Inspectorate is to have a policy for managing public interest disclosures. This policy is the Inspector's Statement of Commitment to the legislation and is available on the Inspector's website.

The Inspectorate did not receive any disclosures pursuant to the PID Act during the period.

PART 2

THE OFFICE OF THE INSPECTOR OF THE CRIME COMMISSION

2.1 STAFF

At the end of the reporting period, the Inspectorate was constituted by the Inspector and two support staff.

The Executive Assistant to the Inspector is employed by the Office of the Inspector of the Crime Commission to work four days per week. The Executive Assistant to the Inspector is the primary contact at the Inspectorate.

The other staff member of the Inspectorate is a Senior Policy Analyst, who is employed by the Inspector for approximately one day per week. The Senior Policy Analyst is primarily an advisory role with responsibility for matters which are of a policy or legal nature.

The Inspectorate is additionally supported by staff of the Ministry for Police and Emergency Services to provide technology and communications support, as required.

2.2 PREMISES

During the reporting period the premises of the Inspectorate were located in the central business district.

Postal address GPO Box 3015, Sydney NSW 2001

Telephone (02) 9258 0938

Facsimile (02) 9258 0936

Email inspector@oicc.nsw.gov.au

The Inspectorate became effective on 22 April 2013. However, the Inspectorate was not considered to be effective to a satisfactory level by 30 June 2013. It is anticipated that this will be achieved by the end of the 2013 calendar year.

2.3 BUDGET AND FINANCE

In 2012-13, the Ministry for Police and Emergency Services received a \$68,000 grant from NSW Treasury for the Office of the Inspector of the Crime Commission.

The grant was used to pay rent for the leased premises of the Inspectorate, fund the establishment of a website for the Inspector, purchase a printer and office furniture, and was attributed towards salaries.

2.4 LIAISON WITH THE CRIME COMMISSION

The Inspector has conferred widely since commencing in the role. He has held several conferences with members of staff of the Crime Commission and the Chair of the Management Committee of the Crime Commission. The Inspector attended the Internal Audit and Risk Committee meeting of the Crime Commission and will attend all quarterly meetings of this Committee as an invited observer.

2.5 MEETING/CONFERENCES UNDERTAKEN BY THE INSPECTOR

During the reporting period, the Inspector met with the Commissioner of the Crime Commission in May and June. The Inspector attended the meeting of the Internal Audit and Risk Committee of the Crime Commission on 26 June 2013 and will continue to attend all quarterly meetings of this Committee as an invited observer.

The Inspector attended the Crime Commission Management Committee meeting on 14 May 2013. It is not expected that the Inspector will continue to attend the meetings of the Management Committee.

Other consultations that have taken place during the period to discuss operational and policy issues, including conferences with the Chief Executive Officer and the Executive Director Police and Finance of the Ministry for Police and Emergency Services, the Commissioner of the Police Integrity Commission, the Inspector of the Police Integrity Commission and Inspector of the Independent Commission Against Corruption.

The Inspector has conducted inquiries, as appropriate, in response to two complaints received during the reporting period.

2.6 WEBSITE

www.oicc.nsw.gov.au

PART 3

THE WORK OF THE INSPECTORATE DURING THE REPORTING PERIOD

3.1 PERIOD 22 APRIL 2013 TO 30 JUNE 2013

Two complaints were registered during the period April-June 2013. Both remained open at 30 June 2013.

As previously discussed, the Inspectorate was not considered to be satisfactorily established by 30 June 2013. However, satisfactory attention was given to complaints received.

PART 4

AUDITING OF THE CRIME COMMISSION BY THE INSPECTOR

4.1 PERIOD 22 APRIL 2013 TO 30 JUNE 2013

During the period, the Inspector and Senior Policy Analyst worked closely together on establishing processes whereby the auditing of the Crime Commission could take place. Consideration of the powers used by the Crime Commission informed the development of an internal strategic plan that the Inspectorate will use to effect the audit by the Inspectorate of the Crime Commission.

At 30 June 2013, the strategic plan for auditing was under development in consultation with the Internal Auditor and senior staff of the Crime Commission.



The Hon Graham Barr QC
Inspector, New South Wales Crime Commission
30 October 2013