



Report of the
**SERIOUS FRAUD
OFFICE**

TE TARI HARA TĀWARE

for the year ended
June 2004

*Presented to the House of Representatives pursuant to Section 30 of the
State Sector Act 1988 and Section 39 of the Public Finance Act 1989*

Hon. Margaret Wilson
Attorney-General

Pursuant to Section 22 of the State Sector Act 1988 and Section 39 of the Public Finance Act 1989 I refer to you the financial statements for the Serious Fraud Office for the year ended 30 June 2004.

A handwritten signature in black ink, appearing to read 'DJ Bradshaw', written in a cursive style.

DJ Bradshaw
Director

CONTENTS

	<i>PAGE</i>
STATEMENT OF PURPOSE	6
CHIEF EXECUTIVE'S OVERVIEW	8
STATEMENT OF RESPONSIBILITY	17
REPORT OF THE AUDIT OFFICE	18
PERFORMANCE INFORMATION	20
Statement of Objectives and Service Performance	21
Summary of Total Cases	22
Output Measures	23
Use of Statutory Powers	28
Prosecutions Completed	30
Statement of Accounting Policies	37
Statement of Financial Performance	41
Statement of Movements in Taxpayers' funds	42
Statement of Financial Position	43
Statement of Cash Flows	44
Statement of Commitments	45
Statement of Contingent Liabilities	45
Statement of Departmental Expenditure and Appropriations	46
Notes to Financial Statements	47
MANAGEMENT PERFORMANCE INFORMATION	51
Corporate and Collective Interest Management Report	52
INFORMATION ABOUT THE DEPARTMENT	55
Policy on Acceptance of Cases	56
Management and Structure	59
Serious Fraud Office Act – Panel of Prosecutors	60
Public Relations	61

DIRECTORY

Location:	Level 2 Duthie Whyte Building Cnr Mayoral Drive and Wakefield Street Auckland City
Postal Address:	PO Box 7124, Wellesley Street, Auckland
Auditor:	Audit New Zealand on behalf of the Controller and Auditor General
Bankers:	Westpac, Government Branch, Wellington

STATEMENT OF PURPOSE

The Serious Fraud Office (SFO) is an operational department whose purpose is to detect and investigate cases of serious or complex fraud offending (in terms of the Serious Fraud Office Act 1990) and expeditiously prosecute offenders.

The services provided by the Serious Fraud Office contribute to the Government's strategic objectives, principally in the areas of encouraging a strongly growing, internationally competitive enterprise economy and building an economically strong and cohesive New Zealand.

Honest capital markets are crucial to achieving the objective of maintaining a strong and internationally competitive economy. Successful investigation and prosecution of "white collar" crime sustains New Zealand's reputation for honest capital markets, as well as deterring potential offenders.

By maintaining an effective "white collar" law enforcement capacity, the Serious Fraud Office is contributing towards enhancing investor confidence and encouraging investors to invest in New Zealand.

***Departmental
Scene Setting***

CHIEF EXECUTIVE'S OVERVIEW

"All animals are equal, but some animals are more equal than others".

George Orwell

Addressing White Collar Crime: A Serious Fraud Office

In the late 1980's there was general public dissatisfaction with the investigation and prosecution of white collar crime. There was a feeling that significant white collar offenders, by engaging high-powered financial and legal advisers, were able to out-manoeuvre law enforcement authorities and thereby avoid proper investigation of their activities. On the other hand, persons of lesser means involved in less complex activities were subjected to the full weight of the law. The response was the creation of the Serious Fraud Office with special powers to enable it to get to the heart of white collar crime.

The special provisions contained in the Serious Fraud Office Act 1990 included

- the ability to compulsorily obtain any information or documents relevant to an investigation (All duties of confidentiality to clients other than legal professional privilege were set aside).
- the ability to require people to honestly and completely answer questions on any matter relevant to an investigation (ie there was no right to remain silent)
- the Director's decision to investigate any particular matter was not open to review
- any challenge to any actions taken by the Director in the course of an investigation were not to prevent the Director from continuing with the investigation pending the ruling by the Court.

The Office brought together multi-disciplinary teams of investigators/forensic accountants/prosecutors to work on cases of serious or complex fraud.

There is no doubt that the creation of the Serious Fraud Office has been a success. The Office is continuing to successfully investigate and prosecute a growing number of cases of serious or complex fraud. This has been achieved primarily by finding ways to improve the efficiency of the Office rather than by any significant increases in resources.

My message this year is that whilst we are making a significant impact on white collar crime there is no room for complacency. The scene is not all rosy. There are a few worrying signs that the concerns that led to the establishment of the Serious Fraud Office may be reappearing in some quarters. That is not to say that the establishment of a Serious Fraud Office has not been a success. It has been. And as this Report shows, the Office continues to achieve above average results as a law enforcement agency. On-going vigilance, however, is required to ensure that New Zealand maintains its reputation for being largely free from serious corruption, fraud and corporate scandals.

The sharemarket collapse of the late 1980s is now a distant memory. For many people now holding key positions in business their only knowledge of the crash comes from what they have read or been told. The public outcry over the activities of some

“successful” businessmen following the sharemarket crash (which outcry was a strong influence on the decision to create the Serious Fraud Office) is similarly fading into the background as the market has regained its respectability.

Attitudes Towards White Collar Crime

It is timely to take stock of some of the attitudes towards white collar offending in New Zealand over the past few years. There have been one or two cases that suggest that white collar offenders may still be treated more leniently than other criminals. I’m not suggesting a deliberate bias but rather a much more subtle influence.

My concerns are illustrated by the comments made in a few Court decisions over the past few years.

In 2001 an offender, a businessman, was facing charges of corruption for bribing senior employees in a company in order to benefit to the tune of almost \$2 million¹.

The investigation was complex and took 18 months to complete. Charges were laid against the businessman and the two persons in the company who had received the bribes. The alleged offenders denied any wrongdoing throughout the 18 months of the investigation and the 2 years that it took to get the case to trial. The defendants pleaded not guilty and the matter went to trial. After only a few days of a planned 5 week trial the Judge had to stop the trial due to the unavailability of two of the jurors. Before the case went to a second trial the businessman elected to plead guilty. Some time later the other two defendants also pleaded guilty.

At the sentencing of the businessman the Judge stated that this was a serious case of corruption. Despite the defendant having denied giving any bribes for almost 4 years, including pleading not guilty at the aborted trial, the Judge praised the defendant for *“the most genuine and committed remorse you have expressed not just in words but by real conduct, but for which the sentence would have been significantly heavier. You have not lost at all by ultimately accepting responsibility and acting honourably in the light of being caught”*. The Judge described the defendant as being *“an astute hard working and very competent businessman brought down by greed”*. The defendant repaid \$1.9 million, the amount of the benefit obtained from the bribery. The Judge saw this as *“a significant loss to you [the defendant]”*.

The Judge said that a deterrent sentence was necessary to show that bribery was not acceptable in New Zealand society. The defendant was sentenced to 6 months imprisonment, deferred pending consideration of an application for home detention.

Less than a year later the same businessman was being sentenced on charges again brought by the Serious Fraud Office for selling imported motor vehicles with wound back odometers². He again pleaded guilty at the last moment before trial and only after making a number of legal challenges to the Crown’s case against him. Notwithstanding that the Judge knew of the earlier offending the Judge described the defendant as an *“otherwise honest businessman”* who was *“regretful for what you have done”*. The sentence was 6 months imprisonment deferred to allow time for home detention to be considered.

On both occasions the businessman tried every possible legal avenue to avoid the case going to trial. Ultimately, he admitted his guilt but not until all avenues of legal challenge open to him (other than for the matter to go to trial) were exhausted.

One wonders whether there could be any other offending where a Judge would describe a person as *"otherwise honest"* when they were appearing in Court on their second serious offence of dishonesty within a relatively short period.

In 2003 another major corruption case was before the Courts. Two defendants were facing charges involving over \$600,000 of bribes given over several years. The bribes were given in order to obtain preferential access to lucrative property transactions where the government department was a base tenant in the properties. This was by far the largest case of bribery of a public servant in the history of the New Zealand Public Service³.

The defendants once again tried every legal avenue available to them to whittle down the charges or to get them thrown out completely. After years of pretrial arguments the case went to trial. The defendants protested their innocence through 15 months of the investigation and the 2½ years leading up to the trial. After 6 weeks of evidence the jury found both defendants guilty.

Once again, the Judge began the sentencing by remarking on the seriousness of the offending and the need for a deterrent sentence. The Judge noted the significant financial gains to be made by the person offering the bribes – there were 25 transactions identified. In one case alone the developer's profit was between \$400,000 and \$500,000 – with no risk attached. Despite these large sums, the Judge took a lesser starting point for the sentencing on the basis that a third party had not suffered any loss.

The public servant, shortly before sentencing but after having been found guilty by the jury, acknowledged, for the first time, receipt of the bribes. The Judge found him to be genuinely remorseful. This was after 2½ years of legal challenges, of denying any illegal conduct, and claiming throughout that the money alleged by the Serious Fraud Office to be bribes was legitimate income from other sources.

The businessman who paid the bribes was described by the Judge as a highly successful individual who had been an excellent servant of the community having contributed both his time and his resources to various deserving charities. The Judge found, however, that this defendant had been prepared to lie under oath at the trial in an attempt to escape responsibility for the corrupt actions. The Judge described him as a *"clever shrewd man who got caught on this occasion"*.

In concluding, the Judge said that both defendants were entitled to significant credit for their *"otherwise good conduct"* and their *"position in the community"*. The Judge gave each of the defendants a 25% reduction in their prison term. Reductions of this order are usually given for an early plea of guilty where the costs of a full trial are avoided. Each defendant was sentenced to 3 years imprisonment.

The case stands in stark contrast to the low level Customs official who received 4 years imprisonment for accepting \$150,000 to \$200,000 in bribes to allow 154 cars to be imported into New Zealand without the proper Customs checks being made and duty paid. The duty would have amounted to about \$290,000. The Customs officer co-

operated fully with Customs immediately the offending was discovered and pleaded guilty at the earliest opportunity⁴.

The disparity in the approach towards sophisticated white collar criminals was highlighted again for me in a case where a beneficiary with several children was overpaid social welfare benefits of around \$170,000 over 9½ years after misleading Social Welfare as to her domestic circumstances⁵. This was not a case involving any significant financial gain for the offender. The benefit monies were used for the purposes intended, namely to support the family which had real financial needs. The mother was sentenced to 3½ years imprisonment. The starting point for the Judge for this offending was 4 years imprisonment – the same starting point as for the senior Public Servant who accepted in bribes over three times the amount of money that this beneficiary obtained by her deceit. The Judge, on humanitarian grounds, reduced the starting point to 3½ years but found no mitigating factors to justify any reduction in her sentence.

In August 2003 a defendant who had been found guilty of dishonesty in relation to his fiduciary duties as the Manager of a forestry unit trust was sentenced to just 400 hours community service⁶. Again this was a case where the investigation and the trial took a number of years due to the complexity of the financial arrangements and the arguments raised by the defendant. In determining penalty the Judge said the defendant was entitled to full credit for his *“unblemished career and his valuable contribution to society”*. The Judge also gave the defendant credit for the *“devastating effect that a Serious Fraud investigation of approximately five years has had”*. The investigation in fact took about 3 years; the last two years were spent getting the case heard in Court. Unlike most criminal cases, the defendant was granted name suppression throughout. One of the mitigating factors given weight to by the Judge in determining the sentence was *“the acceptance (sic by the defendant) of the Court’s finding and the remorse shown”*. Shortly after sentencing the defendant lodged an appeal challenging the decision of the Court finding him guilty.

I am not suggesting that those determining the sentences have deliberately acted in favour of the defendants who were described by the Court to be successful businessmen and respectable members of the community. I am concerned, however, that even today, 15 years after the establishment of the Serious Fraud Office, there remains in some areas an approach towards white collar offending that makes the fight against fraud and corruption particularly difficult and encourages white collar criminals to deny responsibility for their actions for as long as possible, with minimal adverse consequences. The successful businessman who has acted corruptly on numerous occasions over several years and benefited by large amounts of money has a chance of being regarded as simply overstepping the mark, or making an error of judgement in an otherwise successful career. In all of these cases the defendant’s contribution to, or standing in, the community was accepted as a mitigating factor. The Courts were also willing to discount the sentence for the length of time that had elapsed between the offending and sentencing. Such an approach almost inevitably creates a bias in our criminal law in favour of the sophisticated white collar criminal. The low level Customs officer who literally can’t afford to be a pillar of society in the same way as the rich businessman can, and who accepts responsibility for his actions at the earliest possible moment, is treated much more severely by our legal system.

Nowhere in the sentencing notes will you find any comment about the huge costs that the community has had to bear whilst the “successful businessman” runs legal challenges at every step of the process in an attempt to avoid having to face the full consequences of his actions. I don’t question a defendant’s right to engage the best criminal defence counsel and to take every legal point possible. The Serious Fraud Office was established, in part, in recognition of the fact that that would be the approach taken by affluent white collar criminals and the Crown needed to be able to respond appropriately and not allow the legal tactics to divert attention away from the real offending. But if a defendant adopts such an approach our justice system should not then give that person credit for a guilty plea or a claim of remorse that comes about only when every other legal avenue has been exhausted.

It is inevitable in our judicial system that there will be some discrepancies between sentences. But the white collar criminal is at a distinct advantage if success in business and contribution to the community or to society are to serve to significantly reduce the sentence.

White collar offending is usually of an insidious nature. The harm that such offending does within a community is not always readily apparent. We do our society a disservice when we refer to white collar offenders as upstanding members of the community, as honest and as honourable. Such terms fail to reflect the pernicious effect of white collar crime on the community. Our outrage at offending should be no less simply because the offender is clean shaven, lives in a “good” neighbourhood, and supports worthwhile charities. If anything we should be more outraged at the double standards of the white collar offender.

I need to be very clear here that I am not suggesting we see these kinds of comments in every case. My message is for continuing vigilance to ensure that white collar offending is seen as the predatory behaviour that it really is. In the majority of Serious Fraud Office prosecutions the sentence imposed in my view is entirely adequate and appropriate.

There are comments made by Judges in the course of sentencing white collar criminals that recognize that the subtle pressures that I have referred to above do exist and can easily creep into the equation when sentencing white collar criminals. For example, in sentencing a successful businessman a few years ago for fraud offending involving over a million dollars, the Judge said:

“I say at the outset that sentencing is always a difficult exercise. In cases of this sort it is particularly difficult because all too frequently, indeed almost inevitably, offenders come from a background of success, of qualifications, of ability, and of general respect in the community. That evokes significant difficulties for a court in sentencing, but the Court can’t be deflected on that ground”

Legal Professional Privilege

The reluctance to readily accept that white collar offending occurs within even the most respected of professions is reflected in the legal protection afforded to information held by lawyers.

It is an unfortunate fact that the Office each year prosecutes a number of professional people for quite significant frauds mostly involving a serious breach of trust with their

clients. The reported prosecutions for the past year include several such cases. Several more professional people are currently being investigated or prosecuted by the Office for their part in alleged fraudulent offending.

The number of lawyers prosecuted for serious fraudulent offending raises a question about the appropriateness of legal professional privilege being able to be used to prevent the Serious Fraud Office fully investigating alleged offending. This issue becomes even more acute when it is realized that there are other cases where lawyers have been on the periphery of the fraud but the evidence available to me has fallen short of that required under the Solicitor General's guidelines to commence a criminal prosecution. That situation is further compounded by a tendency for some authorities to not always see the actions of legal advisers for the serious dishonesty that it is. Thus, for example, the Office prosecuted a lawyer for deliberately destroying documents that he knew were relevant to an investigation by the Serious Fraud Office into a fraud of over \$1 million involving one of his clients⁸. The lawyer was found guilty of the offence which only came to my attention when an ex employee of the firm revealed what had happened several years on. The lawyer was fined \$25,000 by the Court, was censured and fined by the Law Society, but remains in practice today. There have been other cases where the Office has prosecuted lawyers for their role in the fraudulent offending where attempts have been made to impede the investigations by the Office.

In this environment it is timely to ask whether legal professional privilege should continue to act as a barrier to the effective detection, investigation and prosecution of white collar crime. Legal professional privilege is the only area where "confidential information" is not available to the Director. Whilst the law allows an exception where the advice is made or brought into existence for the purpose of committing or furthering the commission of some illegal or wrongful act, the fact is that obtaining the evidence even in those circumstances is fraught with difficulties. Until the Serious Fraud Office has an opportunity to see the material it is often not possible in complex cases to determine the significance of that material in the overall context of the investigation. But in most instances the lawyers will do all that they can to avoid the Serious Fraud Office having any access at all.

The Serious Fraud Office Act provides, in section 24, that in the case of a dispute over the application of legal professional privilege the matter is to be referred to a District Court Judge for a decision. On the face of it that seems a sensible solution. In reality, it has some significant drawbacks. Where only a few documents are involved and the fraud allegations are straightforward, the documents thought to be of relevance can be identified with some degree of certainty and the Court should then be able to provide the necessary ruling within a short period. But even the most straightforward of cases has taken months to determine due to the need to arrange Court fixtures, hear argument, consider the documents and then make a decision. In many cases the investigation will need to be put on hold pending the outcome of the legal privilege argument.

Today, there is the very real likelihood that the information for which legal professional privilege is being claimed will relate to information on the computer system of the legal firm. The Serious Fraud Office has special tools and resources for searching for information held on computers. This includes being able to search for certain documents across the whole of the computer system including those parts of the computer memory that are only accessible using special software programs. This is an important part of

any investigation given that documents may not necessarily be filed under the most obvious descriptions. It has, however, raised issues for legal professional privilege. Section 24 envisages one or two documents being put before a Judge for a ruling not a whole computer system. The Court is not equipped to conduct a search of a computer system. Nor should it be. The role of investigating the alleged offending properly rests with trained investigators and forensic accountants from within the Serious Fraud Office. But until a trained investigator interrogates the computer system it is impossible to identify what documents might be relevant to the investigation for which legal professional privilege may be claimed. Unsatisfactorily, the present trend is for lawyers to deny the Serious Fraud Office access to any information at all by making a blanket claim of legal professional privilege.

In a recent case the Judge appointed an independent person to assist him in the process of sorting through all the information on the computer to determine relevancy. This approach had the effect of limiting the investigative work that my trained investigators could do on the computer material. Instead, I had to rely on the decisions of the independent person who had no training in the investigation of serious or complex fraud. In that case the issues were slightly easier to determine as legal professional privilege was being claimed over company documents simply because the solicitor was an owner of the company and the documents were held in the legal firm. The Court held that legal professional privilege did not extend to such documents. Eventually the documents were obtained by the Office, but a straightforward investigation was delayed by over a year⁹.

When passing the Serious Fraud Office Act in 1990 Parliament clearly intended that legal challenges to investigations by the Serious Fraud Office were not to impede an investigation. This addressed the fact that sophisticated white collar criminals may seek to use the legal system to delay or prevent an investigation. The increasing number of claims of legal professional privilege suggests to me that this is now beginning to occur – using the argument of legal professional privilege as the basis.

It has always seemed to me to be odd the way that legal professional privilege was treated under the Serious Fraud Office Act. Given that virtually every other form of “confidence” is set aside in the Act, it seems unusual that legal documents are exempted from the scope of material available for the investigation of serious or complex fraud. I am not talking here of legal advice that might be sought once a Serious Fraud Office investigation has commenced but rather legal advice and documents held by a lawyer that were brought into existence prior to any suggestion of a criminal investigation. Why should the trust between a lawyer and client in these circumstances be any more sacrosanct than the relationships between an accountant and client, or banker and client, or doctor and patient? If the communication/advice is honestly given for legitimate purposes then there can be no concern about its disclosure to the Serious Fraud Office especially given the secrecy provisions of the Serious Fraud Office Act. If necessary, these secrecy provisions could be strengthened for legally privileged material. If the advice is for nefarious purposes should it be protected? How will the Serious Fraud Office ever determine the relevance of the information if it is unable to have access to the material in the first instance? Defendants will from time to time claim to have had an “honest belief” in their actions based on legal advice received. If this can be a legitimate defence then all legal advice and the basis for that advice ought to be able to be

scrutinised. As the law stands at present a lawyer suspected of a serious or complex fraud is in a better position to resist an investigation by the Serious Fraud Office than any other person in the community including other professional people. The lawyer can claim legal professional privilege over everything and delay the investigation almost indefinitely as the Courts grapple with how to determine what access the Serious Fraud Office is going to be given to the lawyer's documents. I am fully anticipating that the number of challenges based on legal professional privilege will increase over the coming years unless something is done about it.

It is said that legal professional privilege is essential for the proper administration of justice; that a person has to be able to place unrestricted and unbounded confidence in their lawyer. Without legal professional privilege it is said that that would not be possible. The suggestion is that our legal system would be seriously damaged if there was to be any diminution at all to the concept of legal professional privilege.

Those same fears were raised when the Serious Fraud Office legislation proposed the removal of the right to silence in Serious Fraud Office interviews. The reality is that the criminal justice system hasn't collapsed and there haven't been any claims that this power has been abused. In determining policy on these types of matters it is important to recognize that law enforcement agencies act responsibly in carrying out their tasks. All too often when a new power is being proposed there is opposition to it on the basis of possible abuse. We are fortunate in New Zealand that our law enforcement agencies can be trusted to act responsibly. They have always been accountable for their actions and remain so to this day.

The evidence shows that lawyers are involved with assisting sophisticated white collar offending. This may be inadvertently as a legitimate legal adviser or regrettably, on occasions, as a participant in the offending. The sophisticated criminal knows that legal professional privilege will provide a measure of protection to his or her activities. The criminal also knows that their lawyer and the Courts will not lightly set aside any claim of legal professional privilege. The net effect is that legal professional privilege serves well the interests of the sophisticated white collar criminal.

Legal professional privilege does have a place in our justice system but that should not be to provide a safe haven for criminals. Allowing the Director of the Serious Fraud Office to go behind legal professional privilege need not necessarily alter the privilege for any other purpose. Such access could be balanced, as occurred with the removal of the right to silence, by ensuring that any information so acquired was treated in absolute confidence and could not be used for any purpose other than the investigation and prosecution of serious or complex fraud save in very exceptional circumstances. The Director's access to such material should exclude any legal advice sought in relation to the investigation itself and any subsequent prosecution.

I am aware that my suggestions represent a radical departure from our current law. It would, however, in my opinion, do a great deal to enhance the administration of justice both in terms of the integrity of the legal profession, the majority of whom would not be affected by such a change, and the fight against fraud and corruption.

If there was to be a fundamental change along the lines I have suggested I would hope that it could be achieved with the joint support of the main political parties. One of the

strengths of the Office has been the total support that it has received in the fight against white collar crime from the Ministers of respective Governments over the past 15 years. The fight against fraud and corruption has benefited considerably from this bipartisan support for the Office. That is an approach that I would hope will continue.

The Past Year

During the year the Office continued to share its expertise with the smaller island nations in the South Pacific. The Office assisted with a complex investigation and prosecution of corruption in the Cook Islands, and provided assistance to the Cook Islands in gathering evidence from New Zealand witnesses for a fraud prosecution in the Cook Islands¹⁰. In June I met with law enforcement officials from Fiji who were seeking guidance on managing a case involving many thousands of documents. The Office is providing assistance in that case. In May, the Office addressed the meeting of the South Pacific Auditors-General in Samoa providing practical advice on the detection of fraud.

At home the Serious Fraud Office completed its work in developing a system that would enable it to present evidence electronically in Court. During the year the system was used successfully in two trials. One of those trials involved four defendants and over 10,000 documents¹¹. There will be considerable savings in paper and photocopying costs within the Office, and even greater savings in Court time. The “electronic court” system could well reduce our longer trials by up to 25%.

Full details of the work of the Office during the year are contained elsewhere in this Report. Those details reflect well on the commitment, energy and talents of the staff of the Office. I have greatly appreciated their sterling contribution over the past year. I must also pay tribute to the panel of prosecutors who represent the Office so ably in defended Court hearings, and to all of those people who have supported the Office behind the scenes during the year including the wives, husbands and families of my staff.

DJ Bradshaw
Director

References


- ¹ *R v Bansal* (Sep 2001)
- ² *R v Bansal* (Aug 2002)
- ³ *R v Griffiths & Giles* (Dec 2003)
- ⁴ *R v Nua* (June 2001)
- ⁵ *R v Osborne* (March 2004)
- ⁶ *R v Simcock* (Aug 2003)
- ⁷ *R v Mathewson* (July 1999)
- ⁸ *R v Ellis* (Dec 2001)
- ⁹ Name withheld as case still under investigation
- ¹⁰ Drollett & Friend
- ¹¹ *R v Allan, Christie, Christie and Buckland*

**STATEMENT OF RESPONSIBILITY
FOR THE YEAR ENDED 30 JUNE 2004**

In terms of sections 35 and 37 of the Public Finance Act 1989, I am responsible, as Chief Executive of the Serious Fraud Office, for the preparation of the Department's financial statements and the judgements made in the process of producing those statements.

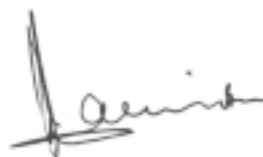
I have the responsibility of establishing and maintaining, and I have established and maintained, a system of internal control procedures that provide reasonable assurance as to the integrity and reliability of financial reporting.

In my opinion, these financial statements fairly reflect the financial position and operations of the Department for the year ended 30 June 2004.



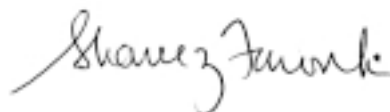
DJ Bradshaw
Director

24 September 2004



Neville Macindoe
Chief Financial Officer

(to 3 September 2004)
24 September 2004



Shareez Farouk
Chief Financial Officer

(from 6 September 2004)
24 September 2004



Audit New Zealand

AUDIT REPORT

TO THE READERS OF THE SERIOUS FRAUD OFFICE'S FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2004

The Auditor-General is the auditor of the Serious Fraud Office (the Office). The Auditor-General has appointed me, H C Lim, using the staff and resources of Audit New Zealand, to carry out the audit of the financial statements of the Office, on his behalf, for the year ended 30 June 2004.

Unqualified opinion

In our opinion the financial statements of the Office on pages 21 to 50:

- comply with generally accepted accounting practice in New Zealand; and
- fairly reflect:
 - the Office's financial position as at 30 June 2004;
 - the results of its operations and cash flows for the year ended on that date; and
 - its service performance achievements measured against the performance targets adopted for the year ended on that date.

The audit was completed 24 September 2004, and is the date at which our opinion is expressed.

The basis of the opinion is explained below. In addition, we outline the responsibilities of the Chief Executive and the Auditor, and explain our independence.

Basis of opinion

We carried out the audit in accordance with the Auditor-General's Auditing Standards, which incorporate the New Zealand Auditing Standards.

We planned and performed our audit to obtain all the information and explanations we considered necessary in order to obtain reasonable assurance that the financial statements did not have material misstatements, whether caused by fraud or error.

Material misstatements are differences or omissions of amounts and disclosures that would affect a reader's overall understanding of the financial statements. If we had found material misstatements that were not corrected, we would have referred to them in the opinion.

Our audit involved performing procedures to test the information presented in the financial statements. We assessed the results of those procedures in forming our opinion.

Audit procedures generally include:

- determining whether significant financial and management controls are working and can be relied on to produce complete and accurate data;
- verifying samples of transactions and account balances;
- performing analyses to identify anomalies in the reported data;
- reviewing significant estimates and judgements made by the Chief Executive;
- confirming year-end balances;
- determining whether accounting policies are appropriate and consistently applied; and
- determining whether all financial statement disclosures are adequate.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements.

We evaluated the overall adequacy of the presentation of information in the financial statements. We obtained all the information and explanations we required to support the opinion above.

Responsibilities of the Chief Executive and the Auditor

The Chief Executive is responsible for preparing financial statements in accordance with generally accepted accounting practice in New Zealand. Those financial statements must fairly reflect the financial position of the Office as at 30 June 2004. They must also fairly reflect the results of its operations and cash flows and service performance achievements for the year ended on that date. The Chief Executive's responsibilities arise from the Public Finance Act 1989.

We are responsible for expressing an independent opinion on the financial statements and reporting that opinion to you. This responsibility arises from section 15 of the Public Audit Act 2001 and section 38(1) of the Public Finance Act 1989.

Independence

When carrying out the audit we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the Institute of Chartered Accountants of New Zealand.

Other than the audit, we have no relationship with or interests in the Office.



H C Lim
Audit New Zealand
On behalf of the Auditor-General
Wellington, New Zealand

***Performance
Information***

**STATEMENT OF OBJECTIVES AND SERVICE PERFORMANCE
FOR THE YEAR ENDED 30 JUNE 2004**

2001/02 Actual \$000	2002/03 Actual \$000		2003/04 Actual \$000	Budget \$000
		Output		
4,444	4,588	Investigation and Prosecution of Complex and Serious Fraud	4,747	4,748
<u>4,444</u>	<u>4,588</u>	Total (excluding GST)	<u>4,747</u>	<u>4,748</u>

*The accompanying accounting policies and notes
form part of these financial statements*

STATEMENT OF SERVICE PERFORMANCE

1. SUMMARY OF TOTAL CASES FOR THE YEAR ENDED 30 JUNE 2004

A total of 62 cases were on hand at the beginning of the year at assessment/detection, full investigation or prosecution stage. During the year a further 72 new cases were assessed and 2 cases were reinstated. This gave the Office an overall caseload of 136 files. At the end of the financial year there were 57 cases on hand – 6 at assessment/detection, 22 at full investigation and 29 prosecutions.

Note:

<i>Assessment</i>	complaints undergo an initial assessment to determine whether the matter has reached the statutory threshold for the further consideration under either the Detection or Investigation provisions of the Serious Fraud Office Act 1990.
<i>Detection</i>	some complaints require further consideration of all the documentary material to determine whether the complaint should proceed to a full investigation
<i>Investigation</i>	involves obtaining and analysing documents, researching financial transactions and interviewing potential witnesses and suspects to determine whether charges are to be laid
<i>Prosecution</i>	involves preparing the prosecution files, brief evidence and conducting the prosecution

2. OUTPUT MEASURES

Class of Output: Investigation and Prosecution of Serious or Complex Fraud

Description

The output class involves the investigation of suspected cases of serious or complex fraud brought to the attention of, or detected by, the Serious Fraud Office, and the prosecution of those cases where the Director is satisfied that a prosecution should be commenced.

Following investigation, the Director makes a decision on whether or not any criminal charges should be laid.

The prosecution of the case requires the preparation of a well-researched and documented prosecution case. This encompasses the filing of all court documents, the preparation, researching and collating of all documentary and oral evidence; and appearing as Counsel at all preliminary court hearings and as Junior Counsel at trial.

This output class includes the briefing of the outside Counsel engaged for the trials, the giving of evidence at trials and the provision of expert advice throughout the course of trials.

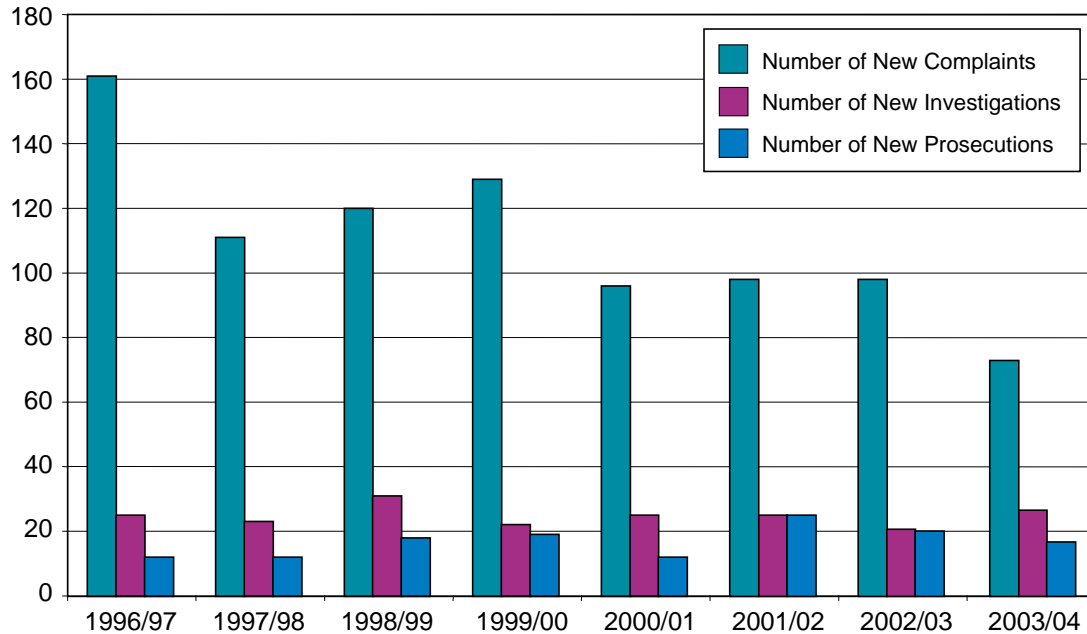
Outcome

To combat serious and/or complex fraud offending.

Details of Complaints and Investigations

As the trend in the diagram below indicates, the number of new complaints received over the past few years has been relatively stable. There was a slight drop in the number of complaints assessed this year. This statistic alone, however, is not a sound measure of workload as the nature of the complaints can vary significantly. Thus, for example, this year 18 of the 72 new complaints assessed (25%) were considered to meet the threshold for a full investigation. In the previous year only 13 out of 94 new complaints (14%) were considered to have met the threshold for a full investigation. Moreover, some complaints fall outside the “serious or complex” category and are more properly referred to other agencies. Where that decision is able to be made by the Complaints Officer at the outset, the matter will not be formally recorded as a matter assessed by the Director. Only those matters placed before the Director to determine whether or not the case meets the statutory threshold are recorded as complaints for statistical purposes.

Trend in Workloads



During the reporting period;

- 15** investigations were completed and proceeded to prosecution;
- 6** cases were fully investigated but did not proceed to prosecution;
- 1** case proceeded to a prosecution from the assessment/detection stage.
- 14** cases were referred to other more appropriate agencies, namely:
 - 6 to the Police
 - 2 to the NZ Immigration Service
 - 1 to IRD
 - 2 to the Companies Office
 - 1 to the Wellington District Law Society
 - 2 to the Ministry of Economic Development
- 45** cases were closed following consideration and assessment as they were found not to justify further action;
- 6** cases remain at the assessment or detection stage;
- 22** cases remain at the full investigation stage
- 29** cases remain at the prosecution stage.

The Management Team formally reviewed all the cases on hand at least monthly to ensure that the desired level of momentum was sustained and that the investigations were focusing on the key issues.

Performance Targets

to focus the assessment and/or detection stage and decide within six months whether to abandon preliminary work or to proceed to a full investigation

Total Cases at the Assessment/Detection stage – Closed or referred elsewhere	52	(4 exceeded the 6 month target)
Cases on hand at Assessment/Detection Stage	6	(1 exceeded the 6 month stage)
Total exceeding the 6 month stage	5	

The performance target was met in all but 5 cases with the decision point being reached well within the timeframe, usually within one month. Of the 5 cases that exceeded 6 months, 2 cases were on hold awaiting advice from an overseas law enforcement agency, 1 case was delayed by Court proceedings over the application of legal privilege to certain documents, and the other two cases took slightly longer than expected to obtain and then analyse the relevant documents.

That in 80% of the cases sufficient work will have been completed within 12 months to reach the prosecution decision point

During the reporting period a total of **43** cases were at the investigation stage and of these:

- 6** were completed but did not proceed to prosecution
- 15** resulted in prosecution
- 22** remain under investigation

In the 15 cases where the investigations were concluded and proceeded to a prosecution, the average length of time from the receipt of the complaint to the prosecution commencing was just under 12 months. Six investigations fell outside of the 12-month period. The time taken to complete these investigations fell between 13 and 19 months. The longer period often reflected the time taken to arrange critical interviews, to obtain relevant papers and to assess the evidence in relation to offences under the Crimes Act.

1 prosecution was commenced from the detection stage. That case was decided in 3¹/₂ months.

Of the 6 investigations that were completed but did not result in a prosecution three cases exceeded the 12-month period. Two were completed in 13 months and one in 14 months

Of the 22 cases on hand at the investigation stage, the average age of the investigation is 7 months, with four cases having been under action for more than 12 months. One of those cases has been delayed due to difficulties in obtaining important information from an overseas jurisdiction. That documentation has now been received.

Overall, 13 cases out of the total of 44 (30%) exceeded the 12-month target, but almost half of those falling outside of the 12-month target were decided within a month or so of that target. Whilst it is useful to have a guideline for the timely completion of investigations that target must never be allowed to replace properly considered decisions based on sound evidence and a careful assessment of the law.

to present properly prepared and well researched prosecution cases, achieving a minimum of 85% successful prosecutions

During the year ended 30 June 2004, 16 new prosecutions were commenced in addition to the 34 prosecutions that were under action at the beginning of the year. Of these prosecutions 21 prosecutions were concluded during the year, several of these cases involving a number of defendants. One or more defendants were convicted in every case. In two other cases the prosecution against one of the defendants had yet to be completed.

At the end of the period there were 29 prosecution cases under action. These included several cases where action is being taken to extradite the offenders to stand trial in New Zealand. As at 30 June 2004 there were three cases where appeals had been lodged against conviction and sentence. For the period from the inception of the Office to the 30 June 2004 the Office has a 93% success rate with prosecution cases, and an 84% success rate in relation to individuals prosecuted by the Office.

To meet the dates set by Courts

On all occasions dates set by the Courts have been met. The Office works closely with the Courts in an attempt to ensure the smooth running of the prosecution process.

To achieve at least an 80% Senior Counsel satisfaction rating for the quality of the case investigation, preparation and prosecution

The Office continues to receive favourable comments about the high quality of investigative work and case preparation. The overall professionalism of the case investigation and presentation by the Office is a factor in the successful determination of the cases.

There were no unsatisfactory reports. Assessment will continue to be carried out by observation by the Director, peer review and judicial comment.

Where appropriate prosecution cases are debriefed as a part of ensuring that the Office maintains the highest standards its prosecutions.

The High Court in late May found that a search warrant granted by a District Court Judge to search the premises of a law firm was invalid on the grounds that the Office had not disclosed to the District Court Judge that the firm of lawyers had indicated that they would "co-operate" with the Serious Fraud Office investigation. The High Court ruled that had the District Court Judge been told of this the warrant would not have been issued. The Office had pointed out the risk that without a search warrant documents might be destroyed - a reality that the Office has encountered with another solicitor. The Office is appealing the High Court decision.

That the outputs are provided within the appropriated sum – financial performance.

Statement of cost of services (GST exclusive)

	Main Estimates \$000	Final Estimates \$000	Actual \$000	2002/03 Actual \$000
Revenue – Crown	4,699	4,699	4,699	4,640
Revenue – other	9	49	63	–
Profit on Sale of assets	–	–	–	3
Total revenue	4,708	4,748	4,762	4,643
Expenses	4,708	4,748	4,747	4,588
Net surplus/(deficit)	–	–	15	55

3. USE OF STATUTORY POWERS

Target

To report on all instances where the Director has exercised his powers in accordance with the Serious Fraud Office Act 1990

Delivery

In the twelve months to 30 June 2004, effective use of the Office's powers has continued.

In total, 1026 Notices (956 in 2002/03) were issued requiring people to give information and/or produce documents.

17 (16 in 2002/03) search warrants were executed.

The breakdown of the use of the statutory powers during the year was as follows:

SFO Act, Part I

Detection of Serious or Complex Fraud

		2003/2004	2002/2003
S5A	Requiring documents	58	134
S5(b)	Requiring answers to questions	Nil	Nil
S6	Search warrant obtained	Nil	Nil

SFO Act, Part II

Investigation of Suspected Offences Involving Serious or Complex Fraud

		2003/2004	2002/2003
S9(d)	Requiring answers to questions	205	85
S9(e)	Requiring information	140	197
S9(f)	Requiring documents	671	540
S10	Search warrant obtained	17	16

Performance

The Director (or an Assistant Director in the Director's absence) personally signs all Notices requiring persons to attend to answer questions. An Assistant Director under delegated authority signs notices requiring the production of documents. To ensure that requisite grounds exist for the exercise of these powers an internal control procedure is followed before the Notices are referred for signature.

Search Warrants are issued on written application to a District Court Judge. The Director, or an Assistant Director, must be notified of any request for a search warrant.

There is, therefore, an audit process in place in all instances of the exercise of these statutory powers to ensure that the provisions of the Serious Fraud Act 1990 are met.

Enforcement of Statutory Powers

Just occasionally the Office is challenged as to the exercise of its statutory powers. In most instances these challenges are turned away by a quiet word to the lawyer in question who may not have fully understood the powers of the Director, or by the Director being prepared to allow additional time for information to be provided or to rearrange the date of a compulsory interview. Where an individual is believed to be deliberately seeking to frustrate an investigation the Serious Fraud Office Act 1990 allows for a prosecution to be taken against that individual. Each situation has to be addressed on its merits, but ultimately the law must be upheld.

This year saw several people refusing to recognize that New Zealand law applies to them. They claimed on the basis of sovereignty that they were beyond the jurisdiction of the Serious Fraud Office. That argument has not been accepted by the Courts. One person was convicted of failing to comply with the requirements of the Serious Fraud Office. Three other persons are being prosecuted in relation to similar claims of sovereignty. One other person is being prosecuted for refusing to supply information, this being the second such prosecution against this individual.

4. PROSECUTIONS COMPLETED

Case 1

Kevin John Williams

Kevin John Williams was convicted on 27th May 2003 of 5 counts of criminal breach of trust under section 230 Crimes Act 1961. Williams was a Hastings-based accountant who stole money from an estate of which he was a trustee and then used it for his own purposes. The sum involved was \$100,000. On 18th July 2003 he was sentenced to 21 months imprisonment on each charge to be served concurrently. He was given leave to apply for home detention. The Court did not impose reparation.

Case 2

Damien John Palmer and Christopher John Ferris

Damien John Palmer and Christopher John Ferris were convicted on 4th June 2003 of 2 counts of corrupt use of government information (section 105A Crimes Act 1961) and 2 counts of aiding in that corrupt use (section 66 Crimes Act 1961) respectively. Palmer used information from his workplace – the Government Superannuation Fund – to make personal profits. Ferris' involvement was designed to distance Palmer from the trades. On 27th July the Court sentenced Palmer to 18 months imprisonment with leave to apply for home detention and imposed reparation of \$50,000. Ferris was sentenced to 12 months imprisonment with leave to apply for home detention and ordered to make reparation of \$15,000.

Case 3

Murray David Edwards

Murray David Edwards was a solicitor and partner in the firm Dickson, Edwards & Co. He committed a criminal breach of trust (section 230 Crimes Act 1961) when he issued fictitious fee notes against a client's estate of which he was trustee and executor. He also drew cheques and cash directly on a client's account contrary to section 229A Crimes Act 1961. He was convicted on 9th June 2003 of 19 counts of fraud. The amounts that Edwards was convicted upon totalled some \$225,000 taken over a five-year period. Edwards was sentenced to 2½ years imprisonment.

Case 4

Steve De Mounii

Steve De Mounii used false home loan applications to deceive a variety of banks and lenders. De Mounii's colleague in the offending had previously been convicted and sentenced. De Mounii was found guilty of 19 counts of fraud brought under section 229A Crimes Act 1961. He was sentenced to 3 years in prison and ordered to pay \$90,000 in reparation.

Case 5

Donald Hugh Simcock

Donald Hugh Simcock was found guilty on 8th July 2003 of 3 counts under section 229A Crimes Act 1961. Two of the counts related to the imposition of an intermediary in the purchase of two forestry blocks purchased by the Flat Rock Forest Trust (“FRFT”), known as Matauri Mara and Rocky River. The third count related to the obtaining of a deposit on a proposed sale of his shareholding in a forestry company to the FRFT when it was not required under the contract. The sale did not proceed. Simcock was sentenced to 400 hours community service. Simcock also made a voluntary repayment of \$150,000 to the Public Trustee.

Case 6

Graeme Grant

Graeme Grant submitted false invoices to a factoring company in order to obtain funds dishonestly for his own business. Two other individuals had earlier pleaded guilty and been convicted for their role in assisting him. In July 2003 Grant pleaded guilty to 5 counts of fraud (section 229A Crimes Act 1961) with an approximate value of \$1million. He was sentenced to 2½ years in prison.

Case 7

David Alan Hickman and Neil Dorset

David Alan Hickman and Neil Dorset were charged with a conspiracy to defraud under section 257 Crimes Act 1961. They fraudulently claimed that equity injected into their company IP Logic Ltd by two new investors was a loan repayable to them – it being claimed as relating to the proceeds of the sale of their shares. Hickman and Dorset used a cheque swap mechanism to justify the taking of a debenture charge over the company in an attempt to secure the money that they falsely claimed belonged to them. Dorset pleaded guilty and was convicted in January 2003 and sentenced to 300 hours of community service. Hickman defended the charge but was convicted by a jury on 27th August 2003. He too was sentenced to 300 hours community service.

Case 8

Aniseto Fonoimoana

Aniseto Fonoimoana was convicted on 8th August 2003 on 3 counts brought under section 229A Crimes Act 1961 and one count of money laundering brought under section 257A Crimes Act 1961. The section 229A charges related to a false loan application and two false income tax returns. The money laundering charge related to the spending of money previously stolen by his wife from her employer. On 10th October 2003 he was sentenced to 2 years 4 months in prison.

Case 9

X

X was a legal executive who accepted money from clients for the purposes of investment. Instead of investing the money, it was used for X's personal benefit and then lost. The amount involved exceeded \$300,000. Four charges under section 224 Crimes Act 1961 were brought, alleging theft. On 30th May 2003, X pleaded guilty to all four charges. In sentencing X, the Judge decided to grant permanent name suppression. X was sentenced to 21 months in prison deferred to enable X to apply for home detention.

Case 10

Donald John Nairn and Sandra Louise Staples

Donald John Nairn created false invoices and as a result, obtained almost \$400,000 from the Bank of New Zealand under a factoring arrangement. On 15th September, Nairn pleaded guilty to two counts of fraud (section 229A Crimes Act 1961). In October 2003 he was sentenced to 6 months in prison with leave to apply for home detention. Sandra Louise Staples was found guilty on multiple charges of stealing around \$650,000 from her employer, Nairn Industries (section 229A Crimes Act 1961). She was sentenced to 5 years imprisonment.

Case 11

Colin Clifford McIntosh

Colin Clifford McIntosh was found guilty on one charge brought under section 229A Crimes Act 1961 relating to a horse that he sold. McIntosh did not declare his profit to the Inland Revenue Department. The Judge ruled on 4th November 2003 that she was prepared to discharge McIntosh without conviction provided he voluntarily completed 200 hours of community service and paid the IRD approximately \$100,000. Following advice that the community service and payment to the IRD had been completed, the Judge on 13th February 2004 exercised her discretion to discharge McIntosh without conviction.

Case 12

Edward Victor Drollet and Edward Charles Friend

Edward Drollet and Edward Friend are Cook Islanders resident in the Cook Islands. Drollet was Chief of Staff of the Office of the (CI) Prime Minister. Friend ran an accounting business. Drollet awarded accounting contracts in the Public Service to Friend in return for a half share in the fees that were generated. When the fraud was discovered, the accused attempted to cover it up by forging a document that sought to show the illegal payments as 'goodwill'. Friend pleaded guilty to, and Drollet was convicted of, a number of Secret Commissions Act charges (essentially corruption) and a forgery charge under Cook Islands criminal law. In November 2003 Drollet was sentenced to 2 years and 3 months in prison but has applied for leave to appeal. Friend was ordered to come up for sentencing within 9 months if called upon and to serve 12 months community service.

Case 13

Roger Deane Giles and Grant Mathew Griffiths

Roger Deane Giles and Grant Mathew Griffiths faced one count of conspiracy to commit an offence brought under section 310 (1) Crimes Act 1961. Griffiths was a property manager for WINZ and in return for payments arranged by Giles ensured that WINZ were secured as tenants in properties owned by Giles or others. Griffiths received over \$600,000 over a period of around 2½ years. Following a 3-week jury trial both were convicted and were each sentenced to 3 years in prison.

Case 14

William Richard Dean Gibson

William Richard Dean Gibson was a financial adviser who was charged with multiple counts of fraud. These included forgery, (section 265 Crimes Act 1961) using a document, (section 229A Crimes Act 1961) false pretences (section 246 Crimes Act 1961) and theft by misappropriation (section 224 Crimes Act 1961). After the jury was empanelled Gibson pleaded guilty to 6 counts of fraud. The next day he pleaded guilty to a further 15 counts. On February 19th he was sentenced to 4 years in prison.

Case 15

Helen and Stephen Gubb

Helen and Stephen Gubb falsified accounts and used various documents (eg sale and purchase agreements, bank printouts and cheques) to steal money from three entities with which they and other (innocent parties) were involved. Stephen Gubb also committed forgery. Stephen Gubb pleaded guilty to 2 false accounting charges (section 252 Crimes Act 1961), 5 using a document charges (section 229A Crimes Act 1961) and 3 forgery charges (section 265 Crimes Act 1961). The value of the charges convicted upon was \$1,187,787. He received a sentence of 4 years imprisonment. Helen Gubb pleaded guilty to 2 false accounting charges (section 252 Crimes Act 1961) and 2 using a document charges (section 229A Crimes Act 1961). She was sentenced to 9 months imprisonment and given leave to apply for home detention.

Case 16

Kyu Yeon Kim

Kyu Yeon Kim purported to broker seafood product for a Korean Company. Kim forged certain documents which resulted in the company paying him US\$245,590. Kim was extradited from the USA and charged with 7 counts of forgery (section 265 Crimes Act 1961) and 7 of uttering forged documents (section 266 Crimes Act 1961). He ultimately pleaded guilty and was sentenced on 20th January 2004 to 2 years in prison with leave to apply for home detention. In addition, the Judge directed that Kim make reparation to the victim of (approx) \$NZ95,000.

Case 17

James Alexander Kennedy, Peter William Taylor and James Earl Barnes

James Alexander Kennedy, Peter William Taylor and James Earl Barnes were accused under section 257 Crimes Act of conspiring to defraud Invensys Limited by appropriating certain product information for their own benefit. Barnes pleaded guilty in 2003 and was sentenced to 18 months in prison suspended for two years. Kennedy and Taylor pleaded not guilty and after a Judge-alone trial in Christchurch lasting 5 weeks, were acquitted.

Case 18

Moanakauria Kennedy Barbara Moanakauria Mackey and Victor Sollem Kerekere

Moana Kennedy, a Maori adviser with the Ministry of Health, awarded contracts to Maori providers without the proper authority and took steps to cover up what had occurred. Barbara Mackey and Victor Kerekere were charged with being a party to Kennedy's actions and with perjury for swearing false affidavits. Kennedy was found guilty on one count of fraud (section 229A Crimes Act 1961) and one count of perjury (section 108 Crimes Act 1961). She later pleaded guilty to two further counts of fraud and was sentenced to 2 years in prison on the fraud charges and 18 months in prison on the perjury to be served concurrently. Mackey and Kerekere were found not guilty on the perjury charges, and had the other charges dismissed under section 347 Crimes Act 1961.

Case 19

Lisa Donnelly (Clements)

Lisa Clements defrauded her employer, the Ministry of Social Development, of around \$1.9 million. Over a period of 2 years 3 months she submitted a number of false invoices which by using her knowledge of the departmental procedures she was able to have paid to her. She was convicted under section 229A Crimes Act 1961 and sentenced to 5 years in prison. She was also convicted on a number of welfare benefit offences and sentenced to a further 6 months in prison.

Case 20

Adam Peter Holcombe

Adam Peter Holcombe, a business machine salesperson, negotiated leases of business machines and the associated finance arrangements for customers. During the course of these transactions he double pledged machines, created false serial numbers, forwarded false invoices and failed to properly account to the finance company. Around \$2 million was involved, with a final loss of around \$500,000. Holcombe was convicted of offences under sections 220, 227, 229A, 266A and 266 Crimes Act 1961 and sentenced to 18 months in prison with leave to apply for home detention.

Case 21

Howard Peter Walker (Diamond)

Walker provided false information to three different lending institutions to raise around \$920,000 for property purchases. He pleaded guilty during trial to 5 charges of using a document with intent to defraud (section 229A Crimes Act 1961). He was sentenced to 3³/₄ years in prison but in July 2003 this was reduced to 3¹/₂ years in prison on appeal.

Partly Completed Cases

Case 1 (Part1)

Simon Bernard Charles Bates, Peter John Le Lievre, Bernard Jackson, Deborah Isabel McGrouther and Jason Le Lievre

These people were charged with various offences relating to alleged mortgage and tax fraud. Prior to trial Jason Le Lievre pleaded guilty to 2 charges of conspiring to defraud and was sentenced to 12 months in prison with leave to apply for home detention. After a 4-week trial, Jackson was found guilty on 10 counts of fraud, McGrouther on 7 counts and Bates on one count. Peter Le Lievre was acquitted. On 18 August 2003, McGrouther was sentenced to 12 months imprisonment with leave granted to apply for home detention. Jackson was ordered to come up for sentence if called upon in the next 12 months. The sentencing of Bates was deferred until after his next trial.

Case 1 (Part 2)

Simon Bernard Charles Bates, David Douglas Haigh and Christopher Guy Ernest Main and Others

After a trial in Christchurch relating to alleged mortgage frauds, Bates was convicted on 9 counts of fraud and was sentenced to a total of 3 years in prison (including 6 months for the offence in Part 1 above). Main was convicted on 7 counts of fraud and sentenced to 2¹/₂ years in prison. Haigh was found guilty of 4 counts of fraud and sentenced to 21 months in prison with leave to apply for home detention. Four other persons were charged for their role in these mortgage frauds. Messrs Burrell and Morland were acquitted at trial, and the charges against the other two people were dismissed before trial.

Case 1 (Part 3)

Laurence Brett Singleton and John Peter Leeder

Laurence Brett Singleton and John Peter Leeder faced a single conspiracy charge brought under section 257 of the Crimes Act 1961. Leeder was a property developer who sold a number of Christchurch properties to Singleton. The two entered into "discount" agreements reducing the actual prices of the properties but without disclosing that fact to the lenders who were financing Singleton. Leeder also provided Singleton with letters that falsely stated Singleton's employment arrangements. Both men pleaded guilty before the trial began. Leeder has subsequently sought to withdraw the guilty plea. Singleton has been sentenced to 8 months in prison with leave to apply for Home Detention.

Case 2**Robert James Cousins and Andrew John Grimmer**

Robert James Cousins had his conviction for importing motor vehicles with wound back odometers set aside by the Court of Appeal in December 2002. A retrial was held in September 2003 which resulted in a hung jury. The Solicitor-General entered a stay of proceedings in October 2003. Andrew John Grimmer appealed a preliminary point of law in relation to the charges he is facing for the importation of motor vehicles with wound back odometers. That trial has been deferred pending the decision of the Court of Appeal.

STATEMENT OF ACCOUNTING POLICIES FOR THE YEAR ENDED 30 JUNE 2004

Reporting Entity

The Serious Fraud Office is a government department as defined by section 2 of the Public Finance Act 1989.

The Serious Fraud Office's financial statements have been prepared in accordance with section 35 of the Public Finance Act 1989.

The Serious Fraud Office does not administer any Crown activities or trust monies.

Measurement System

These financial statements have been prepared on the basis of modified historical cost except for certain items with specific accounting policies outlined below.

Accounting Policies

Budget figures

The budget figures are those presented in the Budget Night Estimates as amended by the Supplementary Estimates and any transfer made by Order in Council under section 5 of the Public Finance Act 1989.

Revenue

The Serious Fraud Office derives revenue through the provision of outputs to the Crown. Such revenue is recognised when earned and is reported in the financial period to which it relates.

Cost Allocation

The Office has derived the costs of outputs shown in these statements using a cost allocation system which is outlined below:

Cost Allocation Policy

Direct costs are charged directly to significant activities. Indirect costs are charged to significant activities based on cost drivers and related activity/usage information.

Criteria for Direct and Indirect Costs

"Direct Costs" are those costs directly attributed to an output. "Indirect Costs" are those costs that cannot be identified in an economically feasible manner, with a specific output.

Direct Costs Assigned to Output

Direct costs are charged directly to outputs. Personnel costs are charged by recording the time spent on each output.

Basis for Assigning Indirect Corporate Costs to Outputs

Indirect costs are allocated to outputs according to the proportion of time spent on each output.

Receivables

Receivables are recorded at estimated realisable value, after providing for doubtful and uncollectable debts.

Operating Leases

Leases where the lessor effectively substantially retains all the risks and benefits of ownership are classified as operating leases. Payments under these are expensed in the period in which they are incurred.

Fixed Assets

The initial cost of a fixed asset is the value of the consideration given to acquire or create the asset and any directly attributable costs of bringing the asset to working condition for its intended use.

Fixed assets, or groups of assets forming a network or which are material in aggregate, costing more than \$1,000 are capitalised and recorded at historical cost.

Depreciation

Depreciation of fixed assets is provided on a straight line basis so as to allocate the cost of assets, less any estimated residual value, over their useful lives.

The useful lives and associated depreciation rates for major classes of assets are:

Furniture, fixtures and fittings	5 years	20%
Office equipment	5 years	20%
Motor vehicles	4 years	15%
Computer equipment and software	3 years	33 ¹ / ₃ %

The cost of leasehold improvements is capitalised and amortised over the unexpired period of the lease or the estimated remaining useful lives of the improvements, whichever is shorter.

Provision of Employee Entitlements

Provision is made in respect of the Office's liability for annual leave entitlements. The provision has been calculated on an actual entitlement basis at current rates of pay. In terms of employee's contracts, there is no provision for retirement or long service entitlements.

Statement of Cash Flows

Cash means cash balances on hand and held in bank accounts.

Operating activities include cash received from all income sources of the Office and record cash payments made for the supply of goods and services.

Investing activities are those activities relating to the acquisition and disposal of non-current assets.

Financing activities comprise capital injections by, or repayment of capital to the Crown.

Financial Instruments

The Office is party to financial instruments as part of its normal operations. These financial instruments include instruments such as bank balances, investments, accounts receivable and accounts payable. All financial instruments are recognised in the Statement of Financial Position and revenues and expenses in relation to all financial instruments are recognised in the Statement of Financial Performance.

All financial instruments are shown at their estimated fair value.

Goods and Services Tax (GST)

The Statement of Unappropriated Expenditure and the Statement of Departmental Expenditure and Appropriations are inclusive of GST. The Statement of Financial Position is exclusive of GST, except for Creditors and Payables, or Debtors and Receivables and which are GST inclusive. All other statements are GST exclusive.

The amount of GST owing to or from the Inland Revenue Department at balance date, being the difference between Output GST and Input GST, is included in Creditors and Payables or Debtors and Receivables (as appropriate).

Taxation

Government departments are exempt from the payment of income tax in terms of the Income Tax Act 1994. Accordingly, no charge for income tax has been provided for.

Commitments

Future payments are disclosed as commitments at the point a contractual obligation arises, to the extent that there are equally unperformed obligations.

Contingent Liabilities

Contingent liabilities are disclosed at the point at which the contingency is evident.

Taxpayers' Funds

This is the Crown's net investment in the Office.

Changes in Accounting Policies

There have been no changes in accounting policies, including cost allocation accounting policies, since the date of the last audited financial statements.

**STATEMENT OF FINANCIAL PERFORMANCE
FOR THE YEAR ENDED 30 JUNE 2004**

30/6/03 Actual		Note	30/6/04 Actual (\$000)	30/6/04 Main Estimates (\$000)	30/6/04 Supp. Estimates (\$000)
	REVENUE				
4,640	Crown		4,699	4,699	4,699
–	Other	1	63	9	49
3	Profit on sale of assets	2	–	–	–
4,643	Total revenue		4,762	4,708	4,748
	EXPENDITURE				
3,035	Personnel costs		3,058	3,034	3,038
994	Operating costs		1,144	1,111	1,146
150	Depreciation	3	148	150	153
23	Audit fees		23	20	24
353	Rental & leasing costs		341	360	354
33	Capital charge	4	33	33	33
4,588	Total Expenses		4,747	4,708	4,748
55	Net surplus/(deficit)		15	–	–

*The accompanying accounting policies and notes
form part of these financial statements*

**STATEMENT OF MOVEMENTS IN TAXPAYERS' FUNDS
FOR THE YEAR ENDED 30 JUNE 2004**

30/6/03 Actual		Note	30/6/04 Actual (\$000)	30/6/04 Main Estimates (\$000)	30/6/04 Supp. Estimates (\$000)
388	Taxpayers' funds as at 1 July		388	388	388
55	Net surplus/(deficit)		15	-	-
55	Net surplus/total recognised revenues and expenses for the period		15	-	-
(55)	Provision for repayment of surplus to the Crown	6	(15)	-	-
388	Taxpayers' funds as at 30 June		388	388	388

*The accompanying accounting policies and notes
form part of these financial statements*

**STATEMENT OF FINANCIAL POSITION
AS AT 30 JUNE 2004**

30/6/03 Actual		Note	30/6/04 Actual (\$000)	30/6/04 Main Estimates (\$000)	30/6/04 Supp. Estimates (\$000)
388	TAXPAYERS' FUNDS		388	388	388
	Represented by:				
	CURRENT ASSETS				
574	Cash and bank balances		525	409	492
–	Receivables		33	–	–
14	Prepayments		5	25	25
588	Total current assets		563	434	517
	NON-CURRENT ASSETS				
288	Fixed assets	5	275	311	315
288	Total non-current assets		275	311	315
876	Total assets		838	745	832
	CURRENT LIABILITIES				
330	Payables and provisions		329	279	341
55	Provision for repayment of surplus to the Crown	6	15	–	–
103	Provision for employee entitlements	7	106	78	103
488	Total current liabilities		450	357	444
388	NET ASSETS		388	388	388



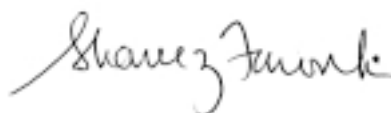
David Bradshaw
Director

24 September 2004



Neville Macindoe
Chief Financial Officer

(to 3 September 2004)
24 September 2004



Shareez Farouk
Chief Financial Officer

(from 6 September 2004)
24 September 2004

*The accompanying accounting policies and notes
form part of these financial statements*

STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2004

30/6/03 Actual (\$000)	Note	30/6/04 Actual (\$000)	30/6/04 Main Estimates (\$000)	30/6/04 Supp. Estimates (\$000)
CASH FLOWS – OPERATING ACTIVITIES				
Cash was provided from:				
Supply of outputs to				
4,640		4,699	4,699	4,699
–		–	–	–
–		30	9	49
4,640		4,729	4,708	4,748
Cash was applied to:				
Produce outputs				
3,010		3,055	3,034	3,038
1,307		1,499	1,491	1,524
1		1	–	–
33		33	33	33
4,351		4,588	4,558	4,595
289		141	150	153
CASH FLOWS – INVESTING ACTIVITIES				
Cash provided from:				
12		–	–	–
Cash disbursed for:				
107		135	150	180
(95)		(135)	(150)	(180)
CASH FLOWS – FINANCING ACTIVITIES				
Cash disbursed for:				
16		55	2	55
(16)		(55)	(2)	(55)
178		(49)	(2)	(82)
396		574	411	574
574		525	409	492

*The accompanying accounting policies and notes
form part of these financial statements*

STATEMENT OF COMMITMENTS AS AT 30 JUNE 2004

At balance date, the Serious Fraud Office has operating lease commitments in respect of premises in Auckland.

30/6/03 Actual (\$000)		30/6/04 Actual (\$000)
	Operating lease commitments	
357	Less than one year	338
357	One to two years	338
952	Two to five years	563
–	More than five years	–
1,666	Total commitments	1,239
	Capital Commitments	
–	Approved and Committed	295

STATEMENT OF CONTINGENT LIABILITIES AS AT 30 JUNE 2004

The Serious Fraud Office has no contingent liabilities at 30 June 2004 (2003: Nil)

*The accompanying accounting policies and notes
form part of these financial statements*

**STATEMENT OF DEPARTMENTAL EXPENDITURE AND
APPROPRIATIONS
FOR THE YEAR ENDED 30 JUNE 2004**

(Figures are GST inclusive where applicable)

30/6/03 Expenditure Actual (\$000)		30/6/04 Expenditure Actual (\$000)	30/6/04 Appropriation Voted* (\$000)
	Classes of outputs to be supplied by the department (Mode B Gross)		
5,169	D1 Investigation and prosecution of complex or serious fraud	5,342	5,342
<u>5,169</u>	Total Appropriations	<u>5,342</u>	<u>5,342</u>

* This includes adjustments made in the Supplementary Estimates and transfers under section 5 of the Public Finance Act.

There was no unappropriated expenditure for the year ended 30 June 2004 (2003: Nil).

*The accompanying accounting policies and notes
form part of these financial statements*

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2004

Note 1: Other revenue

30/6/03 Actual		Note	30/6/04 Actual	30/6/04 Main Estimates	30/6/04 Supp. Estimates
(\$000)			(\$000)	(\$000)	(\$000)
–	Other income		63	9	49
–	Total other and departmental income		63	9	49

Note 2: Net gain/(loss) on sale of fixed assets

30/6/03 Actual		Note	30/6/04 Actual	30/6/04 Main Estimates	30/6/04 Supp. Estimates
(\$000)			(\$000)	(\$000)	(\$000)
3	Motor vehicles		–	–	–
3	Net gain/(loss) on sale of fixed assets		–	–	–

Note 3: Depreciation

30/6/03 Actual		Note	30/6/04 Actual	30/6/04 Main Estimates	30/6/04 Supp. Estimates
(\$000)			(\$000)	(\$000)	(\$000)
32	Furniture and fittings		30	34	25
24	Office equipment		23	22	25
81	Computer equipment and software		82	78	90
13	Motor vehicles		13	16	13
150	Total depreciation		148	150	153

Note 4: Capital charge

A capital charge is paid to the Crown based on Taxpayers' Funds at 30 June and 31 December each year. The capital charge was 8.5% for the 2003/2004 financial year (2003: 8.5%).

Note 5: Fixed assets

30/6/03 Actual (\$000)		30/6/04 Actual (\$000)
	Furniture and Fittings	
484	At cost	529
(429)	Accumulated depreciation	(496)
<u>55</u>	Net book value	<u>33</u>
	Office Equipment	
345	At cost	295
(279)	Accumulated depreciation	(244)
<u>66</u>	Net book value	<u>51</u>
	Computer Equipment & Software	
563	At cost	490
(456)	Accumulated depreciation	(346)
<u>107</u>	Net book value	<u>144</u>
	Motor Vehicles	
84	At cost	84
(24)	Accumulated depreciation	(37)
<u>60</u>	Net book value	<u>47</u>
	TOTAL FIXED ASSETS	
1,476	At cost	1,398
(1,188)	Accumulated depreciation	(1,123)
<u>288</u>	TOTAL CARRYING AMOUNT OF FIXED ASSETS	<u>275</u>

Note 6: Provision for repayment of surplus to the Crown

30/6/03 Actual (\$000)		30/6/04 Actual (\$000)
55	Net surplus	15
<u>55</u>	Total provision for repayment of surplus	<u>15</u>

Note 7: Provision for employee entitlements

	Current Liabilities	
103	Annual leave	106
<u>103</u>	Total provision for employee entitlements	<u>106</u>

Note 10: Contingencies

The Serious Fraud Office does not have any contingent assets as at 30 June 2004 (30 June 2003: Nil).

Contingent liabilities are separately disclosed in the statement of Contingent Liabilities.

Note 11: Related Party Transactions

The Serious Fraud Office is wholly owned by the Crown, which is also its source of revenue.

If the Office enters into transactions with other government departments, these transactions are carried out on an arm's length basis. They are not considered to be related party transactions.

Note 12: Major Budget Variances

There were no major variances in financial statements compared to the Budget Night Estimates:

***Management
Performance
Information***

CORPORATE AND COLLECTIVE INTEREST MANAGEMENT REPORT FOR THE YEAR ENDED 30 JUNE 2004

Integrity of the Public Service

Staff of the SFO are aware of and observe the standards of behaviour required of them as public servants. A very high standard of professional conduct is “a must” for staff, who are also required to observe the secrecy provisions of the Serious Fraud Office Act 1990.

Inter-departmental Liaison

The Office places considerable emphasis on maintaining sound working relationships with other law enforcement and regulatory agencies both within New Zealand and overseas. Senior staff have been allocated specific responsibilities for liaising with the appropriate agencies within New Zealand. Formal operating protocols have been developed with a number of key agencies such as the Police, Inland Revenue Department, the Customs Service and the Securities Commission.

The Office continues to be represented at the Financial Crimes Investigation Management Course held in Australia over a two-week period. This course was developed primarily by ASIC (Australian Securities and Investment Commission) but is attended by law enforcement officials from several different jurisdictions. The course provides a good opportunity for the Serious Fraud Office to gauge how its practices, procedures and resources measure up against our overseas counterparts. Our assessment is that the content of the course and the contacts made make this one of the few really relevant courses for Serious Fraud Office staff.

The Office had a number of visits from overseas persons during the year.

Assistance was provided to several overseas law enforcement agencies. Investigators from the United States were assisted with their interviews of a number of New Zealand victims in a high yielding investment scheme. This was a case that had been referred to the United States authorities by the Serious Fraud Office. Information from within New Zealand was obtained on behalf of several other overseas agencies. Equally we received assistance from a number of overseas law enforcement agencies. Our expertise has been sought by the Fijian Government to assist with the investigation of a case that requires an analysis of many documents

The Assistant Director (Investigations) and a Supervising Senior Investigator presented a full day session on fraud detection and investigation to an international meeting of Auditors-General in Suva in May. That presentation was most successful and is likely to be repeated at the request of individual countries who attended the meeting in Suva.

Accommodation

The Office is located only in Auckland and occupies 1272 square metres spread over two floors of the Duthie Whyte Building at 120 Mayoral Drive, Auckland City. There is no vacant space as at 30 June 2004.

The rental costs for the year were \$341,155 (\$353,100 in 2002/03) including landlord operating expenses but excluding other utility costs such as cleaning and energy costs which were:

	2002/2003	2003/2004
Energy costs (excluding those included in the operating costs above)	\$20,940	\$20,500
Telecommunication costs	\$68,308	\$61,148
Cleaning and maintenance	\$14,970	\$17,108

Energy Usage Costs

2001/2002	2002/2003	2003/2004
152,284 units used	145,394 units used	158,911 units used
\$19,032	\$20,940	\$20,500

Fuel Usage and Costs

2001/2002	2002/2003	2003/2004
15,474 kms	21,312kms	18,298kms
\$2,015	\$2,575	\$2,450

Management of Information

The operational information held by the Serious Fraud Office relates to the investigation and prosecution of cases and, as it is "protected" in terms of the Serious Fraud Office Act 1990, very stringent security provisions apply.

Information is shared with other agencies only in very limited circumstances as permitted by the legislation and as required for the proper enforcement of the law, both in New Zealand and overseas. The over-riding consideration for the Office in all cases is to ensure that all information is accorded the level of confidentiality required by the Serious Fraud Office Act 1990. There is no "on line" or similar access to any Serious Fraud Office operational information.

Management of Human Resources

The enhancing of investigative skills and techniques continued to be a priority for the Management Team to ensure that the Office keeps abreast of developments in relation to serious fraud offending and the investigative skills and tools needed to combat such crime. Three staff attended Financial Crimes Investigation management courses held by ASIC in Australia during the year.

Professional training for the lawyers and the accountants in the Office continued and the Office supported staff with part time relevant tertiary studies.

Prosecutors have the opportunity to obtain additional Courtroom experience through an arrangement with the Crown Solicitor in Auckland.

The pace of change and development, particularly in technology, is rapid and provides new fraud opportunities. The Office continues to keep abreast of international developments by maintaining close relationships with our counterpart overseas agencies and also by participation in inter-departmental working parties where appropriate.

Six fulltime staff left the Office during the year. Whenever a vacancy arises in the Office the management team looks closely at the immediate and future staffing requirements. Five of the vacant positions had been filled, and one was being filled as at 30th June 2004. The Office does not have any difficulty in attracting high calibre applicants for its vacancies.

Equal Opportunities

We are committed to equal opportunities for all our staff and to ensuring that the employment policies and practices support the recruitment and retention of the widest possible range of skills.

As a small, highly specialised department it is difficult to achieve a wide “mix” of ages, genders and cultural diversity. Furthermore there are relatively few vacancies occurring each year.

Including the Director, the staff complement as at 30 June 2004 is 35 – 18 men and 16 women (with one position vacant).

***Information
about the
Department***

INFORMATION ABOUT THE DEPARTMENT

The Office is committed to the maintenance of high professional standards in the attainment of its objectives.

Policy on Acceptance of Cases

Selection

For the purposes of determining whether an offence involves serious and/or complex fraud, the Serious Fraud Office Act 1990 provides that the Director, among other things, may have regard to the following four factors:

- the suspected nature and consequences of the fraud;
- the suspected scale of the fraud;
- the legal, factual and evidential complexity of the matter;
- any relevant public interest consideration.

It is not possible to be specific as to the cases that will be investigated and prosecuted by the Serious Fraud Office. However, the following criteria are generally considered:

- all fraud involving over \$500,000;
- all fraud perpetrated by complex means;
- any other complaint of fraudulent offending which is, or is likely to be, of major public interest or concern.

The Director has complete discretion in the selection of cases.

Referral of Cases

The Complaints Officer is available to be contacted by the public in the first instance.

Complaints, and referral of cases, come from Government Departments, liquidators, receivers, statutory managers, professional associations and the general public. On occasions the Office is also pro-active in undertaking enquiries.

The Serious Fraud Office emphasises the need for expedition in enquiries relating to fraud and therefore encourages such contact at an early stage.

Where complaints are considered inappropriate for the Office, every endeavour is made to refer them to the relevant enforcement and/or regulatory body for further action.

Independence of Director

It is an important constitutional principle in New Zealand that decisions by law enforcement agencies on the investigation and prosecution of individuals should not be subject to political control or direction.

The Serious Fraud Office Act 1990 provides that, *“in any matter relating to any decision to investigate any suspected case of serious or complex fraud, or to take proceedings relating to any such case or any offence against this Act (the Serious Fraud Office Act 1990), the Director shall not be responsible to the Attorney-General, but shall act independently”*.

Handling of Cases

Every complaint received undergoes an initial assessment to determine whether it is a matter for the Serious Fraud Office. After this assessment, if the Director decides to act on a complaint, the first step is often a further consideration of all the documentary material – referred to as “the detection stage”.

At the completion of the detection stage the Director, after consultation with senior management, will then decide the next step. Some cases will be closed at this stage, others upgraded to a full investigation.

Some cases will move to the full investigation stage immediately after assessment, where the available evidence supports that step.

Experienced investigators and forensic accountants work together on investigations, under the overall supervision of the senior management team. Typically, potential witnesses and suspects are interviewed, documents obtained and analysed, and financial transactions researched. Investigation teams regularly exchange information and share experiences and expertise in order to maintain consistency.

Prosecutors are assigned to each investigation. They advise on legal issues, including the exercise of the powers of the Office.

Appraisal meetings are held regularly (usually monthly) to ensure that for each investigation and prosecution an appropriate level of resources is being applied, professional standards and disciplines are being adhered to, and proper progress and direction is being maintained. All current files being worked on are considered at these appraisal meetings.

On the completion of a full investigation the Director holds a review of that case attended by the investigation team and senior management. At the conclusion of the review, the Director determines whether a prosecution is appropriate.

The Serious Fraud Office Act 1990 provides for a panel of experienced barristers to conduct all prosecutions. The Director instructs a member of this panel to conduct a particular prosecution. The Office staff prepare the prosecution file, brief evidence and assist in the conduct of the prosecution.

Powers of the Serious Fraud Office

The powers of the Office are prescribed in the Serious Fraud Office Act 1990. The Director has wide powers to undertake the detection and investigation of serious or complex fraud.

It is essential that the Serious Fraud Office obtains the necessary information to assess a complaint, carry out detection and decide whether an investigation should be commenced.

The powers for detection and investigation are far-reaching; it is not only persons suspected of offences that must provide information to the Director, but also anyone holding information which the Director considers may be relevant to an investigation. These powers of compulsion are a vital investigative tool in the area of serious fraud offending.

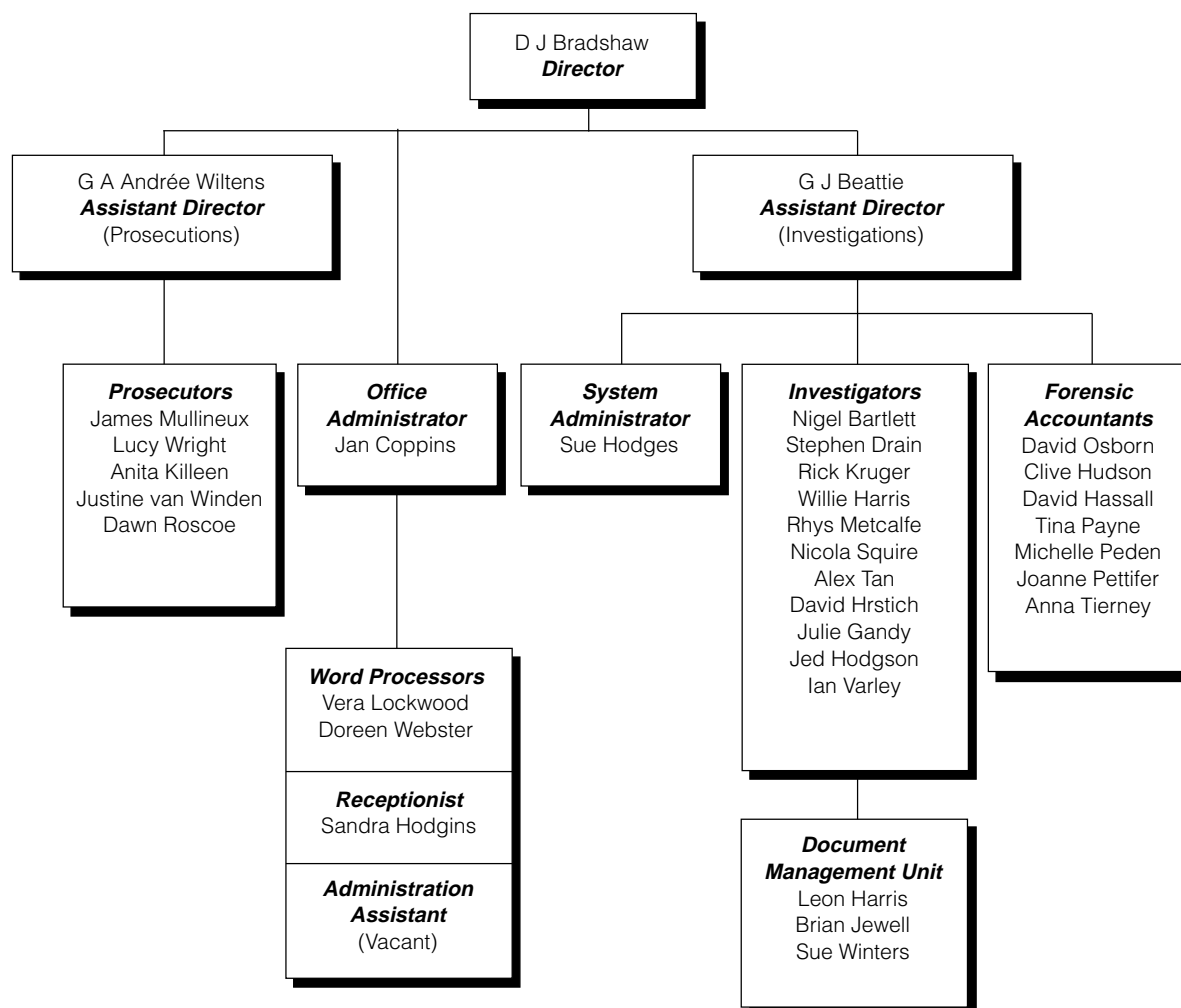
Legal Responsibilities

The Serious Fraud Office operates under the Serious Fraud Office Act 1990. All requirements of that Act have been met. In Part II of this Report (pages 28–29) there is an analysis of the Notices issued in terms of the provisions of the Act.

MANAGEMENT AND STRUCTURE

5 appointments were made during the year and 6 staff resigned. As at 30 June 2004 there were 34 people on the staff of the Office, with one position in the process of being filled (giving a complement of 35 staff).

Organisational Structure



SERIOUS FRAUD OFFICE ACT – PANEL OF PROSECUTORS**Auckland**

R J Asher Q.C

John Billington Q.C

P J Davison QC

Robert Fardell QC

JA Farmer QC

J C Gordon

Dr R E Harrison QC

D P H Jones

A A Lusk QC

S J E Moore

M J Ruffin

L L Stevens QC

M A Woolford

Wellington

K P McDonald QC

R B Squire QC

K G Stone

J O Upton QC

Christchurch

N R W Davidson QC

A C Hughes-Johnson QC

B M Stanaway

Nicholas Till

Tom Weston QC

M N Zarifeh

Dunedin

W J Wright

Marie Grills

Hamilton

P J Morgan QC

Whangarei

P J Smith

PUBLIC RELATIONS

The goal of the Office in relation to public relations over the past few years has been to demystify the Serious Fraud Office without sensationalising the work of the Office. Information about the Office has been conveyed in a low-key manner whenever an appropriate opportunity has arisen.

The Office does not routinely provide media releases about cases that it has under investigation nor cases that it is prosecuting in the Courts. The general policy of the Office is to neither confirm nor deny whether the Office is investigating any matter, except where there is an over-riding public interest. Such an approach protects the integrity of the investigation and limits the potential harm, either commercial or personal, that can be done to an individual or an organisation if the Serious Fraud Office was to publicly announce that it was investigating their affairs.

Similarly with prosecutions, the Office does not generally regard it as its role to be making press releases about every prosecution. It will, however, assist the media in its coverage of Serious Fraud Office prosecutions by confirming the dates of Court appearances or details of charges, if requested. This information is available on the Serious Fraud Office website. In some cases name suppression affects the extent of the media coverage given to prosecutions brought by the Serious Fraud Office.

From time to time the Director may determine that there is a need to alert the public to a particular fraud or scam that is known to be affecting New Zealanders. The Office responded to several media enquiries concerning such matters as Nigerian letters and prime bank instrument scams during the year.

The Office's website provides details of not only how the Office operates but also a brief overview of pending prosecutions and outcomes. This is updated monthly.

