

**SPECIAL COMMISSION OF INQUIRY**  
**INTO MATTERS RELATING TO THE POLICE INVESTIGATION OF**  
**CERTAIN CHILD SEXUAL ABUSE ALLEGATIONS IN THE CATHOLIC**  
**DIOCESE OF MAITLAND-NEWCASTLE**

At Newcastle Supreme Court  
Court Room Number 1, Church Street, Newcastle NSW

On Tuesday, 25 June 2013 at 9.45am  
(Day 12)

Before Commissioner: Ms Margaret Cunneen SC

Counsel Assisting: Ms Julia Lonergan SC  
Mr David Kell  
Mr Warwick Hunt

Crown Solicitor's Office: Ms Emma Sullivan,  
Ms Jessica Wardle

1 MR HUNT: I recall Ms McCarthy.

2

3 THE COMMISSIONER: Good morning, Ms McCarthy. Perhaps you  
4 could reaffirm the witness, please.

5

6 <JOANNE McCARTHY, affirmed: [9.45am]

7

8 <EXAMINATION BY MR HUNT:

9

10 MR HUNT: Q. Ms McCarthy, can I just show you again a  
11 document that consists of your complaint to the Police  
12 Integrity Commission and then subsequent documentation in  
13 relation to that complaint. I am going to show you a  
14 different copy to the one that you've got up there, in the  
15 sense that it's got some proposed redactions. (Document  
16 handed to witness).

17

18 Without saying what it is, and the actual material  
19 will be redacted, looking to the third last page in the  
20 bundle, was the complaint that you made, first of all, on  
21 plain paper rather than on Newcastle Herald letterhead?

22 A. Yes.

23

24 Q. You gave some evidence yesterday about not consulting  
25 your editor in relation to this?

26 A. Yes.

27

28 Q. Did you provide your home address as being the contact  
29 point?

30 A. Yes. Could I just say I did consult the editor after  
31 it was all finalised, so he was made aware of it, but just  
32 not at the point that I sent it.

33

34 MR HUNT: I understand. Subject to the proposed  
35 redactions that hadn't physically been made to the copy  
36 that the witness has, there's consent to the tender of that  
37 and I do tender it.

38

39 THE COMMISSIONER: Thank you, Mr Hunt. The complaint will  
40 be admitted and marked exhibit 30.

41

42 **EXHIBIT #30 COMPLAINT SENT BY MS McCARTHY TO THE POLICE**  
43 **INTEGRITY COMMISSION**

44

45 MR HUNT: That concludes the evidence-in-chief of the  
46 witness.

47

1 THE COMMISSIONER: Thank you, Mr Hunt. Mr Cohen?

2

3 MR HUNT: Commissioner, I had a discussion with Mr Cohen  
4 that perhaps Mr Roser or Mr Saidi might go first.

5

6 I'm sorry, Mr Roser, there is a transcript correction,  
7 before we come to that.

8

9 My friend Mr Cohen has helpfully pointed out that, on  
10 the transcript at about point 45, on page 1151, this  
11 witness gave an answer that's recorded in terms when she  
12 had a conversation with Detective Shaun McLeod and she  
13 said: "I was actually standing outside Bridge Mowers at  
14 East Gosford and it was probably about a 20 minute  
15 conversation as I stood outside the police." It should be  
16 "the place".

17

18 THE COMMISSIONER: That change will be made. Thank you,  
19 Mr Hunt.

20

21 <EXAMINATION BY MR ROSER:

22

23 MR ROSER: Q. You were asked a number of questions  
24 yesterday about [AJ]. Do you remember that?

25

A. Yes.

26

27 Q. And your dealings with her?

28

A. Yes.

29

30 Q. And your dealings with her occurred over a number of  
31 years?

32

A. Yes.

33

34 Q. It started around about your - well, first contact or  
35 attempted contact was about September 2007?

36

A. Yes.

37

38 Q. That's when you rang her on her silent telephone  
39 number to talk to her?

40

A. Yes.

41

42 Q. Correct?

43

A. Yes.

44

45 Q. You left a message on her phone?

46

A. Yes.

47

1 Q. Then subsequently she contacted you in about May 2010?  
2 A. Yes.  
3  
4 Q. Your evidence yesterday, as I understand it, was that  
5 you said it was about June or July 2010 that [AJ] said to  
6 you that she wanted to speak to police?  
7 A. Yes.  
8  
9 Q. You said that you suggested Peter Fox and she said  
10 that she'd heard of him at that particular time?  
11 A. Yes, the name was familiar to her.  
12  
13 Q. That is not true, is it?  
14 A. No.  
15  
16 Q. I suggest to you that that is not true?  
17 A. Then I'd have to disagree.  
18  
19 Q. I suggest to you that Mr Fox's name was never  
20 mentioned to [AJ] in this particular conversation?  
21 A. I'd have to disagree.  
22  
23 Q. I suggest to you that from conversations you had with  
24 [AJ], you gave, unbeknown to [AJ], her silent telephone  
25 number to Mr Fox?  
26 A. Yes.  
27  
28 Q. For him to contact her?  
29 A. Yes.  
30  
31 Q. You didn't warn [AJ] that Mr Fox would be contacting  
32 her, did you?  
33 A. No.  
34  
35 Q. Why not?  
36 A. Because she had expressed a willingness to speak to  
37 police. She said she was ready to speak to police, and we  
38 had had the discussion. I'd raised the name of Peter Fox  
39 with her. She said she'd heard of him, and it is now a  
40 practice almost of mine with people - so this was 2010.  
41 With the victims of historic child sexual abuse, part of  
42 the issue is their responsibility and now I ask people if  
43 they would be willing to speak to police and if they're  
44 happy for me to hand their details on to the police so that  
45 the police take the responsibility for contacting them.  
46  
47 Now, that did not take place in that way in 2010, but

1 she had expressed a willingness to speak to police, a  
2 desire to speak to police, comfort with the name of the  
3 police officer that I gave to her, and I really wanted her  
4 to be able to speak to police.

5  
6 \* Q. Can I suggest to you - and you know from subsequent  
7 conversations with her - that the first time that she ever  
8 knew that Peter Fox was contacting her was when he  
9 contacted her, by telephone?

10 A. You've put, I think, a couple of things in there to  
11 me. Would you mind putting that again because I think one  
12 part of it I can agree with and the other part I can't  
13 agree with.

14  
15 Q. Which part would you agree to?

16 A. If you would remind me --

17  
18 MR COHEN: I object to that. That's not a fair way of  
19 putting that question, in my submission.

20  
21 THE COMMISSIONER: I will allow it.

22  
23 THE WITNESS: If you wouldn't mind repeating it.

24  
25 MR ROSER: Could the question be put to the witness again.

26  
27 (Question marked \* read)

28  
29 THE WITNESS: It is that part in the middle when you say  
30 "and you know from subsequent conversations". As I said,  
31 the name Peter Fox definitely I raised Peter Fox's name  
32 with her and she definitely agreed that she had heard the  
33 name was familiar because she lived in the area. She also,  
34 I think, even mentioned that it was familiar in terms of  
35 his involvement with, you know, child sexual abuse  
36 prosecutions or a prosecution. So that part of it, I can't  
37 agree with you on. And if you wouldn't mind just repeating  
38 the second part.

39  
40 (Question marked \* read)

41  
42 THE WITNESS: So the second part of it, yes, I agree with  
43 that, so he contacted her, yes.

44  
45 MR ROSER: Q. In subsequent conversations she has  
46 expressed to you the conversation she had with Mr Fox when  
47 he rang on the first occasion, hasn't she?

1 A. Yes.  
2  
3 Q. She said to you that Mr Fox said to her that he got  
4 her silent contact number from police sources or other  
5 sources?  
6 A. Yes.  
7  
8 Q. If there is an agreement reached between you and her,  
9 why would you think Mr Fox, if you know, would say  
10 something false to her?  
11 A. Peter Fox and I had had a discussion and we'd agreed  
12 that he was to ring her because we wanted to make sure and  
13 as I said, again, it is that issue with victims of historic  
14 child sexual abuse, they can be willing to speak to police,  
15 but then it is that issue do I have to do that as well? So  
16 it is better if police contact them. Now, I'm not saying  
17 it was perfect at that time, but that's what happened.  
18 Peter Fox and I had a conversation and then he just said,  
19 "Well, okay, if she asks then I can say I just got it from  
20 the police records." I didn't have a problem with that.  
21  
22 Q. But that was a lie, wasn't it?  
23 A. What was a lie?  
24  
25 Q. That you got it from the police records. He got it  
26 from you, which you agreed to?  
27 A. In terms of him saying it to her to give her an  
28 explanation that she would be comfortable with.  
29  
30 Q. On your evidence she was comfortable with him  
31 contacting her?  
32 A. Sorry?  
33  
34 Q. Is that correct? On your evidence, you say that she  
35 agreed for Mr Fox to contact her?  
36 A. No. No, that she was going - sorry. The name  
37 Peter Fox was familiar to her and then I was comfortable  
38 with her thinking that she could contact him, but I also  
39 was comfortable with him contacting her to make sure there  
40 was contact.  
41  
42 Q. You see, I suggest to you that at no time did you  
43 disclose that you had any communication with Mr Fox to her?  
44 A. That's correct.  
45  
46 Q. And you kept it secret from her and she - to give the  
47 impression to her that she was dealing with two different

1 identities; correct?  
2 A. Sorry, what were those two identities?  
3  
4 Q. You and Mr Fox, separate and distinct?  
5 A. If you're saying that that was the - a motive that  
6 I had, no.  
7  
8 Q. Why did you keep from her that you gave her telephone  
9 number to Mr Fox?  
10 A. Just so that she would believe that the police wanted  
11 to speak with her, that she was important and that what she  
12 had to say was important.  
13  
14 Q. The secrecy of this wasn't done so that you and Mr Fox  
15 could compare what [AJ] was saying to either one of you,  
16 was it?  
17 A. No.  
18  
19 Q. Mr Fox sent you an email. Would you just turn up  
20 volume 2, I think, thanks, tab 84. That's an email that  
21 Mr Fox sent to you on 2 December 2010 --  
22 A. Yes.  
23  
24 Q. -- late at night. He expressed certain views or  
25 things that he alleged occurred, particularly on  
26 2 December, which is the second page, page 357.  
27 A. Yes.  
28  
29 Q. He stated there how, if I can just take you to the  
30 second last sentence or paragraph, what he told this  
31 meeting on 2 December 2010; correct?  
32 A. Yes.  
33  
34 Q. Where he sets out:  
35  
36 *Asked how I came to contact [AJ].*  
37 *I explained that I came across her in the*  
38 *FLETCHER investigations and she had sought*  
39 *me out to speak to as she had spoken to a*  
40 *number of victim's families I had dealt*  
41 *with in the past. Also the fact I was an*  
42 *original investigator re McAlinden.*  
43  
44 A. Yes.  
45  
46 Q. That's totally incorrect, isn't it?  
47 A. Yes.

1  
2 Q. Did you write back to Mr Fox and say, "Why did you  
3 tell these lies to this meeting on 2 December 2010?" --  
4 A. No.  
5  
6 Q. -- to explain how you came into contact with [AJ]"?  
7 A. How Mr Fox represented himself to the police at that  
8 meeting was up to Mr Fox. What he put in this document was  
9 up to him.  
10  
11 Q. And what he put there is false?  
12 A. Yes.  
13  
14 Q. And you felt no compunction to write to him and say  
15 "Well, you've got it wrong. I gave you the number"?  
16 A. No.  
17  
18 Q. Did you contact the police at all to say "What Mr Fox  
19 said to you at this meeting on 2 December 2010 was a lie,  
20 how he came into contact"?  
21 A. No.  
22  
23 Q. Why not?  
24 A. How Mr Fox dealt with the police was up to Mr Fox.  
25  
26 Q. Yes, but I'm asking you why didn't you do it?  
27 A. There were other issues going on in relation to these  
28 matters and I didn't feel any desire, really, to get  
29 involved in the internal police matters.  
30  
31 Q. In September 2012, you were at a meeting?  
32 A. Yes.  
33  
34 Q. Was there a meeting of - is it "Shine the Light", or  
35 words to that effect?  
36 A. Yes, September 16th.  
37  
38 Q. September 16th?  
39 A. Yes.  
40  
41 Q. You were there?  
42 A. Yes.  
43  
44 Q. And Mr Fox gave a speech.  
45 A. Yes.  
46  
47 Q. He identified her without naming her, but more



1 particularly you knew who he was talking about when he  
2 identified [AJ]?

3 A. Yes.

4

5 Q. And subsequently, [AJ] was distressed in relation to  
6 her being identified at this particular meeting by Mr Fox?

7 A. Not initially.

8

9 Q. She had discussions with you where she was distressed  
10 about it?

11 A. Subsequently, yes.

12

13 Q. About her being identified at this particular meeting  
14 without her consent?

15 A. Yes.

16

17 Q. And without her knowledge?

18 A. Yes.

19

20 Q. During that speech, did Mr Fox state how he came in  
21 contact with [AJ]?

22 A. Probably. I can't say specifically, but probably.

23

24 Q. He said that she had contacted him, didn't he?

25 A. I'll take your word for it. I - probably, because he  
26 has - he has said that. I think he also said it on  
27 Lateline, so, yes.

28

29 Q. I was going to take you to Lateline also. He said the  
30 same thing on Lateline where he identified [AJ], not by  
31 name, but everyone knew who it was - when I say "everyone",  
32 yourself and [AJ] --

33 A. Yes.

34

35 Q. -- knew who he was referring to?

36 A. Yes.

37

38 Q. From that Lateline, she was very distressed - that is  
39 [AJ] was very distressed - about that exchange also, wasn't  
40 she?

41 A. Again, not initially.

42

43 Q. But subsequently she was?

44 A. Subsequently, yes.

45

46 Q. Part of that distress was the falsehood that Mr Fox  
47 was putting forward in the Lateline program of how she came

1 into contact or he came into contact with her?  
2 A. Yes.  
3  
4 Q. Did you try to correct the record that what Mr Fox  
5 said on Lateline was incorrect?  
6 A. I think events basically overtook --  
7  
8 Q. No, can you answer the question?  
9 A. No.  
10  
11 Q. Why not?  
12 A. Because the following day, I think the Commission of  
13 Inquiry was announced.  
14  
15 Q. Does that make a difference that lies put forward on  
16 national television in relation to this particular issue,  
17 on which you have a great concern for victims, that she's  
18 distressed about the lies being told about her, but you  
19 didn't do anything about it?  
20 A. As I said, initially, she wasn't distressed at all and  
21 I have emails to prove that. She was very, very pleased.  
22 So her distress - the distress that she relayed about this  
23 didn't occur until, was it, February or March this year.  
24  
25 Q. But that was a combination of matters - not only what  
26 Mr Fox did but also what you did?  
27 A. Yes. But as I said to your question about did  
28 I correct anything at the point of that Lateline interview,  
29 no, because, at that point, there was no distress. She was  
30 very pleased.  
31  
32 Q. In your article in February of 2003, did you state in  
33 there --  
34 A. 2013.  
35  
36 Q. 2013, I'm sorry.  
37 A. No, you're right.  
38  
39 Q. Did you put in there that Mr Fox lied to the Lateline  
40 program in relation to his contact or how he came into  
41 contact with [AJ]?  
42 A. This is the article where [AJ]'s talking about her  
43 positive contact with police?  
44  
45 Q. Well, she's talking about - she's not talking about  
46 it. You're talking about it.  
47 A. Sorry?

1  
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Q. It is your article, isn't it?

A. I'm just making clear which article we're talking about.

Q. The article of 12 February 2013 where it's got "Time to speak out - victim."

MR HUNT: I object to this. This is a matter that has been dealt with in a different fashion and it ought not be the subject of cross-examination in this context.

MR ROSER: In relation to that, there were some issues raised by my learned friend of the confidentiality and how this particular person wanted to protect her privacy. My friend raised that and my submission is that I am entitled to cross-examine in relation to the abuse of that issue.

MR HUNT: I maintain my objection. Mr Roser's client has had its remedy in relation to this elsewhere. It is improper and, in my submission, impermissible and there's nothing, in my respectful submission, that I did in examining this witness that gave rise to this being a permissible course.

THE COMMISSIONER: Yes, I think that's right, Mr Roser.

MR COHEN: Might I record my client's position.

THE COMMISSIONER: Yes.

MR ROSER: I respectfully adopt what my learned friend Mr Hunt has says but may I indicate this as well: there is particular prejudice to my client inasmuch as if this material had been at large at the time that I was invited to re-examine my client, then there would have been a course of conduct we would have taken which can't be cured now. There is an obvious prejudice to him if this goes any further and join in the objection for that reason.

THE COMMISSIONER: Yes, I can't allow to you pursue this questioning, Mr Roser.

MR ROSER: Well, I was only taking her to the letter.

THE COMMISSIONER: What she wrote herself.

1 MR ROSER: And views, but this witness has given evidence  
2 that she had conversations with [AJ], that [AJ] was  
3 concerned about her confidentiality and her privacy, and as  
4 far as I was going to take it was that that was abused in  
5 this particular article, besides not correcting what Mr Fox  
6 said in Lateline, but also by quoting from a document of  
7 [AJ], in my submission, is an abuse of the credibility of  
8 this witness who talks of her dealings with this witness  
9 and also says she knew this particular witness had a  
10 particular concern for her confidentiality and her privacy.  
11 I hear what you say, Commissioner.

12  
13 THE COMMISSIONER: Yes. It is difficult for the reasons  
14 of which you're aware, Mr Roser.

15  
16 MR ROSER: Yes, thank you.

17  
18 THE COMMISSIONER: I'm sorry I can't permit it.

19  
20 MR TERRACINI: Based on that outline, I object too.

21  
22 THE COMMISSIONER: Thank you, Mr Terrracini. Perhaps you  
23 could move on to something else, Mr Roser.

24  
25 MR ROSER: Yes, I will.

26  
27 Q. You've given evidence in relation to [AL]?

28 A. Yes.

29  
30 Q. And your dealings with her. I think you said that -  
31 was the first contact in about 2007?

32 A. 2007.

33  
34 Q. And then subsequent to that, you've had --

35 A. A lot of contacts.

36  
37 Q. -- contact continuously with her?

38 A. Yes.

39  
40 Q. In 2010, June or July, you gave information to Mr Fox  
41 in relation to [AK] and [AJ]?

42 A. Sorry [AK]?

43  
44 Q. [AK] and [AJ] and Mr --

45 A. Yes, yes.

46  
47 Q. Mr Stillwell - Stanwell?

1 A. Stanwell.  
2  
3 Q. Stanwell, sorry?  
4 A. Yes.  
5  
6 Q. You know that statements were taken by Mr Fox in  
7 relation to those three persons?  
8 A. Yes.  
9  
10 Q. Did you also refer [AL] to Mr Fox?  
11 A. I think so. I'm not sure. My mind is a bit of a  
12 blank on that one.  
13  
14 Q. I suggest that you did?  
15 A. Look, I can't - I can't remember specifically doing  
16 it, but given the nature of her involvement, yes, I would  
17 have.  
18  
19 Q. Do you know from your recollection why no statement  
20 was taken by Mr Fox of [AL]?  
21 A. No.  
22  
23 Q. Did you discuss it with him?  
24 A. No.  
25  
26 Q. Why no statement was taken?  
27 A. No.  
28  
29 Q. Why not?  
30 A. Because he was a police officer. I didn't check on  
31 any of the police officers, what they were doing at that  
32 point.  
33  
34 Q. You knew subsequently that statements had been taken  
35 from [AK] and [AJ]?  
36 A. Yes.  
37  
38 Q. And Mr Stanwell?  
39 A. Yes.  
40  
41 Q. And you had conversations with him in relation to  
42 those documents?  
43 A. No, not - not at that point, no.  
44  
45 Q. No, but subsequently, in 2010?  
46 A. Well, not - no, not really. Like, no, Mr Stanwell  
47 provided me with his statement without my requesting it, so

1 Mr Fox wasn't involved with that at all.  
2  
3 Q. You gave Mr Fox his telephone number, didn't you?  
4 A. Yes.  
5  
6 Q. And didn't subsequently Mr Fox tell you he took a  
7 statement from Mr Stanwell?  
8 A. Yes, but in terms of - there was no discussion about  
9 it and, as I said, it was Mr Stanwell who provided me with  
10 that statement.  
11  
12 Q. Did you have any conversations with Mr Fox in relation  
13 to a statement from [AL]?  
14 A. No.  
15  
16 Q. Was there any reason for that?  
17 A. No.  
18  
19 Q. Also you gave evidence, I think yesterday, that your  
20 first dealings with Mr Fox were around about September  
21 2007?  
22 A. Yes.  
23  
24 Q. That's when you contacted him personally, did you?  
25 A. Yes.  
26  
27 Q. In relation to McAlinden?  
28 A. Yes.  
29  
30 Q. And you had a conversation with him?  
31 A. From memory, I had more than one conversation with  
32 him.  
33  
34 Q. But on this particular occasion, 26 September 2007?  
35 A. Sorry, on?  
36  
37 Q. 26 September 2007?  
38 A. Have I ever nominated a date? That's not ringing a  
39 bell specifically. I definitely had conversations with  
40 him.  
41  
42 Q. Could you just turn up number 81, thanks. Could  
43 I take you to the second page of that document. You will  
44 see on the right-hand side a date 26 September 2007?  
45 A. Yes.  
46  
47 Q. Would you just read that? You have seen that document

1 before?  
2 A. I don't think so. I hadn't read it.  
3  
4 Q. No. Could you just read that, just that paragraph,  
5 thanks.  
6 A. So just that section?  
7  
8 Q. Yes, please.  
9 A. Yes.  
10  
11 Q. What's transcribed there is the conversation you had  
12 with him on that particular date?  
13 A. Yes, yes.  
14  
15 Q. And in relation to McAlinden? It's "POI", but it  
16 relates to McAlinden?  
17 A. Yes.  
18  
19 Q. You asked if McAlinden was wanted, as you were doing  
20 articles on paedophile priests, and the police had  
21 indicated that they cannot supply this information?  
22 A. Yes.  
23  
24 Q. That's what he told you; that in relation to whether  
25 or not any investigation was being conducted by police in  
26 relation to McAlinden, he couldn't give you that  
27 information?  
28 A. If that's what he's got down in that, I'm - I don't  
29 have a problem with that. As I said, we had more than one  
30 conversation, so possibly I've found out something from  
31 somebody else and rung him back and - I can't say. We had  
32 more than one conversation.  
33  
34 Q. You were making inquiries whether an investigation was  
35 taking place in relation to McAlinden?  
36 A. Just basically whether McAlinden was known to police.  
37  
38 Q. Was there any reason why you contacted Mr Fox and not  
39 the officer in charge of an investigation of McAlinden at  
40 that particular time?  
41 A. In 2007?  
42  
43 Q. Yes.  
44 A. He was - McAlinden was dead.  
45  
46 Q. Yes.  
47 A. I was trying to find out was McAlinden known to

1 police, so I rang a number of different police sort of  
2 contacts. I rang police media. I got a response, I think,  
3 from police media as well. I rang a bunch of people.  
4  
5 Q. All right.  
6 A. And specifically the question about Fox - simply  
7 because, as I said, I'm not a police roundsman, so I had  
8 had very brief involvement with the Fletcher matter because  
9 there was a sentencing hearing at Gosford, so I was  
10 simply - Fox was familiar as a name from that, so --  
11  
12 Q. You thought because he was involved in Fletcher, that  
13 he was involved in McAlinden also?  
14 A. No, no. Simply, as a journalist, you just - I rang a  
15 lot of people then. So it's like, okay, there's a cop who  
16 has been involved in one child sexual assault matter.  
17 There's only been a couple of high profile ones. He  
18 possibly knows of another, you know, paedophile priest in  
19 the Hunter.  
20  
21 Q. After that time you had regular contact, I suggest to  
22 you, with Mr Fox?  
23 A. No.  
24  
25 Q. You didn't?  
26 A. No.  
27  
28 Q. Didn't you say to officers when you rang Lake  
29 Macquarie Local Area Command in 2008 that he was your  
30 police source?  
31 A. No.  
32  
33 Q. I suggest you did?  
34 A. No.  
35  
36 Q. I suggest to you that, prior to that, you spoke to  
37 Mr Fox in relation to investigations which were being  
38 conducted by Strike Force Georgiana?  
39 A. No.  
40  
41 Q. I suggest to you that he gave you information that, in  
42 relation to [NP], an investigation was being conducted at  
43 Lake Macquarie Local Area Command?  
44 A. No.  
45  
46 Q. And also gave the information in relation to [NP4] --  
47 A. No.



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Q. -- who was a brother of a person who was in your organisation?

A. My editor at the time.

Q. Yes. I suggest to you that he gave you the information in relation to that, that those two persons were being investigated, [NP] and [NP4] by Strike Force Georgiana?

A. No.

Q. I suggest to you that you contacted Lake Macquarie Local Area Command on 30 May 2008 in relation to those two matters?

A. Yes.

Q. And the reason you rang them was, of course, the information Mr Fox had given you in relation to the investigation?

A. No. I put in my affidavit the reason that I rang on 30 May in 2008.

Q. Yes. I suggest to you that that's wrong.

A. Well, I have to disagree with you.

Q. I suggest to you that when you rang and during a conversation with an officer at Strike Force Georgiana, you said you got the information from Mr Fox about those two matters being investigated by that particular strike force?

A. Well, I'd have to disagree. The article that appeared in the newspaper on 31 May 2008 makes clear where the information came from, which was a media release that was issued by Maitland-Newcastle diocese. The article also makes clear that the diocese had stated that there was - what was it? - professional misconduct, or something or other, and that the matters in relation to both police were being - both priests were being independently investigated or something, which immediately gives rise to, "Well, is that before the police?"

So I rang a number of different police to find out who was investigating, were police investigating these matters. And I've also made clear, I think in the affidavit, that with [NP] in particular, my only knowledge of [NP] up to that point had nothing to do with child sexual abuse and had to do with other matters. So I was trying to establish whether, in the case of [NP], we were talking about child

1 sexual abuse or whether we were talking about some other  
2 professional misconduct matters. They were routine phone  
3 calls.

4  
5 Q. It just so happens that, in relation to your  
6 inquiries, you rang the strike force which was conducting  
7 an investigation in relation to [NP] and [NP4]?

8 A. Yes.

9  
10 Q. Just coincidental?

11 A. I don't understand what you're saying.

12  
13 Q. It is just coincidental that you rang Strike Force  
14 Georgiana to find out that information?

15 A. It wasn't coincidental. It was deliberate because  
16 I wanted to find out is [NP] - if the diocese puts out a  
17 statement saying something is being independently  
18 investigated, then as a journalist you're trying to find  
19 out, well, who independently investigating it?

20  
21 Now, the article on the 31st, because it might have  
22 been in the Ombudsman's office, it might have been, I don't  
23 know, Fair Work, it might have been Industrial Relations -  
24 not actually with priests, but it might have been anything.

25  
26 Now, in the case of [NP4] I was aware of what was  
27 being looked at and that was Georgiana, but not with [NP].  
28 But the diocese's release mentioned both priests and my  
29 article that appeared on 31 May in the end I couldn't  
30 establish - I didn't get anyone from any of the cops so -  
31 anything from any of the cops, so I just put down "The  
32 Herald understands that police are investigating these  
33 matters."

34  
35 Q. Could we take you to another topic. I mentioned to  
36 you or asked some questions of you in relation to your  
37 knowledge that Mr Fox had taken statements from [AK] and  
38 [AJ] in particular. When was the first time that you knew  
39 statements had been taken from those two persons?

40 A. With [AJ], it was when I think either she or Fox told  
41 me, and it was probably within a day or so of each of them,  
42 so I couldn't tell you absolutely. With [AK], it was  
43 sometime later and I couldn't - I couldn't put a date on  
44 it. I think she let me know.

45  
46 Q. In what month in 2010 were you informed in relation to  
47 those statements having been taken and signed?

1 A. I couldn't tell you. The only thing that I have from  
2 [AK] in relation to this - any involvement with police, the  
3 only thing that I've been able to find was an email, but  
4 that was very late in the piece and it was more that she  
5 was not happy with police in general.  
6  
7 Q. Who is that?  
8 A. [AK].  
9  
10 Q. You knew in 2010 that statements had been taken from  
11 both those persons?  
12 A. Yes.  
13  
14 Q. And from dealings with Mr Fox, you knew that he was  
15 not disclosing that to other police?  
16 A. No.  
17  
18 Q. Didn't he tell you that he was keeping those  
19 statements to himself until he was forced to hand it over?  
20 A. That was not until - was it October 18th or something?  
21 That was - that was later.  
22  
23 Q. Yes. Well, in October --  
24 A. If it was in that email, the October 18th one where  
25 I think --  
26  
27 Q. Say that date there, to start with. So you knew at  
28 that particular time that he had these statements in his  
29 possession which he wasn't handing over to other police.  
30 A. That's --  
31  
32 MR COHEN: I object. There was no adoption by this  
33 witness of that proposition about the timing.  
34  
35 THE COMMISSIONER: That she knew that he was not handing  
36 them over or disclosing them?  
37  
38 MR COHEN: Yes.  
39  
40 THE COMMISSIONER: I think that's right, Mr Roser.  
41  
42 MR ROSER: Q. When was it that you knew that he wasn't  
43 handing over these statements to police?  
44 A. It would have to be whatever is the date of the email  
45 that I think you're referring to which - off the top of my  
46 head, I'm not sure which one that was.  
47

1 Q. Could I take you to tab 54 for a start.  
2 A. Volume 2?  
3  
4 Q. Volume 1, thanks. This was one that you were taken to  
5 by my learned friend yesterday.  
6 A. Sorry, did you say --  
7  
8 Q. Tab 54?  
9 A. Yes.  
10  
11 Q. The first date on the first document is 21 June 2010?  
12 A. Yes.  
13  
14 Q. The first email appears to be 8 June 2010, which is  
15 the third page of that document?  
16 A. I'm not sure if I'm looking at the right one.  
17  
18 Q. Number 54?  
19 A. Tab 54, volume 1.  
20  
21 Q. Volume 1, yes. It is an email, the last email is from  
22 yourself to Mr Fox of 23 June 2010, 09.28.  
23 A. Okay.  
24  
25 Q. You have got that one?  
26 A. I think so.  
27  
28 Q. Do you have that?  
29 A. I'm not sure. Which one are you directing me to?  
30  
31 Q. Just the third page for a start. Page 213 at the  
32 bottom.  
33 A. Okay.  
34  
35 Q. Do you have that? It is an email from yourself to  
36 Mr Fox?  
37 A. No. This is where I've got a problem, because the  
38 third page that I've got is an email from an employee of  
39 Maitland-Newcastle diocese to me.  
40  
41 Q. Yes. It is the next one up from there.  
42 A. Oh, yes. Yes.  
43  
44 Q. It is an email from yourself - sorry about that - and  
45 the last entry was 9 April. Then the next one from you to  
46 Mr Fox is 8 June 2010?  
47 A. Yes.

1  
2 Q. Then the next one on the next page, page 212, is one  
3 from Mr Fox to yourself on 22 June?  
4 A. Yes.  
5  
6 Q. And - my learned friend took you to this yesterday -  
7 about [AC]?  
8 A. Yes.  
9  
10 Q. And then [AJ], the next paragraph of that --  
11 A. Oh, yes.  
12  
13 Q. Do you see that?  
14 A. Yes.  
15  
16 Q. It says:  
17  
18 *I am gradually working through all that you*  
19 *sent. (As my wife will testify) I am*  
20 *progressing with [AJ] ...*  
21  
22 Et cetera?  
23 A. Yes.  
24  
25 Q. So you knew at that particular time that he was  
26 interviewing --  
27 A. Yes.  
28  
29 Q. -- or discussing with [AJ]? The next entry of  
30 yourself to Mr Fox, 22 June 2010?  
31 A. Yes.  
32  
33 Q. The person, "Do you mind if I contact her first?" Who  
34 is that?  
35 A. That's [AC].  
36  
37 Q. Thank you. And then there's another entry by Mr Fox  
38 to yourself about [AC], about Suzie - Suzanne, I should  
39 say?  
40 A. Yes.  
41  
42 Q. Who is that particular person?  
43 A. Suzanne Smith.  
44  
45 Q. And who is she with?  
46 A. Lateline - ABC.  
47

1 Q. And that's in relation to [AC]?  
2 A. Yes.  
3  
4 Q. Thank you. Then higher up there, the next entry from  
5 yourself to Mr Fox, you give [AC]'s telephone number to  
6 Mr Fox?  
7 A. Yes.  
8  
9 Q. And also Mr Mike Stanwell's number?  
10 A. Yes.  
11  
12 Q. Could I take you to 60, which is in volume 1 also.  
13 A. Yes.  
14  
15 Q. I think you may have been taken to this yesterday  
16 also. In relation to the first entry on the first page,  
17 which is the last entry really, on 22 July 2010, where you  
18 give certain information - he gives certain information to  
19 you?  
20 A. Yes.  
21  
22 Q. He talks about he's finished with Stanwell,  
23 Mr Stanwell?  
24 A. Yes.  
25  
26 Q. And also [AJ]?  
27 A. Yes.  
28  
29 Q. Did he inform you at that time that he had taken  
30 statements from those two persons?  
31 A. Whatever - no, just what's there.  
32  
33 Q. Thank you.  
34 A. I don't have any memory of conversations.  
35  
36 Q. Now, at the bottom of that page, the entry 22 July  
37 2010, why would you inform a police officer that you're not  
38 writing any articles until probably later in the week after  
39 next? Why would you inform him of what you were going to  
40 write?  
41 A. I'm a polite person.  
42  
43 Q. I beg your pardon?  
44 A. I'm polite. It's chatter.  
45  
46 Q. I see. So this is the first part of that particular  
47 email?

1 A. Are we talking --  
2  
3 Q. This is your email of 22 July 2010 at 08.08?  
4 A. Yes. That was in relation to that particular person  
5 who is named in there. I think because just looking at  
6 that, I would say - actually, obviously I've had a  
7 discussion with Fox in relation to that particular person  
8 and I'm advising him the reason why that article - the  
9 articles aren't running is because the person's out of the  
10 country.  
11  
12 Q. At the bottom there, you ask him what the police are  
13 doing in terms of any investigation into McAlinden?  
14 A. Yes.  
15  
16 Q. Over the next page, you talk about "defrocking, until  
17 Lucas comes back, and that gives you some free air." What  
18 do you mean by "that gives you some free air"?  
19 A. To continue to look at these matters and speak to  
20 people and take statements, do what police do.  
21  
22 Q. Why were you informing him that you were giving him  
23 some free air?  
24 A. I think it's just a turn of phrase. It's just  
25 basically I'm not planning on running anything, you know -  
26 the person that he's named in there is significant.  
27 I wasn't running anything on the church until that one ran.  
28  
29 Q. Why was a journalist informing a police officer that  
30 you were giving him free air? Is that your explanation?  
31 A. Yes, it is just a turn of phrase.  
32  
33 Q. Could I just take you to 66, thanks, which is in  
34 volume 2. Could I take you to the email on the first page,  
35 which is page 254. You'll see it down the bottom?  
36 A. Yes.  
37  
38 Q. It is an email from you to Tony Townsend, I think it  
39 is; is that correct?  
40 A. Yes.  
41  
42 Q. That's 17 September 2010?  
43 A. Yes.  
44  
45 Q. At that time you knew that statements had been taken  
46 from [AK] and [AJ]?  
47 A. If that predates - yes. Yes.

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Q. Could I just take you to the second last - the third line from the bottom. Do you see it there:

*Potential witnesses I have already spoken to are prepared to give statements ...*

Who are those potential witnesses that you're talking about?

A. They would have been those potential witnesses.

Q. Who are they?

A. Well, the [AJ]s, the [AK]s, the [AL] - well, [AJ]. There's also another one, [AI], I think it is.

Q. So it also encompasses [AK] and [AJ]?

A. No, not - his involvement went considerably further than that.

Q. Yes, but they were included in those potential witnesses that you are focusing upon there; is that correct?

A. In relation to - no. [AK] and [AL] aren't included in - because the police have already got the documents that involve [AK] and [AL].

Q. I suggest to you that they didn't?

A. Sorry?

Q. I suggest to you they didn't?

A. They didn't have the documents? I gave them the documents in the April.

Q. What you say there:

*Potential witnesses I have already spoken to are prepared to give statements ....*

A. Yes.

Q. Not that "they've given statements" - "are prepared to give statements." What you're talking about is giving statements to police, aren't you?

A. Yes.

Q. The statements that you'd already given the police in May, or April and May, were statements which were made to



1 church officials?  
2 A. Yes.  
3  
4 Q. They were not statements made to police and that's  
5 what you're relating there to Mr Townsend, an inspector of  
6 the NSW Police Service, that you had potential witnesses  
7 who were prepared to make statements; that's what you're  
8 saying, aren't you?  
9 A. Yes.  
10  
11 Q. Why didn't you identify who these particular persons  
12 were?  
13 A. In this?  
14  
15 Q. Yes.  
16 A. Because this was just a handing - because I wouldn't  
17 have done it at that point. It was more there's this in  
18 terms of this particular and I can provide further  
19 information.  
20  
21 Q. Why didn't you say, "Not only are they prepared to  
22 make statements, they had already made statements"?  
23  
24 MR HUNT: Commissioner, I object to that. A few answers  
25 ago the witness's responsive answer was she was talking  
26 about people other than [AJ] and [AK] and [AL] in that  
27 reference.  
28  
29 MR ROSER: No, it was inclusive of those persons.  
30  
31 THE COMMISSIONER: There was a bit of confusion about just  
32 who was mentioned.  
33  
34 MR ROSER: I'll try to clear it up, Commissioner.  
35  
36 THE COMMISSIONER: Thank you, Mr Roser.  
37  
38 MR ROSER: Q. Potential witnesses you identify there are  
39 incorporated or incorporated there are [AK] and [AJ]?  
40 A. Yes.  
41  
42 Q. Thank you. Why didn't you say instead of "I've  
43 already spoken to these people who are prepared to give  
44 statements" and state to Mr Townsend that "These persons" -  
45 that's [AK] and [AJ] - "have already made statements"?  
46  
47 MR HUNT: I object to this as an area. It is quite proper

1 that Mr Roser explore with this witness her dealings with  
2 DCI Fox in terms of Fox's failings because that's entirely  
3 relevant to term of reference 1. When you, Commissioner,  
4 come to survey the reasonableness of directions given if  
5 directions were given, on 2 December 2010, that's clearly  
6 within the ambit of your proper inquiries, subject to the  
7 terms of reference. However, some exploration of  
8 Ms McCarthy's duties to the police that are nothing to do  
9 with her communications with Fox and his failings, or  
10 otherwise, is a different issue and I say it is not going  
11 to really assist you.

12  
13 THE COMMISSIONER: Yes, Mr Roser. It doesn't have any  
14 connection to Mr Fox's involvement in these matters.

15  
16 MR ROSER: It does. You have evidence before you - and  
17 I understand there will be evidence tendered - which shows  
18 that there was an agreement reached, in my submission,  
19 between this particular witness and Mr Fox to conceal from  
20 police these statements until a later time and they were  
21 only disclosed to police on 2 December 2010.

22  
23 THE COMMISSIONER: Yes.

24  
25 MR ROSER: Where, prior in time, both knew and both had  
26 agreed, in my submission, from material emails sent by  
27 Mr Fox that he was not going to hand over these statements.

28  
29 THE COMMISSIONER: Yes.

30  
31 MR ROSER: This particular witness didn't inform police,  
32 although she went to a number of meetings, because the  
33 meeting, which I'll take the witness to shortly, of  
34 26 November was when - there is evidence that has been  
35 given in the Commission - that the meeting was set up for  
36 the disclosure of who these people were, who the witnesses  
37 were. At that particular time, also, it was never  
38 disclosed that statements had been taken from these  
39 particular witnesses.

40  
41 THE COMMISSIONER: Mr Hunt?

42  
43 MR HUNT: I now understand what my friend is saying. If  
44 his submission rests on there being an agreement between  
45 this witness and DCI Fox to withhold statements, I think  
46 that proposition ought be put.

47

1 MR COHEN: Before this goes much further, can I be heard  
2 on this?

3  
4 THE COMMISSIONER: Yes, Mr Cohen.

5  
6 MR COHEN: I'm grateful for the interchange about counsel  
7 because I'm now clear about matters. What I'm unclear  
8 about, and I must be quite candid and say with the  
9 effluxion of time and the dimming of memory I can't recall  
10 the particularly passage directly in the evidence where my  
11 learned friend Mr Roser was cross-examining by client,  
12 Detective Chief Inspector Fox, but I genuinely do not  
13 recall at any time the proposition being put that there was  
14 an agreement between DCI Fox and Ms McCarthy to conceal  
15 matters of this. That's my difficulty.

16  
17 I'm not so adamant about this to say that it was  
18 not put in any way, but I have no clear recollection that  
19 that proposition of express concealment that almost touches  
20 on a section 316 conspiracy was put to my client. If  
21 that's right, it's not a proper basis to try to extract  
22 something from this witness in this way.

23  
24 There are real re-examination issues for me that, of  
25 course, would have to be explored. That's another  
26 difficulty I have. Notwithstanding what my learned friend  
27 Mr Hunt says to you, Commissioner, I say there is a clear  
28 prejudice, unless there is a very clear identification of  
29 the basis of what was put to my client in evidence and that  
30 it is now put in exactly the same terms, not in this rather  
31 diffuse way of doing it - that's my difficulty.

32  
33 THE COMMISSIONER: Thank you. Mr Roser, do you say that  
34 was squarely put to Mr Fox at the appropriate time - the  
35 arrangement or the agreement?

36  
37 MR ROSER: The evidence is that he's communicating by  
38 email that he's withholding these statements. The  
39 inference to be drawn from that is there was agreement  
40 reached between them because this particular witness didn't  
41 then disclose this information. It is a clear inference  
42 from the evidence.

43  
44 MR COHEN: I maintain my objection.

45  
46 MR TERRACINI: It was not put to Fox.

47

1 THE COMMISSIONER: Mr Roser, I will allow you to ask  
2 whether there was such an arrangement and if it needs to be  
3 put to Mr Fox later, perhaps we can do so.

4

5 MR ROSER: Yes.

6

7 Q. Was there an arrangement between yourself and Mr Fox  
8 not to disclose not only the identity but also the  
9 statements which he had taken from [AK] and [AJ]?

10 A. Definitely not.

11

12 Q. But he sent emails to you, didn't he, where he said he  
13 was not going to hand over the statements?

14 A. As I said, that was later. This date here is  
15 17 September.

16

17 Q. Yes, I know that.

18 A. I was putting forward that material and I've made it  
19 clear here, I contacted Justice Wood's office on that day  
20 about that particular matter and it's made clear in the  
21 email. I was advising Inspector Townsend of that. So  
22 you're suggesting there's an agreement between me and Fox  
23 to hide, conceal, whatever. I'm advising Inspector  
24 Townsend there's potential witnesses, without saying who  
25 they are. You only have to look at the email that's up the  
26 top there. At that point it was becoming a little bit  
27 clear to me that there was some problems and I was politely  
28 informing Inspector Townsend, as another police officer.  
29 So Inspector Fox is doing what he's doing. Inspector  
30 Townsend had just said - had just confirmed with us, and  
31 we'd just run an article, saying that there was a strike  
32 force and that appeared on, I think, the 16th, and it was  
33 then, and I'm informing Inspector Townsend, you know.

34

35 Then the next step would be "Well, actually, there are  
36 already some statements taken." So I'm trying to deal with  
37 different police and trying to work out what's the best way  
38 for a journalist to steer her way through this. I thought  
39 it was significant and I raised it with Inspector Townsend.

40

41 Q. The reason why you were contacting Inspector Townsend  
42 was because he was in the northern region operations  
43 section?

44 A. No.

45

46 Q. What position did you think he held?

47 A. He was simply the person that I was told was the

1 person I was to speak to - at that point.

2

3 Q. The passage I took you to, why didn't you disclose to  
4 him that statements had already been taken from [AK] and  
5 [AJ]?

6 A. Because I suppose it was a little bit of a live issue  
7 for me by then that there were some issues involving a  
8 number of the police that I was dealing with. I wasn't  
9 really concerned what those issues were. I wanted the  
10 matter investigated, so I put that forward in that way and  
11 then if we'd had a discussion, I could have said, "Oh,  
12 well, actually" - I was a journalist. I was trying to  
13 tiptoe my way through this thing to get it investigated  
14 and, as I said, the email that appears on top of my email  
15 there from one police officer to another police officer  
16 cc'd to another police officer, makes it clear that I'm  
17 sort of a bit of an irritant.

18

19 Q. Could I just take you to number 71. That's in  
20 volume 2. My learned friend took you to this particular  
21 email yesterday, I think. It is dated 18 October 2010.

22 A. Yes.

23

24 Q. It is from Mr Fox to yourself?

25 A. Yes.

26

27 Q. He talks about personal things to you?

28 A. Yes.

29

30 Q. And other internal matters in the police force?

31 A. Yes.

32

33 Q. He tells you what he did in relation to certain things  
34 that were going on in the police force?

35 A. Yes.

36

37 Q. And then he says to you:

38

39 *I know that you will ensure that any*  
40 *contact between us remains strictly*  
41 *confidential ...*

42

43 What did you take that to mean - the second-last paragraph  
44 on the first page?

45 A. Yes. That it remains confidential.

46

47 Q. What?

1 A. That he's telling me stuff about other police officers  
2 and he doesn't want me to relay it.  
3  
4 Q. He goes further than that doesn't he, he says "any  
5 contact" between you and him. Why --  
6 A. Sorry, hang on. Where's that?  
7  
8 Q. The second last paragraph:  
9  
10 *I know that you will ensure that any*  
11 *contact between us remains strictly*  
12 *confidential ...*  
13  
14 A. Yes "contact", yes  
15  
16 Q. Why, in your mind, did any contact you had with him  
17 and he with you have to remain strictly confidential, if it  
18 was done on a journalist/police officer basis?  
19 A. It wasn't just I journalist/police officer basis by  
20 this point. It was obvious, as I've already indicated,  
21 that there was some kind of internal police bad blood.  
22 I wasn't the only one who knew about that, by the way.  
23  
24 Q. Was that the basis where he wanted any contact had  
25 between you and him to remain strictly confidential?  
26 A. Yes.  
27  
28 Q. It wasn't on the basis that he was leaking information  
29 to you so that you could write articles?  
30 A. No.  
31  
32 Q. Wasn't it?  
33 A. What information would that be?  
34  
35 Q. I wouldn't know what information transpired between  
36 you, but --  
37 A. You just said what - leaking information to write  
38 articles, and it's been suggested all the way through this  
39 Commission of Inquiry and I'm interested to know what  
40 information would that be and which articles, because  
41 no-one's actually pinned that down yet.  
42  
43 Q. Can I take you to the top of the next page. He says:  
44  
45 *I may have to part with the other*  
46 *statements if they push.*  
47

1 What are the other statements?

2 A. I'm guessing it's the ones that he has already  
3 referred to in emails, [AJ] - sorry, he's excluded [AJ].  
4 Stanwell, [AK], if he had a statement of [AC], [AC].

5

6 Q. And then he says:

7

8 *I will argue over [AJ]'s statement --*

9

10 A. Yes.

11

12 Q. :

13

14 *-- due to her insistence on*  
15 *confidentiality ...*

16

17 Et cetera?

18 A. Yes.

19

20 Q. Did you respond to that and say, "Well, you should  
21 hand those statements over to the strike force which was  
22 actually investigating these allegations"?

23 A. No.

24

25 Q. Why not?

26 A. He's a detective chief inspector of police. If he  
27 wants to handle it the way he's handling it, he's - I mean,  
28 I'm looking at that and I'm seeing he's saying, "I will  
29 argue over", so obviously he's prepared to communicate that  
30 to somebody at some point. "I may have to part with the  
31 other statements if they push." As I said, it was obvious  
32 there were internal police issues. I didn't want to buy  
33 into them.

34

35 Q. But didn't you have an obligation for the welfare of  
36 the victims that you were dealing with for their  
37 allegations to be investigated by the strike force which  
38 was set up to investigate their complaints?

39 A. I think my obligation to the victims was to make sure  
40 that they were looked after by the police who took  
41 statements from them, whichever police they were. How the  
42 police handled this was up to the police.

43

44 Q. But you knew that Mr Fox wasn't giving these  
45 statements to the strike force which was investigating  
46 their allegations?

47 A. If you're relying on that there, as I said, he's

1 indicating, you know, "if they push" - so there's  
2 communication expressed there - "I will argue over"; he is  
3 not saying that he's hiding it or concealing it. He is  
4 saying he's going to have - he wanted to be involved with  
5 the thing.

6  
7 Q. You knew that he wasn't?

8 A. I knew that - well, yes, that was bleeding obvious by  
9 that point.

10  
11 Q. But you still didn't feel that you had an obligation  
12 to disclose to the police who were actually investigating  
13 it that these victims had made statements?

14 A. But Mr Fox is indicating, as I said, communication  
15 there. He's going to - you know, "If they push" - so  
16 there's knowledge - and "I will argue over", so he's going  
17 to have a blue with them over whether he's still going to  
18 be involved. I didn't have any involvement with that, nor  
19 should I have been expected to have.

20  
21 Q. You were taken to this yesterday briefly. On  
22 24 November 2010 you received an email from Mr Fox late at  
23 night?

24 A. Yes.

25  
26 Q. He attached a report to you?

27 A. Yes.

28  
29 Q. I think you were taken to that. Would you just turn  
30 up 77, please. Are you there?

31 A. Yes.

32  
33 Q. You were taken to that yesterday by my learned friend?

34 A. Yes.

35  
36 Q. Did you have any communication with Mr Fox prior to  
37 receiving this report that he was going to actually send it  
38 to you?

39 A. No.

40  
41 Q. Had you ever --

42 A. Look, I don't have any memory, no. No.

43  
44 Q. Because the report is an internal report of the NSW  
45 Police Service. You would agree with that, wouldn't you?

46 A. Yes.

47



1 Q. It discloses a number of personal details of a number  
2 of victims?  
3 A. Yes.  
4  
5 Q. You had no dealings at all in relation to [AE], did  
6 you?  
7 A. At that stage, no.  
8  
9 Q. Not at all, did you?  
10 A. No.  
11  
12 Q. And it discloses personal information in relation to  
13 that particular person in this report - the second  
14 paragraph.  
15 A. I already knew that - sorry, I already knew that.  
16  
17 Q. This allegation occurred in 1999 and you weren't  
18 involved in reporting matters in 1999?  
19 A. I was very definitely already aware of that person's  
20 name.  
21  
22 Q. All right.  
23 A. And that did not come from Peter Fox.  
24  
25 Q. Well, he discloses in this particular document  
26 personal details in relation to that?  
27 A. That she had been sexually assaulted as a child.  
28 Well, I already knew that.  
29  
30 Q. And other details?  
31 A. About [AE]?  
32  
33 Q. [AE] is in relation to the first paragraph. The  
34 second paragraph?  
35 A. There's nothing more about [AE] in that paragraph.  
36  
37 Q. And you knew this particular document was an internal  
38 police document for the command of the police service to  
39 consider of what action should be taken in relation to  
40 these matters?  
41 A. I knew it was a document he'd drawn up. Loading it up  
42 by saying it was an internal police document, obviously  
43 police might have a view about that. From my point of  
44 view, it was just a document that he'd drawn up to argue  
45 his case for why he should be involved and why the  
46 investigation should go a certain way.  
47

1 Q. Why did he send it to you?  
2 A. Because he was still desperately keen to investigate  
3 McAlinden. I think he - the church's handling of  
4 McAlinden, and I think from the last paragraph he makes  
5 that clear that he wants it to be his final thing or  
6 something or other. He was ready to investigate the  
7 conceal side of things and he was nearing retirement age  
8 and he had definitely expressed to me he had a desire to  
9 sort of make that his last hurrah, I suppose.  
10  
11 Q. It goes a little bit further than that, doesn't it,  
12 because he asks you to correct the report?  
13 A. He asked me if I would sort of look at it, grammar and  
14 all that kind of stuff and --  
15  
16 Q. It goes a bit further than that, doesn't it? He also  
17 asked you, if you wished, to amend it?  
18 A. Which I clearly didn't.  
19  
20 Q. But he asked you that, didn't he?  
21 A. Yes.  
22  
23 Q. You had no conversation with him before or  
24 communication with him before this?  
25 A. No.  
26  
27 Q. That he was going to send this and ask you to amend it  
28 if you felt that way inclined?  
29 A. No. Probably he was feeling a bit alone and isolated  
30 by that point, so the caring ear of a journalist - I don't  
31 know.  
32  
33 Q. I journalist who was writing articles criticising the  
34 Police Service and --  
35 A. How many of those articles would have appeared by  
36 then?  
37  
38 Q. Sorry?  
39 A. And would any of that - did any of that material  
40 appear in an article? No. How many critical articles had  
41 appeared by then? I think there were two and they came  
42 from - they were articles quoting Australian Lawyers  
43 Alliance and its concerns.  
44  
45 Q. He sent you this information which was internal police  
46 information?  
47 A. But it wasn't critical --

1  
2 Q. To you --  
3 A. That's not critical of police, this document.  
4  
5 Q. It is setting out investigations and what he  
6 recommends that should happen in relation to investigations  
7 by the NSW Police Service --  
8 A. Yes --  
9  
10 Q. -- isn't it?  
11 A. -- but it is not a document critical of police. It is  
12 just saying, "This is what I would like to do."  
13  
14 Q. That's right, and makes a recommendation what the  
15 Police Service should do?  
16 A. Yes.  
17  
18 Q. Giving it to a journalist, without criticising you,  
19 who has written critical articles about the Police  
20 Service - that's the factual situation, isn't it?  
21 A. Well, you're sort of loading it up and suggesting -  
22 this wasn't meant for an article and, as I said, what  
23 critical articles have I written up until this point? I'd  
24 written articles quoting the Australian Lawyers Alliance  
25 expressing concerns about how the matter was being handled.  
26  
27 Q. Whether an article was written by you from this  
28 information, it could have been, couldn't it? He didn't  
29 know that you weren't going to write an article about this  
30 information?  
31 A. Well, I'd have to strongly disagree with you there.  
32 He didn't know.  
33  
34 Q. Did you have a conversation with him that you weren't  
35 going to use this information for an article?  
36 A. This specifically, no. But clearly he was sending me  
37 emails with information in those emails about internal  
38 police gripes. None of that made its way into articles.  
39  
40 Q. So he sent that article to you?  
41 A. He sent this document, yes.  
42  
43 Q. The report, I should say?  
44 A. Yes.  
45  
46 Q. You sent it back to him?  
47 A. I sent back and said, "It's excellent", something,

1 something, "That's great. Off you go."  
2  
3 Q. Yes. You said, if I can take you to 78, which is your  
4 email that I think you were taken to yesterday. I think  
5 that's what you're referring to, page 316?  
6 A. Yes.  
7  
8 Q. You say,  
9  
10 *I think it's excellent. I'm going to be*  
11 *telling Brad Tayler tomorrow ...*  
12  
13 Et cetera.  
14 A. Yes. Finishing with:  
15  
16 *Your report will certainly set the cat*  
17 *amongst the pigeons.*  
18  
19 Q. Yes.  
20 A. Yes.  
21  
22 Q. You're giving him encouragement from your advice that  
23 the report would cause problems with the Police Service?  
24 A. Because he was looking at --  
25  
26 Q. Isn't that what you meant by that?  
27 A. Yes, it was.  
28  
29 Q. Then you received an email back from Mr Fox on  
30 25 November 2010 at 17.03, at the top of that page, of  
31 tab 78?  
32 A. Yes.  
33  
34 Q. And he sent you the final report?  
35 A. Yes.  
36  
37 Q. Why did he send you the final report which was  
38 submitted to his superiors to act upon?  
39 A. Again, as I said, I think by that stage I was a bit of  
40 a sounding board for him.  
41  
42 Q. Why did he have to send the final report to you as a  
43 sounding board seeing he has already submitted it to the  
44 authorities?  
45 A. He wants to keep me in the loop.  
46  
47 Q. Why?

1 A. Because, at that stage, I suppose he was feeling  
2 pretty much on the outer, and he was trying to communicate  
3 with other police officers who, as his email shows, weren't  
4 responding to him and also, you know, I was trying to  
5 also - had sent emails of information to police myself and  
6 hadn't had responses, so possibly we were both feeling the  
7 same way at that point.  
8  
9 Q. The third paragraph there, "As discussed"; do you see  
10 the paragraph starting with that?  
11 A. Yes.  
12  
13 Q. When did you discuss this? When is he talking about?  
14 A. We must have had a phone call that day.  
15  
16 Q. What was said in the phone call?  
17 A. I can't even remember having the phone call, but  
18 clearly with, as he said, we've discussed it or he's  
19 assuming that we've discussed it or he's referring possibly  
20 back to the earlier "Keep it close to your chest".  
21  
22 Q. What he says there:  
23  
24 *As discussed, please keep the fact you have*  
25 *a copy of this report close to your*  
26 *chest --*  
27  
28 A. Yes.  
29  
30 Q. --:  
31  
32 *and let me know what unfolds.*  
33  
34 A. Yes.  
35  
36 Q. What did you take that to mean - the reason why you  
37 had to keep it close to your chest?  
38 A. Well, obviously, he doesn't want me to raise with the  
39 police that I'm aware that he's still trying to push to be  
40 involved.  
41  
42 Q. He's talking about a copy of the report?  
43 A. Yes.  
44  
45 Q. To keep that secret - why?  
46 A. Because he doesn't want me to let the other police  
47 know that he's still trying to expand it, or still trying

1 to be involved, still trying to push for a task force.

2

3 Q. What it means is that he wanted to cover up, which you  
4 agreed to, disclosing to police that he was giving you  
5 reports of internal information from the Police Service -  
6 that's what it's about, isn't it?

7 A. No.

8

9 Q. Well, that's what he says:

10

11 *As discussed please keep the fact that you*  
12 *have a copy of this report close to your*  
13 *chest ...*

14

15 A. But you referred to it as an internal police document.

16

17 Q. Yes. It wasn't for public consumption, was it?

18

19 A. No.

20

21 Q. It was given to you under strict circumstances to keep

22

23 it close to your chest?

24

25 A. Yes. And it was a document about, as I said, he's

26

27 arguing for why he believes that the police should have

28

29 expanded the investigation or run a more expansive

30

31 investigation than apparently he believes is happening and

32

33 that he wants to be involved with it.

34

35 Q. Then the next part after "the chest" reference, "Let

36

37 me know what unfolds", what's that in relation to?

38

39 A. The meeting that I was going to have with the strike -

40

41 with Tayler and - oh, the meeting that was subsequent to

42

43 the conversation with Max Mitchell.

44

45 Q. I suggest to you that this was given to you for the

46

47 purpose of attending that particular meeting the day after

on 26 November 2010?

A. No.

Q. And that's what he means --

A. Peter Fox was aware that I was going to that meeting,

obviously. Peter Fox possibly used this as an opportunity

to put forward, you know, "I still want to be involved with

this investigation." He was certainly aware of the fact

that there had been a complaint about the first interview,

1 so, you know, it makes sense that he's thinking, "Well,  
2 okay, here's an opportunity for me to get involved.  
3 There's a bit of strife, first up." Max Mitchell had  
4 already, you know, indicated the lack of experience, child  
5 sexual abuse experience, by a particular officer, so Fox is  
6 thinking, "Well, I'm the experienced one. Here's my  
7 chance."  
8

9 Q. I suggest to you that this report was given to you by  
10 Mr Fox to give you information to attend this particular  
11 meeting with Mr Morrison?

12 A. No, because --  
13

14 Q. And that's what he means, "Let me know what unfolds",  
15 and that is in relation to the meeting which was to be  
16 conducted on 26 November?

17 A. Yes. The "Let me know what unfolds" definitely  
18 referred to that meeting, but there's nothing in that  
19 report that I found controversial or even, you know - to me  
20 it just made - he's making a case for why he thinks he  
21 should be involved with this thing, with the investigation,  
22 and he's still raising it with his superiors.  
23

24 Q. And it is a report that you had no authority to have,  
25 did you?

26 A. Fine. I agree with that.  
27

28 Q. Did you tell them, when you attended the meeting on  
29 26 November 2010, that Mr Fox had given you this internal  
30 report which they - superiors - were considering?

31 A. I deliberately did not raise Peter Fox's name in that  
32 meeting at all.  
33

34 Q. Can you answer the question now?

35 A. Sorry, you'll have to ask me that one again.  
36

37 Q. Did you disclose at this particular meeting, on  
38 26 November 2010, that Mr Fox had given you an internal  
39 police report of 25 November 2010?

40 A. No.  
41

42 Q. Why not?

43 A. As I said, I deliberately did not raise Peter Fox's  
44 name at that meeting at all.  
45

46 Q. I'm not asking you about his name. I'm asking you  
47 about this particular report.

1 A. If I'd raised the report I would have had to raise his  
2 name.  
3  
4 Q. I assume that, after this particular meeting, you  
5 returned this report to Mr Fox?  
6 A. No.  
7  
8 Q. Why not?  
9 A. Because it had been emailed to me. It just formed my  
10 collection of documents that I had in my computer.  
11  
12 Q. Did you think that you had authority to have this  
13 internal police report in your possession?  
14 A. It was made available to me. I'm a journalist. I'm  
15 happy to have it.  
16  
17 Q. Because he inquired whether you still had that report,  
18 even up until late 2012?  
19 A. Yes.  
20  
21 Q. Did you ask why he was still making that inquiry to  
22 you?  
23 A. No.  
24  
25 Q. Why you had that report?  
26 A. No.  
27  
28 Q. That wasn't to help you in relation to things that  
29 took place in late 2012?  
30 A. No. How would it have helped me? I'm sorry, I'm not  
31 supposed to ask the questions.  
32  
33 Q. I would have thought that was quite obvious. On  
34 26 November 2010, you attended the meeting with  
35 Mr Morrison?  
36 A. Yes.  
37  
38 Q. And that was with members of the strike force?  
39 A. Yes.  
40  
41 Q. That meeting was after you had a conversation with  
42 Mitchell?  
43 A. Yes.  
44  
45 Q. And I suggest to you that at no time did he say that  
46 the officer that you had given evidence about was  
47 inexperienced in child sexual assault?



1 A. And I'll disagree with you.  
2  
3 Q. I suggest to you that the conversation he has had with  
4 you was in relation to that she was inexperienced in  
5 relation to investigating child sexual assault, of the  
6 Catholic Church?  
7 A. No.  
8  
9 Q. And then subsequently from that call, or conversation,  
10 you had a conversation with Detective Tayler?  
11 A. No.  
12  
13 Q. Didn't you?  
14 A. No.  
15  
16 Q. Can I suggest to you you had a conversation with him  
17 where the meeting was set up?  
18 A. No.  
19  
20 Q. When was the meeting set up?  
21 A. The meeting was on 26 November.  
22  
23 Q. Yes. I suggest to you that, after the conversation  
24 you had with Mr Mitchell, Tayler contacted you and arranged  
25 to have the meeting on the 26th?  
26 A. No. He left a message on my phone, apparently, and  
27 that's in the email, but we actually set up the meeting via  
28 email. I didn't have a conversation with him.  
29  
30 Q. Thank you. So a meeting was arranged for 12 or  
31 thereabouts, 12.30, on the 26th?  
32 A. Yes.  
33  
34 Q. I suggest to you that this meeting in global terms was  
35 for you to supply information of witnesses and information  
36 about those witnesses?  
37 A. No.  
38  
39 Q. Did you disclose at this particular meeting on  
40 26 November 2010 the identity of [AK], [AL] and [AJ]?  
41 A. No.  
42  
43 Q. Why not?  
44 A. Because the police already had them.  
45  
46 Q. I suggest to you that they did not?  
47 A. They did.

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Q. I suggest to you that [AJ] was only identified on 2 December 2010?

A. Then - oh, well, from - no. That would have come from Fox.

Q. I suggest to you that, on 26 November 2010, [AJ]'s name was ever mentioned outside your dealings with Mr Fox?

A. No - that's correct.

Q. Why didn't you disclose her identity on that particular occasion?

A. Because the reason for the meeting, my discussion with Mitchell was that we were to have a discussion so that we could overcome this issue of [AL] not wanting to make a statement to the particular officer that we're talking about, and that, you know, we could work together and sort of get things back on track, I suppose. At no point in the discussion with Mitchell did the issue of my giving other names or anything, or phone numbers - no, I wouldn't have - I certainly wasn't averse to doing that, but the whole reason that I contacted Mitchell was because I'd had a very upset phone call from [AL]. And the particular officer, detective involved was the person who was going to be interviewing the witnesses and we had this complaint, and I had - you know, the issues that were raised by [AL] were real.

So when Mitchell said the thing about that she wasn't - she didn't have experience in child sexual abuse, well, it rang true because hauling [AL] even in to the police station to make the statement, it just replicated what had happened to her. There was going to be an emotional response.

Q. I suggest to you the meeting was set up so you could disclose potential witnesses, as you had indicated to Townsend in September?

A. No.

Q. And information in relation to those witnesses?

A. No.

Q. I suggest to you --

A. I would have been happy to do that.

Q. Why didn't you?

1 A. If they'd indicated what it was that they wanted, but  
2 the initial contact when we walked into the room, and  
3 I can't remember, I think we just sort of introduced -  
4 I introduced Andrew Morrison. I can't remember exactly  
5 what was said at first, but Tayler just said straight away  
6 that we weren't going to be talking about the investigation  
7 and then he said that he wanted names and contact details  
8 of witnesses and --

9

10 Q. Which you refused to give?

11 A. Well, I - I --

12

13 Q. Well, you didn't give them to him?

14 A. No.

15

16 Q. Why?

17 A. Because that wasn't my understanding of why we were  
18 there and I was concerned about the fact that we had a  
19 complaint that was a live complaint and I would have  
20 thought that needed some priority.

21

22 Q. Didn't he say to you "We can't move forward in the  
23 investigation until witnesses make statements"?

24 A. Yes, but he also --

25

26 Q. And you knew - sorry. You knew at that particular  
27 time that two who persons, two alleged victims, had made  
28 statements, didn't you - [AK] and [AJ]?

29 A. Yes.

30

31 Q. Why didn't you disclose that to Detective Tayler and  
32 the other officers that you knew of statements that had  
33 been taken from these two potential witnesses?

34 A. We couldn't even get past [AL] because  
35 Detective Tayler was saying, "We need to get this statement  
36 from [AL]", and I was saying, "Well, that's a problem  
37 because she doesn't want to give a statement because of the  
38 way it's been dealt with. We have to sort that out first."

39

40 We didn't even get to the point of talking about how  
41 we were going to do other things. In fact, it was Andrew  
42 Morrison more than me who was trying to get us around [AL].  
43 We were saying to Tayler, "She is being placed under too  
44 much pressure. That is not good. At this point what she's  
45 reacting to now is feeling that she's completely  
46 responsible for everything and if she's not up to it, then  
47 the whole thing is it going to fall away."

1  
2 Q. What has [AL] got to do with you disclosing that you  
3 knew that [AK] and [AJ] had made statements which this  
4 strike force wanted to investigate?  
5 A. But what I'm saying to you is we didn't even reach  
6 that point.  
7  
8 Q. But what stopped you from disclosing that information?  
9 A. I wasn't comfortable about - it just didn't come up.  
10 Sorry, he was saying, you know, "I want the - we need to  
11 get" - and it's not like it was said many times. It was  
12 just, you know, "We need the names and the details, and the  
13 contact details", and --  
14  
15 Q. He asked you that?  
16 A. Yes.  
17  
18 Q. And you didn't respond; you didn't give that  
19 information to Detective Tayler?  
20 A. He asked it a couple of times and I responded that we  
21 had a live complaint and I was not comfortable at all about  
22 exposing victims - you know, more people - to that.  
23  
24 Q. Even to a strike force which was actually  
25 investigating the allegations which were incorporated in  
26 those statements; is that what you're saying?  
27 A. It is also a strike force where the people involved -  
28 it was not a good feeling in that meeting.  
29  
30 Q. And that's as journalist or as a police officer?  
31 A. That's as a journalist who was in a situation - in his  
32 evidence in this inquiry, Mr Tayler referred to the police  
33 force as a paramilitary organisation. That's what it felt  
34 like in that meeting that - and as somebody who knew the  
35 victims, I was being asked to expose them to somebody who  
36 believed that the police force is a paramilitary  
37 organisation. Now, I didn't know that at the time, but  
38 certainly that was the feeling. Also, the detective who  
39 did the original interview, there was just not a good vibe  
40 there either.  
41  
42 Q. Mr Morrison, who did he appear for or was instructed  
43 to appear for - [AK], [AL], [AJ]?  
44 A. He wasn't instructed to appear for anybody.  
45  
46 Q. So he just turned up, did he?  
47 A. No, I contacted him because I had concerns - I had

1 concerns about - in fact, can I tell you exactly when  
2 I contacted him. In the series of emails between Detective  
3 Tayler and myself to arrange the time of the meeting, they  
4 were just normal toing-and-froing. And the time, the  
5 different times that we were negotiating, he'd put four  
6 question marks behind the time. It was just a normal  
7 communication, but there were four question marks. That  
8 didn't - it might seem like a small thing, but four  
9 question marks in a normal routine communication suggested  
10 a bits of irritation. It was sort of like bang, bang,  
11 bang, bang, like that, and I didn't get a good vibe from  
12 that.

13  
14 Also, I didn't ask the police who - I did not ask Max  
15 Mitchell who was going to be at that meeting. I was going  
16 into it showing goodwill, hoping to move forward. Also I'm  
17 not stupid. I was not comfortable about walking in to a  
18 meeting with an unknown number of police officers by  
19 myself. The deputy editor of the newspaper at the time,  
20 James Joyce, offered to go with me and I said to him, "This  
21 is a police officer, Tayler, who had already made it clear  
22 and it was well known that he didn't think much of the  
23 media." And I said to James, "It wouldn't matter which  
24 media people were there. We'd sort of be" - I said,  
25 "I need somebody who's got a bit of oomph." So that's why  
26 I rang Andrew Morrison and said that we were going to have  
27 that meeting.

28  
29 Andrew Morrison had already, through the Lawyers  
30 Alliance, had communication with the police, had already  
31 expressed his concerns about it, about the way the police  
32 were handling it. He was a logical person to come in.  
33 Also, he had some expertise in the area of the legalities  
34 of this matter, so he was a sensible person to bring in,  
35 plus he's a calm person.

36  
37 Q. The meeting was set up, and one of the first things  
38 that was said to you by Detective Tayler, he wanted the  
39 names and contacts of all witnesses known to you in  
40 relation to the investigation of the strike force?

41 A. Yes.

42  
43 Q. You did not disclose --

44  
45 MR HUNT: I object.

46  
47 THE WITNESS: I've already said that --

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47

MR HUNT: I object at this point. My friend has ploughed this turf. I submit that it is not going to help you for him to continue to put propositions about "You didn't supply the material", and the witness to continue to explain why she didn't.

THE COMMISSIONER: Yes, we know the material wasn't supplied, thank you, Mr Roser.

MR ROSER: Thank you.

Q. Could I take you to page 16 of your affidavit. Do you have that? You talk about what was said and what the meeting was about?

A. Yes.

Q. You said:

*He said he wanted the names and contacts of all witnesses known to me. This surprised me. I had forwarded material and witness details to police. I was at that point unaware of any other witnesses relevant to the McAlinden documents.*

Do you stand by that?

A. Yes. In terms of - I didn't know how they were going to investigate it, so there would have been other people that potentially I could have accessed, but I --

Q. You never disclosed [AJ]'s name, so you hadn't disclosed all the material, had you?

MR HUNT: I object.

THE WITNESS: I'd also say, I was thrown - I'm sorry

MR HUNT: I object. It says "police"; DCI Fox was a police officer at the time these things were happening. It is not a fair proposition to put.

THE COMMISSIONER: Yes, Mr Roser, Ms McCarthy had disclosed it to Mr Fox but --

MR ROSER: Q. You had not disclosed it to this meeting of Detective Tayler, Detective Steel or Detective Quinn,

1 who was heading the strike force.

2

3 MR COHEN: I object. This re-ploughing proposition keeps  
4 coming up. We don't need to keep re-ploughing this field.

5

6 THE COMMISSIONER: Q. The answer is no, isn't it,  
7 Ms McCarthy?

8 A. No, because it just didn't - I mean what you're  
9 putting now is fair enough, but at the time it threw me  
10 that he asked that question because it was like, "Oh, God,  
11 what's this?", because I hadn't come prepared to be asked  
12 that question. I didn't really know what he wanted and  
13 then I thought, "Uh-oh, this is not going to be good,  
14 because that's not my understanding of what was going to  
15 happen." So that's why - look, [AJ] wouldn't have come to  
16 my head.

17

18 MR ROSER: Q. I'm not quite sure whether my learned  
19 friend took you to number 80. I suggest to you, if he  
20 hasn't, that's a correct recital of what occurred at this  
21 particular meeting on 26 November 2010? You've seen that  
22 document before, hadn't you?

23 A. Yes.

24

25 Q. You've read that?

26 A. Just quickly.

27

28 Q. I suggest to you that that's a correct recital of what  
29 occurred at the meeting on 26 November 2010?

30 A. Not in some points, no.

31

32 Q. I suggest to you that it is?

33 A. It's - no.

34

35 Q. Thank you. Could I just take you to 2 December. Did  
36 you receive emails late on 2 December 2010 from Mr Fox?

37 A. Yes.

38

39 Q. He set out a number of details of what occurred at the  
40 meeting on 2 December 2010?

41 A. Yes.

42

43 Q. And also details of what occurred prior in time -  
44 I think 1 December also? It is tab 84, I'm sorry. That's  
45 the email he sent to you on 2 December?

46 A. Yes.

47

1 Q. That was late at night, 23.19?  
2 A. Yes.  
3  
4 Q. The first part, if I can work from the last document  
5 backwards, is that 1 December 2010 where he talks about  
6 Justin Quinn and then the next page, 2 December?  
7 A. Yes. I think we're only talking about one email here.  
8  
9 Q. That's correct, yes.  
10 A. Yes.  
11  
12 Q. I think I've already taken you to what he said at the  
13 bottom or the second last paragraph in 357?  
14 A. Yes.  
15  
16 Q. About what he said he told a meeting about how he came  
17 into contact with [AJ]?  
18 A. Yes.  
19  
20 Q. And he also said that he was not to speak to the  
21 media?  
22 A. Yes.  
23  
24 Q. And you particularly?  
25 A. Yes.  
26  
27 Q. That instruction by him, you knew that was a serious  
28 aspect of the Police Service to be instructed not to do  
29 something?  
30  
31 MR COHEN: I object. There is a live issue about whether  
32 or not there is instruction, a direction, and this witness  
33 can't give evidence about that fact. All she can say,  
34 presumably, is she did or did not get this email. That's  
35 as far as it can go, in my respectful submission. That  
36 question is not a fairly put proposition because it  
37 emphasises "instruction" and it is such a live --  
38  
39 THE COMMISSIONER: Whether or not an instruction was given  
40 or whatever it was and what it was called, the question  
41 doesn't depend on that, does it, Mr Roser?  
42  
43 MR ROSER: No. What my friend puts as a legal proposition  
44 is incorrect in any case. I suggest my friend look at the  
45 legislation. I think that was tendered on the last  
46 occasion by my learned friend Ms Lonergan actually, the  
47 legislation.



1  
2 THE COMMISSIONER: Yes, please return to the question,  
3 Mr Roser.  
4  
5 MR ROSER: Yes.  
6  
7 Q. You knew, whether it is an instruction or direction,  
8 whatever it is, that when a police officer is told not to  
9 do something it is a serious matter?  
10 A. What I do know is if your boss tells you not to do  
11 something, then you shouldn't do it, that's right.  
12  
13 Q. He's saying to you that he was told not to contact  
14 yourself?  
15 A. Yes.  
16  
17 Q. During this email he set out a system, didn't he, of  
18 how to keep any contact had between yourself and him  
19 secret?  
20 A. Yes.  
21  
22 Q. And you agreed to do that?  
23 A. I was fine with that.  
24  
25 Q. Why?  
26 A. Because I wanted to know what was going on - well, one  
27 version of what was going on; at least he had some inside  
28 information as to what was going on.  
29  
30 Q. It went a little bit further than using different  
31 phones and computer systems, didn't it?  
32 A. He gave me his wife's mobile phone number.  
33  
34 Q. And his private email address?  
35 A. Yes.  
36  
37 Q. But what he set out in that email went a little bit  
38 further than that. Do you have a recollection of that?  
39 A. No.  
40  
41 Q. Didn't he tell you if anyone questioned you of the  
42 contact had between you and him, you were to give a false  
43 story?  
44 A. Not - if it's in there, then I'll say yes, but --  
45  
46 Q. Well, that's what he told you to do, didn't he, that  
47 if anyone had questioned you on why you or he were speaking

1 to each other, that you were to give a false version of why  
2 you were in contact with each other?  
3 A. Or that we were in contact.  
4  
5 Q. Yes. I take you to paragraph 3 of page 359.  
6 A. Paragraph 3?  
7  
8 Q. Yes.  
9 A. That's what he's saying here.  
10  
11 Q. He is saying:  
12  
13 *If my calls to you over the past 6 weeks*  
14 *are picked up ...*  
15  
16 et cetera - to give a false?  
17 A. Yes, but that's what he's saying he'll do, not me.  
18  
19 Q. Yes, that's right.  
20 A. Yes.  
21  
22 Q. That's what he's saying for you to do?  
23 A. No.  
24  
25 MR HUNT: I object to that.  
26  
27 THE COMMISSIONER: It is plain I think that the witness  
28 appreciates the point. The answer is "No".  
29  
30 THE WITNESS: What he says:  
31  
32 *If my calls to you ... are picked up*  
33 *I will just have to explain you were*  
34 *chasing up ...*  
35  
36 He's saying what he's going to do. He's not saying what  
37 I'm going to do or he's not directing me to do something.  
38  
39 MR ROSER: Q. Did you agree to go along with what he  
40 said, if you were questioned?  
41 A. That wasn't even raised/?  
42  
43 Q. No, but I'm raising it now.  
44 A. I'm saying it wasn't even raised.  
45  
46 Q. I know that. I'm asking the question: were you  
47 prepared when he suggested that to go along with that?

1 A. No.  
2  
3 Q. Did you answer his email and say, "I refuse to go  
4 along with what you say if I'm questioned"?  
5 A. No.  
6  
7 Q. Why not?  
8 A. I had already decided at that point that I was not  
9 going to be raising Peter Fox's name with any of these  
10 police officers from that point, and that was related to  
11 something that had nothing to do with this. If you want me  
12 to explain that, I'm quite happy to do so.  
13  
14 MR COHEN: Is that a convenient time, Commissioner?  
15  
16 MR ROSER: I'm not sure my friend wishes for the break for  
17 some particular purpose.  
18  
19 THE COMMISSIONER: Mr Roser, does it suit you? Are you  
20 getting close to the end? Would you prefer to ask a few  
21 more questions?  
22  
23 MR ROSER: No, that's okay, Commissioner.  
24  
25 THE COMMISSIONER: I will adjourn for morning tea.  
26  
27 **SHORT ADJOURNMENT**  
28  
29 MR ROSER: Q. I was taking you just before the break to  
30 a couple of emails. Could I take you to 87. I think my  
31 learned friend took you to that yesterday in relation to,  
32 again, from Mr Fox to you, about how you can cover up any  
33 dealings between him and you. Could I take you to page  
34 370, about how to manipulate computers and that type of  
35 thing and I think you gave answers yesterday about how to  
36 cover that up; is that correct?  
37 A. I wouldn't use the phrase "cover up", but if you want  
38 to. I was asked questions about these emails yesterday,  
39 yes.  
40  
41 Q. Yes, that's correct, yes. I'm just taking you there  
42 in relation to other issues about the phones and various  
43 other things. That's the other aspect that he went to in  
44 relation to keep it secret, of your dealings with him, from  
45 his perspective.  
46 A. Mr Fox's perspective?  
47

1 Q. Yes.

2 A. Yes.

3

4 Q. Correct.

5 A. Then I answered that I had completely separate reasons  
6 for not raising Inspector Fox's name in any conversations  
7 with police from that point, and I am happy to explore that  
8 if would you like me to.

9

10 Q. In November 2012, there were discussions between  
11 yourself, Mr Fox, Ms Smith from Lateline, and other persons  
12 in relation to the Lateline program?

13 A. Yes.

14

15 Q. Do you remember that? Who was involved in those  
16 discussions about what would be said on the Lateline  
17 program in November 2012?

18 A. Suzanne Smith from - no, I don't know who exactly from  
19 Lateline was involved in the discussions. Suzanne Smith  
20 cc'd me into the ones that I think appeared here. There  
21 was also David Shoebridge, who is the Greens Upper House  
22 politician, New South Wales.

23

24 Q. Just stopping you there, in relation to that person,  
25 what's his involvement in this, besides being a politician?

26 A. He has been very strong in terms of raising the issue  
27 of - the issues of victims, or the victims' perspective,  
28 I suppose, on the Catholic Church's handling of child sex  
29 matters.

30

31 Q. Who else was involved in discussions about what would  
32 be said in this Lateline program?

33 A. I wasn't actually involved with discussions about what  
34 was going to be said on Lateline. I was cc'd into some  
35 materials. I had separate discussions with Suzanne Smith  
36 just in terms of some follow-up matters that I was going to  
37 do relating to an Ombudsman's investigation from a few  
38 years earlier that sort of tied in with this. I had  
39 discussed - the discussions were more about Fox had written  
40 his open letter to the premier which - well, the affidavit  
41 I've sort of put the background to that.

42

43 So Fox had spoken at the public meeting raising the  
44 issues that he did. Then he subsequently said he wanted to  
45 write a letter to the premier saying, you know, from a  
46 police officer's perspective the Catholic Church had done  
47 certain things and not done things. He and his wife were

1 going away to Tasmania. I think we decided - and this was  
2 only Fox and myself - to - he'd spoken at the public  
3 meeting. Was he going to get into strife for saying what  
4 he'd said? Suzanne Smith said - that's right, at the  
5 meeting Suzanne Smith had indicated that Lateline was  
6 interested in following up as well, but Fox was going on  
7 holidays, so it was all too - wait until he came back and -  
8 yes.

9  
10 Q. In relation to the open letter, did you have any input  
11 into that, the drafting of that letter?

12 A. No.

13  
14 Q. In relation to discussions prior to the Lateline  
15 program going to air, there was agreement reached between  
16 yourself, Mr Fox, Ms Smith and Shoebridge, wasn't there, in  
17 relation to what should be said on the program and what  
18 shouldn't be said?

19 A. No.

20  
21 Q. I suggest to you there was agreement reached that not  
22 too much was to be said. It was to be drip-fed so that you  
23 would generate more publicity?

24 A. I had no party to - I was not a party to the  
25 discussions about how Lateline was going to do its stuff.  
26 I didn't ask to be sent the transcript that we're talking  
27 about, but when I saw some of the questions and the  
28 responses that were given by Mr Shoebridge, and I saw  
29 Peter Fox saying - you know, his responses to it, I sort of  
30 went "Oh my God, what is this?" So that's where  
31 I responded and said, "I agree with Peter", not for his  
32 reasoning, but just for heaven's sake don't raised Strike  
33 Force Lantle matter. And then my comments are "This is  
34 not - this shouldn't be a thing between Peter Fox and the  
35 police. This is about politicians relying on the police as  
36 a reason to not have a royal commission."

37  
38 Q. Did you see a transcript of what was to be said?

39 A. Yes.

40  
41 Q. Where did you see that transcript?

42 A. It was sent to me. I was cc'd into whatever Suzanne  
43 Smith was proposing in her interview with Shoebridge.

44  
45 Q. And that was the basis of what was to be said on this  
46 particular program?

47 A. It was her interview with Shoebridge. Now, I didn't

1 ask to be sent that. I didn't ask to be sent any of that  
2 material, so that's what I'm saying. To suggest that there  
3 were discussions about it, no, there weren't. It just  
4 landed in my email thing. I saw it and just went "Oh, no,  
5 please don't make it an internal police thing at this  
6 point."

7  
8 Q. You did agree with the suggestion by Mr Fox that the  
9 information to be given on this Lateline program was to be  
10 drip-fed?

11 A. No. That's what I'm saying to you. I said, "I agree  
12 with Peter", as in don't - the bits that he put in bold or  
13 whatever it was, don't use that, but then I gave my own  
14 explanation.

15  
16 Q. Thank you. You've given evidence that you had contact  
17 with - and you've produced most of the emails in relation  
18 to this, in relation to your dealings with Mr Fox?

19 A. I produced all of the emails in relation to my  
20 dealings with Mr Fox.

21  
22 Q. Yes. Some of those emails relate to Mr Fox writing a  
23 book about these matters?

24 A. Yes.

25  
26 Q. When was the first time that he disclosed to you that  
27 he was writing a book about these matters?

28 A. Oh, I couldn't tell you. He mentioned it a few times.  
29 I knew that he was working on it.

30  
31 Q. Have you seen any of the writings by him in relation  
32 to this book?

33  
34 MR COHEN: I object. This must be framed beyond the very  
35 edge of the universe. I don't think it is relevant to you.

36  
37 THE COMMISSIONER: It may be relevant, Mr Cohen. I will  
38 allow it.

39  
40 MR ROSER: Q. Have you seen writings by him which is to  
41 be included in this particular book?

42 A. I think he - a chapter and I had a quick flick through  
43 it and I thought, "He won't get a publisher for this",  
44 because it just had about 2,000 defamations actions in it,  
45 so I thought that he was going to be up against it.

46  
47 Q. In relation to that, how long was that particular

1 chapter?  
2 A. Oh, I can't remember. I didn't even read it properly.  
3 I just sort of had a quick run through it and just went,  
4 "Yeah."  
5

6 Q. And that related to these issues?

7 A. No, not - no. No, it was - I couldn't even tell you.  
8 It was other police - because my understanding of his book  
9 was that it wasn't just about, you know, the Catholic  
10 Church stuff; it was just his time as a police officer.  
11

12 Q. Did he discuss with you when he expected to be  
13 finished writing this particular book?

14 A. He might have. I don't remember.  
15

16 MR ROSER: Nothing further, thank you Commissioner.  
17

18 THE COMMISSIONER: Mr Cohen?  
19

20 **<EXAMINATION BY MR COHEN:**  
21

22 MR COHEN: Q. Ms McCarthy, yesterday, when your evidence  
23 was being led in chief by Mr Hunt, you were asked a number  
24 of questions. I regret I don't have the exact point of the  
25 transcript to put them exactly, but the gist of the  
26 question that was asked of you was that nothing in your  
27 dealings with Fox were out of the usual, and you responded,  
28 "I don't know how police work, but it did not register  
29 anything untoward." Do you remember that line of  
30 questioning ?

31 A. Yes. I can't remember what the context was that it  
32 was raised, but I remember that.  
33

34 Q. You remember the questions?

35 A. Yes.  
36

37 Q. You said his position did raise any - I think,  
38 "register anything untoward" was your response. Do you  
39 remember that evidence?

40 A. Yes.  
41

42 Q. Would you compare that position, say, in contrast to  
43 your views and your perceptions of the approach of  
44 Assistant Commissioner or then Superintendent Mitchell in  
45 the suggestion made?

46 A. Which suggestion?  
47

1 Q. At the time that you had the discussion with him about  
2 having a meeting with the members of Strike Force Lantle?  
3 A. Yes, that was - well, I've never been asked to do  
4 anything like that before.

5  
6 Q. How would you characterise your reaction at the time  
7 you were asked that by Superintendent Mitchell?  
8 A. Well, I wanted to the police to investigate the  
9 matter. So any way of trying to - you know, communication  
10 appeared to be the issue there at that point. You know, it  
11 was like the communication wasn't good. I'm a  
12 communication person, so I thought, "Okay, it's unusual";  
13 but everything about this is unusual because of the nature  
14 of what we were talking about. No other police command was  
15 being asked, had been asked, to really look at, you know,  
16 conceal matters involving the Catholic Church. We were in  
17 unchartered waters there.

18  
19 Q. Is it fair to characterise your perception of his  
20 conduct - that is, Superintendent Mitchell's conduct - at  
21 that time, as unprofessional?  
22 A. I used the word "unprofessional" just in my affidavit,  
23 just in terms of him saying to me that the detective  
24 involved that was the subject of the conversation did not  
25 have experience in child sexual abuse matters, because  
26 I thought, "He's a police officer, a senior police officer  
27 talking about another police officer in these circumstances  
28 to an outsider." If that had been my boss who said  
29 something like that about me - and then also it begs the  
30 question, "Well, hang on, mate. You're senior to her. Why  
31 is she in that position then?" It is sort of having a go  
32 at the person but not looking at the management of how that  
33 person came to be in that position.

34  
35 Q. At the time was that just your perception or did you  
36 have the opportunity to explore what was being put to you  
37 by Superintendent Mitchell?  
38 A. No, I didn't explore it, because, as I said, how the  
39 police did their things was their business. The  
40 consequences of it, though, and how it impacted on the  
41 victims and me, that was my business. So I raised it with  
42 him, but I wasn't going to have a big discussion with him  
43 about it. He said that. When it was raised at the meeting  
44 subsequently, you know, she obviously wasn't happy with  
45 that having been raised, that's her business to take up  
46 with him if she saw fit.

47



1 Q. At this time when you had this discussion with  
2 Superintendent Mitchell, there were other discussions that  
3 you've given evidence about with other police officers, did  
4 you form an impression or view that they had acted in a way  
5 that you would call unprofessional?  
6 A. Specifically?  
7  
8 Q. Specifically, you had, as a consequence of the  
9 discussion with Superintendent Mitchell, a meeting arranged  
10 for you by him?  
11 A. Yes.  
12  
13 Q. With three police officers I think it is correct to  
14 say?  
15 A. Yes.  
16  
17 Q. Was anything in that meeting --  
18 A. No, not unprofessional. I think, really, we were in a  
19 situation where, quite probably, Inspector Tayler and I had  
20 been given completely different ideas about what was to  
21 happen at that meeting and then we'd been left to it. So,  
22 yes, there was nothing unprofessional in that meeting. We  
23 were - and I've described it. We were both assertive, at  
24 times forceful, but it remained very professional.  
25  
26 Q. There was a robust exchange of views?  
27 A. There was a robust exchange of views.  
28  
29 Q. The unprofessional element was the precursor in the  
30 way it occurred with Superintendent Mitchell; is that  
31 correct?  
32 A. Only in relation to him disclosing something about a  
33 police officer that I didn't think was appropriate to raise  
34 with an outside person. If he had issues about it, he  
35 should have raised it with her, not with me.  
36  
37 Q. And that particular issue about that particular  
38 officer, who can be described for this purpose as  
39 Detective X, was the subject of direct discussion, if I  
40 understand your evidence correctly, between you and that  
41 detective in the subsequent meeting; is that so?  
42 A. Sorry, that she and I --  
43  
44 Q. Did you disclose in that meeting - I think  
45 I understand your evidence to this effect --  
46 A. Yes, yes.  
47

1 Q. That you disclosed this to Detective X at the time of  
2 the subsequent meeting arranged by Superintendent Mitchell?  
3 A. What Mitchell had told me about?  
4

5 Q. Yes.

6 A. Yes. As I said, I had no intention of going in there  
7 and saying that. But it was when [AL] was criticised for  
8 being aggressive and, "We can't work with her", and  
9 I forget, there were certain things along those lines, you  
10 know, "How can we deal with this woman" and that sort of -  
11 I thought that was wrong because she was a victim of  
12 historic child sexual abuse.  
13

14 Really, it is up to the professionals in the room to  
15 know how to interview, you know, to know how to do that; it  
16 is not up to the victim to - and so, yes, I just - and  
17 that's when I raised the issue of, well, you know,  
18 "Mitchell had said that you didn't have the experience."  
19 It wasn't that blunt. Like, I didn't want to be rude to  
20 her but, by the same token, I didn't think it was fair and  
21 it was being loaded up on [AL] and I thought, "Well, that's  
22 just not right."  
23

24 Q. The comment that triggered this response of yours came  
25 from whom in this meeting?

26 A. I think Tayler had said it, that she was, you know,  
27 that [AL] was aggressive and something, and I think the  
28 officer involved, Detective X, also said it, you know. But  
29 that was a fair way in; it wasn't sort of right up-front of  
30 the meeting.  
31

32 Q. Your reaction was also at that point a fair way in?

33 A. Yes, and it was more in defence of [AL]. Then  
34 I followed up just basically saying, "I've interviewed a  
35 lot of victims of historic child sexual abuse and I've not  
36 had a complaint." So it's, like, it is how you do it and  
37 if you're professional about what you're doing, then you  
38 make sure that they're looked after while you're  
39 interviewing them.  
40

41 Q. Would you characterise the approach or - I withdraw  
42 that. Would you --

43 A. Having said that, just to be fair to the police,  
44 clearly I'm a journalist and clearly I'm not having to get,  
45 and I do not get, to the level of detail that a police  
46 officer would have to get to, so I'm readily saying that.  
47 But obviously, at some point, she was interviewed and

1 obviously that was able to be done. So I think maybe there  
2 was an erosion of trust, unfortunately in this case, right  
3 from the outset and then the way that it was dealt with  
4 after that wasn't good.

5  
6 Q. Is your perception of this approach or attitude or  
7 atmosphere, whichever metaphor you prefer to employ, one of  
8 what is called in the common parlance, blaming the victim?

9 A. Look, at the point of the meeting, yes, but having  
10 said that, again, clearly we had been put into a meeting  
11 with different ideas about what was to occur, so to be fair  
12 to everybody, possibly there were things said on all sides  
13 that wouldn't have been said if things had been done  
14 differently or if we'd all been clear about what was to  
15 happen there.

16  
17 Q. Was there ever any subsequent clarity about what  
18 everybody ought to do and what --

19 A. No, there wasn't; there really wasn't any point in  
20 trying to get clarity about what the meeting was about, and  
21 that's where it was like, okay, that's where it got down  
22 to, "Can he would take the pressure off [AL]?" That was  
23 when Andrew Morrison and I started talking about, "Look,  
24 there's lots of files, church files." That's when we tried  
25 to steer - and we both did try to steer it away from the  
26 victims to could we just - yes, it was Morrison who said,  
27 "There's a church file. Maybe you can go down that path  
28 first see what you can get. Sort out the complaint side of  
29 things and regroup and have another go."

30  
31 Q. Did that bear fruit, that suggestion, of any type?

32 A. We weren't pushing them for a commitment to what  
33 they were going to do. That really wasn't the point. It  
34 was, like, "Okay, we're in this situation. Can we have  
35 a dialogue?" There wasn't really anything resolved. I  
36 think - no, Andrew might have come up with - no, I don't  
37 think there was anything really resolved. The meeting  
38 ended politely. We were all able to say goodbye  
39 appropriately.

40  
41 Q. There were no bodies on the carpet?

42 A. No, no. We all got out safely.

43  
44 Q. In some of the evidence that fell from your  
45 examination by Mr Hunt yesterday on this very topic, as it  
46 turns out, there was - I need to check I'm right in that.  
47 I think it was Mr Hunt. Forgive me if I'm attributing the

1 question to the wrong counsel, but the gist of the question  
2 that was put to you at one point was that you were at  
3 cross-purposes and you said, "That's a nice way to put it."  
4

5 MR HUNT: I can indicate that was me.  
6

7 THE COMMISSIONER: Thank you, Mr Hunt,  
8

9 MR COHEN: Q. Not necessarily being brutal, as I recall  
10 it, but it was Mr Hunt who asked you that question. You  
11 responded, I think the phrase you used, that it was -  
12 I think this is correct, correct me if I am wrong - a  
13 wholly accurate non-euphemistic way of putting it. Did you  
14 use that phrase? I've recorded it, but I regret I don't  
15 have the exact reference. Did that arise in your mind?

16 A. What was it again?  
17

18 Q. You were asked if you were at cross-purposes. You  
19 said it was a nice way to put it, I think was your  
20 response.

21 A. Yes, well, that sounds --  
22

23 Q. Were you using a euphemism when you put it that way?

24 A. Yes, a nice way of putting it and - yes.  
25

26 Q. What is a completely accurate non-euphemistic way of  
27 putting what you said was at cross-purposes?

28 A. At that meeting?  
29

30 Q. Yes.

31 A. Well, just what I've said, that there were two  
32 different approaches to what - and it was pretty obvious  
33 that there wasn't much - there wasn't much ground in  
34 between, I suppose.  
35

36 Q. Was it your view that these were two differences of  
37 view that were never likely to be reconciled?

38 A. Oh, it was - it was reasonably clear to me then that  
39 the investigation, the Lantle investigation, was going to  
40 be focused on the documents and the witnesses who were  
41 within those documents.  
42

43 Q. When you say "the documents", do you mean the  
44 documents provided to you by [AK] and [AL]?

45 A. Yes, the documents - the 1995 documents, the church  
46 documents. So it was pretty obvious from what was being  
47 said, the focus on [AL] and [AK], it was pretty obvious

1 that the Lantle investigation was basically going to be  
2 what flowed from those documents in terms of the focus on  
3 [AL] and [AK], "so we need to get their statements", and  
4 then that was it. It was clear that the kind - I suppose -  
5 of more broad investigation that, say, Shaun McLeod had  
6 discussed with me, you know, back in the April of that  
7 year, and that Fox was arguing that that wasn't what Lantle  
8 was actually about.

9  
10 Q. Is it fair to say that that is a distinction between  
11 broader investigation generally of child sexual abuse by  
12 clergy as against a narrower investigation of the  
13 concealment of such offences by others in the church  
14 organisations; is that right?

15 A. No. It was more that in terms of an investigation  
16 of the conceal, it was going to be strictly what can  
17 flow from these documents and these witnesses and not very  
18 much beyond. It did not surprise me in the slightest to  
19 see the final Lantle agreement that's within these  
20 documents here.

21  
22 Q. You mean the terms of reference; is that what you  
23 mean?

24 A. Yes, the term of reference, I'm sorry. It didn't  
25 surprise me in the slightest when I saw down the bottom  
26 of that the very last thing where it said, "This is not  
27 going to be an investigation of the Catholic Church's  
28 handling of child sexual abuse allegations", or something,  
29 whatever the final line was of the terms of reference,  
30 because that was the distinct impression I got at that  
31 meeting, that they were just going to go: is there enough  
32 on these documents with these witnesses with a little bit  
33 of sort of whatever you do for section 316, get it  
34 packaged, get it done.

35  
36 Q. Did you get the impression there was a bit of a carpet  
37 under which there was some sweeping going on?

38 A. No, I wouldn't have - no. No. My impression was  
39 simply, "Okay, we've been stuck with this thing. Let's  
40 work out how to do it." You know, and all of the issues  
41 that flow from 316, all the little hurdles that have to be  
42 jumped to sort of reach a conclusion, that they were just  
43 looking at that. So, "Oh dear, if we get to the end and,  
44 sorry, there's too many hurdles and we can't finally jump",  
45 I don't have a problem with that because if there are all  
46 those hurdles and it is too much and you have a case based  
47 on these documents and these things, which I would argue

1 is probably one of the better chances you are ever going to  
2 do a conceal matter with the Australian Catholic Church -  
3 if you can't get up on that, then that's the reason why you  
4 have a royal commission. So this became a step along the  
5 way in the end.

6  
7 Q. What understanding that it was "a step along the way"  
8 did you perceive?

9 A. I wasn't thinking that at the time, certainly not.

10  
11 Q. Thinking what on the way?

12 A. That, you know, a police investigation of these things  
13 was a step along the way towards a royal commission.  
14 I really was hoping that we'd reach a point where we  
15 weren't just looking at child - at paedophile priests and  
16 we were looking at the systems and the church structure.

17  
18 Q. Taking your thinking back to 2010 and not bringing  
19 forward some of the baggage that goes with that to now, as  
20 at 2010, in this meeting, did you form the view that there  
21 was an approach that said, "There must be all of these  
22 hurdles; therefore, we won't go anywhere near them"?

23 A. No, no. It was basically the approach, "We're stuck  
24 with this thing. We have to do it, let's do it." You  
25 know, probably --

26  
27 Q. All care, no responsibility?

28 A. No, no, I wouldn't put it that way. Just basically,  
29 "Let's do it but, you know, there's a lot of problems  
30 here", or there's --

31  
32 Q. Near enough is good enough?

33 A. No, no, I wouldn't say that.

34  
35 MR ROSER: I object to that.

36  
37 THE COMMISSIONER: I will allow it and I will allow the  
38 answer.

39  
40 MR COHEN: Q. Have you concluded your answer?

41 A. Yes.

42  
43 Q. You were asked some other questions, Ms McCarthy.  
44 I think this also was Mr Hunt, but, in any event, the  
45 question that was put to you was "In your mind why did the  
46 communication which was behind tab 71, which you'd been  
47 taken to, a document of 18 October 2010, why did it need to

1 remain confidential?" Your response was, "It was obvious  
2 there was bad blood internally in the police." I think  
3 your answer included "Many people knew that." Who else  
4 knew it?

5  
6 MR ROSER: I object. It is totally irrelevant to what  
7 you've got to consider.

8  
9 MR HUNT: Could I just join with my friend's objection to  
10 this degree: there have been some areas that have been  
11 quite properly and permissibly carved out away from your  
12 decision because, effectively, those assisting you and  
13 those in what I might describe as the Fox camp and the  
14 police camp have agreed that there is no utility in  
15 exploring those because they're not going to better inform  
16 you.

17  
18 THE COMMISSIONER: This is one of those areas, isn't it?  
19 Yes, thank you, Mr Hunt. I can't allow that, Mr Cohen.

20  
21 MR COHEN: I accept that, Commissioner.

22  
23 Q. You were taken in the document behind tab 80, which  
24 is - in fact, let me take you to the tab. It was suggested  
25 to you that this was a correct version of events and your  
26 response was, "Not in some points."

27 A. Yes.

28  
29 Q. But you weren't invited to identify which were  
30 incorrect. I would invite to you do that now, please.

31 A. Okay. Well, I read this - I read this briefly.

32  
33 Q. Please, if it is convenient to you, do it paragraph by  
34 paragraph. That would seem to be a sensible way.

35 A. Okay. I'll have to read it. I suppose it is just in  
36 terms of the bald statements of some of them:

37  
38 *McCarthy stated that she would not disclose*  
39 *any persons details that have supplied her*  
40 *with information.*

41  
42 Well, there was a context to that and a conversation around  
43 it. So that just appears I've dug in my heels. That  
44 wasn't the case and --

45  
46 Q. What was the context in the conversation?  
47 A. Well, as I tried to explain before, it was more that

1 the initial thing about, you know, provide the - it just  
2 threw me. It was like, "Hang on, that's not what we're  
3 here for." And then my initial thing was, "Well, I've  
4 given police everything", and so - and then it was - and  
5 then also coupled with that, Tayler saying "We're not going  
6 to be discussing the investigation." And it's like, "Well,  
7 how can I give you - possibly provide with you some other  
8 names or phone numbers", because I wasn't ruling out that  
9 I might have had any others, but without knowing what they  
10 were going to be doing, how could I potentially access  
11 people or - so it was more that.

12  
13 THE COMMISSIONER: Q. Ms McCarthy, did you state that  
14 you would not disclose any person's details that had  
15 provided them to you?

16 A. Not in - not in - no, not like that. I never said,  
17 "I won't give them to you. What I responded with, "We have  
18 a live complaint from - you know, that has to be  
19 addressed. If the very first person you're to interview  
20 has come with" - what I thought were very serious issues,  
21 just then that really was a big issue for me, and I thought  
22 if that was the approach and I'm being asked to just hand  
23 over and support - it was that thing, supporting other  
24 people, going, "Yes, you can trust the police." I mean  
25 that, would have been dishonest of me, "Yes, can you trust  
26 police. Oh, by the way, we've got a complaint."

27  
28 Q. That "You'll be asked about vivid detail of the  
29 allegations"?

30 A. Yes. Sorry?

31  
32 Q. That "You'll be asked about vivid details about the  
33 allegations. You would be" --

34 A. No, no, clearly the police had to do that. It was the  
35 handling of it. The victims were obviously asking me, you  
36 know, they were - let's take [AJ], for example. They're  
37 all nervous. They're all scared about speaking to police,  
38 not because it's police, simply that it is just a big step.  
39 So for a lot of them I'm sort of the conduit to that and  
40 they're saying to me, "Am I going to be okay?" I'm sort of  
41 "Yes, you'll be strong, you'll be fine." That was the  
42 issue here with this. For the police to be saying, you  
43 know, names and details, it wasn't just handing over a name  
44 and detail, even if I'd had it, it was my knowledge that at  
45 some point they would say to me, you know, should I be  
46 doing this and what am I supposed to say?

47



1 Q. I understand that that was your thinking.  
2 A. Yes.  
3  
4 Q. But are you saying --  
5 A. Did I baldly say, "No, I'm not going to give them to  
6 you", no, no. I'm --  
7  
8 Q. You say that sentence, "McCarthy stated she would not  
9 disclose any person's details who supplied her with  
10 information", is that inaccurate?  
11 A. Yes, yes. I would object to that.  
12  
13 THE COMMISSIONER: Carry on Mr Cohen.  
14  
15 MR COHEN: Thank you, Commissioner.  
16  
17 Q. May I ask you, Ms McCarthy, you have seen the approach  
18 the Commissioner has taken. What the Commission wants is  
19 to get to the --  
20 A. Yes, I understand that.  
21  
22 Q. Therefore can I perhaps assist you and take you  
23 through the paragraphs and ask you to identify which  
24 propositions recorded in this note you say are inaccurate  
25 on an express basis rather than just in a narrative  
26 conceptual form. Do you follow what I am asking you to do,  
27 Ms McCarthy?  
28 A. I think so.  
29  
30 Q. Literally proposition by proposition?  
31 A. Okay.  
32  
33 Q. Can you perhaps look at --  
34 A. I'm not saying this is an unreasonable document.  
35 There's just a couple of points where --  
36  
37 Q. I'm examining on what you indicated, in your evidence  
38 earlier, was not wholly correct?  
39 A. Yes.  
40  
41 Q. What I'm asking you to do is identify those  
42 proposition which you say are incorrect.  
43 A. Yes.  
44  
45 Q. You've identified to the Commissioner, first, the  
46 proposition that "McCarthy stated she would not disclose",  
47 that's incorrect?

1 A. Yes. Yes, I - yes.

2

3 Q. Could you identify the next proposition of that type,  
4 if any, in this document that you say is incorrect and  
5 could you do that for each such proposition?

6 A. Well, say, the next sentence:

7

8 *She stated that [AL] was not comfortable*  
9 *discussing the matters with myself ...*

10

11 Q. Can I indicate to you the "myself" is a reference to  
12 the author of the --

13 A. Yes, Detective X.

14

15 Q. Can I ask you to look at page 331, the next page. You  
16 understand that's Detective X?

17 A. Yes.

18

19 Q. Thank you.

20 A. So Detective X has written in here that I had stated  
21 that.

22

23 *... [AL] was not comfortable discussing the*  
24 *matters with myself and then suggested that*  
25 *perhaps someone with experience should be*  
26 *allocated to the case.*

27

28 Well, that's not strictly correct either because what  
29 I said was that [AL] was extremely upset with the interview  
30 with things that [AL] was alleging had been put to her with  
31 having to bring her into - expecting her to go into the  
32 police station. I tried to explain it was the  
33 circumstances of that that replicated what she was asked to  
34 do by the church in 1995, which was to come in to whatever  
35 the church building was, have a statement taken from her  
36 by a clergy member that, you know, was not for the purposes  
37 of assisting her, but that she subsequently found was  
38 simply for the purposes of the church to try and get rid  
39 of a troublesome priest. So she felt used back then, the  
40 very fact that she was being asked to go into a police  
41 station.

42

43 For the average person that might mean very little,  
44 but that's the issue. If you're a victim of historical  
45 child sexual abuse, you're somebody who - you are not the  
46 average person; you've been sexually abused. In this case  
47 it was serious sexual abuse by a priest many years earlier,

1 decades of coping mechanisms to try to deal with that,  
2 family breakdown because of it, and the police, in terms of  
3 their dealings with her in 2010, were showing no concept  
4 that this person has to be dealt with a little bit  
5 differently than if she'd just had a house break-in. I'm  
6 not saying it was at that level, but that was the point,  
7 and I don't think that was understood by the police at that  
8 meeting. Certainly, in my trying to articulate it, it  
9 wasn't helping.

10  
11 Q. None of that's recorded in the investigator's note, is  
12 it?

13 A. No.

14  
15 Q. Could I ask you to stop, Ms McCarthy. Mr Hunt has  
16 asked me to --

17  
18 MR HUNT: There was one thing I wanted to clarify. Both  
19 the questioner and answerer are being very careful and  
20 talking about somebody with the pseudonym Detective X.  
21 Pursuant to rescissions of an order originally made, the  
22 person who is described in exhibit 15 has the pseudonym  
23 Detective X for purposes of that document alone, but  
24 otherwise the officer who interviewed [AL] can be  
25 identified by her name and former rank.

26  
27 THE COMMISSIONER: Thank you.

28  
29 MR COHEN: Q. I'm indebted to my friend, but I'm happy  
30 to maintain that pseudonym if that is all right with you.

31 A. I'm fine with that.

32  
33 Q. I just need to gather my thoughts, forgive me,  
34 Ms McCarthy. You have now dealt with what is the last  
35 sentence of paragraph 1. Could I ask you to review  
36 paragraph 2 and continue this process?

37 A. You will see in the next one, it just really does not  
38 make sense:

39  
40 *Morrison stated that police should be*  
41 *obtaining a search warrant to obtain the*  
42 *file on McAlinden from the Catholic Church*  
43 *as that would provide evidence of the*  
44 *allegations raised by [AL].*

45  
46 That doesn't make sense.

47

1 Q. Put to one side whether or not it strikes you as  
2 making sense. Was it said?

3 A. No. No.

4

5 Q. Very well.

6 A. Because what he said was just that there was - that  
7 the police - my memory is that he said possibly there was a  
8 concealed prosecution. I think he used the term "on the  
9 papers" that basically if the police tried to get access to  
10 the church file on McAlinden - which we already knew was  
11 extensive, simply because the previous bishop, Michael  
12 Malone, was on the record saying it was so big you could  
13 jump over it, or something - so Morrison was simply asking,  
14 you know, is there a way that you can you know sort of go  
15 for the - are the investigators going to go for the church  
16 file just to take a bit of a pressure of this need to get a  
17 statement from [AL] at the outset?

18

19 Q. You would tell the Commissioner that paragraph 2 is  
20 inaccurate, would you?

21 A. Yes.

22

23 Q. Paragraph 3?

24 A. Yes. The next one:

25

26 *McCarthy and Morrison then went on to say*  
27 *they had information about matters that*  
28 *involved McAlinden in Merriwa and other*  
29 *places, however to investigate that she*  
30 *claims we would need to obtain the*  
31 *McAlinden file.*

32

33 No.

34

35 Q. You did not say that?

36 A. No.

37

38 Q. The next sentence?

39 A. Yes. That next section is right:

40

41 *Morrison suggested obtaining the Towards*  
42 *Healing files for the past 10 years to*  
43 *identify victims of McAlinden.*

44

45 My memory is that that is correct.

46

47 Q. The next paragraph at the foot of page 330?

1 A. Yes.

2

3 Q. Is the first sentence correct or incorrect?

4 A. I'm still on the third.

5

6 *It was again explained to both that the*  
7 *first point of call was [AL] --*

8

9 That's correct. That was repeated a number of times --

10

11 *and an attempt to obtain her statement had*  
12 *been made --*

13

14 Clearly that was correct:

15

16 *however she would not complete her*  
17 *statement due to the fact she had to*  
18 *disclose such intimate details about the*  
19 *allegations.*

20

21 I don't remember that being raised at the meeting. It  
22 possibly was. I would say I don't remember, but I'm not  
23 ruling out that it was said, mainly because I don't  
24 remember them, I - that seems like something that wouldn't  
25 be said at a meeting, so I don't remember them specifically  
26 saying that.

27

28 Q. You don't exclude the possibility?

29 A. I'm not excluding it, no.

30

31 Q. Would you move to paragraph 4.

32 A. In the way - look, in the way that that is put,  
33 "McCarthy" -- -

34

35 Q. Which sentence are you referring to?

36 A. Yes, of the four paragraph:

37

38 *McCarthy claims that [AL] will supply a*  
39 *statement to Police, not just to me.*

40

41 It sounds like I'm sort of going - you know, it's some kind  
42 of vindictive thing in relation to her. That wasn't the  
43 case.

44

45 Q. What was said?

46 A. Because of - because of what had already happened,  
47 [AL] had made it clear she was not going to be giving a

1 statement to Detective X. I mean that's broadly correct,  
2 but it sounds like I'm sort of finger pointing and going  
3 that "No, no, that wasn't the case.  
4

5 Q. The proposition attributed to Detective Senior  
6 Sergeant Quinn?

7 A. So:

8

9 *Advised McCarthy, who advised him she would*  
10 *not provide a statement at all to police.*

11

12 I don't remember that being said.

13

14 Q. Was that the position that had been communicated to  
15 you by [AL]?

16 A. No. No.

17

18 Q. Had it been the position, you would have communicated  
19 it to this meeting?

20 A. What I did say to the meeting was that she wanted to  
21 make a statement to police. She kept stressing that.  
22 I have a load of emails confirming that, if they're  
23 required to be produced, and my supporting thing saying,  
24 "Yes, you are strong", because she said she wanted to do  
25 it. She was ready to do it. It was important. But by the  
26 same token, all of the pressure was on her. She knew it  
27 was significant but all roads lead to her. That was the  
28 bit that she was not coping with at all.

29

30 Q. She was not prepared to be dragooned into action at  
31 the behest of others; is that right?

32 A. No, no, simply that the responsibility thing - and  
33 this again is sort of in relation to these people - that  
34 she's - she's having to have responsibility to fix the  
35 church's problem, that, you know, now she has to give a  
36 statement, now she has to go through everything again. It  
37 was from that position.

38

39 Q. Is that because the police involved in this meeting  
40 hadn't jumped the hurdle, to use your metaphor?

41 A. Probably.

42

43 Q. Is that the conclusion you came to?

44 A. Look, those three officers were off on - obviously  
45 there were other things going on, so it's not easy - it's  
46 not easy work and I'm not suggesting that it is, so maybe -  
47 yeah.

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47

Q. Maybe?

A. Sorry, you're going to have to ask the question again because I've forgotten.

Q. Had they, to your impression at this time, jumped the hurdle, employing your metaphor?

A. In terms of an understanding what was required, no.

Q. Can I ask you --

A. No, the "jump the hurdle" thing is more - my reference to that is more in relation to up until 2010, by and large, the police investigations of Catholic Church matters had involved the individual paedophile priests and so that was that. The "jumping the hurdle" that I was referring to is in relation to if we look at the totality of these paedophile priests - and let's just say in the Hunter - pretty much every one of them you could say, there was proof, there was evidence of church knowledge, and so that's what I'm saying, "We jump the hurdle. Can we get beyond just looking at the paedophile priests and look at the systemic issues that supported them?" That's the "jump the hurdle".

Q. Can I ask you to come back to the paragraph at the foot of page 330?

A. Yes.

Q. It says:

*McCarthy suggested that she would accompany [AL] when she wanted to ...*

That's correct, I take it, from your earlier evidence?

A. Yes.

Q. What about the qualification, "However, she was advised"?

A. Yes, but, as I said, it is not as if I was wanting to get involved with the thing, force myself into it; it was just, "Okay, we've reached an impasse. The police are repeatedly saying they need [AL]'s statement. For God's sake, I'll go with her. Can I go with her, sign something to say, you know, I'm not going to disclose it or whatever?" And then it was Andrew who said "No, that's not appropriate." I was like, "Okay, fine."

1 Q. For the same reason the reference to Helen Keevers was  
2 also ruled out?

3 A. Yes. She was potentially a witness, though.  
4

5 Q. That was an agreed proposition?

6 A. Yes.  
7

8 Q. And then the meeting concluded?

9 A. No. See, I can't agree with that either.  
10

11 Q. That the meeting concluded?

12 A. Oh, the meeting concluded, I'm sorry, but.  
13

14 *... with Police advising McCarthy and*  
15 *Morrison that Police would get back in*  
16 *touch with [AL] and contact Helen Keevers*  
17 *to obtain further information and the*  
18 *possibility of her sitting with [AL] whilst*  
19 *the statement is completed.*  
20

21 The Helen Keevers thing was left sort of open, so I'm not  
22 disagreeing with that, but the getting back in touch with  
23 [AL], [AL] had already indicated she wanted to just be left  
24 alone for a little bit.  
25

26 Q. Until after Christmastime; is that right?

27 A. Yes. Now whether she had - whether she had advised  
28 police of that at that point, I'm not sure, but certainly  
29 she just said she just wanted to be left alone for a little  
30 bit.  
31

32 Q. What is incorrect about the proposition that's stated  
33 here:  
34

35 *Police advised [you] and Andrew Morrison*  
36 *that Police would get back in touch with*  
37 *[AL] ...*  
38

39 A. Well, then I'm - I must - they must have been aware  
40 that - I just don't think that's right, the getting back  
41 in touch with [AL], because - in saying it that way,  
42 because I would have immediately said, "You're going to  
43 have to work out the complaint first." So that's why just  
44 leaving it like that, there's no mention of the fact, "But  
45 what are you doing with the complaint? How are you going  
46 to be handling that?" Now, I wasn't going to be asking  
47 them that, but just saying it in that way, "We'll get back



1 in touch with [AL]", that's like, "Well, you're going to  
2 have to deal with the complaint first", I would have  
3 thought.  
4

5 Q. There was no agreement at the end of the meeting  
6 between all concerned that this was the approach that was  
7 to be taken subsequent to the meeting?

8 A. No, just that particular bit.  
9

10 Q. That is, advising that they would get back in touch  
11 with [AL]?

12 A. Yes.  
13

14 Q. That's not --

15 A. Yes, I wouldn't agree with that at all.  
16

17 MR COHEN: Excuse me, Commissioner, might I just have a  
18 moment to take instructions.  
19

20 THE COMMISSIONER: Q. Ms McCarthy, it wouldn't have just  
21 been left on the basis that they wouldn't get in touch with  
22 them at all, would it?

23 A. That's why I'm just - I'm really not clear exactly -  
24 I mean, we weren't pushing them as to what to do. I think  
25 it was sort of, "Okay, there's a range of things clearly."  
26 I remember Justin Quinn was the one who sort of finalised  
27 matters.  
28

29 Q. Might he have simply said, "Well, we'll let Christmas  
30 go by and we'll get in touch"?

31 A. Yes, there might have been - yes, I - see, I didn't  
32 want to push the police about the complaint thing at that  
33 point, like, "What are you going to do?", because I don't  
34 think that is appropriate.  
35

36 Q. And you didn't expect that those particular police  
37 would be investigating the complaint, in any event?

38 A. No. No, I didn't. So Justin Quinn did the wrap-up.  
39 Now, I wasn't dissatisfied with what he'd said, but just  
40 saying that police would get back in touch with [AL], well,  
41 I can't agree with that. And I think it was certainly  
42 Andrew Morrison's thing about the church file and  
43 everything, that was positively - and then because there  
44 was some discussion between Morrison and Quinn about  
45 something about subpoenas or what you'd do or something, it  
46 was sort of more legalese stuff, which - yes, and so that's  
47 what they were talking about.

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THE COMMISSIONER: Thank you. I'm sorry Mr Cohen.

MR COHEN: Not at all Commissioner. Thank you. Have you asked your questions?

THE COMMISSIONER: Yes.

MR COHEN: Q. Could I move to something else, please, Ms McCarthy. Do you recall being taken to the document at tab 84. I don't have it open in front of me, but I recall 84 was the report by Peter Fox?

A. Yes.

Q. You were asked questions about that. Your evidence was you decided you were not going to disclose Peter Fox's name for an entirely different reason. What was the entirely different reason?

MR HUNT: I object to this. This goes into that area that I addressed previously.

THE COMMISSIONER: That has been agreed to by counsel, as it were.

(Mr Hunt and Mr Cohen confer)

MR COHEN: I now understand what the difficulty is. I won't pursue that questioning of Ms McCarthy.

THE COMMISSIONER: Thank you.

MR COHEN: Q. You were also asked some questions when Mr Hunt examined you yesterday about a discussion with Detective Chief Inspector Fox, possibly the first discussion you had with him, and you characterised the response as something akin or something like getting the brush-off. Do you remember that evidence?

A. It was the May 2008 --

Q. Thank you.

A. Yes.

Q. You characterised it as akin to getting the brush off?

A. Oh, yes, and not in a bad way. Cops will do that. I'm a journalist, you ring up a cop and they're sort of like, "Oh, yeah, mate", blah, blah, blah and - "whish".

1 Sometimes you'll have lovely conversations and sometimes  
2 they're short and sweet.  
3  
4 Q. This one was in the second category?  
5 A. It was in the short and sweet category.  
6  
7 Q. Was it to the effect that you were told by him  
8 "I don't know anything about that man. I don't know  
9 anything about that priest" ?  
10 A. Yes. [NP]. Because that was the one that  
11 I thought --  
12  
13 Q. And the suggestion that was put to you that  
14 Charlestown had been doing some work on the church, to give  
15 them a call and see if they can help; is that what was  
16 said?  
17 A. Probably, yes. Yes.  
18  
19 Q. And nothing more?  
20 A. Nothing, no. No, there was absolutely nothing else.  
21  
22 Q. There was no leaking of any type?  
23 A. No. Well, there is certainly nothing in the article.  
24 I couldn't even get a confirmation from police. There was  
25 nothing.  
26  
27 Q. I need to put a proposition to you and ask you whether  
28 you do or don't understand this to be the case. Do you  
29 understand - and I suggest to you that it possibly is from  
30 the source [AJ], but I'm testing whether or not you know  
31 this. Do you understand, whether it is from [AJ], or  
32 possibly independently, that [AJ] spoke with [BJ] - and  
33 perhaps you need to refer to the list of pseudonyms to  
34 understand who [BJ] is. Is there a copy of the list in the  
35 witness box with you Ms McCarthy?  
36 A. I did have it.  
37  
38 Q. There's much paper there it could be buried under some  
39 of the volumes.  
40  
41 MR HUNT: I will just make one available.  
42  
43 THE WITNESS: Thank you. Okay.  
44  
45 MR COHEN: Q. Are you aware from whatever source,  
46 I assume, and I put to you probably [AJ], that [AJ] had a  
47 discussion with [BJ] at a Christmas function in 2004 after

1 the time of Father Fletcher's trial at which [AJ] spoke at  
2 length to [BJ] about Peter Fox's handling of the --  
3 A. No. No, I've got no memory of that one.

4  
5 Q. You're not aware that that's the source of some of  
6 [AJ]'s knowledge?

7 A. No.

8  
9 Q. But you don't discount it?

10 A. I can't comment on that.

11

12 MR ROSER: The witness says she has got no knowledge.

13

14 THE COMMISSIONER: Yes. That's right, Mr Cohen. That is  
15 as far as it can go, Mr Cohen.

16

17 MR COHEN: Thank you, Commissioner. I notice the time.  
18 I think I'm just about done, so perhaps we'll all get an  
19 early mark. Could I just have a moment?

20

21 THE COMMISSIONER: Yes.

22

23 MR COHEN: If the Commissioner pleases, I'm finished.

24

25 THE COMMISSIONER: Mr Gyles, do you have any questions?

26

27 MR GYLES: Commissioner, you would appreciate that  
28 Ms McCarthy is not being relied in respect of TOR2, but  
29 there is one aspect I would like to ask a few questions on.  
30 I don't think it will take very long.

31

32 THE COMMISSIONER: Does it suit you to do that now?

33

34 MR GYLES: Yes, it does, thank you, Commissioner.

35

36 THE COMMISSIONER: Very well.

37

38 **<EXAMINATION BY MR GYLES:**

39

40 MR GYLES: Q. Ms McCarthy, it is indicative from the  
41 articles you've written is that you had a relationship with  
42 Helen Keevers going back into the mid-2000s. Do you agree?  
43 Perhaps to be more specific, for example, articles written  
44 by you in January 2006 quote heavily from Helen Keevers?

45 A. Okay. I was trying to think when exactly. The first  
46 article that I wrote that really was on this, was in June  
47 2006, so, yes, 2006.

1  
2 Q. Did you have a relationship or did you have dealings  
3 with Helen Keevers before that?  
4 A. No, I - no. Whenever this stuff started, that was the  
5 first I knew of Helen Keevers.  
6  
7 Q. Over the period of years after that, did you form a  
8 close relationship with Helen Keevers?  
9 A. No.  
10  
11 Q. You told the Commissioner that you received a bundle  
12 of documents in October 2009 from [AL]?  
13 A. Yes.  
14  
15 Q. Did you ask [AL] where she had got those documents  
16 from?  
17 A. She just said she got them from the diocese.  
18  
19 Q. Did you have any discussions with Helen Keevers about  
20 the provision of the documents by the diocese to [AL]?  
21 A. Yes.  
22  
23 Q. Was that before the documents were provided to you or  
24 after?  
25 A. After.  
26  
27 Q. Did Helen Keevers tell you that she had provided that  
28 bundle of documents to [AL]?  
29 A. She said that the - well, actually, she said that the  
30 bishop had agreed that the documents were to be - were to  
31 be provided to [AL].  
32  
33 Q. When those documents came to you, may we take it that  
34 you didn't see yourself as being under any restraint as to  
35 the use of them by you?  
36 A. No.  
37  
38 Q. Whether by way of disclosure to third parties or for  
39 use in the articles that you were writing?  
40 A. [AL] provided them to me and we had a discussion. At  
41 the first instance it was just, "Here's these documents."  
42 And as I said, at the time, when I got them, I was heavily  
43 involved with something else. I quickly skimmed through  
44 them and the significance of them just went straight over  
45 my head.  
46  
47 Q. In the end, the answer to the question is that you did

1 not consider yourself unrestrained as to the use of them; is  
2 that the case?  
3 A. Correct, because [AL] had provided them to me.  
4  
5 Q. You subsequently received a document of a similar  
6 character from [AK]?  
7 A. Yes.  
8  
9 Q. Did you understand that that document had been  
10 provided to [AK] by the diocese?  
11 A. Yes. Presumably when the statement was made.  
12  
13 Q. Was your understanding that [AK] had received that  
14 statement, a copy of which was passed on to you at the time  
15 she gave the statement or at some subsequent time?  
16 A. Sorry, would you mind asking that again?  
17  
18 Q. The statement that you received from [AK], was it your  
19 understanding that she had received that at the time that  
20 she gave that statement?  
21 A. Yes, sorry, I've got you now. I hadn't actually even  
22 had a discussion with her about that.  
23  
24 Q. Did you have a discussion with Helen Keevers about the  
25 source of the statement that [AK] provided to you?  
26 A. No.  
27  
28 Q. You've made reference to having received a statement  
29 of [AH]?  
30 A. Yes.  
31  
32 Q. Is that a statement that you received from --  
33 A. From [AH].  
34  
35 Q. Thank you.  
36 A. Yes.  
37  
38 Q. In an article that you wrote in October 2011, you use  
39 those words:  
40  
41 *The Newcastle Herald has seen evidence that*  
42 *the Church ordered a psychological*  
43 *evaluation of McAlinden in the late 1980s.*  
44  
45 A. Yes.  
46  
47 Q. What was your source of that information?

1 A. It was an email that [AL] had.  
2  
3 Q. Was it an email that was provided to you with the  
4 bundle of documents that were provided to you in October  
5 2009?  
6 A. No.  
7  
8 Q. Are you aware of the source of [AL] obtaining that  
9 document?  
10 A. She didn't obtain the document. She had an email  
11 which referred to this psychiatric assessment. So she  
12 didn't - she does not have the psychiatric assessment, but  
13 she has an email that refers to it in a little bit of  
14 detail.  
15  
16 Q. As to where she got the email from, was that something  
17 that was provided to her, to your understanding, by  
18 Ms Keevers in 2009 or at a subsequent time?  
19 A. It was an email from Ms Keevers to [AL]. I can't  
20 remember - I mean, I've still got a copy of it, but I can't  
21 remember what year it was in.  
22  
23 Q. Did you have any dealings directly with Helen Keevers  
24 about obtaining documents from the diocese, rather than  
25 through [AL] and [AK]?  
26 A. No.  
27  
28 Q. Did you ever attend the office of the diocese and  
29 speak to Helen Keevers?  
30 A. No. I mean, I have for a couple of things. I can  
31 think of one thing where there was a group, or something  
32 like that, but have I attended the office just to speak  
33 with her? No.  
34  
35 Q. On your attendances at the office, have you inspected  
36 documents --  
37 A. I think there might be one or two that's --  
38  
39 Q. On the occasions on which you attended the offices of  
40 the diocese or Zimmerman House, were you given access to  
41 documents to inspect?  
42 A. No.  
43  
44 Q. Finally, you're on the record, aren't you, of speaking  
45 in positive terms about the work of Zimmerman House and  
46 Zimmerman Services?  
47 A. Yes.

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Q. As to its compassionate response to the victims, for example?

A. Yes.

Q. And as to the support provided and the good work being done by that organisation?

A. Yes.

MR GYLES: I have no further questions thank you.

THE COMMISSIONER: Thank you, Mr Gyles. I will adjourn until two.

**LUNCHEON ADJOURNMENT**



1 UPON RESUMPTION:

2

3 THE COMMISSIONER: Mr Terrracini?

4

5 MR TERRACINI: Thank you, Commissioner.

6

7 <EXAMINATION BY MR TERRRACINI:

8

9 MR TERRACINI: Q. Ms McCarthy, can I take you to tab 80.  
10 You have been asked extensive questions about that.  
11 Basically, you don't disagree with the substance of that  
12 note, do you?

13 A. The substance - no, no.

14

15 Q. Did you see anybody writing notes as if they were  
16 doing it as the words were spoken as opposed to compiled  
17 later on that day or that evening?

18 A. I don't remember anyone writing notes.

19

20 Q. You weren't making notes yourself, I suppose?

21 A. No.

22

23 Q. What about Mr Morrison?

24 A. No.

25

26 Q. Was he taking notes? And you wouldn't expect the  
27 senior police to be doing any note-taking, would you?

28 A. No.

29

30 Q. So far as the material that you had provided to the  
31 police associated with the priest McAlinden, where did you  
32 get that material from?

33 A. From [AL].

34

35 Q. As you understood it, [AL] got it as a result of a  
36 senior prelate giving it to her either with or probably  
37 without the authorisation of the diocese?

38

39 MR GYLES: I object. The evidence that Ms McCarthy gave  
40 is that she got it from Ms Keevers with the authority, she  
41 said, of Bishop Malone.

42

43 THE COMMISSIONER: Yes.

44

45 MR GYLES: The question is on an incorrect premise.

46

47 THE COMMISSIONER: That was the answer Mr Terrracini. Are

1 you seeking to explore that?

2

3 MR TERRACINI: Only as to what material she got from the  
4 diocese. It has been passed on to the police.

5

6 Q. Is that right?

7 A. Yes.

8

9 Q. Within that material, was there a fairly firm  
10 suggestion that there was a type of confession to a priest  
11 called Lucas?

12 A. Yes.

13

14 MR GYLES: This is part of TOR2. Ms McCarthy is not a  
15 witness in respect to that matter. The matter that  
16 I cross-examined on related to the provision of documents  
17 of the diocese to Ms McCarthy, which went on to the police,  
18 which is potentially relevant, but not as to the substance  
19 of any allegations made in those documents. That can all  
20 be dealt with in due course.

21

22 MR TERRACINI: Commissioner we're not trying to explore  
23 that part of the inquiry at all. It goes to material  
24 police had available to them in addition to obtaining the  
25 statement from [AL] and that was provided to them before  
26 this meeting.

27

28 THE COMMISSIONER: Yes.

29

30 MR TERRACINI: That's what it goes to. I'm not going to  
31 explore what's in it, although it is pretty obvious what's  
32 in it.

33

34 THE COMMISSIONER: Yes. Bearing in mind that the document  
35 speaks for itself --

36

37 MR TERRACINI: It does, yes.

38

39 THE COMMISSIONER: - you may proceed.

40

41 MR TERRACINI: Q. At this meeting chaired by Inspector  
42 Tayler was any of that material canvassed?

43 A. No.

44

45 Q. To your knowledge, had there been any attempt to  
46 interview the priest Lucas?

47 A. No.

1  
2 Q. Had you tried to contact him?  
3 A. Lucas?  
4  
5 Q. Yes.  
6 A. Yes.  
7  
8 Q. What response did you get?  
9 A. There's an email question and answer that I provided  
10 to police as well.  
11  
12 Q. From him?  
13 A. From him, yes.  
14  
15 Q. You would accept that some police have a better  
16 bedside manner than others?  
17 A. Yes.  
18  
19 Q. And you would also accept that - just use Police  
20 Officer Steel, as an example - some people, however well  
21 intentioned, aren't particularly good at handling sexual  
22 assault victims?  
23 A. Not - yes, but not being there, I'm not exactly sure  
24 what happened in that interview, so --  
25  
26 Q. I'm not going to the specifics because obviously [AL]  
27 was distressed?  
28 A. Yes.  
29  
30 Q. But you would accept that, on occasions, however well  
31 intentioned, you're not going to handle sexual assault  
32 victims particularly well?  
33 A. Yes.  
34  
35 Q. You might not have much experience of interviewing  
36 them, for a start?  
37 A. Yes.  
38  
39 Q. You didn't have any personal animosity towards that  
40 police officer. It was merely that there had been a  
41 complaint?  
42 A. No, not at all. No.  
43  
44 Q. You would also accept when you used the words "jumping  
45 over the hurdle" or "climbing over the hurdle" that, it  
46 would, even to experienced police, be something of a shock  
47 to be confronted with the material that tends to indicate a

1 systematic protection of priests who are paedophiles?  
2 A. Yes. Look, I didn't under estimate what --

3

4 MR GYLES: I object to the question. It is one thing to  
5 be interviewing people, victims, in respect of their abuse.  
6 What my learned friend has put is really, essentially, a  
7 scandalous sort allegation as to a systematic widespread  
8 corruption. Now, that is a very different matter than  
9 interviewing a victim in respect of sexual abuse.

10

11 THE COMMISSIONER: I think the question was something that  
12 tends to suggest --

13

14 MR TERRACINI: Tends to, that's right. If my friends want  
15 to open it up I will but, the material that the police had,  
16 and the witness had, obviously showed on its face that  
17 there was an attempt to alert McAlinden that if he didn't,  
18 as it were, fall on his sword, the police would be  
19 involved, and to do the right thing and all would be  
20 forgotten. If that's not trying to protect a paedophile,  
21 then I don't know what is. They're telling him that if he  
22 doesn't take the church's view about what should be done,  
23 the police may well be involved and it will bring disgrace  
24 on everybody.

25

26 THE COMMISSIONER: Mr Gyles, there is a document in those  
27 terms, is there not, an older document directed to Father  
28 McAlinden when he was living, during the 1990s.

29

30 MR GYLES: Yes, I accept that, but the proposition that  
31 that creates difficulty in terms of interviewing a victim,  
32 in my respectful submission, is a very different character  
33 to the suitability of a person and their capacity to  
34 interview a victim of sexual abuse.

35

36 MR TERRACINI: I'll make it clearer.

37

38 THE COMMISSIONER: If you would, thank you, Mr Terrracini.

39

40 MR TERRACINI: Q. What I'm asking you when you used  
41 "climbing over the hurdle" or "jumping over the hurdle" --  
42 A. Jumping over the hurdle.

43

44 Q. You effectively mean, and I think you agree, that to  
45 some people, even experienced police, it would be quite  
46 confronting to look at this material and think it is not  
47 really easy to believe?

1 A. Agreed. I hadn't - I did not underestimate what was  
2 being asked of police, there's no doubt about that, because  
3 it was the people who were named in it, the number of  
4 people that apparently had some knowledge of this, it was  
5 significant, and it was from the Hunter - you know, it was  
6 a big ask.

7

8 Q. Yes. Now that we have seen some of this material, it  
9 all becomes fairly plain, but it might not have been plain  
10 to the police at the time.

11

12 MR GYLES: I object to that question. My learned friend  
13 says "Now we have seen the material." That's of really no  
14 use of all to you, Commissioner, in terms of the answer to  
15 that.

16

17 MR TERRACINI: I'll put it to her.

18

19 Q. You had available to you, and you gave the police,  
20 that the priest Lucas knew that McAlinden had been  
21 interfering with children and had done nothing about it?

22

23 THE COMMISSIONER: Mr Terrracini, the burden of your  
24 question is really about what this subject matter or the  
25 difficulty of this subject matter might present to  
26 investigating police.

27

28 MR TERRACINI: Yes.

29

30 THE COMMISSIONER: Are you able to do that without --

31

32 MR TERRACINI: Introducing other material. Yes, I can do  
33 that. If my friend doesn't object, I'm not going to  
34 intrude upon the second leg of the inquiry.

35

36 Q. As a result, you have some sympathy for the position  
37 of the police, don't you?

38 A. I did, yes, and I do.

39

40 Q. Yes. With respect to your comments about Officer Rae,  
41 and you talk about that in your affidavit, again, you  
42 weren't making notes of that conversation at the time?  
43 I think it is from paragraph 30 of your affidavit?

44 A. No. I was in the car, pulled over on the side of the  
45 road in the dark.

46

47 Q. Until you were asked to refresh your memory about

1 these events, you didn't have any notes of the  
2 conversation?  
3 A. With detective - no. No.  
4  
5 Q. And you're doing your best to remember it?  
6 A. Yes.  
7  
8 Q. And you --  
9 A. What I did have, I wrote an email to, I think,  
10 Andrew Morrison - I think it was Andrew Morrison - fairly  
11 shortly afterwards.  
12  
13 Q. You would concede that there could be small pieces of  
14 the conversation that you can't recall perfectly?  
15 A. Definitely, yes, yes.  
16  
17 Q. So far as Mr Fox is concerned, at any time - and there  
18 has been a veiled series of questions about whether you  
19 either agreed or conspired or urged him or did whatever  
20 together with him - did you encourage him or agree with him  
21 or urge him to breach any police protocols?  
22 A. No.  
23  
24 Q. To the best of your knowledge, even though obviously  
25 you're not a police officer, did you ever encourage him or  
26 agree with him, urge him, ask him - any of those sorts of  
27 words - to commit any criminal offence, as you understood  
28 the law to be?  
29 A. No.  
30  
31 Q. Did you ever tell him or ask him to suppress or hide  
32 or fail to disclose anything that he had to other police?  
33 A. No.  
34  
35 Q. Did you ever ask him to omit things, that is, keep  
36 from the investigating police, any material that you had,  
37 with this exception, after you'd spoken to the alleged  
38 victims and they'd asked you not to give him information?  
39 A. No.  
40  
41 Q. Up until you were involved in these allegations of  
42 paedophilia, had you had really any involvement in this  
43 sort of criminal reporting before?  
44 A. What, just involvement with normal --  
45  
46 Q. Yes, as a young reporter, did you ever do police  
47 rounds and things like that?

1 A. I don't like your suggestion. As a less experienced  
2 reporter; is that what you're saying?

3

4 Q. Yes.

5 A. No, as I say, not criminal. Court reporting I did,  
6 but not police crime stuff, no.

7

8 Q. Had you ever in the past attended a meeting such as  
9 you attended with Mr Morrison and Inspector Tayler in that  
10 form?

11 A. No.

12

13 MR TERRACINI: Yes, thank you.

14

15 THE COMMISSIONER: Thank you, Mr Terracini. Yes, Mr Hunt?

16

17 <EXAMINATION BY MR HUNT:

18

19 MR HUNT: Commissioner, there's one matter that strictly  
20 arises and there's one area I should have probably gone in  
21 chief, but I don't think it will present a problem for my  
22 friends such that there would be likely to be any kind of  
23 application to ask further questions.

24

25 Q. My learned friend Mr Roser asked you some questions  
26 about communications that you had with DCI Fox and, indeed,  
27 other police personnel, relative to a press release that  
28 you had seen from the diocese that was about [NP] and  
29 [NP3]?

30 A. Yes.

31

32 Q. And you talked about an article that was published on  
33 31 May 2008 in which you used language such as "the Herald  
34 understands police are involved in the investigation" and  
35 used that language about [NP] and about the investigation  
36 in relation to [NP3] as well?

37 A. Yes.

38

39 Q. Could I just show you this document which was  
40 originally annexure 3 to your affidavit. It is an extract  
41 of an article, appropriately redacted, called "Parish  
42 priest faces inquiry." Apparently it was published on  
43 31 May 2008. Have a look at that and tell me whether  
44 that's the document, the article that you were referring to  
45 at the point that you were answering those questions to  
46 Mr Roser?

47 A. Yes.

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MR HUNT: I tender that. Those at the Bar table will have it as an annexure to the witness's affidavit.

THE COMMISSIONER: Could I see that, please.

MR HUNT: Annexure C, I think it is.

THE COMMISSIONER: Annexure C to Ms McCarthy's affidavit, which is a copy of a piece from the 31 May 2008, will be admitted and marked exhibit 31.

**EXHIBIT #31 ANNEXURE C TO THE AFFIDAVIT OF MS McCARTHY,  
BEING AN EXTRACT FROM AN ARTICLE PUBLISHED ON 31/5/2008**

MR HUNT: Q. Ms McCarthy, would you look at volume 2, if you have that near you. Would you look behind tab 70. Would you look at the first page behind tab 70 down to the bottom to satisfy yourself that there is an email issuing from your email address to Inspector Townsend's police address on 12 October 2010 at about 9.55am, and then the subject, apart from the subject line and the addresses, the body of the email is over the page. Do you see that?

A. Yes.

Q. Do you see that, in your email, there is reference to you, "We will be", and I presume that's a reference first of all to the Newcastle Herald.

A. Yes.

Q. It says.

*... we will be running the article tomorrow  
about the Australian Lawyers Alliance  
correspondence with the northern region ...*

Do you see that there?

A. Yes. Yes.

Q. And, in a sense, an inquiry as to whether acting Assistant Commissioner Mitchell wanted to respond to the Lawyers Alliance's concerns --

A. Yes.

Q. -- as to whether police were not investigating the McAlinden matter or were not treating it seriously.

A. Yes.



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Q. If you turn over the page, does it seem that above your email is a response from Inspector Townsend to you at about 15.50 in the afternoon on the same day, 12 October 2010?

A. Yes.

Q. Then his response includes a quote that could be attributed to Acting Assistant Commissioner Mitchell?

A. Yes.

Q. Could I show you a copy of an article by you, headed "Questions for police on church inquiries" datelined 13 October 2010, and by you. Could you have a look at that. Just direct your attention to the final line and I accept that the word "concerns" is partly amputated on the copy before you?

A. Yes.

Q. Is the last sentence where the article says:

*In a statement yesterday, Assistant Commissioner Mitchell said northern region was aware of the concerns.*

Is that a reference to the quote in Inspector Townsend's email back to you?

A. Yes, yes.

Q. Behind tab 70?

A. Yes.

Q. Had you been aware not only of the fact of the Australian Lawyers Alliance writing to northern region but had seen the correspondence?

A. I was aware of the - yes. Yes. I was aware of when the Lawyers Alliance wrote an initial complaint and then there was a response. I wasn't aware at the time that there was a response from the Lawyers Alliance to that initial police response and then a response again. The whole lot was sort of provided to me afterwards. So this follow-up article, I wasn't aware that the Lawyers Alliance had not been satisfied with the first response from the police until they'd got the second response from the police as well --

Q. Just have a look at exhibit --

1 A. -- if that makes sense.  
2  
3 Q. Yes, it does to me. Maybe just to you and me. I will  
4 ask that you be shown exhibit 24. Of the documents that  
5 are there behind the exhibit 24 exhibit slip, can you  
6 indicate - I gather the item on the top you wouldn't have  
7 seen, is that right - that internal police document.  
8 A. No, I don't - if I have, it didn't register as  
9 anything.  
10  
11 Q. Looking backwards, there is a letter from Dr Morrison  
12 to Assistant Commissioner Carlene York of 13 September  
13 2010. Is that a document that you'd seen?  
14 A. Yes.  
15  
16 Q. There was a response, apparently, to that letter by  
17 Acting Assistant Commissioner Mitchell on some date in  
18 September 2010, which is the next document. Had you seen  
19 that?  
20 A. Yes.  
21  
22 Q. And then there's a further letter by Dr Morrison to  
23 Acting Assistant Commissioner Mitchell of 6 October 2010?  
24 A. Yes.  
25  
26 Q. Had you seen that?  
27 A. I saw it not before he prepared - I've definitely seen  
28 it.  
29  
30 Q. Then there is an undated response some time in October  
31 2010 by Mr Mitchell to Dr Morrison. Had you seen that  
32 letter from --  
33 A. By the time I wrote this article, yes.  
34  
35 Q. Yes, that's what I'm trying to get at.  
36 A. Yes.  
37  
38 Q. The correspondence backwards and forwards between  
39 Morrison and northern region, putting to one side the  
40 internal police material the first couple of pages of  
41 exhibit 24, you'd seen all that material at the time that  
42 you wrote your article?  
43 A. 13 October, yes.  
44  
45 MR HUNT: Commissioner, did you give the article an  
46 exhibit number?  
47

1 THE COMMISSIONER: Exhibit 31, Mr Hunt.

2

3 MR HUNT: Thank you. That concludes the further material  
4 I wanted to call from the witness.

5

6 THE COMMISSIONER: Thank You, Mr Hunt.

7

8 MR HUNT: Unless there's any challenge with that, the  
9 witness ought to be excused.

10

11 THE COMMISSIONER: Yes. Thank you very much for your  
12 evidence Ms McCarthy and you are excused.

13

14 <THE WITNESS WITHDREW

15

16 MR HUNT: The assiduous Ms Sullivan suspects that this  
17 article hasn't been tendered. I tendered the 8 May  
18 article, but I'm not sure that I have actually tendered the  
19 13 October article called "Questions for police on church  
20 inquiries."

21

22 THE COMMISSIONER: No, that's true.

23

24 MR HUNT: I'll do that now.

25

26 THE COMMISSIONER: The piece by Ms McCarthy of 13 October  
27 2010 headed "Questions for police on church inquiries",  
28 will be admitted and marked exhibit 32.

29

30 **EXHIBIT #32 ARTICLE WRITTEN BY MS McCARTHY, PUBLISHED ON**  
31 **13/10/2010, HEADED "QUESTIONS FOR POLICE ON CHURCH**  
32 **INQUIRIES"**

33

34 MR HUNT: I call Detective Chief Inspector Wayne David  
35 Humphrey.

36

37 MR SAIDI: While he's coming, can I raise a matter?

38

39 THE COMMISSIONER: Yes, Mr Saidi.

40

41 MR SAIDI: It relates to the transcript. There was a  
42 transcript correction earlier today. There are a couple  
43 more corrections. Do you want to deal with it now or later  
44 in the day?

45

46 THE COMMISSIONER: Perhaps later in the day, as Detective  
47 Chief Inspector Humphrey is standing right here ready to

1 take the oath.

2

3 <WAYNE DAVID HUMPHREY, sworn:

[2.30pm]

4

5 MR SAIDI: Could I indicate section 23 would also be  
6 sought in relation to Detective Chief Inspector Humphrey.

7

8 THE COMMISSIONER: Thank you, Mr Saidi. That is noted.

9

10 <EXAMINATION BY MR HUNT:

11

12 MR HUNT: Q. Is your name Wayne David Humphrey?

13 A. It is.

14

15 Q. Are you a detective chief inspector with the NSW  
16 Police Force?

17 A. I am.

18

19 Q. Can I show you a copy of your statement, which has had  
20 a couple of further redactions since you would have last  
21 seen it.

22 A. Thank you.

23

24 MR HUNT: I've got a copy for you, Commissioner, because  
25 I anticipate in a moment I will tender it.

26

27 THE COMMISSIONER: Thank you, Mr Hunt.

28

29 MR HUNT: Q. Would you just satisfy yourself that that  
30 is your statement and the annexures to it that you prepared  
31 for purposes of this inquiry with the assistance of your  
32 advisers and signed on 14 February 2013?

33 A. Yes, it is.

34

35 Q. With the exception of three matters that you have  
36 discussed with me in conference that call for some  
37 alteration or correction, is the statement otherwise true  
38 and correct?

39 A. Yes.

40

41 Q. Were you doing your best to prepare a statement that  
42 was true and correct?

43 A. Yes.

44

45 Q. When you signed it?

46 A. Yes, I was.

47

1 Q. Subject to the three matters that you understand that  
2 I'm going to come to, do you adopt the contents of the  
3 statement and the annexures as part of your sworn evidence  
4 before this Commission?

5 A. I do.

6

7 Q. Thank you. Could I take you initially to annexure G  
8 to your affidavit. Is the character of annexure G a  
9 document prepared by you on 21 April 2011 and addressed to  
10 Assistant Commissioner York, who was at the time that  
11 document was forwarded the commander of the northern  
12 region?

13 A. Yes.

14

15 Q. Would you take your attention, please, to the second  
16 page, about two-thirds of the way down the page, to a  
17 paragraph that starts:

18

19 *In March 2010 (upon return from deployment*  
20 *to Christchurch NZ for the Operation Monro*  
21 *deployment)...*

22

23 Do you see where I am?

24 A. Yes.

25

26 Q. When did you in fact return from Christchurch?

27 A. 2011.

28

29 Q. And the amendment that you seek to make to that is  
30 that, although that date went in your correspondence to  
31 Assistant Commissioner York, there's a typographical error  
32 as to the date and it properly should be understood to  
33 refer to 2011 there?

34 A. That's correct.

35

36 Q. Is that one of the three matters that you seek to  
37 correct in terms of your statement?

38 A. Yes, it is.

39

40 Q. Would you take your attention now to paragraph 21(d),  
41 detective chief inspector, and what I propose is to take  
42 your attention to this and another alteration that is  
43 related because, in light of our discussions, it relates to  
44 the same broad topics.

45 A. The same substance, yes.

46

47 Q. What I'm going to do is ask you to direct your

1 attention to where you say that there's material that  
2 shouldn't be relied upon as part of your sworn evidence  
3 today. Then I'm going to give you a chance to explain to  
4 the Commissioner the process by which you arrive at that  
5 desire to remove that material from your statement. Do you  
6 understand?

7 A. Yes.

8

9 Q. Is it the position that at paragraph 21(d) you adopt  
10 as part of your sworn evidence the first part of the first  
11 sentence of that subparagraph where it says:

12

13 *I was aware that Detective Chief Inspector*  
14 *Fox had claimed to have material relevant*  
15 *to the investigation ...*

16

17 A. No, I --

18

19 Q. You adopt that part, correct?

20 A. No, I adopt from the word "it" at the beginning of the  
21 second sentence - I am sorry, yes, I do.

22

23 Q. You adopt up to the word "investigation"?

24 A. Yes.

25

26 Q. And the balance of that sentence --

27 A. Yes, is - yes, I don't know about that.

28

29 Q. -- which says.

30

31 *... and despite numerous requests to*  
32 *provide that information, the information*  
33 *had not been provided by him.*

34

35 A. That's right.

36

37 Q. The section that I have just read out - so I would  
38 invite others reading on and perhaps you, Commissioner, as  
39 well, to underline from "and despite" down to "provided by  
40 him" - that material you say you don't adopt as part of  
41 your sworn evidence today?

42 A. That's right.

43

44 Q. Could you turn over the page to paragraph 29. Do you  
45 see that paragraph starts with "On 12 October 2010"?

46 A. Yes.

47

1 Q. I think there are three complete sentences that end  
2 with this sentence:

3

4 *I undertook the task of attempting to*  
5 *retrieve from Detective Chief Inspector*  
6 *Fox's office any relevant files that may*  
7 *relate to the Strike Force Lantle*  
8 *investigation.*

9

10 A. Yes.

11

12 Q. That material, down to that point of the paragraph,  
13 you do adopt as part of your sworn evidence today?

14 A. Yes, that's right.

15

16 Q. You would seek that there not be sworn reliance placed  
17 on the next entire sentence which reads:

18

19 *I was aware numerous requests had been made*  
20 *previously of Detective Chief Inspector Fox*  
21 *to provide material relative to this*  
22 *investigation so as it could be reviewed,*  
23 *assessed and investigative lines of inquiry*  
24 *set.*

25

26 A. That's right, I don't wish to rely on that.

27

28 Q. Similarly, I would invite people to underline that  
29 material so it is understood. And then for the balance of  
30 that paragraph that starts, "At the time it was my  
31 understanding" down to, "no such files were able to be  
32 located", you similarly adopt that as part of your sworn  
33 evidence?

34 A. Yes.

35

36 THE COMMISSIONER: You can cross it out, can't you,  
37 Mr Hunt, rather than underline it?

38

39 MR HUNT: It can be crossed out, although some may want to  
40 know what the text was, because I anticipate that there  
41 might be some questions apart from mine of the witness  
42 about this issue.

43

44 THE COMMISSIONER: Of course.

45

46 MR HUNT: Q. What I'm asking you to do Detective Chief  
47 Inspector Humphrey, is to articulate the processes in terms

1 of reflection and consideration and, if relevant, the  
2 process of preparing this statement --

3 A. Yes.

4  
5 Q. -- to help the Commissioner understand the process  
6 that you've gone through to reach a point where you, as it  
7 were, don't place reliance on those observations?

8 A. Commissioner, when this request came through from the  
9 statement, it was prepared with the assistance of Mr Saidi  
10 and the rest of the legal team, along --

11  
12 Q. DCI Humphrey, can you just keep your voice up?

13 A. Yes. Along with numerous other requests from the  
14 Commission, it was a fairly busy time for us, there had  
15 also been a number of inquiries made by region on behalf of  
16 the Commission. When this statement was made,  
17 I encapsulated a number of issues that since the private  
18 hearing have been pointed out to me are not relevant and in  
19 fair to Mr Fox and, in fairness to him, I could never say  
20 that's the truth and I'm not prepared to stay by that line.  
21 It was an error on my part and I apologise for that.

22  
23 THE COMMISSIONER: Thank you Detective Chief Inspector  
24 Humphrey, for drawing that to our attention.

25  
26 MR HUNT: Q. I want to just step you through some  
27 particular parts of your evidence. I don't intend to take  
28 you in detail through all of it because of the detailed  
29 statement, detective chief inspector.

30 A. Yes.

31  
32 MR HUNT: I tender that statement.

33  
34 THE COMMISSIONER: The statement of Detective Chief  
35 Inspector Humphrey, dated 14 February 2013, together with  
36 the annexures, will be admitted and marked exhibit 33.

37  
38 **EXHIBIT #33 STATEMENT OF DETECTIVE CHIEF INSPECTOR**  
39 **HUMPHREY, DATED 14/2/2013, TOGETHER WITH THE ANNEXURES**

40  
41 MR HUNT: While we're on the topics of tendering, there  
42 was an application, which isn't relative to this witness's  
43 evidence, from a member of the press for access to the PIC  
44 complaint that was tendered during Ms McCarthy's evidence.  
45 I'm hoping that immediately after the conclusion of today's  
46 sitting, people could discuss that issue with either  
47 Ms Lonergan, Mr Kell or myself so that a determination



1 could be made as to whether, Commissioner, you would grant  
2 access to that document.

3

4 THE COMMISSIONER: Thank you, Mr Hunt.

5

6 MR HUNT: Q. I'm sorry Detective Chief Inspector  
7 Humphrey.

8 A. No, that's fine.

9

10 Q. You joined the NSW Police Force in February 1980 in  
11 what was originally known as the police cadet role, but is  
12 now known as a junior trainee?

13 A. No, it was known then as a "junior trainee". It was  
14 previously a "police cadet". A monster of another name,  
15 that's all.

16

17 Q. You were attested as a police officer in 1981?

18 A. I was.

19

20 Q. At the date of that attestation you commenced working  
21 in the western suburbs areas of Sydney, being Penrith, St  
22 Marys and the Blue Mountains area carrying out general  
23 duties and some plainclothes duty work?

24 A. That's right.

25

26 Q. During the course of 1986, you moved to the Newcastle  
27 police station where you were engaged in general duties?

28 A. That's right.

29

30 Q. In 1987 you were transferred to Raymond Terrace and  
31 you carried out general duties there initially?

32 A. Yes.

33

34 Q. And you were thereafter engaged in criminal  
35 investigations?

36 A. Yes, I was.

37

38 Q. In that same year, 1987, you commenced duties at  
39 Nelson Bay in a mix of general duties and part-time  
40 water-policing duties?

41 A. Unfortunately, yes.

42

43 Q. From 1989 you, once again, became engaged in criminal  
44 investigation work?

45 A. I did.

46

47 Q. Did that work continue from 1989 until 1998 when you

1 were transferred to Maitland?  
2 A. Yes, I went to Maitland, yes.  
3  
4 Q. You continued to then carry out criminal investigation  
5 work in that new position?  
6 A. Yes, that's right.  
7  
8 Q. In 1999, did you carry out duties as the lock-up  
9 keeper at Dungog for some period?  
10 A. I did.  
11  
12 Q. In 2001, were you engaged in criminal investigation in  
13 Lake Macquarie?  
14 A. I never set foot in the office, but I was attached  
15 there.  
16  
17 Q. While you were stationed there you were attached  
18 principally to Strike Force Sibret - S-I-B-R-E-T - which  
19 was engaged in investigating outlaw motorcycle gang  
20 activities?  
21 A. Yes, it was a covert investigation.  
22  
23 Q. In 2002, did you take up duties as an inspector at  
24 Newcastle?  
25 A. I did. No, actually it was before then, but I was  
26 commissioned in 2002.  
27  
28 Q. You were commissioned, formally commissioned. So you  
29 have been acting up for a period before then?  
30 A. No, it was just pending appeal and a few other things,  
31 yes.  
32  
33 Q. But from what period did you substantively start to do  
34 the work of an inspector?  
35 A. Oh, well, you say "substantively"; you mean once I was  
36 commissioned?  
37  
38 Q. That's the substantive position. But day-to-day you  
39 were doing the work?  
40 A. From probably late 2001.  
41  
42 Q. In 2003, did you take up duties as a chief inspector  
43 in the Lower Hunter area?  
44 A. I did.  
45  
46 Q. Were you initially engaged as a duty officer and, in  
47 the Lower Hunter area, took over long-term responsibilities

1 as a crime manager for that command?  
2 A. Yes, in the early part of 2005, I think.  
3  
4 Q. Thank you. In 2006, did you perform duties at Lake  
5 Macquarie in the capacity of a duty officer up until 2008?  
6 A. That's correct.  
7  
8 Q. At that time did you take up the position of  
9 operations manager in the northern region?  
10 A. I did.  
11  
12 Q. In 2009, did you commence duties in the Newcastle City  
13 Local Area Command, first as a duty officer and then as a  
14 crime manager?  
15 A. That's correct.  
16  
17 Q. Do you remain in those duties up to the present day?  
18 A. I am one of the joint crime managers we have.  
19 Newcastle City Local Area Command is a little bit unique.  
20 We have two crime managers. I'm one of those.  
21  
22 Q. We'll come more clearly to the date, but was there a  
23 period in 2010 when you acted in Assistant Commissioner Max  
24 Mitchell's stead as the local area commander?  
25 A. There were numerous periods between or around 2010,  
26 yes.  
27  
28 Q. And then is it a fair proposition that upon Detective  
29 Chief Inspector Brad Tayler no longer acting as the crime  
30 manager at Newcastle City LAC, that you took over that  
31 role?  
32 A. That's correct, in December of 2010.  
33  
34 Q. And you, in doing that, took over management of Strike  
35 Force Lantle alongside management of a whole lot of other  
36 matters that had been, in an umbrella fashion, managed by  
37 Brad Tayler before his ceasing to act in that position?  
38 A. I took over all the duties that a crime manager has to  
39 do and Lantle was one of those and that ceased was in March  
40 2011, a managerial role.  
41  
42 Q. During some of that period you went to Christchurch in  
43 early 2011?  
44 A. Yes, I went over there, in earthquake relief for about  
45 a month, a bit over a month, within hours after the  
46 earthquake really.  
47

1 Q. We'll return broadly to this chronological period.  
2 Could you give the Commissioner some idea of the number of  
3 active investigations that you took over that kind of  
4 umbrella management of at the time that you were  
5 effectively replacing DCI Tayler?

6 A. Well, at the top of the tree, I suppose when I took  
7 over, there was the double homicide of the two young men at  
8 Mayfield and a myriad of serious indictable offences:  
9 attempted murders, malicious wounding, armed hold-ups,  
10 aggravated break and enters. It cascaded down from the top  
11 of the tree there. The command itself would manage  
12 anywhere between 700 and 800 cases at any one time across  
13 both investigative and general duties staff and special  
14 operations groups staff. It is an extremely busy command.  
15

16 Q. I'm not going to take you through it in detail, but in  
17 paragraph 9 to paragraph 10 inclusive of your statement,  
18 you set out responsibilities, as you see it, your  
19 responsibilities as you see it, as a crime manager and  
20 matters in which you would generally be involved or  
21 variously not involved in relation to strike forces in that  
22 particular role?

23 A. Yes.  
24

25 Q. In paragraphs 11 and 12, you broadly discuss your  
26 professional contact with DCI Fox in advance of this  
27 matter. Just expand on that or deal with the matters that  
28 you set out in that paragraph in terms of, first of all,  
29 when you first worked with him and the ways in which you've  
30 worked with him. I think sometimes you've reported to him  
31 and sometimes he's reported to you?

32 A. Yes, that's exactly right. He was a working detective  
33 in Cessnock and I was on the other side of the valley.  
34 I didn't have much to do with Peter before we were  
35 basically clustered together at Maitland. I was working in  
36 his team. He was a sergeant then. I want to make this  
37 very, very clear from the start: despite what some people  
38 may think, I have actually no animosity towards Peter Fox,  
39 not one single bit, despite what people may - others may  
40 think and to suggest otherwise would be --  
41

42 Q. How did you find the relationship when you were being  
43 supervised by him professionally?

44 A. As far as I was concerned we got on fine. We did not  
45 mix socially. That was not what it was about. We had  
46 different interests. I didn't know much about his personal  
47 life at all. I'm sure he didn't know much about mine. He

1 was a good detective.

2

3 Q. At the time that you were supervising him, how was  
4 that relationship professionally?

5 A. Well, as far as I knew, no problems. Putting it in  
6 context, there was a senior sergeant between me and DCI Fox  
7 then. Having said that, he's a very senior police officer  
8 Mr Fox, and a sergeant like that would be, presumably,  
9 comfortable enough to come and see me as the crime manager  
10 about anything that may have been an issue. I had no  
11 problems with his work, to my knowledge, at all.

12

13 Q. Thank you. I want to show you a document. Would you  
14 look at volume 1.

15 A. Yes.

16

17 Q. Behind volume 1, would you look behind tab 21. Is the  
18 character of the document that's behind tab 21 a document  
19 that was prepared by then Sergeant MJ Watters, being an  
20 application for the extradition of Denis McAlinden?

21 A. Yes, it is.

22

23 Q. You might be able to help me, although there are dates  
24 alongside when this application moved through different  
25 parts of the chain of command, the application itself  
26 doesn't seem to be dated. Am I right in that, on your  
27 reading of it, unless the date is buried in some place best  
28 observed by attested officers or commissioned officers?

29 A. That's another one I can't solve, no. No dates there.  
30 I can take you through the chain of when I got it.

31

32 Q. The first thing I want you to do is read that material  
33 and then, from that material, would you briefly tell the  
34 Commissioner who was in what position, starting with the  
35 most superior officer and going down through the chain of  
36 the people who looked at this application. Without going  
37 to what was done with the application first, you can  
38 probably work out that yourself, Charles Haggett and Peter  
39 Fox were each involved in some fashion in relation to this  
40 matter; is that right?

41 A. No. Peter Fox wasn't involved in this report that  
42 I can see.

43

44 Q. Sorry, what is it the --

45 A. Watters - I might contextualise it for you. This  
46 application came through as a result of Operation Peregrine  
47 2, which was a search of, an old search, first-instance

1 warrant offenders, if I recall it correctly.

2

3 Q. Can you just slow down a little bit. You've got a  
4 soft fast voice.

5 A. I've never been told I've been soft.

6

7 Q. There's always new information available to us in this  
8 light.

9 A. Anyway - apparently so. I'll try and be soft and  
10 audible.

11

12 Q. Could you slow the pace down so that the court  
13 reporter can keep up to you. That would be helpful.

14 A. My apologies.

15

16 Q. You were just telling us about the purpose of  
17 Operation Peregrine?

18 A. Operation Peregrine 2 was a statewide operation to try  
19 and clear up some of the outstandings first-instance  
20 warrants offenders, offenders who were wanted by virtue of  
21 warrant for serious offences. This report hit my desk some  
22 time prior to 16 December 2005. It came from Sergeant  
23 Watters. Excuse me for a second. I have a memory of us  
24 being notified and me sending this to Watters, which was  
25 unusual to comment on, because he had relinquished his  
26 detective's position to take a promotion as a sergeant at  
27 Kurri Kurri. Despite that, he was the officer in charge of  
28 that investigation, so I sent this to him for comment and  
29 this was the comment that he sent back.

30

31 Q. I see.

32 A. There may be another report that should be on the back  
33 of that, and it is not here, which would have instigated  
34 it.

35

36 Q. The first entry in terms of the chain of command is  
37 you, as then crime manager of Lower Hunter, looking at what  
38 Watters had submitted on 16 September 2005; correct?

39 A. That's right. It was --

40

41 Q. Would you read out what your recommendation is in  
42 relation to what was effectively an application seeking  
43 approval that Denis McAlinden be extradited, in relation to  
44 offences committed against [AE], from Western Australia?

45 A. Yes, okay:

46

47 *Supported. The public interest in matters*

1 of this kind is significant. The brief is  
2 consistent with many briefs of this type  
3 and it would ultimately be a matter for the  
4 jury in a subsequent trial. The advanced  
5 age of the POI should not be a  
6 consideration.

7  
8 That was then forwarded to Commander Haggett for --

9  
10 Q. He was the commander of the Lower Hunter LAC at that  
11 time?

12 A. That's right, superintendent.

13  
14 Q. Are you sufficiently familiar with then Commander  
15 Haggett's handwriting to read out what he has put?

16 A. He had then written back to me:

17  
18 *Supported. What is the proposal for arrest*  
19 *and/or confirming location of offender*  
20 *before travel?*

21  
22 That's dated 19 September 2005.

23  
24 Q. Thank you. Did the application come back to you  
25 again as crime manager Lower Hunter on - is that date  
26 20 September 2005?

27 A. Yes, it is. That's the date I dealt with it. It  
28 might have come back on the 19th, but I dealt with it on  
29 the 20th.

30  
31 Q. Can you read out your handwriting there in response to  
32 what Commander Haggett inserted?

33 A. Yes:

34  
35 *Noted. Sergeant Watters should advise ASAP*  
36 *as to the logistics of ensuring the POI is*  
37 *actually present at the location and what*  
38 *arrangements will be made to arrest the*  
39 *POI.*

40  
41 I've put "Number 4" and written "Sergeant Watters" and the  
42 chain of events that would be sent to him to make further  
43 comments.

44  
45 Q. Do you have any recollection from your own memory  
46 about what then became of this?

47 A. Yes. It went to Watters. Watters determined that he

1 was somewhere in WA - I can't recall where - that he was on  
2 death's door. I wrote on a report somewhere that I didn't  
3 care how sick he was, that I believed he should have been  
4 expedited and then ultimately it was a decision for the  
5 commander. I think he may have spoken with Mark Watters  
6 determining that he just - he couldn't travel. McAlinden  
7 couldn't travel. I was less interested in his medical  
8 condition than in getting him to court.

9  
10 MR HUNT: I tender that document.

11  
12 THE COMMISSIONER: Thank You, Mr Hunt. The application by  
13 Sergeant Watters, which went through the hands of Detective  
14 Chief Inspector Humphrey and Superintendent Haggett in  
15 2005, which has been tab 21, will be admitted and marked  
16 exhibit 34.

17  
18 MR HUNT: Exhibit 35, I am instructed.

19  
20 THE COMMISSIONER: All right. Exhibit 35 then - no,  
21 exhibit 34.

22  
23 MR HUNT: There seems to be a foofaraw in relation to this  
24 issue.

25  
26 THE COMMISSIONER: Yes. It is exhibit 34.

27  
28 **EXHIBIT #34 APPLICATION BY SERGEANT WATTERS SEEKING**  
29 **APPROVAL FOR THE EXTRADITION OF FATHER DENIS McALINDEN**

30  
31 MR HUNT: Q. Just take your attention, if you would, to  
32 paragraph 14 and following of your statement.

33 A. Yes.

34  
35 Q. You set out in paragraph 14 some material about your  
36 general understanding of matters in relation to the  
37 possibility of an investigation relative to what ultimately  
38 became the subject matter of Strike Force Lantle. Do you  
39 see that?

40 A. Yes, I do.

41  
42 Q. You say this:

43  
44 *There were some discussions amongst senior*  
45 *officers that allegations were raised in*  
46 *relation to "cover ups" by the clergy of*  
47 *the Roman Catholic Church.*



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Do we understand from that that that included you as one of the senior officers that were involved in those discussions?

A. No, it was more office chatter, I think. It wasn't in my bailiwick at this stage. I was a duty officer. But yes, I was aware that there was something coming.

Q. Can you remember whether you had any involvement in the early stages of 2010 as to where this investigation might end up being allocated? Were you across that it had been at Lake Macquarie and gone to region and --

A. If I can refer to this. In early 2010 I was working in Port Stephens - so, no.

Q. Can you remember when you first understood anything firm about there being a matter that looked like it needed investigating?

A. Firm?

Q. Yes.

A. That was at the - it was - I was aware of it prior to a meeting with Inspector Townsend and DCI Tayler that I went to when I was relieving commander. I think that was October. I'd have to check.

Q. Are you able to say whether you had any involvement yourself in either selecting or approving the selection of Kieran Steel as being the person who was going to be the officer in charge of the investigation that was to become Strike Force Lantle?

A. No, I was aware of it; but, no, it wasn't my selection. She wasn't my --

Q. Who would have that fallen to?

A. That would have been in consultation between then Superintendent Mitchell and DCI Tayler and probably no doubt in consultation with Detective Sergeant Steel.

Q. Had you worked with Detective Sergeant Steele?

A. On investigations, yes, I had, actually, just immediately prior to her leaving. She had been relieving as an inspector for some time, as professional standards manager. I was sent an inquiry by the homicide to investigate the death of Crown Prosecutor Clout, and Kirren was my offsider during that investigation.

1 Q. How did you find her in terms of her abilities as an  
2 investigator?  
3 A. She was competent. She was good. Attention to detail  
4 was good - appeared to be anyway.  
5  
6 Q. I might add that the nature of that inquiry wasn't a  
7 normal inquiry. There were some twists and turns to that,  
8 and that's why I had carriage of it. It was more like a  
9 critical incident than an investigation.  
10  
11 Q. Because of the status of the person who ultimately  
12 become the deceased or --  
13 A. I think that had Mr Clout's status had some impact on  
14 it. It was more the conduct of police and other emergency  
15 services after the event. So the State Coroner directed an  
16 independent investigation and the homicide squad assigned  
17 it to me.  
18  
19 Q. Your rank at that stage was?  
20 A. Detective chief inspector.  
21  
22 Q. Were you in a crime manager role at that stage?  
23 A. Yes, I was - no, I might have still been just a duty  
24 officer then - just in time, not a position - and I was  
25 taken offline, that's right.  
26  
27 Q. You're drawing the distinction that you, as I  
28 understand, what you're saying, were more hands-on as an  
29 investigator in that matter than you would have been in  
30 relation to matters that had less of a character similar to  
31 a critical incident?  
32 A. Well, it is fair to say, particularly by the time you  
33 reach my rank, a leopard doesn't often change their spots  
34 I suppose you could say. Every inspector in this room will  
35 have a different idea about how they will conduct different  
36 types of investigations. That particular investigation  
37 fell within the bounds of a critical incident or it was to  
38 be investigated to that level and, yes, I do take a very  
39 hands-on role in critical incidents. It's expected - in my  
40 view, it is expected of me. To draw the comparison that's  
41 relevant to why we are here, would I take a hands-on role  
42 in Lantle? Probably not, depending on what happened.  
43  
44 Q. Just to make that plain for members of the public that  
45 are in court, in terms of critical incidents, they're  
46 investigations that necessarily involve some examination of  
47 the conduct of other members of the police force often

1 because of the circumstances of, say, the death involved?  
2 A. That's correct. There's a definition of a critical  
3 incident - during a police operation or any myriad of  
4 things that involve police operations or actions.

5

6 Q. What do you broadly say is at least your position in  
7 terms of when filling the position of a crime manager the  
8 likelihood that you would consult to a strike force or a  
9 task force that was being run in a different local area  
10 command to the one that you're attached to?

11 A. It would be very unlikely unless I was invited. If  
12 I had something of interest or relevant to that  
13 investigation, yes, I would bring it to the attention of  
14 the relevant command and then, at a time appropriate,  
15 I would no doubt be debriefed. I certainly wouldn't be  
16 taking an active investigative role unless someone well  
17 senior to me made that decision and then it is really not  
18 theirs any more, is it; it is the most senior person there.

19

20 Q. Can I just get you to turn to annexure C to your  
21 statement. Annexure C, to assist those at the Bar table,  
22 is also to be conveniently found at tab 64 of volume 2 of  
23 the tender bundle. You will see that there at annexure C  
24 there's an email chain, Detective Chief Inspector Humphrey?

25 A. Correct.

26

27 Q. The chain commences with an email from Peter Fox to  
28 Kirren Steel, on 16 September 2010, among other things,  
29 indicating an understanding in the first paragraph that  
30 she, Steel, has or is about to be allocated a file  
31 concerning church paedophilia and cover-up within the  
32 Catholic Church. Do you see that?

33 A. Yes.

34

35 Q. In the last paragraph, a history of other narrative  
36 matters by DCI Fox, then signing off with a paragraph  
37 indicating that that day was his last day until 18 October  
38 2010, and an invitation for Kirren Steel to contact him and  
39 put their material and heads together on this. Looking at  
40 the dates, was it within your knowledge by 16 September  
41 2010 that Kirren Steel had been nominated as the likely  
42 recipient of the file that became Lantle?

43 A. Yes, I'd had a meeting with Inspector Townsend and DCI  
44 Tayler at northern region at the office, where we were told  
45 that the file was coming back and, at that stage, Inspector  
46 Townsend was told, I think by Tayler, that Steel was to be  
47 officer in charge. Yes, I was fully aware of that.

1  
2 Q. Would that have been shortly before this email?  
3 A. I've got it in my handwritten notes, if I can look at  
4 those.  
5  
6 Q. We might come to that. Just turn to the front page  
7 then, which is Acting Inspector Kirren Steel forwarding  
8 that email from DCI Fox to her on to these personnel:  
9 Brad Tayler, he would have been at that stage her crime  
10 manager?  
11 A. That's correct.  
12  
13 Q. Max Mitchell, who would have been at that stage her  
14 commander?  
15 A. That's right.  
16  
17 Q. And you. What would your role have been in relation  
18 to matters generally at Newcastle City LAC at that time?  
19 A. At that time, I believe I was relieving as the  
20 commander.  
21  
22 Q. Is it your suspicion that Mitchell is copied in,  
23 because he's the substantive commander and you're copied in  
24 because you're acting up in his position at that time?  
25 A. A little bit more than suspicion. I guess that the  
26 nature of the email says she's not sure which one of us  
27 told her to contact us if DCI Fox initiated contact.  
28 I don't recall it being me. I suspect it was Tayler, but I  
29 was aware that that was a strategy that was going to be  
30 employed.  
31  
32 Q. That was one question I was going to ask, whether it  
33 was you that had been --  
34 A. I don't recall specifically, no, but I was aware that  
35 was the decision that had been made.  
36  
37 Q. Is it the position that you can't remember that it was  
38 you, but you can't exclude absolutely that it was you?  
39 A. Yes, I would accept that.  
40  
41 Q. When you say that was the strategy, you seem to be  
42 talking about something arising from discussions between  
43 police on this general issue; is that right?  
44 A. That's right.  
45  
46 Q. What was that?  
47 A. After the meeting at northern region, DCI Tayler and

1 I had a discussion on the way back in the car and we  
2 anticipated that --  
3  
4 Q. Could I get to you pause. This the meeting at  
5 northern region --  
6 A. That's right.  
7  
8 Q. -- where Inspector Townsend tells you that this matter  
9 is being allocated to your local area command for this  
10 investigation?  
11 A. Yes. That's on the - I thought it was in my  
12 statement. No, I can't see it, but certainly --  
13  
14 Q. Paragraph 16 you deal with it, on 6 September?  
15 A. Yes, that's it. There it is there. 6 September.  
16  
17 Q. Thank you.  
18 A. We discussed our belief that DCI Fox would attempt to  
19 inject himself into that particular investigation.  
20  
21 Q. In terms of - was that your opinion at that time,  
22 whether it was the opinion of others?  
23 A. It was the opinion of a number of people, yes.  
24  
25 Q. Resting on your opinion, was that based on his  
26 interest in this subject matter or why did you have that  
27 view?  
28 A. That was one point, yes, he was - I was aware that he  
29 was clearly interested in that line of inquiry.  
30  
31 Q. And was that a --  
32 A. That is not the only one, but I can't --  
33  
34 Q. Was that a piece of information that was either shared  
35 at that meeting or a common view, that part of it?  
36 A. I think I could say, in fairness, that it was commonly  
37 believed that DCI Fox and Joanne McCarthy had a  
38 relationship at that time of some description that went  
39 outside the bounds of the media policy. That was the  
40 suspicion and it was suspected that DCI Fox would inject  
41 himself into the investigation early, and that proved to be  
42 correct.  
43  
44 Q. Did you have some view, whether it was yours or shared  
45 in that meeting, about the attitude or analysis that Kirren  
46 Steel ought bring to the file before talking to others who  
47 had been investigating similar matters?

1 A. To answer that, I have to be brutally honest quite  
2 early. At no stage, in my view, should DCI Fox be excluded  
3 as a line of inquiry in this investigation. He was never  
4 shut out. But it was also important that at that time,  
5 when Kirren Steel started that investigation, she started  
6 that with no investigative bias. She needed to see what  
7 was on the table, review it and determine the correct way  
8 to go forward.

9  
10 Q. Why is that important?

11 A. DCI Fox had - and I suppose now it is quite clear -  
12 had been working for many, many years on this, to what  
13 extent, that will be for the Commission to determine, how  
14 successfully. The conclusions that had been drawn at that  
15 stage didn't need to interrupt the thought process of  
16 determining what material was available to Detective  
17 Sergeant Steel in the first instance. I say again, it was  
18 very important that DCI Fox's material and his knowledge be  
19 part of that investigation, but not - not at day one. Not  
20 at day one. It needed a fresh set of eyes, in my view.

21  
22 Having said that, I need to contextualise this. Brad  
23 Tayler had the managerial rights to this. I was sitting as  
24 a commander and that opinion I think was consistent, I know  
25 it was consistent with Brad's opinion. Brad's personal  
26 opinion of - DCI Tayler's personal opinion of DCI Fox is  
27 not necessarily one I attune to, but nothing that I saw  
28 DCI Tayler do affected the impartiality of how that was  
29 going to be managed and I wouldn't have allowed it while I  
30 was the commander of that. It was a good strategy and the  
31 line as if - as if I knew it wouldn't happen, it was just  
32 like Nostradamus. We knew he was going to inject early,  
33 and it was just not the right time.

34  
35 Q. Was it ever considered at that time by you or by  
36 Tayler, to your knowledge, that DCI Fox was considered then  
37 as to whether he would be an appropriate officer in charge  
38 for this matter?

39 A. He was never, ever considered an appropriate -  
40 "appropriate" infers that there's something inappropriate  
41 about him. He was in a different command. The job was  
42 given to Newcastle City Local Area Command by region. It  
43 automatically fell to DCI Tayler to be the manager of that  
44 investigation and the OIC was appointed.

45  
46 If Ma'am York, as the assistant commissioner for the  
47 northern region, had been of a view to establish some type

1 of strike force that had Kirren and Peter - DCI Fox - as  
2 leader, she could have done that. She did not. I heard  
3 Ms McCarthy say we were a paramilitary organisation. Yes  
4 we are, because we have a rank structure, and the rank  
5 structure determines who does what and who tells whom to do  
6 what. So that's what happened. We were told to do it. We  
7 did it.

8  
9 Q. I understand the evidence that you've given about  
10 Kirren Steel as a new person coming to this matter not  
11 having investigation bias. Did Detective Chief Inspector  
12 Tayler ever articulate to you a plan or did you have a plan  
13 of your own in mind as to how and when there could be input  
14 by DCI Fox into the matter if Steel was the OIC?

15 A. No. I don't know what Brad had planned because that  
16 was his responsibility. I was relieving for a short  
17 period. But, ultimately, it was my view, and even  
18 articulated in the minutes of meetings in 2012, where  
19 I still expressed the view that DCI Fox needed to be  
20 interviewed and his material be properly assessed.

21  
22 Q. Why was that, that you had that view and expressed  
23 that view?

24 A. Well, it was the correct thing to do, by that time -  
25 by that stage, absolutely the correct thing to do.  
26 Although, also by that stage, DI Parker had managerial  
27 carriage - I only had managerial carriage of the matter for  
28 a very short period and that was involving getting a loose  
29 file full of documents with little order to it and  
30 assigning Detective Sergeant Little --

31  
32 Q. That comes a bit later in the chronology --

33 A. That's right.

34  
35 Q. -- and we'll get there. At the moment I want to you  
36 stay focused on this period where you were the acting  
37 commander and Brad Tayler was advising Kirren Steel.

38 A. Yes.

39  
40 Q. Whatever your own views about it, DCI Tayler hadn't  
41 articulated to you how, when, where DCI Fox might be  
42 involved?

43 A. No. The initial part of that was, if I recall - I  
44 will get the acronym right, excuse me, [AL] - making some  
45 attempts to interview [AL]. It was not a matter I turned a  
46 lot of attention to. It was an important matter, but it  
47 was an historic matter and I was running a command.

1 There's a lot of reliance on your crime manager to take  
2 managerial responsibility and that was what Brad was doing.

3  
4 Q. Can I just come back to this annexure C to your  
5 statement, where it is said in your response to Acting  
6 Inspector Steel:

7  
8 *No contact with him" --*

9  
10 In context Fox --

11 A. Yes.

12  
13 Q. --:

14  
15 *until after we (Brad and I) discuss the*  
16 *matter on Monday with you.*

17  
18 First of all, was there a discussion between you,  
19 DCI Tayler and Acting Inspector Steel about that matter  
20 some time on a Monday shortly after this?

21 A. I can't say. I presume there would have been. It  
22 doesn't - nothing resonates with me.

23  
24 Q. It would seem in context that that was going to be a  
25 discussion on this issue of limiting or what involvement  
26 there should be in response to Fox's invitation to get his  
27 head together with Steel's. Can you remember what it was  
28 about?

29 A. My memory of any discussion in relation to that with  
30 DCI Tayler was how were we going to manage that in light of  
31 the potential risks for leaks to the media in conjunction  
32 with the possible inculpatory nature of material that DCI  
33 Fox had. Bear in mind it is a concealment offence we're  
34 looking at. We weren't investigating a sexual assault;  
35 that wasn't the terms of reference, so any discussion would  
36 have been surrounding that. I would have been expecting,  
37 I believe, that Brad would have been coming to me, as the  
38 commander at that stage, with some type of strategy to  
39 properly debrief DCI Fox and see if the material was of  
40 relevance to the Lantle investigation.

41  
42 Q. I think in the context of the matters that you have  
43 set out in your statement, it is clear that you either  
44 remained or were again the acting commander at the time  
45 that the strike force actually commenced in a formal way;  
46 is that right?

47 A. Well, you'll have to give me some date ranges.



1  
2 Q. I'm going to help you with it. Just have a look  
3 behind tab 67.  
4 A. Volume what?  
5  
6 Q. Volume 2. Before you go to that document, I just want  
7 to ask you one thing: you were aware that Acting Inspector  
8 Steel had a period of leave before she was able to  
9 physically take up any investigative role; is that right?  
10 A. Yes, I think she had some leave liability that had to  
11 be diminished, yes.  
12  
13 Q. Do you know when it was she returned to active service  
14 as a detective at Newcastle City LAC?  
15 A. I can't help with you that.  
16  
17 Q. The preparation of the SITREP or situation report that  
18 sits behind your email of 12 October 2010, does that  
19 represent, if you like, the formalised commencement of  
20 Strike Force Lantle?  
21 A. The SITREP you're talking about?  
22  
23 Q. Yes, together with the promulgation of terms of  
24 reference. Tell me if you disagree with that, I am just  
25 trying to --  
26 A. I'm just trying to read it. I don't have a memory of  
27 the document, I'm sorry.  
28  
29 Q. Just read that, if you would.  
30 A. That certainly seems to be the case, that it is the  
31 first official day that Steel --  
32  
33 Q. All right. Can you now remember, and have access to  
34 things in the tender bundle if you need to, what was the  
35 moving factor that got the thing actually started as a  
36 strike force and documentation by way of terms of reference  
37 and a situation report saying it had been established?  
38 A. I don't know. What are you searching for here?  
39  
40 Q. I'm trying to understand - you were told on  
41 6 September in a meeting --  
42 A. Yes, I met with Townsend.  
43  
44 Q. -- with Townsend that the file was coming to Newcastle  
45 City LAC; correct?  
46 A. That's right.  
47

1 Q. You had some discussions with Tayler that you approved  
2 of about, broadly, the staff that were going to be  
3 allocated to the matter?

4 A. That's right.

5

6 Q. Steel had been on leave but returned at some stage,  
7 I'd suggest, either on or by this date, before or by this  
8 date, because she's about to start working on it?

9 A. It looks like she came back on the 12th, yes.

10

11 Q. I'm trying to understand just what took place that  
12 meant that it started. That's all I'm getting at.

13 A. I know where you're going with it. There was a -  
14 I received a phone call from Inspector Fay Dunn, who was  
15 the staff officer to the northern region commander at that  
16 stage, and that was in the days preceding 13 October. I'll  
17 have to go to my folder to - are my handwritten notes in  
18 this? I've asked a number of times now. I need to access  
19 them to give you an accurate answer.

20

21 Q. I'll need to find out the answer to that. While we're  
22 finding out the answer to that, would you look behind  
23 tab 70?

24 A. Volume 2?

25

26 Q. Yes. Just a few after that one.

27 A. Yes.

28

29 MR HUNT: I'm being exhorted by senior counsel assisting  
30 to ask for a short break for a leg stretch, please. We can  
31 deal with this document while others are stretching their  
32 legs, please.

33

34 THE COMMISSIONER: Yes.

35

### 36 **SHORT ADJOURNMENT**

37

38 MR HUNT: We've got some copied notes for later in the  
39 chronology for the detective chief inspector. I'm not in a  
40 position to assist the witness with the notes because  
41 they're still being assessed for various reasons. I will  
42 go on to something else and we'll come back to that.

43

44 THE COMMISSIONER: Thank you.

45

46 THE WITNESS: Mr Hunt, your question - I know I'm not  
47 going to the notes here, but your question was what

1 predicated or what appeared to predicate suddenly action in  
2 relation to this mater? Was that the question?

3

4 MR HUNT; Q. That's it. Why 12 October?

5 A. I don't know. You'd have to - you should have asked  
6 DCI Tayler.

7

8 Q. Don't worry about that? I'm asking --

9 A. I can't answer it. I can't answer it

10

11 Q. -- from your point of view as the acting commander,  
12 what you understood to be the moving reason for Strike  
13 Force Lantle commencing on 12 October 2010?

14 A. I have --

15

16 Q. If you don't have a reason, you can tell us.

17 A. Yes. I don't think I do, no.

18

19 Q. All right.

20 A. Sorry, I misunderstood the question.

21

22 Q. That is all right. Have a look at these couple of  
23 extracts from your handwritten notes. Would you assist me,  
24 if you could, DCI Humphrey. Does that seem to show that on  
25 21 September 2010, at about 10 o'clock in the morning, you  
26 had a discussion with Kirren Steel, likely to be a  
27 discussion that was after the email that I asked you some  
28 questions about earlier?

29 A. Yes, that certainly was after the meeting with  
30 Townsend and Tayler at northern region, which was the 6th  
31 of the 9th wasn't it, I think?

32

33 Q. And then I'm going to show you some notes, some of  
34 your notes, for 12 October 2010. No offence to your  
35 handwriting, but I'm going to ask you to read out the entry  
36 that relates apparently to a phone call received from  
37 Fay Dunn at 14.45. Then, after that. I'm going to ask you  
38 to read out the entry for 8am, on 13 October 2010, just to  
39 assist us as to what you've recorded there.

40 A. That is 12 October 2010 at 14.45.

41

42 Q. Yes.

43 A. It says:

44

45 *Phone call from Fay Dunn.*  
46 *Re investigation into Church.*  
47 *Inquiry from Joanne McCarthy.*

1           Dunn briefed that DCI Fox and McCarthy had  
2           links.  
3           File to be retrieved from Fox's office on  
4           am of 13/10/10.  
5           Links between Fox and Rae.  
6           Caution re leaks.  
7           NCC brief - we will run accordingly.

8

9           The next entry is on 13/10/10:

10

11           0800 Port Stephens - Raymond Terrace,  
12           Superintendent Haggert re file held by Fox.  
13           Location - not located.

14

15           Q.    So the second entry relates to you and Haggett looking  
16           for things in Fox's --

17           A.    Looking for a document and relevant documents, yes.

18

19           Q.    Is the material that you've recorded at 14.45 from  
20           Fay Dunn her requesting that search to happen?

21           A.    Yes. I have a clear memory of the call. There was  
22           I'd say, panic, a little bit of panic perhaps from  
23           Inspector Dunn that Ms McCarthy had asked some hard  
24           questions that couldn't be answered, and it didn't seem as  
25           though Fay was across the issue. She's rung me and then  
26           wanted that file retrieved from DCI Fox's office.

27

28           Q.    All right.

29           A.    And that's, as I understand it, so she could  
30           accurately and completely brief whoever the region  
31           commander was then to respond to Joanne McCarthy's  
32           inquiries.

33

34           Q.    You were here earlier when I asked some final  
35           questions of Ms McCarthy about some email contacts between  
36           her and Inspector Townsend at northern region?

37           A.    I was, yes.

38

39           Q.    Just look at tab 70, behind tab 70 of volume 1.

40           A.    Yes, I'm still on that. Oh, volume 1, yes.

41

42           Q.    Volume 2, I apologise, tab 70?

43           A.    There is a loose-leaf in here. I don't know if it's  
44           supposed to be in here.

45

46           Q.    Would you hold that up?

47           A.    There are questions on police --

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Q. You can put that to one side.

A. Yes, there is an email here from Joanne McCarthy to Anthony Townsend.

Q. I'm not suggesting that you physically were copied in on these emails at the relevant times. It was clear on the email trail that you weren't. Do you see that Ms McCarthy seems to have made an inquiry in firm terms of Inspector Townsend on 12 October 2010 at 9.55 in the morning?

A. This the first time I've ever seen this. I want to be clear on that. I understand now why Fay Dunn phoned me.

Q. Yes. Apart from there being, you'll see, a response by Inspector Townsend to Ms McCarthy on 12 October at 15.50, that also Inspector Townsend has forwarded the email trail on 13 October to Inspector Dunn?

A. Yes.

Q. It seems available - and you seem to have drawn the conclusion yourself because of your own diary note - that one of the motivations at least for Inspector Fay Dunn communicating with you about acquisition of material in relation to Strike Force Lantle was driven by, arguably, Ms McCarthy's communication with Inspector Townsend that same day?

A. Yes.

Q. I had apprehended that one of the reasons that a search was seen as necessary of DCI Fox's office at Port Stephens was because there had been repeated requests for him to deliver up material?

A. I wasn't aware of that at that stage in relation to this matter, no. I couldn't say that.

Q. Was there any discussion between you and Inspector Dunn about why she wanted that search conducted?

A. Yes, she wanted the file. She wanted the green, the ministerial, so she could appropriately respond to the inquiry.

Q. Is it a fair proposition that the writing of the SITREP and Lantle being activated, as it were, on 12 October is linked to this inquiry of northern region as to where these things were happening?

A. I couldn't say that, Mr Hunt. Again, I couldn't say. It may well have been as simple as the fact that that's

1 about the period that Kirren Steel came back to work and  
2 she was told to prioritise it. She had a clean slate, so  
3 there was no reason why she shouldn't.  
4

5 Q. Is it fair to say that you can't agree with that  
6 proposition, but you couldn't exclude that as one of the  
7 factors that might have operated in the --

8 A. It may well have been.  
9

10 Q. All right.

11 A. It may well have been.  
12

13 MR HUNT: Might I tender those diary notes - collectively  
14 I think is sensible - Commissioner.  
15

16 THE COMMISSIONER: Thank you, Mr Hunt. Four pages of  
17 diary notes made by Detective Chief Inspector Humphrey in  
18 October 2010 will be admitted and marked exhibit 35.  
19

20 MR HUNT: Can I just say, for the record because I was  
21 talking to my colleagues while you were talking, it is the  
22 diary note of 21 September 2010 and the diary notes of 12  
23 and 13 October 2010.  
24

25 THE COMMISSIONER: That's correct, yes. There are four  
26 pages of September to October.  
27

28 **EXHIBIT #35 DIARY NOTE MADE BY DETECTIVE CHIEF INSPECTOR**  
29 **HUMPHREY ON 21/9/2010 AND DIARY NOTES OF 12/10/210 AND**  
30 **13/10/2010**  
31

32 MR COHEN: I'm sorry to interrupt. Can I say we only have  
33 two pages. Is it possible for us to be let in on the  
34 secret of the other two.  
35

36 THE COMMISSIONER: Yes. It may be there's not very much  
37 of interest on two of the pages. In fact, there's nothing.  
38 Would you take my word for it?  
39

40 MR COHEN: Absolutely, every day.  
41

42 MR HUNT: Q. You're aware that there was a meeting on  
43 2 December 2010 at Waratah police station, but you were not  
44 in attendance; is that the position?

45 A. No, I was on holidays, or I was on days off - one of  
46 the two.  
47

1 Q. Are you all right?

2 A. Yes, yes, I've got a bad shoulder.

3

4 Q. The time that you became the crime manager with  
5 overarching responsibility for Strike Force Lantle was  
6 in December 2010 upon Detective Chief Inspector Brad Tayler  
7 no longer filling that role?

8 A. That's correct. He went on sick report.

9

10 Q. Were you either directly responsible or involved in  
11 the selection of Jeff Little as the officer in charge of  
12 Strike Force Lantle?

13 A. It was solely my decision to select Jeff Little as the  
14 officer in charge.

15

16 Q. Was Mr Mitchell then the commander? Did you need to  
17 discuss that with him?

18 A. I don't know whether I was even the chair. There are  
19 periods when I'm in and out of the chair, but, yes, in that  
20 respect, I would have no doubt briefed him that that's who  
21 I'd selected. If he objected, then it would have changed,  
22 but there would have been no objection.

23

24 Q. Why did you pick Jeff Little to do that job?

25 A. For a myriad of reasons. I had known Jeff for --

26

27 Q. Articulate them if you could?

28 A. Yes, I'll try. I'd known Jeff for some years. I'd  
29 worked with him when I was at Port Stephens, coming back  
30 from a period where I'd been off for a little while. We  
31 had mutual friends in the Federal Police. And I was aware  
32 of some of the things that Jeff had done and in  
33 conversations with him, in those lonely hours on night work  
34 around Port Stephens, I gathered a little bit more  
35 information about him.

36

37 When he was successful in achieving promotion to  
38 detective sergeant, I was actually quite pleased. It  
39 dovetailed perfectly into the needs, in my view, of what  
40 needed to be done with Lantle given Jeff's specific skill  
41 sets and his demeanour, determination. Very interesting  
42 fellow.

43

44 Q. What are his specific skill sets or were his specific  
45 skill sets as in early 2011?

46 A. Firstly, he comes from a background where he  
47 understands a request is enough to get things done. He

1 doesn't have to be predicated time and time again to do  
2 anything. He is extremely thorough. He has extremely high  
3 level skills in computer work and, above all else, he is  
4 not a person that will be bullied by any person of any  
5 rank, particularly loyal to the command. It's a bit of a  
6 testament for him. It is a little bit embarrassing,  
7 I guess for him because he's sitting in court, but they are  
8 the things that he had that I needed to get Lantle to get  
9 going.

10  
11 Q. What were the arrangements that were in place if he  
12 needed assistance.

13 A. It's as simple as a phone call to me or a request -  
14 his mandate at the start was to have a look at the  
15 documentation that was in existence, coupled with the  
16 e@gle.i investigation system, which is an online system, as  
17 you have been told, and to determine - at that stage, in my  
18 mind, what would have been a very broad set of terms of  
19 reference, but ultimately to determine a detailed  
20 investigation plan. As far as I'm aware, and to my  
21 knowledge, Jeff did both those things admirably well.

22  
23 Q. I just want to clarify whether something that you just  
24 said in terms of his particular skill sets - that's  
25 Little's skill sets - as at early 2011 was particularly  
26 relevant to this matter or not. You said that he was not -  
27 I'm paraphrasing - the kind to be bullied by others and do  
28 we take that as meaning up the chain of command?

29 A. Either way.

30  
31 Q. Was that relevant particularly to this matter; and, if  
32 so, why was it?

33 A. It was relevant because I gave certain riding  
34 instructions at the handover of that briefing. I didn't  
35 specifically mention DCI Fox in that, but what I did say  
36 was that the people that are assigned to this investigation  
37 are the only people that he can speak to about the matter  
38 until we determine an investigation plan. At that stage -  
39 as far as I recall, DCI Fox would have been on sick report,  
40 I think, he certainly was off - I had contact with [AL]  
41 during that period and, yes, so that's my answer.

42  
43 Q. You're not saying, though, are you, by that answer  
44 that there was material relative to this matter that would  
45 lead you to characterise Fox's conduct relative to this  
46 matter as bullying?

47 A. Oh, no, no, no, I'm not trying to suggest that at all.



1 Jeff is a very strong-willed fellow. Doggedly determined  
2 I think would be his best description. I know if I said,  
3 which I did, to Jeff, "This matter is not to be discussed  
4 with anyone but A, B and C", that would have been in fact  
5 adhered to.

6  
7 Q. Could I just ask you to turn to tab 101 of volume 2.  
8 That represents a report by you to Assistant Commissioner  
9 York, then northern region commander, dated 21 April 2011.  
10 Do you see that there?

11 A. I'm just checking the date. It says 19th on the  
12 front, but the 21st was the day I signed it, yes.

13  
14 Q. Was that memo in a chronological sense proceeded by  
15 you having a meeting at the region office that was attended  
16 by - I'm sorry. I've got my chronology wrong.  
17 I apologise, Commissioner, and to the witness.

18  
19 Can you remember now what led to a need for that  
20 report by you to Assistant Commissioner York?

21 A. That report couples with another report that was  
22 predicated by the telephone call and a file note from  
23 DI Parker and a newspaper article.

24  
25 Q. Effectively, it was responsive to an article that's  
26 been relatively recently tendered in these proceedings?

27 A. No, it was more responsive to the file note from  
28 DI Parker and the telephone call that accompanied or  
29 preceded the receipt of the file note, but it related to  
30 the contents of that article and the conversation that  
31 DI Parker had had with Joanne McCarthy.

32  
33 Q. Can I just take you to the third paragraph on the  
34 second page of your report:

35  
36 *Upon me taking up the position of Crime*  
37 *Manager, the matter was reassigned to*  
38 *Detective Sergeant Little as officer in*  
39 *charge. He still maintains carriage of*  
40 *the investigation to this date. Detective*  
41 *Sergeant Little's mandate was to review the*  
42 *current holdings (which frankly were*  
43 *abysmally managed up until that point) --*

44  
45 And then it goes on to say --

46  
47 *determine and prepare an investigation plan*

1                   and submit that plan for approval, and  
2                   initiate contact with the victim [AL].  
3

4           A.    That's right.  
5

6           Q.    Would you explain to the Commissioner what you saw and  
7           why it is that you expressed yourself as being of the view  
8           that the current holdings, in other words, the holdings as  
9           at around 21 April 2011, had been, frankly, abysmally  
10          managed up until Little becoming involved?

11          A.    That was a subjective view of what I found to hand to  
12          Detective Sergeant Little.  It was a --  
13

14          Q.    Let us pause there.  It was a subjective view --

15          A.    My subjective view.  
16

17          Q.    Your subjective view derived, nonetheless, from your  
18          experience and your then position as a crime manager?

19          A.    It related to - I go back to each of the inspectors in  
20          this room have a different approach.  I like my stuff  
21          structured in folders and tabbed and ready to go, and I'm a  
22          little bit more structured than some.  What I was in  
23          receipt of then was not something that I would have said  
24          was properly structured.  The e@gle.i, however, that seemed  
25          to be adequate for a starting point for Detective Sergeant  
26          Little, but the loose-leaf holdings - and I'm little bit  
27          prehistoric.  I still like to use my paperwork - were not  
28          what I considered to be up to standard.  
29

30          Q.    But the electronic material that had been entered on  
31          e@gle.i was at least adequate?

32          A.    Yes, absolutely.  
33

34          Q.    What was things is as you found it in terms of the  
35          hard-copy holdings?

36          A.    It was in a manila folder.  I must preclude this with  
37          what I could find.  Now, Detective Sergeant Little may have  
38          found other folders, but what I found in DCI Tayler's  
39          office, which ultimately became mine, was a manila folder  
40          with a number of documents, copies of statements, secure  
41          area, but just not organised and I don't work like that.  
42          If the language is colourful, well, so be it, that's what  
43          I said it was.  
44

45          Q.    Could you draw a distinction in terms of the hard-copy  
46          stuff that you were able to survey as to what was material  
47          that had been garnered while Detective Sergeant Steel was

1 working the matter as opposed to anything that might have  
2 come from DCI Fox from any other kinds of sources  
3 pre-existing that time?  
4 A. I can't give you an exact answer by looking at the  
5 folder, but I could say I would have compared it with what  
6 was in existence on e@gle.i, and that would tell me who  
7 introduced that into that system. I didn't spend a lot of  
8 time on it going through it. My ultimate aim was to get it  
9 to someone to start working on it. It needed to be worked  
10 on. There had been a letter received around this period  
11 from [AL] that I had to respond to. It was addressed to  
12 Tayler, but obviously never got to him because he wasn't  
13 there, and I dealt with it. So in my view, the arrival of  
14 Little, the letter, it was all just - just the planets  
15 aligned to get it right.  
16  
17 Q. You had a meeting with Assistant Commissioner York and  
18 Superintendent Gralton, Detective Sergeant Little --  
19 A. I can assist you if you wish.  
20  
21 Q. I'm going to show you the note and you can tell me.  
22 I think it is Officer Janson.  
23 A. Yes.  
24  
25 Q. Just have a look at that?  
26 A. And DI Parker was there as well.  
27  
28 Q. (Shown to witness).  
29 A. Yes, I can read it, if you wish.  
30  
31 Q. First of all, can you indicate broadly why there was a  
32 meeting on 16 May 2011?  
33 A. I don't know what was the genesis of that meeting.  
34 I can't recall it. It may well have been to bring Ma'am  
35 York up to speed on where it was as DI Parker had arrived a  
36 little bit before then. Commissioner Gralton may have  
37 arrived around that period as well, but I can't --  
38  
39 Q. You're meaning to the command rather than to the  
40 meeting, when you say that.  
41 A. Yes, to the command. Sorry, yes. He was the  
42 commander of Newcastle City. I can't tell you exactly what  
43 was the genesis of the meeting, but there was a meeting.  
44  
45 Q. Parker was to take over your --  
46 A. By this stage, he had well and truly taken it over.  
47 I only had a very short period as the sole crime manager.

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Q. Can you read your notes for us.  
A. Yes I can. I'll try. It's not that good a copy.

Q. Would you please?  
A. 16 May 2011:

*0900 hours: Region Office.  
York, Gralton, Janson, Little.  
[Strike Force] Lantle.  
York: Background.  
Issues with media and investigation of  
officers from other commands - separate  
issue. Investigations a separate issue.  
SCC --*

which is State Crime Command --

*declined to take over investigation.  
Review investigation. Maybe matter of RA  
to SCC.*

Q. Is that "RA", request for assistance?  
A. Yes, it is, in that context:

*Need to be apprised on current  
investigation status.  
Parker: Investigation plan.  
Little now off-line working exclusively on  
Lantle.  
Meeting with DI Jacobs last Friday.  
Will provide advice. Mission is now  
narrowed. (Tidy up TOR) --*

Which is terms of reference. It might have got me here.

Q. Does it say "four current victims"?  
A. No, it is:

*Mission wording. 4 current victims.  
Primary for sexual assault allegations is  
deceased.  
Only investigating 'cover up' by church.  
Peripheral issues not part of investigation  
focus.  
This will be completely investigated.  
Draft view - unlikely any action.*

1           York: *Discuss proofs of conspiracy.*  
2           Parker: *Discuss church approach. Look to*  
3           *defrock McAlinden.*  
4           *DPP/AGs advising.*  
5           *Discuss church payments to victims and*  
6           *impact on brief.*  
7           *Discuss electronic interview of all*  
8           *victims.*

9  
10          Q. Can I just get to you pause there. Is that a  
11          methodological technique that was being determined was  
12          appropriate for Lantle moving forward?

13          A. Yes. That was to electronically interview all  
14          witnesses.

15  
16          Q. Thank you. Why would that be?

17          A. Oh, that was DI Parker's and Detective Sergeant  
18          Little's strategy.

19  
20          Q. Did you have an understanding why that was their  
21          strategy?

22          A. Oh, absolutely - so there could be no allegation of  
23          what was or wasn't said. I prefer to video interview all  
24          witnesses. I know it presents some issues with  
25          admissibility, but there can be no dispute over what's said  
26          and there's no putting words in people's mouths or  
27          paragraphs.

28  
29          Q. All right. Pick up under: "Discuss victims"?

30          A. Yes:

31  
32                 *Discuss victims insistence on Fox's*  
33                 *involvement.*

34                 *Discuss victim charter of rights.*

35                 York: *[Inquiry re] McCarthy?*

36  
37          It is "McCarthy?"

38  
39                 *Everything she raises needs to be covered.*

40                 Little: *[Something] and document ...*

41  
42          I can't make out my own writing, not on this copy anyway.  
43          Something and "document raised":

44  
45                 Parker: *McCarthy cautioned in how she*  
46                 *reports.*

47                 Little: *"Mission creep". Cautions of*

1           *this.*  
2           *Not touting for victims.*  
3           *Parker: E@gle.i and new database to*  
4           *monitor.*  
5           *York: Requested the present status.*

6  
7 Little and Parker both responded:

8  
9           *Only in the off-line.*  
10          *Working through.*  
11          *[AL] has been contacted.*  
12          *Humphrey: Fox needs to be interviewed.*

13  
14 York agreed, so does Grant.

15  
16 Q. Why did you say there that Fox needed to be  
17 interviewed?

18 A. Because I thought he had something to offer the  
19 investigation. I've never been dissuaded from that.

20  
21 Q. Pick up on the next page where York seems to be  
22 inquiring as to the time frame?

23 A. Yes, "time frame". And:

24  
25           *Parker: As long as it takes.*  
26           *Likely 6 months.*  
27           *Freney and Dominish [are assisting].*

28  
29 MR HUNT: Thank you. I tender that.

30  
31 THE COMMISSIONER: The handwritten notes of Detective  
32 Chief Inspector Humphrey of 16 May 2011 will be admitted  
33 and marked exhibit 36.

34  
35 **EXHIBIT #36 HANDWRITTEN NOTES OF DETECTIVE CHIEF**  
36 **INSPECTOR HUMPHREY DATED 16/5/2011**

37  
38 MR HUNT: Can I just have a moment, Commissioner.

39  
40 THE COMMISSIONER: Yes, Mr Hunt.

41  
42 MR HUNT: Commissioner, I know I promised I would keep us  
43 all entertained until 4.30. There are a few things I need  
44 to sort out to make an orderly finish to this witness's  
45 evidence-in-chief. I ask that we stop now and pick up the  
46 evidence at 9.30 in the morning.

47

1 THE COMMISSIONER: Very well then, Mr Hunt.  
2  
3 MR HUNT: I apologise intensely for that.  
4  
5 <THE WITNESS WITHDREW  
6  
7 MR SAIDI: Commissioner, before you quickly leave the  
8 bench, is this appropriate to deal with those transcript  
9 corrections?  
10  
11 THE COMMISSIONER: Yes, Mr Saidi, I apologise if I have  
12 left you waiting and forgot it.  
13  
14 MR SAIDI: I was going to bring it to the attention of the  
15 Commissioner. There are a couple of matters that are not  
16 of great moment, but there's one of some importance, given  
17 it's been widely reported in the press.  
18  
19 The one of importance is at transcript page 1138. I  
20 understand from counsel assisting that this is not in  
21 contention. If you go to 1138, line 25, Officer Little,  
22 when giving evidence, said, "Certainly by the mere fact  
23 that" and the word "written" appears. My recollection is  
24 "Certainly by the mere fact that he has ridden on a saddle  
25 of lies at this point" is how it should read.  
26  
27 THE COMMISSIONER: Are you referring to page 1139?  
28  
29 MR SAIDI: Page 1138, line 25.  
30  
31 THE COMMISSIONER: Thank you. "Ridden" it should be.  
32  
33 MR SAIDI: I am sorry, it should be "ridden to glory on a  
34 saddle of lies".  
35  
36 THE COMMISSIONER: That's exactly my note "ridden to glory  
37 on a saddle of lies". Is that correct, Mr Saidi?  
38  
39 MR SAIDI: I'll read it. "The mere fact that he's" - and  
40 the words which should appear are "ridden to glory on a  
41 saddle of lies"; where the word "written" appears, it  
42 should be "ridden" as in riding, and the words "to glory"  
43 should appear.  
44  
45 THE COMMISSIONER: Do you agree with that Ms Lonergan?  
46  
47 MS LONERGAN: Yes.

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MR SAIDI: Page 1102, line 4, in where the question where it say "the first terms of reference become objective", it should be "operative". That can be readily seen from the answer.

THE COMMISSIONER: Does everyone agree with that?

MS LONERGAN: Yes.

MR SAIDI: Page 1143, line 4, where it says "Strike Force Lantle appeared to be more" and the word "after" appears. It should be "more of a historical nature".

MS LONERGAN: Agreed?

THE COMMISSIONER: Thank you, Ms Lonergan. That variation will be made. The words "of a" will replace the word "after" on line 4 of page 1143. Thank you very much, Mr Saidi, for bringing those matters to my attention. I think we're commencing at 9.30 in the morning?

MR HUNT: Yes, please.

THE COMMISSIONER: I will adjourn until 9.30 tomorrow morning.

**AT 4.10PM THE HEARING WAS ADJOURNED TO  
WEDNESDAY, 26 JUNE 2013 AT 9.30AM**



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