

**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 Wednesday, 26 June 2013 at 10.13am  
(Day 13)

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 THE COMMISSIONER: Yes, Ms Lonergan.

2

3 MS LONERGAN: Commissioner, I have two matters of  
4 significance to raise for the benefit of those present. It  
5 relates to inaccurate reporting regarding two pieces of  
6 evidence that were stated in court yesterday.

7

8 The first relates to an allegation regarding evidence  
9 from Detective Chief Inspector Humphrey. It was inaccurate  
10 in that the newspaper report states that Detective Chief  
11 Inspector Humphrey withdrew large sections of his original  
12 statement dropping it from four pages in length to less  
13 than two. That is inaccurate, Commissioner. The position  
14 was that some redacted diary notes were tendered in a  
15 separate exhibit and it was explained in the evidence why  
16 those diary entries had to be redacted.

17

18 THE COMMISSIONER: Yes, it would be perfectly obvious that  
19 the redactions had nothing to do with the matter before  
20 this Commission, surely.

21

22 MS LONERGAN: Yes, Commissioner. There was some evidence  
23 to that effect and some statements from the Bar table as to  
24 why there were blackened pages regarding those particular  
25 diary entries that were exhibited yesterday.

26

27 Commissioner, a second matter was in relation to a  
28 question put by Mr Terracini which did not receive an  
29 answer from Ms McCarthy. Mr Terracini put a certain  
30 question to Ms McCarthy which she did not answer because  
31 you, Commissioner, advised Mr Terracini that the burden of  
32 question was really about the subject matter or the  
33 difficulty of this subject matter as it might present to  
34 investigating police.

35

36 Mr Terracini replied "Yes." But Ms McCarthy did not  
37 adopt the proposition that Mr Terracini put, which was that  
38 she had available to her and she gave to the police certain  
39 information regarding a certain person knowing about Father  
40 McAlinden interfering with children and doing nothing about  
41 it. Unfortunately, Commissioner, that exchange has been  
42 misrepresented in one media outlet to the effect that  
43 Ms McCarthy replied "Yes" and adopted that proposition. In  
44 fact the transcript, at page 1297, shows that there was no  
45 adoption of that proposition.

46

47 It is important that matters of this nature be

1 accurately reported and, in particular, if the media could  
2 bear in mind that a question or statement from counsel to a  
3 witness which is not adopted by a witness is not evidence  
4 and should not be reported as evidence, let alone reporting  
5 there was an answer from the witness which did not occur  
6 and is not in the transcript.

7  
8 Commissioner, if anyone needs any clarification of any  
9 matters that occur in court or have any uncertainty about  
10 any particular exhibit, there is available a media liaison  
11 person, Mr Scott Crebbin, who is present in court. I  
12 understand all the media are aware of his identity and  
13 presence in court and if he could be approached, that may  
14 prevent some of these errors occurring, Commissioner.

15  
16 THE COMMISSIONER: Thank you, Ms Lonergan. It should be  
17 obvious that, where there is any uncertainty, the material  
18 should be checked with Mr Crebbin.

19  
20 The situation with Mr Humphrey's statement which, of  
21 course, is much longer than four pages, in any event, and  
22 was only changed to a very limited degree, could have been  
23 clarified. It needs hardly to be emphasised, I would hope,  
24 that fair reporting of the evidence is fundamental to  
25 procedural fairness and to the rights of all interested  
26 parties. I would ask everyone reporting on this Commission  
27 to observe those principles. Thank you, Ms Lonergan, for  
28 raising that matter.

29  
30 MS LONERGAN: There is one other addendum to what I raised  
31 I should also make clear for those present in court. Any  
32 matter that moves into the territory of term of reference 2  
33 inquiries in consideration of those matters will be  
34 postponed to next week and following. It is important to  
35 bear in mind that there are various interested parties who  
36 are not represented this week, so if a matter relating to  
37 term of reference 2 comes up, it can be dealt with once  
38 those hearings commence, with the opportunity for those  
39 interested parties in term of reference 2 to have their  
40 respective interests protected and any relevant questions  
41 or objections raised at that time.

42  
43 THE COMMISSIONER: Thank you, Ms Lonergan. That's a very  
44 important point to bear in mind, that we are still  
45 considering term of reference 1, and some parties who will  
46 be affected or have an interest in term of reference 2 are  
47 not present and it is important that the interests of all

1 parties be safeguarded and protected and advanced where  
2 necessary.

3

4 MR SAIDI: Could I raise a matter following that stated by  
5 counsel assisting? It relates to what fell from your lips  
6 as well in terms of the importance of accurate reporting.  
7 I refer to page 1308 of the transcript, Commissioner, where  
8 the statement made by Mr Humphrey at line 18, where  
9 Mr Humphrey indicated, "... have been pointed out to me are  
10 not relevant in fair to Mr Fox" firstly, that should be  
11 corrected to "unfair to Mr Fox"; but more importantly, it  
12 was reported in the Newcastle Herald today, as I understand  
13 it, and I don't know whether it has been reported anywhere  
14 else, it may have been reported in the electronic media  
15 yesterday, that this witness allegedly gave a personal  
16 apology to Mr Fox whilst in the witness box.

17

18 As the transcript records, the apology was given to  
19 the Commission and there was no apology given to Mr Fox.  
20 Following on from the comments made earlier today, one  
21 would hope that the accurate reporting does continue and  
22 the inaccurate reporting which is occurring does not  
23 continue.

24

25 THE COMMISSIONER: Thank you, Mr Saidi. The transcript  
26 will be amended to replace the words "and fair on line 18  
27 and 19 of page 1308 with the word "unfair". Thank you.

28

29 <WAYNE DAVID HUMPHREY, sworn: [10.13am]

30

31 <EXAMINATION BY MR HUNT:

32

33 MR HUNT: Q. For the record, your name is Wayne David  
34 Humphrey?

35

A. It is.

36

37 Q. Mr Humphrey, I want to ask you some questions about  
38 your religious background, both in terms of education and  
39 current practice.

40

A. Yes.

41

42 Q. Your parents, I think, are practising Catholics; is  
43 that right?

44

A. Yes, they are.

45

46 Q. You were educated within the Catholic school system,  
47 at least some for your education?

1 A. "Educated" is your term. But, yes, I was in the  
2 Catholic school system.  
3  
4 Q. Where did you go to primary school?  
5 A. In an area outside of Newcastle.  
6  
7 Q. And you went to a Catholic school?  
8 A. I absolutely did, so I was raised by nuns.  
9  
10 Q. Did you go to a Catholic high school?  
11 A. Absolutely not.  
12  
13 Q. Was that there some link between the primary school  
14 education and the high school education?  
15 A. Yes, there is.  
16  
17 Q. Would you now consider yourself a practising Catholic?  
18 A. I am not a nihilist, but I am certainly not a  
19 practising Catholic. I have beliefs, but they have nothing  
20 to do with the Catholic religion.  
21  
22 Q. Do you go to Catholic mass and, if so, how often do  
23 you go?  
24 A. Never. Never. Hang on, I'll put it in context. I'll  
25 go for police remembrance days, for weddings, for funerals  
26 and for christenings and then I'm concerned about the  
27 structure of the roof. I don't like going to church. I'm  
28 not a great fan of any religion and to suggest otherwise is  
29 a lie, an absolute lie, and it's not the only one that's  
30 been told.  
31  
32 Q. Don't volunteer things that aren't responsive to my  
33 questions.  
34 A. It is part of the answer.  
35  
36 Q. Are your children --  
37 A. No.  
38  
39 Q. -- christened Catholic tradition?  
40 A. No. No.  
41  
42 Q. Apart from having had a professional association  
43 during the periods that you worked together, do you have a  
44 social relationship with Charles Haggett?  
45 A. Yes, I do.  
46  
47 Q. I just want to take you to an item that is behind

1 tab 71 of volume 2.  
2 A. I am sorry, 70?  
3  
4 Q. Tab 71, volume 2.  
5 A. Yes.  
6  
7 Q. I'm just going to read you the last sentence on that  
8 page which forms part of an email from Detective Chief  
9 Inspector Fox, sent from his police email address, to  
10 Joanne McCarthy. This is said:  
11  
12 *Both Humphrey and Haggett are practising*  
13 *Catholics from Nelson Bay and have a close*  
14 *rapport with Father Bill Burston.*  
15  
16 Do you see that there?  
17 A. I can see it.  
18  
19 Q. Your earlier answers would express your views about  
20 you being described as a practising Catholic?  
21 A. That reference to me being a practising Catholic by  
22 Mr Fox is a lie.  
23  
24 Q. In terms of Father Bill Burston, I mentioned that name  
25 to you this morning?  
26 A. Yes, you did.  
27  
28 Q. Is that a name that you know?  
29 A. No, it's not. If I have met him, I certainly can't  
30 remember it, but I don't know who he is.  
31  
32 Q. Do you have a close rapport with Father Bill Burston?  
33 A. I don't know him.  
34  
35 Q. If Charles Haggett has a close rapport with Father  
36 Bill Burston, is that something that you've come to know  
37 about in terms of your association with him?  
38 A. No, no. I don't talk religion to Charles Haggett or  
39 anyone else. I'm not a supporter of religion, in that form  
40 any.  
41  
42 Q. Do you know anything about Charles Haggett's religious  
43 beliefs or practices from your own knowledge?  
44 A. I know he goes to church, but that's all I know. It's  
45 none of my business, nor is it anyone else's.  
46  
47 Q. I want to ask you some further questions about

1 investigations in relation to Strike Force Lantle.  
2 A. Will I put this folder back?  
3  
4 Q. Yes. You accept that you had involvement in relation  
5 to Strike Force Lantle during 2010 or the investigation  
6 that was to become Strike Force Lantle in 2010 principally  
7 as a result of you acting up as acting superintendent and  
8 commander of the Newcastle City Local Area Command?  
9 A. Yes, I had had that overarching responsibility.  
10  
11 Q. From late 2010 to April 2011, accepting that for a  
12 period of some weeks or a month, you were away in New  
13 Zealand --  
14 A. Yes.  
15  
16 Q. -- you had a closer relationship to that investigation  
17 because you were the crime manager supervising those  
18 allocated to it?  
19 A. Yes, I had managerial oversight, yes.  
20  
21 Q. Did you, from time to time, having allocated Detective  
22 Sergeant Little to the strike force, discuss with him the  
23 investigation plan moving forward?  
24 A. I'm not quite sure it was - whether it was in company  
25 with DI Parker or not, but there was a very thorough  
26 investigation plan finally presented. I can't say exactly  
27 when without accessing the document.  
28  
29 Q. But you were aware of its elements and so on?  
30 A. Portions of it. It has evolved, yes.  
31  
32 Q. Were you aware that, at some stage in an email  
33 fashion, Detective Sergeant Little had administered  
34 effectively a questionnaire to DCI Fox to get his written  
35 email responses to certain things that he'd raised in a  
36 more general fashion?  
37 A. Yes, I was aware - I saw that document ultimately,  
38 yes.  
39  
40 Q. Did you become aware that, in a telephone conversation  
41 between himself and Detective Inspector Parker, but  
42 witnessed by Detective Sergeant Little, Fox had effectively  
43 told Parker that he didn't have any more information to  
44 give to the strike force?  
45 A. Yes, I was made aware of that.  
46  
47 Q. Had all those things happened by the time that you

1 went to have your meeting with Carlene York, Assistant  
2 Commissioner Carlene York, on 16 May that we talked about  
3 yesterday?

4 A. I couldn't say with any amount of surety without  
5 accessing the relevant investigator's notes and email.  
6 I couldn't be pinned down. It may have; it may not have.

7  
8 Q. Can you say whether you saw to it that Fox being  
9 interviewed was part of the investigation plan?

10 A. I know it formed part of the investigation plan at one  
11 stage. I don't know whether ultimately that was followed  
12 through, but it was certainly my intention to ensure that  
13 occurred while I had managerial rights.

14  
15 Q. In terms of your evidence yesterday in relation to  
16 your note of the meeting that you had with others and  
17 Assistant Commissioner York, I think you rely on you saying  
18 that Fox should be interviewed as being - and that's a  
19 document that's exhibit 36 --

20 A. Yes.

21  
22 Q. -- you suggesting that Fox being interviewed relates  
23 to your interest in him contributing further in relation to  
24 Strike Force Lantle; is that right?

25 A. Yes, it is, yes.

26  
27 Q. Am I right in thinking that that isn't part of the  
28 statement that you prepared or that fact isn't dealt with  
29 in the statement that you prepared --

30 A. It's not in the statement --

31  
32 Q. -- on this matter? It is not in the statement per se,  
33 but it was within all the documents that I handed up. How  
34 the process that - what's ended up attached to my  
35 statement, I had nothing to do with that.

36  
37 Q. But what I'm getting to is that you see that as quite  
38 a relevant thing, don't you, that you --

39 A. Well --

40  
41 Q. Bear with me, I hadn't finished the question. You see  
42 that as quite a relevant thing, don't you, that by 16 May  
43 2011 you were contending that Fox should contribute to the  
44 Lantle material in a formal way by an interview?

45 A. I think it goes to the heart of the matter. Mr Fox's  
46 claim that he was being locked out, that he wasn't allowed  
47 to investigate and all these other outrageous claims, yet,

1 even then, I was still supportive of him contributing - not  
2 running it, contributing.

3  
4 Q. All right. What I'm wondering is, given you say it  
5 goes to the heart of the matter, why that is material that  
6 you didn't set out in your statement to the Commission?

7 A. Oh, I can't say why. It was just, I suppose, part of  
8 the process of the dictation. I certainly handed it up in  
9 my handwritten notes together with a full transcript of  
10 those handwritten notes. If they weren't chosen to be  
11 used, I can't explain that. I spent some considerable time  
12 translating all of my handwritten notes that related to  
13 this matter and giving them to the Commission.

14  
15 Q. You're not suggesting by that answer, though, that  
16 there was some responsibility in the Commission to put  
17 things in your statement, are you?

18 A. Not to put things in the statement, but if the notes  
19 are relevant to the matter, I would imagine you'd want to  
20 hear about them, wouldn't you?

21  
22 Q. What I'm trying to understand, detective chief  
23 inspector, is that you've said that this view of yours  
24 about Fox contributing in a formal way went to the heart of  
25 the matter in terms of a response to Fox's assertions about  
26 being shut out, and I'm just inquiring why, given its  
27 relevance, it isn't included in the material that you  
28 prepared on 14 February 2013 to assist the Commissioner,  
29 which document I understand was prepared with the  
30 assistance of your legal advisers?

31 A. I can't explain why it is not in there. Maybe -  
32 I have no idea. I have no idea. Were the term of  
33 reference released then, out of interest? That might  
34 clarify. Was TOR1 actually fully announced then or were we  
35 just asked to provide a statement?

36  
37 Q. Yes, it was.

38 A. I have no reason that it is not in there, Mr Hunt.  
39 I apologise.

40  
41 Q. All right. It would have been within the power of  
42 somebody of appropriate rank, that is, an assistant  
43 commissioner or a superintendent or an acting  
44 superintendent, to direct Fox to be interviewed in relation  
45 to Strike Force Lantle; correct?

46 A. It is within the senior officer's authority to be able  
47 to direct anything, yes, as long as it is lawful.

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Q. I understand that.

A. Yes.

Q. It would have been a lawful exercise to require him to be interviewed in relation to Lantle particularly?

A. It would have been in terms of discussion with whoever had investigative managerial oversight of the matter then. It might not have been - I can't answer that apart from saying yes, it would have been appropriate at one stage; it might not have been appropriate later.

Q. Given that this was an issue that you felt strongly enough about to raise with the assistant commissioner on 16 May 2011, did you yourself ever direct Fox to be interviewed in relation to Strike Force Lantle?

A. No, that was not my responsibility to do that.

Q. Do you know from your own knowledge of others's actions whether he was ever directed to be interviewed?

A. The only direction that I gave was to surrender documents. I don't know if he was interviewed. I don't know - I wasn't the commander then. Superintendent Galton was the commander and Detective Inspector Parker was the crime manager who had carriage of the matter. I'm not trying to abrogate my responsibility, but it wasn't mine. I haven't got access to the exhibit, but doesn't Assistant Commissioner York agree that he should be?

Q. Indeed.

A. Thank you.

Q. In fairness to you, I just want to read to you a part of paragraph 21(d) of your statement because I don't want to mislead. You say:

*It was always my intention (whilst I had managerial status over Strike Force Lantle) that [DCI] Fox would be so debriefed.*

And that's a debrief relative to material that he possessed as part of his apparent comprehensive investigation. Is that a reference --

A. Comprehensive?

Q. -- of the kind that you're talking about?

A. Comprehensive investigation. Yes. Yes. I made that

1 position clear to Mr Parker, but once that's handed over,  
2 I don't drive Mr Parker unless I'm the commander or unless  
3 there's some specific reason.  
4

5 Q. That reference there in 21(d) would have been an  
6 opportunity, wouldn't it, to annex the notes of the meeting  
7 setting out your suggestion to York that Fox be interviewed  
8 about Strike Force Lantle?

9 A. I did annex it. It's not mentioned in the statement,  
10 but I gave them with the statement. There was a bundle of  
11 documents which I gave, some of which have been redacted,  
12 and I understand why, but they were there, Mr Hunt; I gave  
13 them --  
14

15 Q. You understand enough about the statement-giving  
16 process, don't you, that things that are annexures are  
17 things that you sign and refer to in the statement?

18 A. Yes.  
19

20 Q. Are you saying that you had given over either to your  
21 legal advisers or to the Commission these handwritten  
22 notes?

23 A. Yes.  
24

25 Q. But you're not relying on them as being an annexure to  
26 the statement, are you?

27 A. Not - well, clearly they're not. I gave them with an  
28 intention, whether or not it is been a decision for the  
29 legal team, I don't know.  
30

31 Q. All right.

32 A. They might have thought they were relevant. I don't  
33 know. You'd have to ask them.  
34

35 Q. Can I just ask you to turn, if you would, first of all  
36 to tab 111?

37 A. Which volume, Mr Hunt, sorry?  
38

39 Q. Volume 2, thank you, and go to page 528. Take it easy  
40 with those folders because they can rebel.

41 A. Yes, I've noticed.  
42

43 Q. Would you look at the page numbers on the bottom, 528  
44 should be a --

45 A. Newspaper article.  
46

47 Q. -- newspaper article. For the benefit of those in

1 court, if you accept from me, DCI Humphrey, this document  
2 is separately marked as exhibit 24?

3 A. Thank you.

4

5 Q. Did you become aware of this article around the time  
6 that it was published?

7 A. Yes.

8

9 Q. Is it a fair proposition to say that you possibly,  
10 among other officers, formed a view that there was material  
11 sourced in this article that must have come to Ms McCarthy  
12 from sources within the NSW Police Force?

13 A. Yes, that and a conversation with DI Parker that he  
14 had with - a file note he provided to me in relation to a  
15 conversation he'd had with Joanne McCarthy.

16

17 Q. If you look three pages forward of that to page 524,  
18 is that the note that you're talking about that came to  
19 your attention?

20 A. Yes, yes, it is.

21

22 Q. It seems to be an investigator's note of DI Parker  
23 dated 14 April 2011?

24 A. Yes, that's right. There was a phone call. Graeme  
25 took the phone call. He rang up and he was livid - that's  
26 how I would describe it - about what was said. He  
27 immediately rang me and I asked for him to put a file note  
28 in. That arrived a day or two later and I put a covering  
29 report on it and gave it to Assistant Commissioner York.

30

31 Q. If you make your way then another three pages earlier  
32 to 521, is that a file note by you attaching, if you look  
33 at the bottom of the signature page, both DI Parker's  
34 investigator's note of 14 April 2011 and the Newcastle  
35 Herald article that's now exhibit 24 as attachments to that  
36 file note?

37 A. It is not a file note. It is a complaint. It is a  
38 complaint about Mr Fox.

39

40 Q. Bear with me. I'm going to come to that. At the top  
41 it is titled "Strike Force Lantle/file note"?

42 A. Okay, yes, the form of the document.

43

44 Q. I was going to come to it, that its true character is  
45 a complaint made by you in relation to DCI Fox's conduct?

46 A. And Detective Senior Constable McLeod.

47

1 Q. I understand. That was --  
2 A. Or suspected conduct, I should say.  
3  
4 Q. Yes. That was dated 21 April 2011. Would that  
5 document have gone to northern region and to Assistant  
6 Commissioner Carlene York in the first instance?  
7 A. It was hand delivered. I hand delivered it. It's not  
8 annexed to my statement, I apologise, but there is a note  
9 where I hand deliver that document together with a status  
10 report on Lantle.  
11  
12 Q. Did that complaint form part of the discussions that  
13 you had, among other things, to do with Lantle when you had  
14 discussions with Assistant Commissioner York on 16 May  
15 2011?  
16 A. No, the - no, not really.  
17  
18 Q. Help me with this. Turn to page 520. Do you see  
19 that, effectively, that seems to be on the 17 May 2011; in  
20 other words, the day after your meeting with York and  
21 others, if you'll excuse the shortening of titles --  
22 A. Yes.  
23  
24 Q. -- and there is no disrespect intended. It seems that  
25 the very next day is when your complaint about Fox and  
26 McLeod is actioned from northern region; is that a fair  
27 proposition?  
28 A. That seems to be fact, but it doesn't change what my  
29 intention was at that meeting, and that line - I know what  
30 I meant when I wrote that line. Once I gave that complaint  
31 to northern region, it's not my problem after that. It  
32 needed to be looked at. We were at the end of our tether  
33 with the interference or perceived interference; much more,  
34 it just became untenable and I thought long and hard about  
35 having to put that in and I did, and ultimately clearly it  
36 has been agreed to.  
37  
38 Q. The document at 520 represents formally your complaint  
39 that had been at northern region and with Assistant  
40 Commissioner York being sent off to be actioned as a  
41 complaint?  
42 A. I'd never seen that document before, but it's in the  
43 terms that - that you would normally do.  
44  
45 Q. You'll accept, won't you, that the timing seems to  
46 suggest that something happened close to 17 May 2011 that  
47 meant the complaint went from northern region through to be

1 formally dealt with as a complaint?  
2 A. I don't accept I've had anything to do with it, if  
3 that's the inference.  
4  
5 Q. I'm not suggesting anything impermissible. I'm just  
6 examining the --  
7 A. The process.  
8  
9 Q. -- synchronicity between you having a meeting with  
10 Assistant Commissioner York on 16 May 2011 and a report  
11 that you made earlier in April then being moved forward?  
12 A. I can understand how - I can understand how you would  
13 draw --  
14  
15 Q. I am not suggesting anything sinister; I'm just  
16 suggesting that there's some synchronicity between those  
17 two events?  
18 A. Yes, I understand you could draw a nexus, but my  
19 reference in that meeting to interviewing Mr Fox related to  
20 what he had. I don't think we were ever sure that he had  
21 material that was still being withheld. It is not up to me  
22 to dictate when he should be interviewed in relation to an  
23 internal affairs matter.  
24  
25 Q. In any event, if you would just turn to 504 - in other  
26 words, a few pages backwards - is it a fair proposition  
27 that between 504 and 509 seems to be a transcript from an  
28 interview of DCI Fox in relation to a complaint matter?  
29 A. I've never seen this document before.  
30  
31 Q. No, I'm not suggesting you have, but I'm asking is it  
32 a fair proposition that that's what it is?  
33 A. Yes, I'm just putting it into context. It appears to  
34 be. I haven't read it, it certainly does appear to be. It  
35 looks like it's under the hand of Inspector Craig Reid and  
36 DCI Fox.  
37  
38 MR HUNT: Commissioner, could you just excuse me for a  
39 moment?  
40  
41 THE COMMISSIONER: Yes, Mr Hunt.  
42  
43 MR HUNT: Q. Just turn to page 509 for me. Accepting  
44 that you hadn't seen this document before, do you see that  
45 the date, both under DCI Fox's signature and  
46 Inspector Reid's signature, is 19 May 2011?  
47 A. Yes.

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Q. Is it a reasonable proposition that, you having said to Assistant Commissioner York that Fox should be interviewed and she agreeing, related to clearing up these media leaks and the complaint process rather than being interviewed in relation to Strike Force Lantle?

A. No. You've taken a quantum leap there. In fact, I'd never seen a complaint dealt with as quick as that, to be honest. Usually it takes a little bit more time to get through the system.

Q. But given that you say this persisting interest of yours in Fox being interviewed went to the heart of the matter in response to his assertions, doesn't --

A. The heart of this matter?

Q. The heart of this matter, yes.

A. Yes.

Q. Doesn't its absence from your statements explicitly prepared for this Commission find an easier explanation if it was really about the complaint rather than about this matter?

A. No.

Q. The need to interview him?

A. No, I disagree with that. I know what I meant when I wrote that. I know what I said. I know what we were talking about.

Q. All right.

A. How Commissioner York saw fit to deal with the complaint is her bailiwick, not mine.

Q. Is it a fair proposition - you will agree that you gave evidence --

A. Do I need this any more?

Q. I beg your pardon?

A. Do I need this at the moment?

Q. No, you don't, thank you. I'm sorry, I do want you to have it in front of you, if you would. Sorry, to do this to you, but you do need to get that out again.

A. That one, volume 2? I'm a bit concerned about this lever arch --

1 Q. Yes, 528, if you would, in other words, that media  
2 article. It is 519, I apologise to you, detective chief  
3 inspector. Page 519, down the bottom. That's it.  
4 A. Yes, got it.

5

6 Q. Thank you. Do you see that, apart from material that  
7 I suspect you thought had come to the hands of Joanne  
8 McCarthy from DCI Fox, there was also some material - if  
9 you look at the fourth column line over, you'll see that  
10 there's some point-form matters under a heading "Police  
11 handling of the matter has included:"?  
12 A. Yes.

13

14 Q. The third one down in relation to you said that you  
15 had some concerns about McLeod --  
16 A. Yes.

17

18 Q. -- former Detective McLeod, you'll see the third one  
19 goes to the loss of Shaun McLeod and assertions that his  
20 desire to investigate had been rejected. Do you see that?  
21 A. Yes.

22

23 Q. And the fourth bullet point you would have thought, at  
24 the relevant time, related to material that may well have  
25 come from DCI Fox?  
26 A. Can I read it?

27

28 Q. Yes.  
29 A. Yes, I agree with that.

30

31 Q. Do you see the second point?  
32 A. Yes.

33

34 Q. That says:

35

36 *The failure of a senior police officer with*  
37 *responsibility for the McAlinden matter to*  
38 *respond to an offer of help last year from*  
39 *the then police officer Troy Grant, who*  
40 *investigated Vince Ryan. Mr Grant, a newly*  
41 *elected New South Wales government MP, said*  
42 *this week he was "obviously concerned that*  
43 *there seemed to be issues that have to be*  
44 *fully investigated."*

45

46 A. Yes.

47

1 Q. Do you see that there?

2 A. I see that.

3

4 Q. In your reading of your note of the meeting with  
5 Assistant Commissioner York, I think you note that York  
6 agreed in relation to your suggestion that Fox was to be  
7 interviewed or needs to be interviewed; correct?

8 A. Yes, I haven't got the exhibit, but I remember.

9

10 Q. What you said yesterday is that she said, "Agree, so  
11 does Troy Grant"?

12 A. Troy Grant, yes.

13

14 Q. Doesn't that seem referrable to the article?

15 A. No, because I know what we were talking about. It was  
16 talking about amassing evidence for the Lantle  
17 investigation. That's what the meeting was about. It  
18 would be very unlikely, very unlikely, that Assistant  
19 Commissioner York would have discussed a complaint in the  
20 presence of the other police that were there. Even though  
21 I may have been a complainant, it just wouldn't happen. It  
22 was about amassing evidence for the Lantle investigation.  
23 Clearly that indicates Troy Grant has something to offer,  
24 so you can take it - you can look at it both ways. I'm not  
25 dissuaded that what you're saying could be seen like that.  
26 That's quite true. But it wasn't how it was.

27

28 Q. But, from your knowledge, Troy Grant didn't have  
29 direct knowledge about the things that were within the  
30 Lantle terms of reference, did he?

31 A. I didn't know. I didn't know. I don't know - not at  
32 that stage.

33

34 Q. Was he ever interviewed for Lantle?

35 A. I can't - I don't know. Probably. I suspect he would  
36 have been. Whether it was formally or debriefed, I don't  
37 know. But it's out of my bailiwick by then.

38

39 Q. Do you agree that it is a fairly extraordinary set of  
40 coincidences that the article is published; your complaint  
41 is made; there's a meeting at which suddenly you discuss  
42 with Assistant Commissioner York the necessity to interview  
43 Fox relative to Lantle; and then he's interviewed within  
44 days in relation to the internal investigation?

45 A. Certainly an extraordinary set of circumstances, but  
46 I can only reiterate my previous answers: we were there to  
47 talk about investigating Lantle, and that's clear by the

1 rest of the file note, and when I wrote Fox was to be  
2 interviewed, it was in relation to what he had in relation  
3 to Lantle, what he claimed he had - or didn't have. As far  
4 as I was concerned, Assistant Commissioner York's was  
5 response in the same terms. I wasn't quite sure what Troy  
6 Grant's involvement was and it wasn't up for me to chase up  
7 then. It was more a handover meeting, I guess, and  
8 I backed out of it after that, it wasn't my job.

9

10 Q. Were there concerns generally raised about leaking at  
11 that meeting between yourself, Assistant Commissioner York  
12 and others on 16 May?

13 A. I'd have to check the note. I think we make reference  
14 to Ms McCarthy.

15

16 Q. It would make sense in the context broadly, wouldn't  
17 it?

18 A. Yes, of course. It would, but I've taken fairly  
19 detailed notes. I was taking notes as they were going.  
20 Hence, the quality of the writing, I guess; I was trying to  
21 keep up with the conversation. I haven't got the exhibit  
22 Mr Hunt. I can't comment.

23

24 Q. Just to make life a bit easier and, in fairness to  
25 you, DCI Humphrey, what I'm going to do is show you  
26 something that would seem to be a transcribed version of  
27 your note for that day?

28 A. Yes. By whom, do you know? Me or another person?

29

30 Q. I think by you or some - if I could broadly say from  
31 your side of the fence?

32 A. Yes. No, I did this one.

33

34 Q. All right. I apologise that I don't have copies, but  
35 they will be made available. Do you adopt that as being  
36 your typewritten transcription of your notes relative to  
37 the 16 May --

38 A. If I can compare it to the note.

39

40 Q. Yes, we can give you a copy of that.

41

42 THE COMMISSIONER: Exhibit 36.

43

44 MR HUNT: I'm wondering if the witness could have exhibit  
45 36.

46

47 THE COMMISSIONER: Yes, Mr Hunt.

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MR HUNT: Q. For that purpose, I don't need to you go to every single word, but --

A. No, no, it looks like it is --

Q. -- you might wish to focus on some particular words carefully, but so long as you are you broadly satisfy yourself it seems an accurate transcription.

A. Apart from a couple of typos. I'm not the greatest typist.

Q. Everyone is human. Is it fair to suggest that, at the top of your notes about the meeting, there's some discussion about matters that relate to the press?

A. Yes, what it says is:

*Issues with media and investigation of officers from other commands [is a] separate issue.*

And that's what why it wasn't addressed.

Q. Later on there's some mention in the text further down about Joanne McCarthy?

A. Dot points. So "McCarthy" with a question mark under "York". So obviously she has asked about Joanne and --

Q. So there was some discussion that was about Lantle and some discussion that was about media and questions about leaking, or at least McCarthy's concerns leading to the address?

A. Well, I think it was more how to manage Ms McCarthy's interests in the matter, that was from that - I'd take from that and it accords, I suppose, with a memory that Ma'am York made it very clear that we weren't talking about complaints. This was about Lantle.

Q. Is that a memory that's just coming back to you now or --

A. Yes, it is. It is prompting my memory, and it makes a lot of sense because you don't talk about internal complaints. I didn't know how that complaint was going to be dealt with. It just needed to be raised because of the amount of perceived interference and the pressure it was putting on DI Parker and Detective Sergeant Little.

MR HUNT: I tender the transcript for completeness.

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THE COMMISSIONER: Thank you, Mr Hunt. That will be exhibit 37.

**EXHIBIT #37 TRANSCRIPT OF HANDWRITTEN NOTE OF 16/5/11 OF DETECTIVE CHIEF INSPECTOR HUMPHREY**

THE WITNESS: Do I need this one again now?

MR HUNT: Q. I'm hoping not. Yes, you can put it away.  
A. Thank you.

MR HUNT: It may be that in the next few questions, Commissioner, I ask that you give limited lifting of non-publication orders in relation to this witness's evidence given at private hearing. Because I'm only taking him to some very limited matters, I have a copy of the transcript available for him in the witness box and a copy of the transcript for you. Because of the nature of it and because most of it will remain subject to non-publication orders, it is not proposed to provide it to others, but I will read out what it is that I am putting.

Q. Don't start to look at it yet, if you wouldn't mind detective chief inspector --

THE COMMISSIONER: Thank you I understand.

MR HUNT: Q. -- because it hasn't had a non-publication order lifted over it, so we don't want to be in breach of the Commissioner's orders currently extant.  
A. I'll gouge my eyes out right now.

Q. Save us that spectacle, if you wouldn't mind.  
A. Maybe one eye. I'll need to read it later, I guess.

Q. Did you give evidence at a private hearing before the Commissioner on 13 March 2013?  
A. I did indeed.

Q. Did my learned leader, Ms Lonergan SC, ask you questions on that day?  
A. Many. Many.

Q. In fairness, is it the case that your view about DCI Fox as an investigator and other attributes or otherwise that he brings to his investigation has ameliorated or

1 improved since March 2013 to today?

2 A. No. If this is a reference to the fact he was a good  
3 detective, I was referring to the period we worked together  
4 during 1995 or in the 1990s. I don't necessarily hold that  
5 view now.

6  
7 Q. When you said yesterday he was a good detective, that  
8 related - my question had related to when you were being  
9 supervised by him professionally. Is that the way that we  
10 ought understand --

11 A. That was the response I think to that question that --

12  
13 Q. I understand.

14 A. He was a sergeant and --

15  
16 Q. Your evidence, to the extent that your view was that  
17 Fox was a good detective, is that limited to that period?

18 A. Yes. In essence, yes.

19  
20 Q. All right. Do you adopt - and I'm just asking at  
21 least for purposes of the question - the non-publication  
22 order that relates to page 10, points 39 to 44, be lifted?

23 A. Can I look?

24  
25 Q. I'll just read it out to you and see if you adopt it.  
26 You can look at it to check it is there?

27 A. What page was is it again?

28  
29 Q. Page 10. You were asked this question --

30  
31 MR SAIDI: Commissioner, before Mr Hunt continues can  
32 I respectfully suggest that if my client in the witness box  
33 is given a copy of the transcript, I should at least be  
34 given a copy of the transcript as his legal representative  
35 to protect his interests as he's being asked questions.

36  
37 THE COMMISSIONER: Yes. In that, I understand that the  
38 relevant part of the transcript will be subject to an  
39 application for the lifting of a non-publication order,  
40 then I expect that it will be. Is that right Mr Hunt?

41  
42 MR HUNT: It is proposed there be a formal lifting of  
43 certain parts. I can understand Mr Saidi's objection and  
44 I just take some instructions as to that.

45  
46 Commissioner, if you think that's appropriate, I've  
47 got no difficulty with that.

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THE COMMISSIONER: Only insofar as it is necessary for Mr Saidi to look at the passages to which you are taking Detective Chief Inspector Humphrey. Thank You, Mr Hunt.

THE WITNESS: Which am I looking at?

MR HUNT: Q. Look at page 10. You were asked this question - I'm going to ask you whether you adopt a portion of your answer - at point 39 by Ms Lonergan on page 10:

*Your opinion of his investigative skills - just putting aside your other reservations about him, what did you think of his investigative skills in terms of any investigations you had seen him complete?*

Your answer was:

*An average investigator. I wouldn't say he was - you know, you used the term "mediocre" before. He was average.*

Do you adopt that as being your view?

A. Yes, it do. That's my opinion. I also go on to say:

*It is a subjective view on each investigation. I think he was very strong in how he deals with some of his witnesses. He seems to bond very well with them - probably sometimes too well. I don't necessarily - from what I have seen of examples of his interviewing techniques, I don't think he has evolved into a modern interviewer, with the advent of video.*

I don't resile from that.

MR HUNT: For completeness I would ask that the non-publication order be lifted from point 38 on page 10 to point 4 on page 11, Commissioner.

THE COMMISSIONER: Yes, the non-publication order in relation to the evidence of Detective Chief Inspector Humphrey of 13 March 2013 will be lifted in relation to pages 10 to 11, from line 39 on page 10 to line 4 on page 11.

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MR HUNT: Would you add to that lines 22 to 34 inclusive on page 11, Commissioner.

THE COMMISSIONER: Yes lines 22 to 34 on page 11 will also be lifted.

MR HUNT: Q. I'm going to read out a section to you to see if you adopt it as part of your sworn evidence in this phase of the Commission:

*Q. Did you have any concerns yourself about [DCI] Fox's lack of objectivity in his investigations?*

A. Where are you now, Mr Hunt, sorry?

Q. About point 22 on page 11, do you see that halfway down?

A. Yes, good.

Q. I'll start again:

*Q. Did you have any concerns yourself about Detective Chief Inspector Fox's lack of objectivity in his investigations?*

*A. I think I referred to him as a zealot, in one report. I think that encapsulates him. He was beyond driven with this.*

*Q. Particularly in relation to matters concerning sexual abuse of children?*

*A. No, particularly the Catholic Church.*

*Q. The Catholic Church?*

*A. That's how I interpreted it.*

Do you adopt that as your sworn evidence before this Commission?

A. Yes, I do. It was my opinion and still is now.

Q. What led you to the view that, to use your language, DCI Fox was a zealot?

A. I think it was the totality of everything that occurred prior to that hearing. It just got to the stage where he couldn't be told no. He continually tried to take over Lantle, or he wanted to be a major part of Lantle and he just wouldn't say no.

1 Now, to go on and I'm going to have to be a little bit  
2 careful I guess, some of the assertions that he made about  
3 what holdings he had, what he'd done, were not true; yet,  
4 he purported that they were. Those are the actions of a  
5 person, in my view, that is obsessed with trying to take  
6 part in some type of activity.

7  
8 Q. All right. You gave some evidence about your  
9 perception that Detective Sergeant Steel would bring a lack  
10 of investigation bias to the investigation that became  
11 Strike Force Lantle. Do the comments that you've just made  
12 have any relevance to your view about investigation bias or  
13 other bias in DCI Fox in relation to the matter in 2010?

14 A. Yes, it does.

15  
16 MR HUNT: Could you excuse me, please, Commissioner, if  
17 you could just bear with me while I turn something up.  
18 They are matters that I wanted to take the witness to in  
19 the private hearing transcript.

20  
21 THE COMMISSIONER: Thank you, Mr Hunt.

22  
23 MR HUNT: Q. I just want to explore a little further  
24 with you your evidence, DCI Humphrey, about the matters  
25 that you sought to no longer adopt that had been part of  
26 your statement as signed by you on 14 February 2013. Do  
27 you have your statement there with you?

28 A. Yes, I have. Actually when I look at that now,  
29 I probably shouldn't have redacted portion (d). It only  
30 related prior to my attendance at Port Stephens, but I've  
31 done it.

32  
33 Q. Let me understand that. Are you retracting your  
34 retraction when you say that?

35 A. I'd better read it. Well, at the risk of bringing  
36 Armageddon upon me, yes, I do in relation to paragraph (d),  
37 but not in relation to paragraph 29. It probably  
38 explains --

39  
40 Q. Hang on. First give me the chance to ask the  
41 questions to clear that up.

42 A. Yes, fine.

43  
44 MR HUNT: Perhaps this is why I wasn't in favour,  
45 Commissioner, of crossing it out but rather to use  
46 underlining - not that I'm in any way clairvoyant.

1 A. Do we now understand that where you sought to excise  
2 on paragraph 21(d) the words "and despite numerous requests  
3 to provide that information the information had not been  
4 provided by him", you adopt that as part of your sworn  
5 evidence?

6 A. Yes, I do, yes. It is in terms of that paragraph  
7 relates to an overarching view of Mr Fox in this statement,  
8 where paragraph 29 is at chronological issue. So by the  
9 end of it, by the end of my association with Lantle, my  
10 formal association with Lantle, it was clear a number of  
11 requests had been made and it was believed that that  
12 material had not been provided. Where at 29 where I'm -  
13 you can ask the questions to me --

14  
15 Q. Bear with me for the moment. Doesn't the beginning  
16 of 21 make this statement:

17  
18 *Detective Chief Inspector Fox was not*  
19 *selected to play a direct role in the*  
20 *Strike Force Lantle's investigation, for a*  
21 *number of reasons. The reasons include the*  
22 *following:*

23  
24 A. Yes, that's right.

25  
26 Q. A fair reading would suggest that all the material in  
27 subparagraph (d) were reasons that related to him not being  
28 selected to play an active role?

29 A. At any part, subsequently, not just at the start.

30  
31 Q. But in context, it must be read, must it not as --

32 A. I don't agree.

33  
34 Q. Bear with me. It must be meant that it at least  
35 related to decisions up until 2 December because that's  
36 effectively the most formal indication to Fox that he  
37 wasn't to participate in it?

38 A. No, no, no, no, not at all. I don't agree with you.  
39 That paragraph, as dictated, and presented, is an  
40 overarching view up until the date I made this statement.

41  
42 Q. As now adopted by you, doesn't 21(d) go, for instance,  
43 to not delivering up statements?

44 A. It does, yes.

45  
46 Q. And he did deliver up statements, didn't he, by --

47 A. Some.

1  
2 Q. By some time shortly after the meeting 2 December  
3 2010, you understand he delivered up --  
4 A. Some.  
5  
6 Q. -- some statements?  
7 A. Some statements, yes.  
8  
9 Q. He delivered up the ministerial report as well;  
10 correct?  
11 A. I presume so, yes.  
12  
13 Q. That was --  
14 A. It was never delivered to me, but I believe it is in  
15 the holdings.  
16  
17 Q. You and Haggett searched for it and couldn't locate  
18 it?  
19 A. Yes, that's right.  
20  
21 Q. You know that it came into police holdings?  
22 A. Later, yes, later.  
23  
24 Q. It's a fair assumption that Fox delivered it up?  
25 A. I'm sure he did. I am sure he did.  
26  
27 Q. At some stage?  
28 A. I'm sure he did.  
29  
30 Q. All right. Apart from not delivering up material,  
31 what else does that section go to?  
32 A. That goes back, I think, to the ultimate outcome of  
33 the email that Detective Sergeant Little sent to Fox to try  
34 to - to DCI Fox to pin him down on exactly what he did and  
35 didn't have.  
36  
37 Q. But wasn't your understanding of the character of the  
38 email communication between Little and Fox and then the  
39 further telephone conversation between Fox, DI Parker and  
40 Detective Sergeant Little, that Fox had delivered up, by  
41 that stage, all his knowledge and it simply wasn't as great  
42 a knowledge as had been --  
43 A. Represented by him?  
44  
45 Q. -- represented?  
46 A. Yes, absolutely.  
47

1 Q. All right. The point that you seek to make in  
2 relation to paragraph 29 is that, in narrative form, it is  
3 clearly the words that you seek to no longer rely on and  
4 that's the fact, isn't it, that you --  
5 A. Yes, I do.  
6  
7 Q. -- remain recanted in relation to this area?  
8 A. Yes, that was not - I interposed my thought processes,  
9 I suppose, during the typing of this.  
10  
11 Q. Let me just ask you this: you say that the things  
12 that are set out in paragraph 29 relate to your state of  
13 knowledge as at 12 October 2010; correct?  
14 A. Yes, apart from that bit that needs to be taken out.  
15  
16 Q. Because point that you're making is that, you say,  
17 paragraph 21 can be read more broadly as to your general  
18 state of knowledge about Lantle?  
19 A. Yes.  
20  
21 Q. But paragraph 29, just on the face of it, relates to  
22 how matters stood as at 12 October 2010?  
23 A. Yes, that's right. That's describing - now, it would  
24 be unfair of me to say that DCI Fox had been requested of  
25 anything in relation to this matter that day because, on  
26 reflection, that can't be true.  
27  
28 Q. What I'm trying to understand is why it was there  
29 originally?  
30 A. I have no idea. I can only say that I've - in the  
31 process of the statement giving, which was done verbally,  
32 that it's gone in as an interposed or encapsulating  
33 comment. I can't take it any higher than that.  
34  
35 Q. You knew that this was a document that was going to be  
36 relied on?  
37 A. Yes, absolutely. Absolutely, I've made an error.  
38  
39 Q. By the Commissioner?  
40 A. Yes.  
41  
42 Q. And it is a document that you adopted?  
43 A. Yes, I did.  
44  
45 Q. In sworn evidence at your private hearing on 13 March?  
46 A. Yes, that's right. It was after the private hearing  
47 and sitting down and thinking about reflecting on the whole

1 situation that that couldn't be true, and I brought it to  
2 the attention of my legal team and, at the first available  
3 opportunity here, I've tried to correct what is an error  
4 and nothing more than an error.

5

6 Q. When did you make this realisation?

7 A. After the private hearings.

8

9 Q. All right. Did you communicate it to your lawyers at  
10 that stage or when did you tell them?

11 A. Shortly afterwards. I can't say exactly when, but  
12 shortly afterwards. Certainly before the start TOR1. But  
13 the appropriate time, in my view, I guess to address it was  
14 when I'm in the witness box. I think you said before not  
15 all of us are perfect, Mr Hunt, and I'm afraid I made an  
16 error there.

17

18 Q. To the extent that you concede that it was unfair to  
19 Fox to have it in there and remain part of your sworn  
20 evidence, was that any of your motivation in originally  
21 include it, to be unfair to him?

22 A. That's offensive, no. If it was, I would have left it  
23 there.

24

25 Q. I'm not putting to you. I'm just asking.

26 A. Well, it is still offensive. In fact, if I was going  
27 to try to be unfair to Mr Fox, I would have left it there  
28 and argued that it was legitimate. But no, it is not true  
29 and I'm not about to tell lies. Despite the fact that  
30 people sitting here can besmirch me and call me foul names  
31 and the flow on from that, I'm not prepared to do it to  
32 Mr Fox. I will tell the truth.

33

34 Q. Are you able to indicate what the numerous requests  
35 were that had been made that related to this matter or do  
36 you say that they are they just were not --

37 A. Which paragraph are we talking about?

38

39 Q. This section?

40 A. Twenty-nine?

41

42 Q. Yes.

43 A. I just said that that's to be taken out, redacted. As  
44 far as I was aware, Mr Fox wouldn't have been aware that  
45 there was suddenly an urgency at region to recover that  
46 file. If he was working, I'm sure Fay Dunn would have rung  
47 him and said, "Bring the file in", and I'm sure he probably

1 would have.

2

3 Q. I accept that your evidence is that the reason that  
4 you and Superintendent Haggett undertook the search that  
5 you did at Port Stephens was at the direction or request of  
6 Fay Dunn from region?

7 A. Yes.

8

9 Q. Do you accept the proposition that, in terms of what  
10 you narrate as at 12 October, reading that paragraph,  
11 including the sentence that's now extracted --

12 A. Yes.

13

14 Q. -- that the sentence that asserts that there had been  
15 numerous requests made of him to deliver things up and he  
16 hadn't, gives the narrative justification for the search  
17 alongside you having been directed to?

18 A. Yes, it appears to do that, but it's - it was an  
19 error.

20

21 Q. Was that the effect that was originally intended, to  
22 provide some pragmatic support for why it was necessary to  
23 search his office?

24 A. Oh, I suppose. I don't know. I really don't know.  
25 It just formed part of - it was a very rushed time making  
26 those statements, a short time frame, which is no excuse.  
27 It's my responsibility to make sure that it's accurate.

28

29 Q. Well, not to be too coy about that, you would have had  
30 the assistance of a solicitor, somebody from within the  
31 department and a barrister when you were drafting this  
32 statement?

33 A. Yes.

34

35 Q. And I suggest it took place across a number of hours,  
36 that exercise?

37 A. Yes, it did.

38

39 Q. And you had access --

40

41 MR SAIDI: I object to these questions. They're unfairly  
42 being put. If one goes to paragraph 29, the witness makes  
43 it very clear why he undertook the search. It was at the  
44 request of Inspector Dunn.

45

46 MR HUNT: I've made that clear in my question.

47

1 MR SAIDI: So why are we asking these questions, with  
2 respect, about him putting matters in the statement so as  
3 to give a particular meaning when, whatever he may believe,  
4 he was acting on Inspector Dunn's request? That's the  
5 important point of it.

6  
7 THE COMMISSIONER: Yes, that much I think is clear and  
8 understood Mr Saidi.

9  
10 MR HUNT: I'm just not quite sure that I understand the  
11 objection, because at the moment I'm asking the witness  
12 some questions to explore what he said about it being a  
13 fairly rushed process, taking the statements. In a sense,  
14 even though the topic goes to the search, I've moved away  
15 from that and I think, quite fairly, I did put to the  
16 witness that I accepted his evidence about it.

17  
18 THE COMMISSIONER: Yes, you did, Mr Hunt.

19  
20 MR HUNT: Q. I'm almost finished my examination,  
21 Detective Chief Inspector Humphrey, but the question was  
22 that the taking of the statement with - no suggestion of  
23 anything being wrong with this - a number of legal  
24 advisers, was that it was a process that took some period  
25 of hours?

26 A. Yes, it was.

27  
28 Q. You had a chronological bundle of material with you  
29 that you were able to refer to and some of those things got  
30 annexed to your statement?

31 A. I'm sorry, I drifted off there for a second.

32  
33 Q. Some of the things within the chronological bundle got  
34 annexed to your statement and others you had reference to  
35 to get the contact right?

36 A. That's right. I don't know whether it was a  
37 subjective decision-making process about what at that stage  
38 was believed to be relevant and what wasn't and what it  
39 evolved into. I --

40  
41 Q. All right. Are you able to indicate when you became  
42 aware of your view at that time about - at that time - your  
43 perception of errors to 21(d) and to paragraph 29, who you  
44 communicated that to?

45 A. My legal team.

46  
47 Q. Anyone in particular?

1 A. Mr Cooley, I think I raised it with, not at - that was  
2 between the private hearings and the start of TOR1.

3  
4 MR HUNT: That's the examination.

5  
6 THE COMMISSIONER: Ms Single?

7  
8 MS SINGLE: No, thank you, Commissioner.

9  
10 THE COMMISSIONER: Mr Terracini?

11  
12 MR TERRACINI: I will leave it to Mr Fox's counsel. If  
13 there's anything I want to ask, I'll ask it afterwards, if  
14 I may.

15  
16 THE COMMISSIONER: Yes, Mr Terracini. Mr Cohen?

17  
18 MR COHEN: Thank you, Commissioner.

19  
20 THE COMMISSIONER: Mr Cohen. How is the sound today?

21  
22 MR COHEN: I will test it now and see if I keep everybody  
23 appropriately happy. Can I ask through you, Commissioner,  
24 if the transcription service can hear me clearly? I have,  
25 I think, at least one thumb up.

26  
27 MR HUNT: Could I be so bold as to make one suggestion to  
28 assist Mr Cohen? I think he's entirely unaware that what  
29 happens sometimes when he's asking questions is that his  
30 voice trails away at the end of the question and I think it  
31 is that issue that creates the challenge.

32  
33 MR COHEN: Yes, I think I must be a softie like  
34 Detective Chief Inspector Humphrey. I'll try to be, in  
35 terms of my questions.

36  
37 <EXAMINATION BY MR COHEN:

38  
39 MR COHEN: Q. Is a fair summation of the evidence you  
40 gave yesterday - the reference is at transcript 1318, lines  
41 27 to 42 - concerning crime managers, that, like  
42 snowflakes, no two are alike?

43 A. Yes, that's right.

44  
45 Q. There's no crime manager from central casting, is  
46 there - each is a human being and each does his job  
47 according to his dictates and experience; is that right?

1 A. That's correct.  
2  
3 Q. Even if there are various ways of conducting oneself  
4 according to the police regulations and indeed the position  
5 statement, people will, nonetheless, be their own man or  
6 their own woman and do it as they see fit?  
7 A. Yes.  
8  
9 Q. And on that footing, people will, from time to time,  
10 even in that senior position, involve themselves in  
11 investigations if the appropriate circumstances warrant  
12 that involvement; isn't that right?  
13 A. It is the decision for the crime manager, but strictly  
14 speaking it relates to, as I've mentioned earlier, critical  
15 incidents, charging of police.  
16  
17 Q. The crime manager is not an automaton. He exercises a  
18 discretion, or she exercises a discretion, and makes  
19 decisions about those things on a daily basis?  
20 A. Within the parameters of what his commander or her  
21 commander will allow him to do.  
22  
23 Q. Or indeed pursuant to some terms of reference if  
24 there's a strike force?  
25 A. Yes.  
26  
27 Q. I want to ask you a few general questions before we  
28 get into the detail of your statement. Allow me to deal  
29 with those firstly because it seems to be an appropriate  
30 place. You also gave some evidence, and the reference here  
31 from yesterday was transcript 1323.  
32 A. I don't have the transcript.  
33  
34 Q. I understand you don't. This is for the assistance  
35 particularly of your own counsel. It is transcript 1323,  
36 lines 1 to 7. You gave evidence about the police force  
37 being a paramilitary organisation. Do you recall that?  
38 A. Yes, I do. I recall I mentioned it. I don't know the  
39 exact terms, but I'm sure you will tell me shortly.  
40  
41 Q. They were your words, weren't they?  
42 A. Yes absolutely, yes.  
43  
44 Q. Do you accept that the exemplar of the paramilitary  
45 organisation might be the Nazi Waffen SS or the Provisional  
46 IRA in Northern Ireland?  
47

1  
2 THE COMMISSIONER: Mr Cohen, that is really unacceptable.  
3  
4 MR COHEN: Q. Isn't it silly to call the NSW Police  
5 Force, a civil operation to maintain civil society, a  
6 paramilitary organisation?  
7  
8 THE COMMISSIONER: Mr Cohen, it would be within the  
9 knowledge of everyone in this courtroom that the Police  
10 Force is a paramilitary organisation, and that refers to  
11 its structure, the rank structure and disciplinary --  
12  
13 MR COHEN: Did you say it is or it is not?  
14  
15 THE COMMISSIONER: It is. That refers to its rank  
16 structure --  
17  
18 MR COHEN: Very well.  
19  
20 THE COMMISSIONER: -- not the way it deals with members of  
21 the public.  
22  
23 MR COHEN: Very well. If you are persuaded to that  
24 effect, Commissioner.  
25  
26 THE COMMISSIONER: Go on, Mr Cohen.  
27  
28 MR COHEN: Very well.  
29  
30 Q. In your statement, you have chosen your words very  
31 careful, haven't you, you say?  
32 A. To the best of my ability I'd say that, yes.  
33  
34 Q. It is correct to say, isn't it, that DCI Fox and  
35 yourself just don't get on as individuals; that's --  
36 A. Sorry?  
37  
38 Q. It is correct to say --  
39 A. You tailed off. There was an example of you tailing  
40 off.  
41  
42 Q. I'm so sorry. It is correct to say, isn't it, that  
43 you and DCI Fox just don't get on as individuals; isn't  
44 that right?  
45 A. I had no idea what Mr Fox thought of me until he  
46 decided to out his opinion in the witness box. I have no  
47 opinion of Mr Fox. I'm ambivalent.

1  
2 Q. No, no --  
3 A. I'm ambivalent.  
4  
5 Q. I'm not asking you about your opinion of him or his of  
6 you. I'm just asking you a simple question. You two  
7 simply don't get on, do you?  
8 A. I never thought that was the case. Clearly it is on  
9 his side of the house. He made that very clear.  
10  
11 Q. You've given evidence about what your view of him as  
12 an investigator is or was and that is hardly complimentary,  
13 isn't it?  
14 A. That's an opinion, yes.  
15  
16 Q. And that must be based on your personal perception of  
17 him as a person?  
18 A. No, on his ability and that. I gave him also some  
19 compliments about how he deals with witnesses. It's like -  
20 it's no different than me saying that Detective Inspector  
21 Parker is not a good trainer - physical trainer than I am.  
22 It's just - it's nonsense to suggest that this is a  
23 personal issue, Mr Cohen.  
24  
25 Q. When did you give the compliments about Detective  
26 Chief Inspector Fox --  
27 A. Did I not say --  
28  
29 Q. -- in and after 1995?  
30 A. Did I not say that he --  
31  
32 Q. No, please you don't answer with a question.  
33 A. I'm answering the question, Mr Cohen. I said that he  
34 was very good with witnesses, sometimes too good, but he  
35 was good with witnesses. That's the evidence.  
36  
37 Q. But it was given as at 1995, wasn't it?  
38 A. No, that was in my private hearing.  
39  
40 Q. No, no. Your evidence this morning fixed those things  
41 at 1995?  
42 A. I said he was a good detective in 1995. He appeared  
43 to be a good detective to me.  
44  
45 Q. But after that time your view was completely  
46 different, wasn't it?  
47 A. I didn't have anything to do much with Mr Fox after

1 then, apart from managerial level type meetings. I didn't  
2 appreciate his behaviour with the press, so I suppose I'm -  
3 I'll tell you what, I would concede I'm disappointed in how  
4 he behaves. That's my opinion of my Fox. I'm disappointed  
5 in him.

6

7 Q. The answer to my original question is you just don't  
8 get on, do you?

9 A. No, I don't agree with that premise at all. Clearly  
10 not now I guess. I don't think we're going to be holding  
11 hands and skipping down the street.

12

13 Q. But you never did that, did you?

14 A. What, hold hands and skip down the street?

15

16 Q. Act in a civil fashion?

17 A. I'm sorry; I've always acted in a civil fashion.

18

19 Q. Towards Detective Chief Inspector Fox?

20 A. In my opinion, yes.

21

22 Q. Very well. Isn't it the case that your intention has  
23 been in the evidence you gave in your statement, as it was  
24 originally written and printed and provided to the  
25 Commission, and the way it apparently was adopted, at your  
26 private hearing in March of this year, that it was your  
27 plan to damage and inhibit DCI Fox within the police force?

28 A. I didn't hear the last bit of that.

29

30 Q. Wasn't it your plan to damage and inhibit DCI Fox  
31 within the police force?

32 A. No, it was in response to the allegations in Lateline.  
33 That's what started this.

34

35 Q. Is it not an explanation for what originally appeared  
36 in paragraphs 21(d) and paragraph 29 of your statement when  
37 you signed it on 14 February 2013?

38 A. No.

39

40 Q. Have you not only resiled from those statements as at  
41 yesterday, or you've purported to resile from them as at  
42 yesterday, and then resiled from the resiling today, four  
43 months after you signed those documents, isn't that right?  
44 It was a tactical decision yesterday in the witness box?

45 A. No. It was the appropriate time to raise that I made  
46 an error, in my experience in court, anyway.

47

1 Q. You indicated yesterday that you'd made two errors, in  
2 paragraph 21(d) and in paragraph 29, and there was no  
3 equivocation with or qualification of that evidence  
4 yesterday, was there?

5 A. No.

6

7 Q. That reason for that resiling from what was written in  
8 those paragraphs was because you had heard the evidence of  
9 Ms Joanne McCarthy, hadn't you?

10 A. No, no, not at all.

11

12 Q. And you realised that what was going on was that the  
13 very opportunity that you had planned in your statement to  
14 damage DCI Fox had been removed because the evidence was  
15 out, that he didn't have what you said he had?

16 A. Not the case at all - you can paint that all you like,  
17 Mr Cohen, but that's not the case at all.

18

19 Q. Do you regard the evidence you're giving in this  
20 Commission as some sort of elaborate forensic game?

21

22 MR SAIDI: I object to the question. Could I ask for this  
23 concession to be made, for the purposes of these questions.  
24 My understanding is that it was advised to counsel  
25 assisting that those changes needed to be made before  
26 Ms McCarthy had given and completed her evidence.

27

28 THE COMMISSIONER: I won't allow the question, Mr Cohen.  
29 Would you move on to something touching the terms of  
30 reference, please.

31

32 MR COHEN: I must say, Commissioner, the question of  
33 whether or not there is or is not a personal animus between  
34 these two gentlemen --

35

36 THE COMMISSIONER: Your question was whether the witness  
37 regarded his evidence as an elaborate forensic game.

38

39 MR COHEN: Yes.

40

41 THE COMMISSIONER: I don't really understand the question  
42 and I won't be assisted by the answer.

43

44 MR COHEN: Very well.

45

46 Q. Isn't it the case that the evidence you gave yesterday  
47 about particularly paragraphs 21(d) and paragraph 29 was

1 just what you were putting forward by way of a revisionist  
2 history of the two events?  
3 A. I don't understand that question, I'm sorry, Mr Cohen.  
4  
5 Q. Weren't you just changing the facts to suit the  
6 position at the time?  
7 A. No. I was correcting an error I had made.  
8  
9 Q. But when you signed your statement in February of this  
10 year, on 14 February, you didn't have a skerrick of  
11 evidence to support the assertion in paragraph 21(d), did  
12 you?  
13 A. 21(d)?  
14  
15 Q. Yes.  
16 A. No, I disagree with that. I certainly didn't have any  
17 evidence for the paragraph - excuse me for a second - 29.  
18 21(d) the context that was --  
19  
20 Q. Stop there and let me ask you this question.  
21 A. Yes, okay.  
22  
23 Q. In relation to 21(d), who did you rely upon to give  
24 you the information that you fashioned in your statement  
25 that you understood numerous requests had been made to  
26 DCI Fox to provide this material?  
27 A. DI Parker and Detective Sergeant Little and --  
28  
29 Q. And what about Detective Chief Inspector Tayler?  
30 A. No. No.  
31  
32 Q. When you signed your statement in relation to  
33 paragraph 29, at the same time, who did you rely on for  
34 that information?  
35 A. Paragraph 29?  
36  
37 Q. Yes.  
38 A. As I said, I've encapsulated the material in the  
39 earlier paragraph into that one and that was the error.  
40 I didn't pick it up until after the private hearings.  
41 I just - as I've said, I apologise to the Commission that  
42 that occurred. I made an error and I've raised it at the  
43 appropriate time, in light of what I've been trained to do,  
44 when I get into the witness box and adopt this statement.  
45  
46 Q. Does it occur to you now to apologise to DCI Fox about  
47 it?

1 A. For what?  
2  
3 MR SAIDI: I object. What a terrible question to put.  
4 That question is not directed to the interests of justice  
5 or the interests of this Commission. It is directed  
6 towards people in the public gallery. It is no part of the  
7 function of Mr Cohen to ask the witness to apologise to  
8 DCI Fox or anyone else.  
9  
10 THE COMMISSIONER: I think it is unhelpful, Mr Cohen.  
11 Would you proceed to the next question, please.  
12  
13 MR COHEN: Q. You identified in your paragraphs, in your  
14 statement, the common belief?  
15 A. Which part, Mr Cohen?  
16  
17 Q. Excuse me. Let me take you to it to be entirely sure.  
18 A. Yes.  
19  
20 Q. If you have paragraph 21(d) - I'll withdraw that  
21 question and go to it this way. What I want to do is take  
22 you to the document that you've been taken to previously.  
23 It is in volume 2. It is behind tab 111 and it is, if  
24 I can call it compendiously, the complaint document.  
25 That's a fair way of describing it in summary fashion?  
26 A. Yes. Yes.  
27  
28 Q. Do you have tab 111?  
29 A. I do. I'm at the cover page.  
30  
31 Q. At the beginning? Very well. You've given evidence  
32 the complaint was commenced by you?  
33 A. I've given evidence I put in a complaint, yes.  
34  
35 Q. And that's what commences such a complaint, isn't it?  
36 A. Yes, generally. I didn't know what other holdings  
37 there may have been in relation to Mr Fox in regards to the  
38 same matter.  
39  
40 Q. In these circumstances before you did what you did  
41 formally, did you take any step to communicate with DCI  
42 Fox?  
43 A. Absolutely not.  
44  
45 Q. I see. So this was an entirely administrative step  
46 that had the potential to affect him in his position in the  
47 police force; isn't that right?

1 A. I don't know what the ultimate outcome of it would be,  
2 but I have an obligation under the Police Service  
3 Regulations to report conduct of that type. I did what I  
4 was obliged to do and in, I suppose, protection and support  
5 of my investigators who were clearly under some pressure  
6 from what they thought was leaking within the organisation,  
7 which I believe has been agreed to.

8

9 Q. We're talking now, aren't we, at May 2011?

10 A. I'll just have a look at the date. I think it was  
11 that date. No, sorry, April. April.

12

13 Q. April 2011?

14 A. Sorry, 21 April is when I put it in.

15

16 Q. You assert that there was perception of leaking, but  
17 there was no basis for that perception, was there?

18 A. Are you saying did I know specifically that it  
19 was occurring.

20

21 Q. No, no. I'm just saying this: You were relying upon  
22 a series of representations made to you by others. That's  
23 the first step, isn't it, in this analysis?

24 A. Not just on that.

25

26 Q. I see. What personally did you do to assess whether  
27 or not these perceptions or allegations of leaking actually  
28 had substance?

29 A. That's not - well, firstly, I did think they had  
30 substance.

31

32 Q. No, no. My question was very specific. What did you  
33 do to assess whether or not they in fact had substance -  
34 not what you thought, but what did you do?

35 A. I don't understand the question, Mr Cohen.

36

37 Q. It is a --

38 A. Hang on, can I finish? I'll tell you why I don't  
39 understand it. It is clear what I've done. I've put it --

40

41 Q. I don't need you to tell me --

42 A. I've put it into a - I asked for a file note. I had a  
43 discussion with Mr Parker. I examined the newspaper  
44 reports. I had memory of a number of other newspaper  
45 reports in relation to this matter, and others, that  
46 suggested to me that there was absolutely no doubt that  
47 Mr Fox was leaking information to Ms McCarthy. However --

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Q. Which newspaper reports?

A. However - I hadn't finished. However it is not up --

Q. Which newspaper reports?

MR SAIDI: I object. If Mr Cohen wants to ask questions, let the witness finish --

THE COMMISSIONER: Yes.

Q. Finish the answer to the first question firstly.

A. There's specific reports that I can't go into in this Commission. Absolutely can't go into in this Commission and I won't.

MR COHEN: Q. Newspaper reports you can't?

A. Yes, not just about Lantle. If you want to take me there, Mr Cohen, take me there.

Q. I'm just asking: you are asserting there are newspaper reports you relied upon. What were they?

A. The complaint revolves around Mr Fox's and, to a lesser extent, Mr McLeod's dealing with the press overall and when you read it, you will see that. There were newspaper reports prior to that date - and I can't specifically mention them, I can't recall them - but clearly indicated to me that Mr Fox was leaking to Ms McCarthy. And I believe that's been agreed to.

Q. You can believe what you like, but answer the question.

A. Well, it's in evidence, Mr Cohen.

Q. If there was a complaint about non-compliance by DCI Fox with a direction - because the complaint was about the direction, wasn't it?

A. The complaint was about --

Q. At its simplest the complaint was about non-compliance with the direction given on 2 December 2010; isn't that so?

MR SAIDI: I think more fairly, the question ought be about directions; the direction encompassed more than one aspect.

MR COHEN: Perhaps if I can ask my questions unaided.

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MR SAIDI: I'm entitled to object and I do object.

MR COHEN: Can I have the basis of the objection, please?

MR SAIDI: I've given the basis. I'm not sure Mr Cohen was listening. The direction, whilst referred to in the singular, encompassed different matters; that is, only one of them was not to talk to the media. The other one related to handing over of documentation. Mr Cohen seems to be putting it to the witness that the direction only covered one matter.

MR COHEN: I didn't say that at all. I simply referred to the direction identified in the complaint.

Q. That was a direction made on 2 December 2010, was it not?

A. That forms part of what the complaint is about.

Q. I see.

A. Part.

MR HUNT: Mr Cohen might have lost track of the time, but it is --

MR COHEN: I'm sorry. I apologise, Commissioner.

THE COMMISSIONER: I will adjourn for 20 minutes.

**SHORT ADJOURNMENT**

MR HUNT: Commissioner, Ms Lonergan has asked to be excused. She is attending to something but is content that the matters proceed

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

MR COHEN: Thank you, Commissioner.

Q. Just before the adjournment, there was an objection about a question I put to you and I referred to the complaint as focusing upon a direction. In fairness to everybody, yourself included, I would like to clear that matter up.

A. Yes.

1 Q. The complaint, which I think in your evidence early  
2 this morning you said you had not seen before - that is the  
3 document per se; is that right?  
4 A. Apart from the document I prepared obviously, yes.  
5  
6 Q. Yes.  
7 A. But I've never seen that file, nor would I ever expect  
8 to.  
9  
10 Q. Yes, but the relevant bit of the process that kicked  
11 off the complaint I think is found at page 476 of tab 111;  
12 is that correct?  
13 A. Okay, yes, that's the triage form.  
14  
15 Q. Is that what starts the process?  
16 A. No, the process is started by the complaint. The  
17 complaint is submitted to the senior officer.  
18  
19 Q. And that is Commander Haggett in this case, isn't it?  
20 A. No.  
21  
22 Q. I'm sorry.  
23 A. In this case it was Assistant Commissioner York,  
24 because I was an acting superintendent, and that was  
25 my direct line report. Then what would happen it would  
26 appear - it go to a triage process, which could be done at  
27 region. It would be done by the region professional  
28 standards manager, or they can mention it at a complaint  
29 management meeting and send it to the command they wish to  
30 investigate it, where it is then triaged by the  
31 professional standards duty officer. They determine from  
32 the nature of the contents of the document submitted what  
33 the issue is and they pull that from a defined list of  
34 issues - it is about six pages - that covers all ambits of  
35 misdeeds.  
36  
37 Q. Which are found in the regulations?  
38 A. The issues aren't, no, no, no.  
39  
40 Q. I am sorry, the concepts, the boxes to be ticked are,  
41 the regulatory steps, are they not?  
42 A. I'm not sure if they're in the regs. I would not like  
43 to mislead you there.  
44  
45 Q. In the Act perhaps?  
46 A. No, certainly not in the Act. It will be a process  
47 that's been agreed to, tried and tested through the New

1 South Wales Ombudsman and PIC.  
2  
3 Q. But that process, once it leads to a document such as  
4 this --  
5 A. The triage form?  
6  
7 Q. Is at page 476, 111 --  
8 A. Yes, but I don't.  
9  
10 Q. I understand you don't have any input into that?  
11 A. That's right.  
12  
13 Q. You have seen this process before, I take it?  
14 A. Extensively, yes  
15  
16 Q. So that when it got to this point - the document is  
17 dated 22 June 2011 - the process you just characterised in  
18 your evidence in the last few minutes distilled this into  
19 the complaint which is identified, apart from the catchy  
20 reference in the first box --  
21 A. c@ts.i Mr Cohen.  
22  
23 Q. I beg your pardon?  
24 A. c@ts.i.  
25  
26 Q. c@ts.i very well. The second box distills, according  
27 to that process you've just described, the complaint, does  
28 it not?  
29 A. The c@ts.i reference, "IPC. Disobey reasonable  
30 direction", yes.  
31  
32 Q. The reason I put to you before in my question to you  
33 on "direction" is because the term used there, there was an  
34 identification of a "Disobey reasonable direction",  
35 singular; isn't that so?  
36 A. Yes, but that's not authored by me.  
37  
38 Q. I understand that.  
39 A. Yes.  
40  
41 Q. But that was the complaint that was investigated,  
42 wasn't it?  
43 A. Yes, absolutely, or it appears that was the issue.  
44 Having said that, there can be issues arising that are also  
45 addressed during a complaint, just so you understand the  
46 process. I'm not saying that happened here, but that is  
47 the process.

1  
2 Q. That was what was investigated here, was it not?  
3 A. I didn't --  
4  
5 Q. According to this document on this process, logically  
6 that must be so?  
7 A. On the face of this, that was what was investigated  
8 here, yes.  
9  
10 Q. The single "disobey reasonable direction" issue was  
11 the issue of the direction, singular, identified as at  
12 2 December 2010, was it not?  
13 A. I can't say what that was. That would be a question  
14 you would need to put to whoever did the triage, which  
15 looks like it was Inspector Meares.  
16  
17 Q. Presumably, Inspector Meares is a competent and  
18 experienced officer with these things?  
19 A. I don't have an opinion about Inspector Meares.  
20  
21 Q. Just before the short adjournment, I was asking you to  
22 identify the news articles that you were referring to, and  
23 you identified a number, but is it not the case that there  
24 was simply one news article included in the materials that  
25 formed part of the complaint in behind this tab 111?  
26 A. Yes, that's right. That's the one had I access to.  
27  
28 Q. That document has, as its identification for the  
29 Commission's purposes, exhibit 29, but you can find it in  
30 this bundle in a couple of places, the first and most  
31 convenient is at page 519. This is the second volume, tab  
32 111, page 159.  
33  
34 Q. Do you have that?  
35 A. Yes, I do.  
36  
37 Q. Can you tell the Commission where in this document  
38 there is a proper basis for identifying Detective Chief  
39 Inspector Fox as a leaker?  
40 A. Sorry?  
41  
42 Q. I'll repeat the question.  
43 A. Sorry, I was reading the article.  
44  
45 Q. Can you tell the Commissioner where in this article  
46 there is a proper basis for you to identify Detective Chief  
47 Inspector Fox as a leaker?

1 A. Would you like me to go through the article paragraph  
2 by paragraph?  
3  
4 Q. I'm asking you where the proper basis is that --  
5 A. I can do it paragraph by paragraph if you wish.  
6 I think I can see - my opinion is that it is littered with  
7 input from material DCI Fox, I believed, was feeding to  
8 Ms McCarthy.  
9  
10 Q. That was a belief, was it?  
11 A. That was my belief at the time I put the complaint in.  
12  
13 Q. A belief?  
14 A. Yes.  
15  
16 Q. Founded on nothing other than your belief?  
17 A. No. It couples with the conversation and the file  
18 note supplied by DI Parker when the conversation - and that  
19 speaks for itself. I can't talk to that because I wasn't  
20 in that telephone conversation. But the matters raised by  
21 Parker, in accordance with his obligations under the  
22 regulations, indicated through certain periods - phrases in  
23 the conversation, that there had been contact.  
24  
25 Q. So somebody uses a phrase in a conversation and that,  
26 to you, is definitive proof --  
27 A. No, it's not definitive.  
28  
29 Q. -- that somebody else is involved, is it?  
30 A. Not definitive, but there was a grand suspicion.  
31  
32 Q. A grand suspicion. That wouldn't even get close to be  
33 reasonable grounds to suspect, would it?  
34  
35 MR SAIDI: I object. This police officer is under an  
36 obligation under the Police Act and the Police Regulations  
37 to report any belief on his part that there may be conduct,  
38 whether it be corrupt conduct or the other instances of  
39 conduct. It is not fair to start interpreting his  
40 reporting matters based on, firstly, the criminal  
41 standards. Secondly in relation to these questions  
42 I object on the basis of relevance in terms of we now know  
43 that the basis of the complaint had substance and we know  
44 that the complaint was dismissed because of lies told by  
45 Detective Chief Inspector Fox.  
46  
47 At least if these questions are being put on the basis

1 of some credibility issue, I take an objection on that  
2 ground, as well as the relevance ground.

3  
4 MR COHEN: My response if I may be heard on that, is post  
5 hoc, ergo propter hoc. You cannot define the proposition  
6 the way my learned friend does simply by saying because we  
7 know now, that somehow influences the past. That's clearly  
8 a non sequitur. I'm trying to investigate the basis upon  
9 which Detective Chief Inspector Fox was being pursued at  
10 the time.

11  
12 THE COMMISSIONER: Yes, Mr Cohen. I don't know whether  
13 attributing the various levels of standard of proof is much  
14 of much assistance, but I consider that you're free to ask  
15 Detective Chief Inspector Humphrey what he had in order to  
16 ground this suspicion.

17  
18 MR COHEN: Q. You didn't have enough to ground a  
19 suspicion, did you?

20 A. No, I did.

21  
22 Q. You didn't, you said?

23 A. No, I did. Sorry, my voice trailed off.

24  
25 Q. I put it to you that you did not?

26 A. I'm sorry I missed that last one.

27  
28 Q. I put it to you that you did not?

29 A. No, I did. I had a suspicion absolutely, well founded  
30 but absolutely.

31  
32 Q. The material that was provided to Joanne McCarthy for  
33 this article came from third-party sources, did it not?

34 A. Which third-party sources are you referring to?

35  
36 Q. Don't you know?

37 A. I don't know exactly where it came from, but based on  
38 the telephone conversation and the file note from Inspector  
39 Parker and my knowledge and my suspicions surrounding  
40 Mr Fox's contact with Joanne McCarthy, I submitted a  
41 report. It wasn't beyond a reasonable doubt. It wasn't  
42 probably even to the civil onus, but as I am obliged to do  
43 it, and I felt it very necessary at that time because I had  
44 a crime manager that was under the pump because of this  
45 media intrusion. We wanted to get the job done and it  
46 wasn't supposed to be done on the front page of the  
47 Newcastle Herald.

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Q. The source of this material wasn't DCI Fox at the time, it was Mrs Helen Keevers, wasn't it?

A. I have no idea who it was.

MR COHEN: Excuse me, Commissioner.

MR TERRACINI: Perhaps I can take an objection. There is material in another hearing about this, so the information is known to the Commission and the source was not Mr Fox.

THE COMMISSIONER: Thank you, Mr Terracini.

MR COHEN: I'm indebted to my learned friend Mr Terracini for that.

Q. I'll put it on this basis so that there is no ambiguity: it is clear Detective Chief Inspector Fox is not the source of this material?

A. I can't say.

Q. It was always so?

A. No.

Q. Wasn't it?

A. No, it wasn't always so. That's why the report was submitted.

Q. But you wanted it to be so, didn't you, at the time?

A. Actually quite the contrary. I was hoping that it wasn't right because it is pretty disgraceful behaviour for a police officer to be white-anting another investigation by leaking to the press.

Q. You used the phrase "disgraceful behaviour". Do you consider it proper for an internal email by one officer about another circulated to subordinate officers to speak in derogatory terms?

A. You would have to draw my attention to the precise example you're speaking of.

Q. Let me draw your attention to the concept in the first instance. Do you consider it improper or unacceptable behaviour for a senior officer to circulate an email about another senior officer of cognate rank and communicate it to subordinate officer?

A. If the comment was inappropriate, yes.

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Q. Can I ask you to look, please, in that same volume at tab 64.

A. Yes.

Q. For the assistance of all concerned, including the Commissioner, this document is also part of - and I'd ask you just to confirm this, detective chief inspector - what is annexure C to your statement.

A. Yes, I gave it up. I'll just check the number.

MR COHEN: I think, if my memory is correct, Commissioner, it may have been admitted as an exhibit by now, but I'm not sure about that.

THE COMMISSIONER: You might be right.

MR COHEN: In any event, there are multiple sources so that all concerned can have access to it, in particular, annexure C to the chief inspector's statement, but also in this bundle. For the convenience of Detective Chief Inspector Humphrey, I'm taking him to the bundle because it is easier to get to.

THE WITNESS: Absolutely. I can say that, yes, I certainly had a copy of that note and I attached it to the statement.

MR COHEN: Q. There are two pages in the bundle, 250 and 251. There's a series of chain emails. In the way of these things, the most recent in time is the one on top and the earliest is it the far these removed from the front.

A. That's right.

Q. Working backwards, at page 251 there's an initiating email from Detective Sergeant Steel - 251?

A. 250 is Steel on mine.

Q. No, if you look at 251, is there not a copy of the original email that kicked this off?

A. Oh, that DCI Fox sent to Steel. Yes, I'm sorry, I misunderstood.

Q. Then that was forwarded by her, that is Detective Sergeant Steele? She may have been Acting Inspector Steel at this stage. I'm sorry if I've inadvertently been disrespectful to her rank at the time.

A. It appears she was by her signature block, yes.

1  
2 Q. She forwarded that communication, amongst others, to  
3 yourself?  
4 A. Yes.  
5  
6 Q. Then you responded in substance to her referring to  
7 you, and this is the document I particularly want to take  
8 you to. Having regard to the evidence you just gave, isn't  
9 that an unacceptable way to refer to another colleague in  
10 an email that's circulating in an official sense?  
11 A. What, the first line I presume you mean?  
12  
13 Q. Well, any of it?  
14 A. No --  
15  
16 THE COMMISSIONER: Which part of it, Mr Cohen?  
17  
18 MR COHEN: Q. Look at the first line. Doesn't that  
19 establish - let me be blunt - your contempt for DCI Fox?  
20 A. No, not at all. It established that the discussions  
21 that we'd had were accurate.  
22  
23 Q. You didn't first have a conversation with DCI Fox  
24 about this, did you?  
25 A. No, he was on holidays.  
26  
27 Q. You were on holidays?  
28 A. No, he was on holidays.  
29  
30 Q. But you could have called if you'd wanted to?  
31 A. No, I'm not going to ring him on holidays, and nor  
32 would there be any reason to ring him.  
33  
34 Q. You could have waited until he got back?  
35 A. No.  
36  
37 Q. I see. There was no need to express yourself in this  
38 way, was there?  
39 A. I expressed myself in the way I did.  
40  
41 Q. That is clear.  
42 A. To ask the question, there was no reason; the reason  
43 was I typed it because it was true, and it wasn't  
44 derogatory; it was a statement of fact that we'd discussed  
45 the fact we expected this to happen and this is what  
46 happened.  
47

1 Q. But you must concede that it is dripping with  
2 insolence in the way it's put --  
3 A. I'm sorry, it's what? I could not hear you.  
4  
5 Q. You must concede that this email in the way it starts  
6 off, the way it expresses itself, is dripping with  
7 insolence towards Detective Chief Inspector Fox?  
8 A. No. No, it is private email between the officers that  
9 already had knowledge of this going to occur.  
10  
11 Q. But DCI Humphrey, this is not a private email. This  
12 a formal email on NSW Police Force systems for its public  
13 purposes, is it not?  
14 A. If it wasn't a private email, it would have been sent  
15 - it could have been sent a lot more widely. It had  
16 selected recipients. It's not a public email at all. And  
17 for a formal - I don't even agree that it's formal; it's  
18 more conversational. A formal email, and I'm sure you'll  
19 get me to it soon, is that one that I later sent to others  
20 in respect of the direction of surrender of the documents.  
21  
22 Q. This much is clear - this email circulate on the  
23 police system, didn't it?  
24 A. Yes, of course.  
25  
26 Q. It was for work purposes and no other?  
27 A. Yes.  
28  
29 Q. It was not the occasion for informal chatter, was it,  
30 about a subject such as this?  
31 A. How I determined to deal with my contemporaries and  
32 subordinates, whether it be in informal chatter or  
33 otherwise, is my business.  
34  
35 Q. It might be your business, but there was no place for  
36 this sort of disrespectful approach --  
37 A. That may be your opinion. That may be your opinion.  
38  
39 Q. Let me finish the question.  
40 A. Sorry.  
41  
42 Q. There was no place for this sort of disrespectful  
43 approach towards Detective Chief Inspector Fox?  
44 A. That may be your opinion and your client's, but I  
45 don't see it as I disrespectful. If anything, it was - it  
46 just stated a matter of fact.  
47

1 Q. Very well. Could I take you to your statement,  
2 please. The statement has been identified as exhibit 33.  
3 Do you have a copy with you?  
4 A. I have copy. Thank you, Mr Cohen.  
5  
6 Q. In the first instance could I ask you to close the  
7 folder and focus on the statement, please.  
8 A. Is it all right to put it up or will I need it again  
9 shortly?  
10  
11 Q. You'll need another, but in the short order, you'll  
12 need only that one.  
13 A. It's fairly cramped, as you said.  
14  
15 Q. Paragraph 14, in the way you've expressed yourself,  
16 the Commissioner should understand, should she not, that  
17 this is intended to fix matters as to time around about May  
18 2010; is that so?  
19 A. Can I read it?  
20  
21 Q. Please.  
22 A. (Witness reads document). That's - I think that's  
23 right, yes.  
24  
25 Q. Very approximately, not exactly to a day, but May 2010  
26 is a reasonable basis to assume matters that have been  
27 discussed here?  
28 A. Well, it might have been a little bit later than May  
29 because I didn't arrive at Newcastle after that.  
30  
31 Q. I understand that. But you, by the way, don't resile  
32 from the fact that in your statement you give a certain  
33 narrative of the facts that happened historically; is that  
34 correct?  
35 A. Yes, of course.  
36  
37 Q. I said we'll need to go to another volume. Could you  
38 fish out volume 1, please, and turn it to what is tab 38A.  
39 If you allow me a moment, I will do the same.  
40 A. Yes, I have that document.  
41  
42 Q. Excuse me. In the way that Mr Hunt prognosticated,  
43 this bundle might rebel, mine is doing just that. Excuse  
44 me for a moment.  
45 A. It does have some fight in it, Mr Cohen, I must admit.  
46  
47 Q. Do you have 38A?

1 A. I do.  
2  
3 Q. Having regard to what you say in paragraph 14 of your  
4 statement and you have had a chance to scan that document?  
5 A. Yes, I have. I've never seen this report before,  
6 but --  
7  
8 Q. I accept that. Having regard to your statement, what  
9 is annexed to it and the material you put into it, do you  
10 accept that the only document that relates to the question  
11 of discussions amongst senior officers about alleged  
12 cover-ups is this one, at that time?  
13 A. I can't answer that Mr Cohen. I didn't get --  
14  
15 Q. I want you to direct the Commissioner to any other  
16 document than this that you say does the very thing that  
17 you're talking about in paragraph 14?  
18 A. I think I talk about discussions, don't I?  
19  
20 Q. Yes, indeed.  
21 A. When I got to Newcastle in I think - if I can just  
22 check my timeline. I didn't arrive in Newcastle until the  
23 end of June, 29 June 2010 - sometime after that. I can't  
24 specifically give you a document, I can't specifically  
25 relate a conversation, but I was aware that something was  
26 in the wind about a cover-up investigation.  
27  
28 Q. I accept that, but in your statement and in your  
29 bundle the way you've described it, this would be the  
30 document to be pointed to, wouldn't it?  
31 A. I don't know what you're after.  
32  
33 Q. I'm just asking, is there anything else other than  
34 this in the evidence that goes to the matters that you  
35 identify in paragraph 14 of your statement? Does that make  
36 it clear?  
37 A. Yes, I understand where you're going with this now or  
38 what you want from me. The discussions relate to  
39 discussions that were had generally when I arrived. The  
40 rest of that paragraph relates to documents I later see and  
41 in fact reports by Inspector Townsend, the meeting,  
42 et cetera. You see, you can't really - I can't really be  
43 tied down to a specific date that that paragraph refers to.  
44 It is an encapsulation of a period where I became aware  
45 that Lantle was coming into existence.  
46  
47 Q. In the second half of the paragraph, it is a long one,

1 if you regard it as two parts?  
2 A. Yes.  
3  
4 Q. Starting at about the fourth sentence, after your  
5 reference to cover-ups, and what you say emerged, you say:  
6  
7 *You are aware that the Lake Macquarie Local*  
8 *Area Command may have been involved as the*  
9 *command that initially received information*  
10 *relating to the allegation.*  
11  
12 A. Yes. That comment was based on a later reading of a  
13 report that came from -- -  
14  
15 Q. Yes. That would be the Townsend report, would it?  
16 A. No, it came from - no, I don't think it was the  
17 Townsend report. I think it might have originated from  
18 Waddell. I've seen it somewhere and that's what the - and  
19 it goes to Mr Galton, Central Hunter. He then sends it to  
20 Mr Fox, but that's something that I've seen much later.  
21  
22 Q. But at this time, in May, there was not quite bouncing  
23 around but there was some back and forth between Lake  
24 Macquarie and Newcastle?  
25 A. I can't say what was happening.  
26  
27 Q. Have a look then, if you would, at the document that  
28 is behind tab 30A.  
29 A. I've never seen that document.  
30  
31 Q. I understand that, but that document at 30A and the  
32 document at 38A are the bases in the material, the  
33 documents, that in effect form the foundation of your  
34 views --  
35 A. No.  
36  
37 Q. -- in paragraph 14?  
38 A. No, I've never seen those documents.  
39  
40 Q. I did say "in effect". The substance of them is the  
41 material that you became aware of in light --  
42 A. No, no. No, there were different reports than these.  
43  
44 Q. Then presumably all you relied upon at the time that  
45 you drafted this statement was the Townsend report; is that  
46 right - this sort of information about these sorts of  
47 facts?

1 A. I can't recall what I relied on. It was a general  
2 comment that there was something around during 2010.  
3 I can't go any narrower than that.  
4  
5 Q. Very well.  
6 A. It could have been - I'm sure the Townsend report  
7 ultimately would have formed part of it, but that  
8 paragraph, the way I read it, it doesn't talk about, "In  
9 May or June 2010", in that general sense, "my understanding  
10 of how Strike Force Lantle came to be as follows". Now,  
11 that takes into account the reading of documents,  
12 conversations with other police and ultimately what  
13 occurred.  
14  
15 Q. That's why I asked you whether or not you accepted  
16 about May 2010 and I think, if I understand your evidence,  
17 you did?  
18 A. I said I wasn't there in May 2010. You're telling me  
19 it was May 2010 and I'll accept that.  
20  
21 Q. Very well. We're agreed on that.  
22 A. Yes, we are. I'll try to agree with you as much as  
23 I can, Mr Cohen.  
24  
25 Q. I'm delighted to know it. Thank you very much indeed.  
26 Can I ask you this - if I can describe it in this rather  
27 diffuse way - having regard to the way you've described  
28 matters in your paragraph, the view that was abroad across  
29 Lake Macquarie and Newcastle at the time, a fair way to put  
30 it is that there was not such appetite for taking on this  
31 matter that's identified, if I can call them, the Waddell  
32 and Tayler memoranda?  
33 A. I can't comment on the Waddell and Tayler interchanges  
34 because I have no knowledge about that. By the time I got  
35 there, or very shortly after, it is my memory that we knew  
36 we were getting it back. Now, I was aware it was sent  
37 away. I don't know why. I was a duty officer then,  
38 I wasn't a crime manager. It wasn't in my area of concern.  
39 I'm not trying to abrogate my responsibilities to the  
40 Commission, but I just didn't know, nor did I need to know.  
41  
42 Q. I accept that. If you read these two documents, and  
43 having regard to your experience and you're an experienced  
44 officer, that is, the documents at 30A and 38A?  
45 A. Could I take the time to read them fully now?  
46  
47 Q. Please go right ahead.

1 A. (Witness reads document). Sorry, what was the other  
2 one?  
3  
4 Q. 38A.  
5 A. Thank you.  
6  
7 Q. The first is, if I can call it, the Waddell  
8 memorandum?  
9 A. The Waddell report, yes.  
10  
11 Q. The second is the Tayler memorandum. That's an  
12 adequate description of them for summary purposes so we  
13 understand each other on that. That's what I'm referring  
14 to, those two documents.  
15 A. Yes.  
16  
17 Q. Does that suit your convenience?  
18 A. Sorry?  
19  
20 Q. To refer them to them that way, does that suit your  
21 convenience?  
22 A. The Waddell and Tayler documents?  
23  
24 Q. Yes.  
25 A. Yes. (Witness reads document). I don't know whether  
26 I am prepared to say they should be linked in any way  
27 because they're different TRIM numbers.  
28  
29 Q. I'm not suggested they should be linked.  
30 A. Okay.  
31  
32 Q. Perhaps read them so you are aware of the contents and  
33 then I'll ask you the question I'm leading up to.  
34 A. Yes. Yes, I've read both of those.  
35  
36 Q. You accept, notwithstanding different TRIM numbers,  
37 that there was a conceptual link which was this notion of  
38 investigation of concealment of child sexual abuse by  
39 Catholic clergy; that much is clear, isn't it?  
40 A. Yes, it appears Detective Inspector Waddell has  
41 notified region of the serious nature of the allegations,  
42 yes, by report.  
43  
44 Q. On any view, I put it to you, in these two documents  
45 there's not much appetite for taking on this investigation  
46 in either local area command - that much is so, isn't it?  
47

1 MR SAIDI: I object, Commissioner. This has very little  
2 to do if anything with this witness in terms of what  
3 happened in relation to events in which the witness was not  
4 involved, was not the decision maker and played no part.  
5 This is all pre his involvement. Whether or not it went  
6 from Lake Macquarie to Newcastle or vice versa, it had  
7 nothing to do with him.

8  
9 THE COMMISSIONER: Yes, that much is clear. Thank you,  
10 Mr Saidi.

11  
12 Mr Cohen, I'll allow to you ask the question to see  
13 whether the witness has a response and whether he has any  
14 reasons for his response.

15  
16 MR COHEN: I'm endeavouring to explore the substance of  
17 paragraph 14.

18  
19 THE WITNESS: Sorry, you will very to give me that one  
20 again.

21  
22 MR COHEN: Q. Surely. Having regard to those two  
23 documents, as I, hopefully usefully, summarily described  
24 them as the Waddell and Tayler memoranda, both of May 2010,  
25 in both locations there was not a lot of appetite to take  
26 on this type of investigation, was there?

27 A. I can't comment on that. I can't comment on what  
28 Waddell and Tayler are thinking, not based on this report.  
29 This document, the Tayler document, has a different TRIM  
30 numbers. There could have been other pages attached to  
31 that. I don't know what conversations Tayler had with  
32 Waddell, what conversations Tayler had with Mitchell.  
33 Whether it was appetite or not, he's asked it to go to  
34 State Sex Crimes.

35  
36 Q. But from what you know of the matters at the time, the  
37 irritant in the process was DCI Fox because he was saying  
38 to anybody who would listen, "We have to do something about  
39 these things," wasn't he?

40 A. I wouldn't describe him as an irritant at that stage.  
41 He was - well, I don't know if I can say at that period  
42 that I knew he was around with that. I don't think I do.  
43 It is later that I became aware of that.

44  
45 Q. You accept, don't you, at all material times DCI Fox's  
46 view was that this is serious and urgent and something has  
47 to be done, don't you?

1 A. I can't comment on what his views were. Certainly  
2 serious. I wouldn't agree it was urgent.

3  
4 Q. It is the case, is it not, that - allow me to use this  
5 phrase and tell me if you disagree with it as an  
6 all-encompassing view - you talked about corridor chatter,  
7 but the view that was abroad about this issue was that it  
8 was something, if nothing else occurred, which was to be  
9 kept off the front page of the Newcastle Herald, wasn't it?

10 A. That was consistent with any investigation, I don't  
11 know whether just this one. By the time that I had a  
12 working knowledge, and it wasn't that deep a working  
13 knowledge, but a working knowledge, there were concerns  
14 that it was going to be held on the front page of the paper  
15 and that's not where, in this particular investigation,  
16 that needed to occur.

17  
18 Q. But that was the primary concern of the northern  
19 region about this issue, not whether or not --

20 A. No.

21  
22 Q. -- offending clergy or associated parties were brought  
23 to book, but no publicity that looked bad for the command;  
24 isn't that right?

25 A. No, I don't agree with that. It is just a nonsense to  
26 run an investigation - I can refer to DCI Tayler's  
27 evidence. I concur completely. It is ridiculous to let  
28 people know you're coming after them if you want to do a  
29 thorough investigation. There are times when media  
30 strategy was very important, but this was not one where you  
31 would be outing it in the press. Notwithstanding, as  
32 I know now, of course, Ms McCarthy has some source of a lot  
33 of the information, but --

34  
35 Q. Well, she had the comprehensive and sole source of the  
36 information in the first instance, didn't she?

37 A. Well, according to the evidence, yes.

38  
39 Q. And nobody inside the police force really was giving  
40 her the time of day about these things, were they?

41 A. I don't know whether they were giving her the time of  
42 day. It would be fair to say that there's generally a  
43 degree of caution dealing with journalists, particularly  
44 investigative journalists of Ms McCarthy's expertise, and  
45 there was no guarantee that anything that was discussed -  
46 and this is later I'm talking; this is an overarching  
47 comment - in my view, there's no guarantee a journalist is

1 necessarily going to maintain the confidentiality --  
2  
3 Q. You don't suggest --  
4 A. -- that you might require.  
5  
6 Q. I'm so sorry.  
7 A. Sorry.  
8  
9 Q. You don't suggest to the Commissioner that in police  
10 investigations you expect there to be guarantees of  
11 outcomes or approaches? You follow the evidence, don't  
12 you?  
13 A. Of course you follow the evidence, but there's also  
14 strategies that you use to obtain the evidence.  
15  
16 Q. Wasn't the evidence coming from one source, Joanne  
17 McCarthy?  
18 A. I don't know at this time, Mr Cohen. I don't know.  
19 I wasn't there.  
20  
21 Q. Having regard to what you were putting in your  
22 statement, this --  
23 A. Overarching --  
24  
25 Q. -- historical narrative, the source was McCarthy and  
26 no-one else, wasn't it?  
27 A. I don't know that.  
28  
29 Q. By your paragraph 16, you refer to the discussion on 6  
30 October 2010, to a file in relation to the Catholic Church,  
31 as you put it, believed to exist coming back to Newcastle  
32 City LAC. Those are your words?  
33 A. Yes.  
34  
35 Q. What is the basis for that belief?  
36 A. Inspector Townsend told me there was a file coming  
37 back.  
38  
39 Q. When did he do that?  
40 A. Sorry, when did --  
41  
42 Q. Yes.  
43 A. Sorry?  
44  
45 Q. When did he do that?  
46 A. At a meeting at his office. That was on 6 September.  
47

1 Q. That day?  
2 A. Yes. It was just a general comment that the Catholic  
3 Church brief was coming back or something similar along  
4 those lines. I made a couple of short notes. I noticed I  
5 recall in my notes I write "Steel" so whether or not - and  
6 I think it was Brad Tayler raised me that Kirren was going  
7 to deal with the matter. She had been assigned.  
8  
9 Q. So that we're clear, the file, to use that  
10 description, that was coming back, was the file that had in  
11 its journey gone to Lake Macquarie, back to region, then  
12 back to Newcastle; is that so?  
13 A. I'm not quite sure. I'm not sure. As it turns out,  
14 with the benefit of hindsight, there are a couple of files  
15 floating around.  
16  
17 Q. Let me be clear. The file that became Strike Force  
18 Lantle - that identifies it for you - had gone to Lake  
19 Macquarie, gone back to region, had been considered there  
20 and then initially went back to Lake Macquarie, got turned  
21 around --  
22 A. I don't know.  
23  
24 Q. -- and then got sent to Newcastle. That was the  
25 chronology, wasn't it?  
26 A. You could tell me that is. I couldn't - I couldn't  
27 dispute it.  
28  
29 Q. So you're not so well aware of the background?  
30 A. No, I just knew there was a file coming back. If  
31 I recall, I wasn't in the commander's chair when it came  
32 back, so I don't know which file Tony was referring to,  
33 Tony Townsend.  
34  
35 MR HUNT: Could I make an observation rather than an  
36 objection. The questioner and the witness are occasionally  
37 falling into the trap of talking over each other in the  
38 interchange between --  
39  
40 MR COHEN: I see that's entirely my fault.  
41  
42 THE WITNESS: No, my fault too, Mr Cohen.  
43  
44 MR HUNT: In the interests of a nice clean transcript, it  
45 would be helpful if that could be done.  
46  
47 THE COMMISSIONER: Thank you, Mr Cohen.

1  
2 THE WITNESS: Should we do the point thing, Mr Cohen?  
3  
4 MR COHEN: Q. We'll have a seconds out and we can see  
5 how we go.  
6 A. Yes, absolutely.  
7  
8 Q. I've taken you to paragraph 16. The discussion on  
9 6 October, in that discussion with Inspector Townsend, did  
10 he give you some appropriate, unique identifier like a TRIM  
11 number for some reference?  
12 A. No, absolutely not.  
13  
14 Q. It was just a reference to what? Having regard to the  
15 conversation, doing the best you can, to what did he refer?  
16 A. Can I have access to my notes? That might jog my  
17 memory.  
18  
19 Q. By your notes, you mean the handwritten notes?  
20 A. There's a handwritten note about that meeting. It is  
21 only - like, it's one line. I don't know if it's in  
22 evidence, another one.  
23  
24 Q. I have to concede to you, I haven't a clue where it  
25 is.  
26 A. I'll do my best.  
27  
28 Q. Please, in the first instance.  
29 A. I'll do my best. It was - it was - we were there,  
30 Brad Tayler and I were there in relation to a number of  
31 matters, and that's held out by the fact that the  
32 redactions of that file note show we spoke about a number  
33 of matters, and one of those was "Catholic Church brief".  
34 I don't know whether I wrote "coming back" or something,  
35 "Steel" and then Brad's given me a brief on the way back in  
36 the car, just to fill it in.  
37  
38 Q. I'm sorry, I wasn't ignoring you.  
39 A. I understand.  
40  
41 Q. I was listening. I was endeavouring to undertake two  
42 things at once, but I wasn't successful.  
43 A. We're the wrong gender for that, aren't we, Mr Cohen?  
44  
45 Q. Excuse me, Commissioner, and, detective chief  
46 inspector. I have been very helpfully informed that what I  
47 was shown by Mr Hunt, counsel assisting, is a copy of the

1 notes to which you were referring and is now exhibit 34.  
2 A. It is a paragraph short, I think.  
3  
4 MR COHEN: Please excuse us.  
5  
6 THE COMMISSIONER: I no longer have it, Mr Hunt. I think  
7 I may have handed it to Mr Humphrey yesterday and not  
8 received it back.  
9  
10 MR COHEN: Excuse me, Commissioner.  
11  
12 THE COMMISSIONER: I'm not blaming Mr Humphrey.  
13  
14 MR COHEN: Not at all. I remember now. It was a sole  
15 copy and copies had to be distributed. I think in the  
16 pressure of business we might not have got to a stage where  
17 a copy has come back. I think there might just be one.  
18  
19 THE WITNESS; I have a copy here in my folder if you want  
20 me to refer to that, exactly what was provided. What date  
21 was it?  
22  
23 MR COHEN: Q. This must be 6 September. I'll withdraw  
24 that. 6 October. I think I may have misled you  
25 inadvertently. Excuse me for a moment.  
26 A. I have it.  
27  
28 Q. I misled you. It is 6 September.  
29 A. Yes, I've got it, 6 September. At 13.20, Tayler  
30 Townsend, Mather. It refers to DCI Tayler, inspector  
31 Townsend and Detective Senior Sergeant Mather, and the  
32 relevant entry says:  
33  
34 *Re: Catholic Church brief, file coming*  
35 *back. Local investigation - Steel.*  
36  
37 MR HUNT: Can I indicate for the transcript it is exhibit  
38 35, not 34. I'm sorry.  
39  
40 THE COMMISSIONER: Thank you, Mr Hunt.  
41  
42 MR HUNT: That's what the witness is referring to.  
43  
44 MR COHEN: I apologise to all concerned. We do have that.  
45 I apprehend that this is material - excuse me,  
46 Commissioner.  
47

1 THE COMMISSIONER: I do not have that in exhibit 35  
2 either. Mr Hunt, may I hand you exhibit 35.  
3  
4 MR COHEN: Q. Excuse us, detective chief inspector, but  
5 there is a small infelicity in the documents and we need to  
6 be sure before I put anything to you.  
7 A. You're right.  
8  
9 MR HUNT: God forbid. We'll try to fix it.  
10  
11 MR COHEN: That was not meant as an implied criticism of  
12 anybody, I might add.  
13  
14 MR HUNT: I might be obtuse, but I thought - and I'm not  
15 saying that cheaply - that the questioner was asking the  
16 witness about a note of 21 September.  
17  
18 THE COMMISSIONER: No. I don't think the note has become  
19 an exhibit.  
20  
21 MR HUNT: I am obtuse, and everyone is at cross purposes.  
22 For clarity, exhibit 35 is this witness's notes of  
23 21 September 2010, 12 and 13 October 2010. I'll return the  
24 exhibit. Exhibit 36, for clarity, is this witness's notes  
25 of 16 May 2011.  
26  
27 THE COMMISSIONER: Correct.  
28  
29 MR HUNT: I accept that in examination-in-chief I took the  
30 witness to a meeting and the substance of a conversation  
31 with Inspector Townsend on 6 September 2010, but I didn't  
32 take the witness to his notes. I'm going to provide them  
33 to Mr Cohen now.  
34  
35 THE COMMISSIONER: Thank you, Mr Hunt.  
36  
37 MR COHEN: I apologise, Commissioner. I'm sorry this must  
38 be intolerable for you and the witness.  
39  
40 THE COMMISSIONER: Not at all.  
41  
42 MR COHEN: I would rather be out in the light than in the  
43 dark.  
44  
45 THE WITNESS: I'm just glad I didn't have it.  
46  
47 THE COMMISSIONER: Q. I am sorry; I hadn't handed it to

1 you, sir, because I hadn't seen it before, and I apologise.  
2 A. Not at all, Commissioner.

3  
4 MR COHEN: The reason is because this material hadn't gone  
5 into evidence. That's the reason for my befuddlement,  
6 rather than my usual state of befuddlement.

7  
8 Q. You have read on to the record what you have indicated  
9 there?

10 A. Yes.

11  
12 MR COHEN: Perhaps at some stage, unless there's a very  
13 great objection by those who assist the witness, it might  
14 be sensible --

15  
16 MR HUNT: I'm happy to tender it. I'll tender it now and  
17 then we might make some copies, subject to any view that  
18 those who produced it have, but I don't see any difficulty  
19 with that. I tender the witness's notes of 6 September  
20 2010.

21  
22 THE COMMISSIONER: Thank you. It will be admitted and  
23 marked exhibit 38.

24  
25 MR HUNT: The redactions are ours, that is, the  
26 Commission's, as to relevance.

27  
28 **EXHIBIT #38 NOTES OF DETECTIVE CHIEF INSPECTOR HUMPHREY**  
29 **DATED 6/9/2013**

30  
31 THE COMMISSIONER: Thank you, Mr Cohen. Do you need to  
32 have those?

33  
34 MR COHEN: At some convenient time that would be useful.

35  
36 Q. Having regard to that material that you've, amongst  
37 things, read on to the record from the notes, which is now  
38 a part of exhibit 38 --

39 A. Yes.

40  
41 Q. -- that material related to the file or files - I'm  
42 sorry, I'll withdraw that. That's an awkward question.  
43 What was discussed at this meeting on 6 September 2010  
44 related to the file or files that had been identified by  
45 Inspector Townsend in his report of July 2010? That much  
46 is correct, isn't it?

47 A. I can't say.

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Q. Perhaps I'd better take you to Inspector Townsend's report. Indeed, I think, it is, is it not, annexed to your own affidavit, your own statement?

A. I think it is, actually. When I say I can't say, Mr Cohen, I agree that that report from Inspector Townsend, I've seen that, but I can't say that that's the specific file that he was talking about. I can only presume it is, but presumption is not what you're after.

Q. Quite.

A. Certainly it is the one that Assistant Commissioner York predicates that it is a Newcastle City job, so I presume it is the one we're talking about.

Q. I want to do better than a presumption so it is fair to everybody, most importantly to you.

A. Yes.

Q. Allow me to turn it up and show it to you for this purpose. Would you look at annexure A to your own statement, please, detective chief inspector. That's some 10 or a dozen pages. I'm sorry I hadn't counted it by number. There are 11 pages there.

A. Yes, inspector Townsend's report.

Q. 12 July 2010, and it seems to have what I take to be two TRIM numbers, if you look at page 1, which is the first page of annexure A.

A. Yes, it does, actually.

Q. Yes. So however it has been characterised in your system, whether it is two or more, there they are, that's the unique identifying reference numbers in your system. That is the police system. That is the material Inspector Townsend was referring to, and this is the material you discussed at the meeting of 6 September; is that so?

A. I believe it is. I can't say for certain because there was no file produced, but looking at the dates, that would probably accord with it. 12 July he finishes the report. It goes to region and Ma'am York responds on the 1/9. I'm speaking to him on the 6/9. Bearing in mind I used to do that job, so there would be daily briefings with the OC. He would have been advised probably that that file was coming back. There would have been some discussion, I'm presuming that. Then he has just given us a heads up that it is coming back and wanted to know who

1 the investigator was.

2

3 Q. That is suggesting that it was beyond reasonable  
4 doubt. It would be more probable than not that that's the  
5 case?

6 A. Yes, I would accept that.

7

8 Q. The discussion, therefore, in that meeting did not  
9 refer on any basis to what has been called, I think, in  
10 some places, the ministerial file. What you referred to as  
11 "the green", I think; is that correct?

12 A. No, I don't - no, the first I knew about a green being  
13 in existence was when Inspector Dunn rang me urgently  
14 looking for it.

15

16 Q. And the green, as it turned out, had, in the various  
17 steps through the chain of command that were undertaken at  
18 the time, been directed with approval of the senior command  
19 up the chain by Detective Sergeant McKey, as it turned out,  
20 on 5 September 2010 to DCI Fox. Is that your recollection?

21 A. I can't say what my recollection is. I don't recall  
22 the document exactly. If you've got it here, I can agree  
23 with it.

24

25 Q. Yes. Just bear with me. Excuse me one moment. Do  
26 you have volume 1 or volume 2 in front of you?

27 A. One.

28

29 Q. Could I ask you to close volume 1 and extract volume  
30 2, please. I'm sorry this is laborious but with this many  
31 documents, it is unavoidable.

32 A. Which volume did you say? Two?

33

34 Q. Volume 2, please?

35 A. I've got that.

36

37 MR COHEN: I apologise, Commissioner, I've committed the  
38 worst heresy. I've got the wrong cross-reference in my  
39 notes. I'm after the ministerial file which is in the  
40 bundle. I need a moment to identify its location. Excuse  
41 me, please.

42

43 Q. This will require a bit of navigation, detective  
44 chief inspector. In the first instance --

45 A. Are you looking at 72?

46

47 Q. I'm actually thinking of --

1 A. Is it the back part of 72.  
2  
3 Q. I beg your pardon?  
4 A. It looks like it is the back part of 72.  
5  
6 Q. Could I ask you to look at 62 first.  
7 A. Yes.  
8  
9 Q. This may make it easier.  
10 A. A, B or C.  
11  
12 Q. No 62, without a subdivision, like a battleaxe block.  
13 A. Yes, I've looked at that document.  
14  
15 Q. There are about five pages?  
16 A. There are.  
17  
18 Q. Do you see a TRIM number at the top right-hand corner  
19 of the page, page 244 in the running --  
20 A. Yes, 133845.  
21  
22 Q. That TRIM number --  
23 A. Of 2010.  
24  
25 Q. That TRIM number refers to an appropriate document  
26 that went off via the chain of command at the instigation,  
27 in the first instance, of Sergeant McKey to DCI Fox, did it  
28 not?  
29 A. No, it doesn't look like it did.  
30  
31 Q. Is it not the case that that's why perhaps we need to  
32 back to 72?  
33 A. That document there has come from the minister's  
34 office. There is a letter and it is on the back of that  
35 that it has been sent to the minister's office. The  
36 minister has instigated a ministerial file.  
37  
38 Q. Wait for the next question. That's the file that was  
39 covered by a further document given a TRIM number that  
40 relate to that TRIM?  
41 A. That would --  
42  
43 Q. That document is behind tab 72, is it not?  
44 A. Yes, that would accord to the --  
45  
46 Q. Have a look at tab 72, please.  
47 A. Yes. Tab 72 has two separate documents.

1  
2 Q. It does. Look at page 274.  
3 A. That looks like the green and it's the same TRIM  
4 number. So I would say it is and signed by McKey, as  
5 you've mentioned.  
6  
7 Q. Right. That document got to Detective Chief Inspector  
8 Fox, as he has testified, on the last day that he was in  
9 his office in September 2010 before he went on leave and  
10 went overseas?  
11 A. According to the email, yes, that's right. I have no  
12 reason to doubt that.  
13  
14 Q. That's the ministerial file with the green. Those are  
15 the two bits that constitute the total document that was  
16 flying around internally and ended up with Detective Chief  
17 Inspector Fox - tabs 62 and 72?  
18 A. Yes. I don't know about this one in front of it,  
19 though.  
20  
21 Q. Don't concern yourself with that. That is there by  
22 reason of the Commission's purposes. What we're focused  
23 upon is in and behind 72, pages 274 and 275?  
24 A. Yes.  
25  
26 Q. And that was covered by the documents at 62, which was  
27 the ministerial request?  
28 A. I presume it was. I've never seen the green.  
29  
30 Q. And that total of documents is what you mean by the  
31 green; is that so?  
32 A. It is called a green because it is on green paper.  
33  
34 Q. Indeed. But all those things together with a green  
35 cover become the green you referred to in your evidence  
36 yesterday?  
37 A. I presume it is because I never saw the green.  
38  
39 Q. You gave evidence about being requested by  
40 Inspector Dunn to go and find it, don't you?  
41 A. Yes, that's right, yes.  
42  
43 Q. You say you knew of the existence of the green on  
44 6 September 2010?  
45 A. No, no, I don't. I don't believe I did.  
46  
47 MR COHEN: Commissioner, Mr Hunt has very properly

1 reminded me of the time and I was about to go on to  
2 something else. That's a convenient time.

3

4 THE COMMISSIONER: Thank you, Mr Cohen.

5

6

**LUNCHEON ADJOURNMENT**

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1 Q. 2013, sorry, with certain redactions?  
2 A. Yes, I do.  
3  
4 Q. Could you have a look at page 4 of that statement. Is  
5 that your signature?  
6 A. Yes, it is.  
7  
8 Q. Are the contents of that statement true and correct?  
9 A. Yes, they are.  
10  
11 MR KELL: I tender that, Commissioner.  
12  
13 THE COMMISSIONER: The statement of Detective Senior  
14 Constable Freney will be admitted and marked exhibit 39.  
15  
16 MR KELL: Thank you, Commissioner.  
17  
18 **EXHIBIT #39 STATEMENT OF DETECTIVE SENIOR CONSTABLE FRENEY**  
19 **DATED 8/5/2013**  
20  
21 MR KELL: Q. Senior constable, I want to ask you some  
22 questions about your background and experience in the  
23 period leading up to your involvement with Strike Force  
24 Lantle. You were attested as a police officer in 1997?  
25 A. That's right.  
26  
27 Q. From 1997 to 2000, you performed general duties at  
28 Chatswood?  
29 A. That's right.  
30  
31 Q. From 2001 to 2002, you were stationed at Gosford with  
32 the anti-theft squad?  
33 A. Yes.  
34  
35 Q. In 2002, were you promoted to the rank of detective  
36 senior constable?  
37 A. Senior constable.  
38  
39 Q. To senior constable?  
40 A. Yes, I was.  
41  
42 Q. And in about that year, were you then attached to the  
43 Tuggerah Lakes antitheft squad?  
44 A. Yes, I was.  
45  
46 Q. Soon after, did you become a trainee detective?  
47 A. Yes.

1  
2 Q. When was that?  
3 A. 2003.  
4  
5 Q. From 2003 to 2006 were you a detective based at the  
6 Tuggerah Lakes Local Area Command?  
7 A. Yes.  
8  
9 Q. You've been a detective ever since that time?  
10 A. That's right.  
11  
12 Q. And your experience includes involvement in homicides,  
13 armed robberies and serious indictable sexual offences; is  
14 that correct?  
15 A. Yes, that's correct.  
16  
17 Q. Then did you move in 2006 to the Lake Macquarie Local  
18 Area Command?  
19 A. Yes, I did.  
20  
21 Q. To the detectives office there?  
22 A. Yes.  
23  
24 Q. During at least part of that time when you were  
25 working at Lake Macquarie Local Area Command, were you  
26 working with, at that time, crime manager Max Mitchell?  
27 A. Not at Lake Macquarie. At Tuggerah Lakes, I was.  
28  
29 Q. At Tuggerah Lakes?  
30 A. Yes.  
31  
32 Q. How long did you work with Max Mitchell at Tuggerah  
33 Lakes?  
34 A. He would have been there, I suppose, about six months  
35 at Lake Macquarie as the superintendent.  
36  
37 Q. How long was he superintendent at Lake Macquarie when  
38 you were there, approximately?  
39 A. I'm not too sure how long he was there.  
40  
41 Q. Similarly, when you were at Lake Macquarie, were you  
42 also working with Detective Chief Inspector Brad Tayler?  
43 A. Yes, I was.  
44  
45 Q. For how many years did you work with DCI Tayler, at  
46 Lake Macquarie?  
47 A. I think he left about 12 months before I did and

1 I moved to Newcastle.  
2  
3 Q. So how many years?  
4 A. The entire time. So I moved to Newcastle in 2010. I  
5 was at Lake Macquarie in 2006, so --  
6  
7 Q. So you worked with him for a period of three or four  
8 years?  
9 A. Three years, I'd say.  
10  
11 Q. Three years?  
12 A. Yes.  
13  
14 Q. Later after DCI Tayler did you work with Inspector  
15 Dave Waddell also at Lake Macquarie?  
16 A. Yes I did.  
17  
18 Q. In June 2010 you transferred to Newcastle City Local  
19 Area Command?  
20 A. That's right.  
21  
22 Q. Then you came to work again with DCI Brad Tayler in  
23 Newcastle; is that right?  
24 A. Yes.  
25  
26 Q. Is it the position that DCI Tayler encouraged you to  
27 move across to Newcastle?  
28 A. Yes, he did.  
29  
30 Q. Then, from June 2010 onwards, you've remained at  
31 Newcastle City Local Area Command as a detective?  
32 A. That's right, yes.  
33  
34 Q. In terms of Strike Force Lantle, when did you first  
35 become involved with that strike force?  
36 A. Towards the end of 2010.  
37  
38 Q. And towards the end of 2010, are you talking about  
39 November, December?  
40 A. That's right.  
41  
42 Q. Are you able to fix a more precise date at this time?  
43 A. No, I'm not.  
44  
45 Q. You give evidence in your statement about a meeting  
46 that you attended on 2 December 2010?  
47 A. Yes.

1  
2 Q. Just looking at the question of timing, had you been  
3 involved in Strike Force Lantle for a number of weeks  
4 before that meeting or was it shortly before?  
5 A. It was shortly before.  
6  
7 Q. We're talking days?  
8 A. I can't be certain.  
9  
10 Q. All right. You remained working in one form or  
11 another with Strike Force Lantle, did you, until late 2011?  
12 A. That's right.  
13  
14 Q. Which month in 2011 was it?  
15 A. I'm not too sure.  
16  
17 Q. I'll just ask you to look at your statement. Have a  
18 look at paragraph 15.  
19 A. Yes, it was October 2011.  
20  
21 Q. That accords with your recollection that you were  
22 involved as an investigator with Strike Force Lantle up to  
23 about October 2011?  
24 A. That's right, yes.  
25  
26 Q. Did you work with two OICs during the time of your  
27 involvement with Strike Force Lantle?  
28 A. Yes, I did.  
29  
30 Q. Who was the first one?  
31 A. Detective Sergeant Kirren Steel.  
32  
33 Q. What period of time did that cover?  
34 A. It wouldn't have been too long.  
35  
36 Q. So from the time that you started in about late, do we  
37 put it at about late November 2011 - sorry, 2010?  
38 A. Up until she went on sick leave.  
39  
40 Q. And that was some time in December?  
41 A. Yes.  
42  
43 Q. And thereafter who did you work with as the OIC?  
44 A. Detective Sergeant Jeff Little.  
45  
46 Q. I'll come back and ask you about a couple of the tasks  
47 that you did as an investigator.

1 A. Sure.  
2  
3 Q. I just want to take you to the meeting of 2 December  
4 2010. You refer to that in paragraph 8 of your statement.  
5 Do you have a general recollection of the circumstances of  
6 that meeting?  
7 A. Yes, I do.  
8  
9 Q. Can you tell the Commissioner when you became aware  
10 that such a meeting was to take place?  
11 A. Not too long before the meeting.  
12  
13 Q. On the same day?  
14 A. I don't know.  
15  
16 Q. Was it on the same day or shortly before, was it?  
17 A. Yes.  
18  
19 Q. Do you recall how you became aware that the meeting  
20 was to take place?  
21 A. It was either Detective Inspector Tayler, Detective  
22 Senior Sergeant Justin Quinn or Detective Sergeant Kirren  
23 Steel asked me to come.  
24  
25 Q. Did you have an understanding before the meeting as to  
26 what the purpose of the meeting was going to be?  
27 A. I understood that Newcastle City Local Area Command  
28 was going to have carriage of this investigation.  
29 Detective Inspector Fox had been working on it and he was  
30 going to provide documents in relation to what he'd done  
31 and he was also going to provide an overview of what he'd  
32 done.  
33  
34 Q. Do you recall now where you got that understanding?  
35 A. It would have been one of those three people that told  
36 me that.  
37  
38 Q. In discussions shortly before the meeting?  
39 A. Yes.  
40  
41 Q. You attached to your statement as annexure A an  
42 investigator's note referring to the meeting of Thursday,  
43 2 December 2010 with the title note "Case conference in  
44 relation to Strike Force Lantle".  
45 A. Yes.  
46  
47 Q. I appreciate that this is not a note you prepared; is

1 that correct?  
2 A. That's correct.  
3  
4 Q. Do you know who did prepare it?  
5 A. Detective Senior Sergeant Justin Quinn.  
6  
7 Q. Accepting that it is not a document that you prepared,  
8 what do you say as to the accuracy of that note insofar as  
9 it accords with your recollection of the events of the  
10 meeting?  
11 A. It's accurate.  
12  
13 Q. At annexure B of your statement, you include some  
14 handwritten notes and they're handwritten notes prepared by  
15 you, are they?  
16 A. Yes, that's right.  
17  
18 Q. Can I ask you to turn to those.  
19 A. Yes.  
20  
21 Q. You'll see that there is a date 2 December 2010?  
22 A. Yes.  
23  
24 MR KELL: Commissioner, do you have a copy?  
25  
26 THE COMMISSIONER: I don't have a copy. Could I trouble  
27 you for one? It is going to become necessary, I think.  
28  
29 MR KELL: I will hand up a copy.  
30  
31 THE COMMISSIONER: Thank you.  
32  
33 MR KELL: Q. You'll see the entry for 2 December 2010?  
34 A. Yes.  
35  
36 Q. There is a reference there to 11.20. You will see  
37 just under it a further reference to 12.25?  
38 A. Right.  
39  
40 Q. Then if you turn on the next page, you'll see towards  
41 the bottom of that page a reference to 12.50 - so three  
42 different time periods. I'm going to ask you about each of  
43 those different time periods.  
44 A. Sure.  
45  
46 Q. The first reference to 11.20, can you read out what  
47 that says after 11.20?

1 A. The note says:  
2  
3 *Meeting - Tayler/Quinn/Mitchell/Freney.*  
4 *Re: [Strike force] --*  
5  
6 "SF" --  
7  
8 *Re: [Strike force] - Catholic Church.*  
9 *- Lantle.*  
10  
11 Q. Do we take it that that is a different meeting, as  
12 you've described it, from the events that took place at  
13 12.25 that you refer to underneath, where Detective Chief  
14 Inspector Fox is referred to?  
15 A. Yes.  
16  
17 Q. What was the gathering at 11.20, as far as you can  
18 recall?  
19 A. I can't recall. There were obviously other things  
20 being said there. I was taking notes on what was relevant  
21 to me. It appears that - I was told there was an - given  
22 an overview of what was happening, what the strike force  
23 name was called. I mentioned that, Lantle, and it was  
24 relating to the Catholic Church. That's about all that was  
25 relevant to me that was mentioned.  
26  
27 Q. Can you recall now where that took place?  
28 A. Waratah police station.  
29  
30 Q. That was at the same place, the same room, was it,  
31 that the gathering at 12.25 took place?  
32 A. That's right, yes.  
33  
34 Q. You then include some notes about the gathering at  
35 12.25pm --  
36 A. Yes.  
37  
38 Q. -- over the page. Then you end at 12.50pm with a  
39 further meeting, or a further description?  
40 A. Yes.  
41  
42 Q. I just want you to track back to annexure A just so we  
43 can link up the time periods. If you go to the  
44 investigator's note that you referred to and if you go to  
45 the third page of the investigator's note --  
46 A. Yes.  
47

1 Q. You'll see about halfway down there it says:  
2  
3 *The meeting was concluded at this point and*  
4 *[Superintendent] Haggett and*  
5 *[Inspector] Fox departed.*  
6  
7 A. Yes.  
8  
9 Q. Then there's a reference to Inspector Townsend having  
10 arrived?  
11 A. Yes.  
12  
13 Q. Does that junction coincide with the reference in your  
14 handwritten note to the events at 12.50pm - that is to say,  
15 what appears to be a further meeting, if you like, where  
16 Inspector Townsend attended?  
17 A. Yes.  
18  
19 Q. It does? All right. I just want to ask you your  
20 purpose in preparing the notes that are annexure B to your  
21 statement, including the notes at the 12.25pm - can we just  
22 ask, what was your purpose in preparing these handwritten  
23 notes? What did you have in mind?  
24 A. I wasn't tasked to take notes. They were for more  
25 personal purposes.  
26  
27 Q. Just pausing there - you weren't tasked?  
28 A. No, I wasn't tasked to take them. I am a note-takers,  
29 so I'll take notes of things that are relevant to me at  
30 meetings. Obviously the notes I've take there were of  
31 relevance and the majority of the notes are notes in  
32 relation to what Inspector Fox was telling us.  
33  
34 Q. Were they matters that were of interest to you as an  
35 investigator in Lantle as to particular information that  
36 you might be able to obtain for your investigative  
37 holdings?  
38 A. Well, they appeared so. It was an overview given by  
39 Inspector Fox in relation to what he'd done. We went there  
40 to receive documentation, which I believe he'd forgotten to  
41 being, so I could use that to match up with the  
42 documentation once it was received.  
43  
44 Q. But you indicated you weren't there as the note-taker  
45 in any form?  
46 A. No, I wasn't, no.  
47

1 Q. You weren't intending to take a comprehensive note of  
2 all the events of the meeting?  
3 A. That's right.  
4  
5 Q. I just want to ask you some questions about the tone  
6 of the meeting, if I can. Do you have a recollection as to  
7 the general tone of the meeting?  
8 A. It was fine.  
9  
10 Q. By saying that it was fine, is that a reference to  
11 that there was no undue heated tone?  
12 A. No, there wasn't.  
13  
14 Q. Could you describe to the Commissioner whether it was  
15 a cordial meeting?  
16 A. Yes. To my recollection, it was cordial. There were  
17 no issues.  
18  
19 Q. Was there any particular person, as far as you can  
20 recall, that did most of the talking at the meeting?  
21 A. Inspector Fox and Superintendent Mitchell.  
22  
23 Q. And they were the two principal people that did the  
24 talking?  
25 A. That's right.  
26  
27 Q. Did you speak at all at the meeting?  
28 A. No, I didn't.  
29  
30 Q. I just want to ask you a couple of questions about the  
31 time as your involvement as an investigator in Lantle. At  
32 each of those two periods of time that we referred to where  
33 you were involved, that is to say, the period from about  
34 late October - sorry, late November up to December where  
35 you were working with Detective Sergeant Steel, that's the  
36 first period of time?  
37 A. Yes.  
38  
39 Q. And then the second period of time when you were  
40 working with Detective Sergeant Little, up until I think  
41 you indicated about October 2011?  
42 A. Mmm.  
43  
44 Q. In each of those periods of time you held the  
45 position, did you, of investigator?  
46 A. Yes, I did.  
47

1 Q. It may sound obvious, but what was your general role  
2 as an investigator on such a matter?

3 A. Essentially, the officer in charge's role was to the  
4 direction of where the investigation was going to go, task  
5 the duties for the investigators on it, and I'd perform  
6 those tasks.

7

8 Q. In each of those time periods were you a dedicated  
9 investigator on Lantle in the sense of was that your work  
10 exclusively?

11 A. No, it wasn't.

12

13 Q. Are you able to say in approximate terms what  
14 proportion of your time was spent during those two periods  
15 as an investigator on Lantle?

16 A. It is hard to say. At some point I might have been  
17 100 per cent, at other times it was 50 per cent. Whatever  
18 strike force I've ever been on, I was always carrying a  
19 case load anyway, you're never free of a case load. So if  
20 there were other priorities at the time, I'd work on that.  
21 If I was working on - if they weren't as a high priority as  
22 this, I would work on this, so --

23

24 Q. So it varied over time?

25 A. That's right, yes.

26

27 Q. As an average, is it something like about 50 per cent  
28 or less than?

29 A. It would be yes, at least - at least 50 per cent.

30

31 Q. I want to ask you some questions about particular  
32 tasks that you might have done as an investigator just to  
33 get a greater sense of that.

34 A. Sure.

35

36 Q. In doing so, there's no need for you to refer to  
37 particular names of victims or of persons of interest.  
38 During the period of time where you were working as an  
39 investigator, what were some of the particular tasks that  
40 you undertook in terms of matters that might normally be  
41 undertaken by an investigator?

42 A. Essentially I applied and executed search warrants.  
43 Once we received the documents that we sourced in relation  
44 to that search warrant, I went through the documents and  
45 reviewed and collated what was relevant and then  
46 I submitted that to the e@gle.i database for the notice of  
47 Detective Sergeant Little or Steel, whoever it may have

1           been.  
2  
3           Q.    It was a significant job, was it, reviewing particular  
4           documents?  
5           A.    Yes, it was.  There was a large amount of documents.  
6  
7           Q.    Were you also involved in work in terms of assisting  
8           with interviewing of witnesses?  
9           A.    Yes, I was.  
10  
11          Q.    Was that with Detective Sergeant Little?  
12          A.    Sergeant Little, yes.  
13  
14          Q.    Were you there generally as a corroborative role?  
15          A.    Yes, I was.  
16  
17          Q.    Were there a number of witnesses that you saw in that  
18          role?  
19          A.    Yes.  
20  
21          Q.    That was during the period of time up until October  
22          2011; is that right?  
23          A.    That's right.  
24  
25          MR KELL:  Thank you.  Thank you, Commissioner.  
26  
27          THE COMMISSIONER:  Yes, Mr Cohen?  
28  
29          <EXAMINATION BY MR COHEN:  
30  
31          MR COHEN:  Commissioner, you'll forgive me, I'm doing this  
32          al fresco.  I wasn't quite expecting this now.  
33  
34          THE COMMISSIONER:  Do your best.  
35  
36          MR COHEN:  Thank you.  
37  
38          Q.    Detective senior constable, in your evidence that  
39          you've just given, led from Mr Kell of counsel, you  
40          referred to, as I understand it, the interviewing or the  
41          assisting of the interviewing of witnesses by, presumably,  
42          both Detective Sergeant Steele and Detective Sergeant  
43          Little, up to October 2011, with Detective Little?  
44          A.    Detective Sergeant Little up to October, yes  
45  
46          Q.    The changeover point between them was approximately  
47          the end of December 2010?

1 A. I couldn't be sure on that.  
2  
3 Q. Doing the best you can, have you got any rough idea?  
4 A. Well, not really. It was when Steele went off on sick  
5 leave, whenever that was.  
6  
7 Q. But you know there was a changeover?  
8 A. Yes, there was, yes.  
9  
10 Q. Do you recall a change of what is referred to as  
11 "terms of reference"?  
12 A. I wasn't aware of that, no.  
13  
14 Q. You weren't?  
15 A. No.  
16  
17 Q. Were you aware of the terms of reference themselves at  
18 any time?  
19 A. No, I wasn't.  
20  
21 Q. What was the basis upon which you then had an  
22 understanding or an appreciation of the terms of reference  
23 of Strike Force Lantle?  
24 A. I wasn't aware of them.  
25  
26 Q. How were you able to navigate the necessary tasks that  
27 fell out of Lantle?  
28 A. Well, I wasn't investigating the - I wasn't allocating  
29 the task. Detective Sergeant Little was, yes.  
30  
31 Q. So you were there to take on such tasks as were  
32 provided to you and you were instructed to undertake?  
33 A. Exactly, yes.  
34  
35 Q. In the conduct of the interviewing of witnesses, and  
36 I'm correct in my understanding that that was entirely a  
37 subordinate assisting corroborative role?  
38 A. That's right.  
39  
40 Q. Were you, as it were, flying solo or the lead  
41 interviewer?  
42 A. No, I wasn't.  
43  
44 Q. But always with one or other of Detective Sergeant  
45 Steel or Detective Sergeant Little?  
46 A. Detective Sergeant Little, yes.  
47

1 Q. If I say to you that Detective Sergeant Little came on  
2 formally to Lantle at the end of calendar 2010, would you  
3 object violently to that as a proposition?

4 A. No, I wouldn't.

5

6 Q. Working on that footing, up to the time that Detective  
7 Sergeant Steele was still the officer in charge, so  
8 starting at approximately from early September 2010 to the  
9 end of calendar year 2010, that is the end of December  
10 2010, how many interviews or additional statements were  
11 take in that period for the purposes of Strike Force  
12 Lantle?

13 A. By Detective Sergeant Steele?

14

15 Q. Yes. With or without you?

16 A. I don't know.

17

18 Q. Do you have any recollection of how many it was?

19 A. No, I don't. I don't have access to the  
20 investigation. I'm no longer on it so I can't - I couldn't  
21 refresh my memory on that.

22

23 Q. Do you have any memory of the process of interviews  
24 and statement-taking during this period?

25 A. That I was a part of or that Detective Sergeant Steel  
26 was a part of?

27

28 Q. Well, either. The fact of --

29 A. During that period, probably zero for me, and I don't  
30 know how many that Detective Sergeant Steele did.

31

32 Q. That's the extent of your recollection?

33 A. That's right, yes.

34

35 Q. Did Detective Chief Inspector Humphrey ever say to you  
36 directly anything with respect to the role or presence or  
37 otherwise of Detective Chief Inspector Fox in Strike Force  
38 Lantle?

39 A. No, he didn't.

40

41 Q. Did anybody else mention Detective Chief Inspector  
42 Fox?

43 A. No.

44

45 Q. Did you have any occasion at any stage to speak to  
46 Detective Chief Inspector Fox?

47 A. During this investigation?

1  
2 Q. Yes, I'm sorry, I apologise to you. During the course  
3 of your role as an investigator in Strike Force Lantle?  
4 A. No, I didn't, no.  
5  
6 Q. Was it ever suggested to you that Strike Force Lantle  
7 would, at some point, whenever it was, seek to have contact  
8 with Detective Chief Inspector Fox about matters in the  
9 holdings of Strike Force Lantle or other matters that might  
10 be relevant to or pertain to it - this investigation?  
11 A. Not to my knowledge.  
12  
13 Q. Was it ever put to you by anyone, whether it was  
14 Detective Chief Inspector Humphrey or anybody else for that  
15 matter, that Detective Chief Inspector Fox was leaking  
16 information?  
17 A. No.  
18  
19 Q. Was that --  
20 A. That was never suggested to me, no.  
21  
22 Q. Or that he, that is Detective Chief Inspector Fox, was  
23 refusing to surrender documents?  
24 A. No, that wasn't the case.  
25  
26 Q. Or to alert these people - that is, Detective Chief  
27 Inspector Humphrey or other people in the command at  
28 Newcastle - if you were contacted by Detective Chief  
29 Inspector Fox?  
30 A. No, that hasn't happened.  
31  
32 Q. You've also given evidence in relation to the events  
33 of 2 December, if I can call it the meeting day -- -  
34 A. That's right.  
35  
36 Q. -- if that makes it easier for to you comprehend what  
37 I'm referring you to?  
38 A. Yes.  
39  
40 Q. You've given evidence about an investigator's note  
41 which is annexure A to your statement.  
42 A. Yes.  
43  
44 Q. You've given evidence about your handwritten notes  
45 which is annexure B. Can I just ask you, with respect to  
46 the way you have arranged your handwritten notes - and  
47 please if you need to look at them, I invite you to do

1 that - in annexure B to your statement, in terms of your  
2 method, I observe there that for the various times, this  
3 is - I am sorry, I don't have a page number, but it is the  
4 first page of annexure B. It identifies various times,  
5 11.20, 12.25 and then also 12.50 on the following page.  
6 What is there recorded, apparently, is your method of  
7 recording about the meeting. For example, it refers to  
8 "12.25 meeting." Then there are a series of names:  
9 "Mitchell/Haggett/Quinn/Taylor/Steel/Freney." That's to  
10 indicate, I take it, the participants in the meeting?  
11 A. Those who were present, yes.  
12  
13 Q. You've done likewise for the meeting at 11.20?  
14 A. Yes.  
15  
16 Q. Likewise at 12.50?  
17 A. Yes.  
18  
19 Q. While they might have been in the same conference  
20 room, they were different meetings for these purposes  
21 during this period of time; is that right?  
22 A. Yes, that's right.  
23  
24 Q. In the meeting that you recorded at 12.25, having  
25 regard to your practice of recording the participants,  
26 you've done as much as I've taken you through. Then  
27 there's a reference off to the side and the name "Fox".  
28 Does that imply, should the Commissioner understand, that  
29 Fox was not, in effect, a member or a participant in the  
30 meeting?  
31 A. Well, those notes relate to what Inspector Fox told  
32 us.  
33  
34 Q. Certainly, I accept that.  
35 A. Yes.  
36  
37 Q. But his name doesn't appear as one of the ones beside  
38 the hashes. Is there any reason for that?  
39 A. Well, it's the next point down, "Fox".  
40  
41 Q. I'm sorry, I don't quite follow. When you say "the  
42 next point down", so we're clear about what you're  
43 referring to, this is annexure B, is it, the first page?  
44 A. Yes.  
45  
46 Q. Relative to the times, can I take it you're referring  
47 to 12.25?

1 A. Yes, that's right.  
2  
3 Q. You say "the next point down". At that point of the  
4 page exactly what are you referring to, so the Commissioner  
5 can follow your evidence? You say "the next point down",  
6 or you did just a moment ago. What do you refer to when  
7 you say "next point down"?  
8 A. Well, the next point down mentions Inspector Fox.  
9 I don't know why I put it like that, but certainly  
10 Inspector Fox was there.  
11  
12 Q. Is it the case that he might have been recorded in  
13 that way by you because he wasn't really there to  
14 participate in the meeting; he was there just to be given a  
15 message?  
16 A. No.  
17  
18 Q. That it was an inquisition of him rather than a  
19 position where he was truly participating as an equal  
20 member of a meeting to discuss issues?  
21 A. No, that's not correct.  
22  
23 Q. On the day, you've recorded, as you've indicated, for  
24 your working purposes so you've got an understanding of  
25 what happened, I take it, having regard to your practice  
26 for the future if you need to refer back in a relatively  
27 quick way - is that the point?  
28 A. Well, the dot points that I could refer to a short  
29 time after when we received the documents that were  
30 relevant that we didn't have on the day.  
31  
32 Q. But these are not any sort of e@gle.i or TRIM  
33 document; these are just personal for you?  
34 A. That's right, yes.  
35  
36 Q. Presumably in a personal file you keep with your  
37 papers; is that the way you do it?  
38 A. Oh, it's just a notebook.  
39  
40 Q. So not quite a diary, but it has the effect of one?  
41 A. Yes.  
42  
43 Q. And it is a running record of events that are material  
44 to your working day?  
45 A. Yes.  
46  
47 Q. On the day, on 2 December, I take it the meeting that

1 was conducted from 11.20 to 12.25 did not include Detective  
2 Chief Inspector Fox; is that so?  
3 A. That's right, yes.  
4  
5 Q. He arrived at about 12.25 and joined the meeting in  
6 the conference room, did he?  
7 A. Yes.  
8  
9 Q. Along with, I take it, by a process of elimination,  
10 Superintendent Haggett?  
11 A. Yes.  
12  
13 Q. Did Detective Sergeant Steel also join the meeting at  
14 that time?  
15 A. Yes, she did.  
16  
17 Q. She wasn't there previously prior to 12.25?  
18 A. It doesn't appear to be so, no.  
19  
20 Q. Relying on your note, which was contemporaneous, your  
21 best understanding is she wasn't there between 11.20 and  
22 12.25?  
23 A. That's right, yes.  
24  
25 Q. What I now wanted to do, detective senior constable,  
26 is put to you a series of propositions and I'll ask you,  
27 when I put them, if you agree with them or not. Allow me  
28 to put them. What I'm going to do is put a series of  
29 passages of speech that I'm instructed, on the evidence,  
30 Detective Chief Inspector Fox says he said at the meeting.  
31 I want to know if you accept or not these passages. Let me  
32 put them as a block and then I'll stop --  
33 A. Okay, sure.  
34  
35 Q. -- if that is a convenient process, and tell me if you  
36 understand what I'm saying. At this meeting at 12.25,  
37 after presumably the initial greetings as people joined the  
38 meeting and everybody sat down and got down to business,  
39 when the business of the meeting commenced, it was the  
40 case, was it not, that Detective Chief Inspector Fox spoke,  
41 and I can only put in narrative terms first, about having  
42 been provided with a lot of material by the journalist  
43 Joanne McCarthy about matters involving child sexual abuse.  
44 Do you recall that?  
45 A. I don't recall that, no.  
46  
47 Q. Detective Chief Inspector Fox pointed out to the

1 meeting that Ms McCarthy had already spoken to all of the  
2 witnesses, had gathered documents and provided such  
3 documents to the police before there had even been any  
4 thinking about having an investigation. Do you understand  
5 that proposition being put by him? What I'm saying to you  
6 is that's what he said. What do you respond?

7 A. I don't recall him saying that.

8

9 Q. You don't recall it?

10 A. Yes.

11

12 Q. But equally, you don't deny it, is that a fair way of  
13 putting?

14 A. Yes.

15

16 Q. No recollection?

17 A. Yes.

18

19 Q. You don't say it is impossible; you just don't recall  
20 it?

21 A. I don't recall that, no.

22

23 Q. Then Detective Chief Inspector Fox said:

24

25 *The only reason we are here having this*  
26 *meeting is because of the contacts and*  
27 *information Joanne McCarthy has turned up.*  
28 *It is not a case of me giving her*  
29 *information but more a case of her giving*  
30 *us information. She's all over this better*  
31 *than anyone. I know it's unusual but you*  
32 *have to stop working against her and bring*  
33 *her on board. She has more information on*  
34 *this investigation than the rest of this*  
35 *room put together.*

36

37 Do you remember that passage?

38 A. No, I don't recall specific conversations at that  
39 meeting.

40

41 Q. May I take it or should the Commissioner understand  
42 that the position is that you don't recall specific  
43 conversations, but you're not saying in a completely  
44 adamant way that it didn't occur this way, just that you  
45 have no recollection independently of it. Is that it? Is  
46 that a fair way of putting it?

47 A. That's right, yes.

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Q. It was the case at this point that the last comment I've just put to you by Detective Chief Inspector Fox had the effect of visibly angering Superintendent Mitchell, who said in response:

*She's not running this investigation.  
She's to be cut out of this from here on.  
I'll be the only one dealing with her from here on. Any inquiries by her are to go through me.*

Superintendent Mitchell said that, didn't he?

A. I can't recall the conversation, but he certainly didn't get angry as I said. It was quite a cordial meeting.

Q. Do you dispute the burden of those words that were spoken by?

A. As I said, I can't recall --

Q. You just don't recall?

A. -- specific conversations, but certainly I can rule out the fact that there was any anger in the meeting, that's for sure.

Q. Detective Chief Inspector Fox then responded:

*That's madness. She knows a lot more witnesses, contact numbers and has access to information we don't. Victims trust her. They ring Joanne McCarthy and the Herald before they ring us. If it means you get her to sign a confidential agreement until the investigation is over so be it. I know we don't normally do that but this isn't a normal investigation. You have to have her in the loop.*

DCI Fox said those words, did he not?

A. That sounds quite confrontational. It certainly wasn't a confrontational meeting. I can't recall the specifics of the conversation, so --

Q. Are you saying it didn't happen, that he never spoke those words?

A. No, I'm not, no.

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Q. Can I say to you, I hope you're not inferring from the way I'm putting the conversation necessarily that it was confrontational. I'm expressing those words, but I'm reading the substance of the words. If you think just about the words and just what was said, that's what I'm asking you to give evidence about. Forget about "confrontational", were the words said or not?

A. Well, I don't - I don't know.

Q. You don't rule out the possibility they were spoken in that way?

A. I can't rule it in and can't rule it out.

Q. And then Superintendent Mitchell responded to that comment by DCI Fox:

*That's not how we operate. Region has decided that this will be investigated by Newcastle.*

He said that, didn't he?

A. I was aware going to the meeting that it was being investigated by Newcastle. I think everyone was.

Q. So he said that?

A. Yes.

Q. And you indicate in your personal file notes or your personal note, if I can put it that way in the lowest level of formality, if you would accept that, that Detective Chief Inspector Fox made reference to a number of matters including, for example, a reference to Bishop Clarke lying to him; that is, to Detective Chief Inspector Fox. Do you recall that?

A. Based on my notes, yes.

Q. Is it entirely possible, then, that, in this meeting at this time, Detective Chief Inspector Fox also indicated - again I need to put this in a narrative form to you - or explained that he had knowledge of the Father Denis McAlinden investigation back to an early involvement in 1999? Do you recall that?

A. Well, I have got a note here in relation to McAlinden, so, yes.

Q. It is entirely --

1 A. That he spoke about McAlinden, yes.  
2  
3 Q. He also indicated he'd spoken to a number of other  
4 victims, the list running to 20 by number, and indicated  
5 that he believed - that is Detective Chief Inspector Fox  
6 believed - there were a lot more?  
7 A. Based on my notes, yes.  
8  
9 Q. I'm not sure if you have handy in the witness box a  
10 list of pseudonyms. Can you see that list there?  
11 A. Sure.  
12  
13 Q. So that this makes sense to you, just so that you  
14 understand the procedure, in the Commission, for reasons of  
15 concern about the confidentiality of witnesses and  
16 protecting their interests, relevant people's names have  
17 been reduced to a list of pseudonyms. The one to which I'm  
18 referring now is [AE]. Do you see that name on the list?  
19 I'm not asking you to speak it. I'm just asking you to see  
20 if you identify it?  
21 A. [AE]?  
22  
23 Q. Yes.  
24 A. I see it.  
25  
26 Q. The reason I've asked you to refer to that is that  
27 makes sense of the anonymisation process that occurred on  
28 your statement. For example, if you look at page 2 of your  
29 handwritten note, you'll see in a number of places  
30 references by you to names that were removed and initials,  
31 for example, [AK] or [AJ], have been inserted. Do you see  
32 the process? Look at your handwritten --  
33 A. No.  
34  
35 Q. Look at page 1, for example, annexure B, the first  
36 page?  
37 A. Yes.  
38  
39 Q. Do you see at the foot of the page there's a word  
40 redacted and immediately above it there's the word [AJ]?  
41 A. Yes, I do.  
42  
43 Q. That process of inserting a reference such as [AJ] is  
44 the process of anonymisation of people's identification.  
45 A. Sure.  
46  
47 Q. Their identities. So that this process makes sense,

1 you've looked at the reference to the person identified in  
2 that list as [AE]. Again, without speaking the name, do  
3 you see who [AE] is? Now, in the meeting, then Detective  
4 Chief Inspector Fox - if I can bring you back to what is  
5 being spoken at this time on 2 December 2012. I hope  
6 I hadn't confused you with this process, but you see what  
7 I'm driving it, I take it?

8 A. I'm just looking at [AE] and I see those.

9

10 Q. Let me read this to you. Detective Chief Inspector  
11 Fox went on to say that his knowledge included important  
12 conversations with one of McAlinden's victims, [AE]. Now,  
13 allowing for the fact that [AE] is referred to in that  
14 list, do you recall that conversation?

15 A. No, I don't.

16

17 Q. He went on to say, that is, Detective Chief Inspector  
18 Fox went on to say --

19

20 MR GYLES: Before my learned friend asks the question,  
21 might I be heard?

22

23 THE COMMISSIONER: Yes, Mr Gyles.

24

25 MR GYLES: In relation to this cross-examination,  
26 Commissioner, you would appreciate from seeing the  
27 document, and indeed from the evidence given, that  
28 Detective Chief Inspector Fox, during the course of the  
29 meeting was, in effect, giving his view of the world as to  
30 the substance of these allegations as to concealment. That  
31 is obviously the subject matter of what we're dealing with  
32 in the next week. I'm concerned that this witness not be  
33 used as a mouthpiece for the publication of those  
34 allegations. As you would appreciate, Commissioner, the  
35 allegations are only as good as the factual basis of  
36 them, and that's what we will be dealing with. To be fair  
37 to those who are referred to and to have regard to those  
38 who are not here and are dealing with the TOR2 issues,  
39 unless there's a matter really of substance here, I would  
40 respectfully submit my learned friend should not be able to  
41 cross-examine unless there's good reason for it.

42

43 THE COMMISSIONER: Yes, thank you, Mr Gyles. I am  
44 cognisant of the fact that something that may have  
45 attracted your objection was said some questions ago, but  
46 I take it that the last question doesn't offend it. Would  
47 it suffice if Mr Cohen is asked to be wary about your

1 concerns?  
2  
3 MR GYLES: Yes.  
4  
5 THE COMMISSIONER: Thank you, Mr Gyles. Thank you,  
6 Mr Cohen.  
7  
8 MR COHEN: I will tread as carefully on the giant eggshells  
9 as I can, Commissioner, but might I also indicate that  
10 I'm repeating it because Detective Senior Constable Freney  
11 was a participant of this meeting. For the purposes of  
12 term of reference 1, I am taking him through, I hope  
13 assiduously, the same process to which I subjected,  
14 relevantly, Superintendent Mitchell --  
15  
16 THE COMMISSIONER: Yes, the other participants.  
17  
18 MR COHEN: -- and the others.  
19  
20 THE COMMISSIONER: Yes.  
21  
22 MR COHEN: I can say only my name is *Browne v Dunn*,  
23 I suppose is the only way to put it in shorthand.  
24  
25 THE COMMISSIONER: I understand that, Mr Cohen. You won't  
26 have to repeat, for example, the references in this  
27 witness's notes to the things that he says Detective Chief  
28 Inspector Fox said.  
29  
30 MR COHEN: You mean orally here?  
31  
32 THE COMMISSIONER: Yes.  
33  
34 MR COHEN: Possibly not. What I am doing is putting what  
35 Detective Chief Inspector Fox says he said.  
36  
37 THE COMMISSIONER: Over and above these, yes.  
38  
39 MR COHEN: Submissions will go as to whether or not this  
40 is corroborative evidence of what DCI Fox said he in fact  
41 said on the day, but I need, in fairness, to give this  
42 witness the opportunity to say, "Yes", "No" or "I don't  
43 remember", as he's doing it.  
44  
45 THE COMMISSIONER: All right.  
46  
47 MR COHEN: And that's my forensic purpose. I am alive to

1 my learned friend Mr Gyles' concerns but I must say that my  
2 primary interest is my client's concerns, having regard to  
3 the issues that are alive in term of reference 1. I will  
4 navigate it carefully but I would always cleave to the TOR1  
5 shore rather than TOR2, I must say, with the greatest  
6 respect to my learned friend, for that forensic, I think,  
7 proper reason.

8

9 THE COMMISSIONER: Yes. Let's just see how we go and bear  
10 in mind Mr Gyles' concerns.

11

12 MR COHEN: I assure you, I'm alive to those concerns.

13

14 THE COMMISSIONER: Thank you.

15

16 MR COHEN: Excuse me, detective senior constable, I just  
17 need to pick up the thread. Commissioner, just before  
18 I proceed, I'm just looking at the relevant information,  
19 the relevant material that on any view is before all  
20 concerned. I am going to have to put a number of  
21 propositions. If it be the case that my learned friend  
22 seeks some sort of non-publication order to cover his  
23 client's position, I assume my client will be content with  
24 that for the time being. I am getting an affirmative nod.  
25 I do need to put these things. There is no way around it.

26

27 THE COMMISSIONER: All right. Mr Gyles, if something is  
28 uttered to which you take objection, would it be able to be  
29 cured, do you expect, by a non-publication order?

30

31 MR GYLES: I don't think I could resist that. I might say  
32 that it is not with respect to my client. There are  
33 individuals who are separately represented who are  
34 concerned with these matters who aren't here and that's one  
35 of the reasons I rose to my feet to raise my concerns.

36

37 THE COMMISSIONER: I understand. Thank you, Mr Gyles.  
38 Carry on, Mr Cohen.

39

40 MR COHEN: I am indebted to you, Commissioner. Excuse me,  
41 Commissioner, and excuse me, detective senior constable.

42

43 (Mr Cohen and Mr Kell confer)

44

45 MR SAIDI: Commissioner, could I just formally indicate  
46 that this witness would also be seeking the protection of  
47 section 23? I forgot to mention it earlier.

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THE COMMISSIONER: That's perfectly all right. Thank you.

MR SAIDI: Could I just place on the record, if I overlook it, that all of my clients would be seeking the protection of section 23.

THE COMMISSIONER: Yes, thank you, Mr Saidi, that is understood.

MR COHEN: Thank you, Commissioner.

Q. My apologies to you, detective senior constable. I hope you appreciate, as I'm sure you understand, being an investigator, in this material there are sensitivities that have to be observed and we're endeavouring not to stand inadvertently upon a metaphorical landmine. Directing this back to you, detective senior constable, then Detective Chief Inspector Fox indicated, in the context of this meeting on 2 December 2010, that he'd also had dealings with the Maitland-Newcastle diocese who concealed Father McAlinden's whereabouts from the police until 2005. Do you remember that being identified?

A. I see that he has had dealings with someone from that diocese, yes.

[Transcript redacted, per suppression order, from page 1434, line 27, to page 1434, line 44]

Q. Then Superintendent Mitchell said these words:



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THE COMMISSIONER: ... Thank you, Mr Cohen. Carry on.

MR COHEN: Thank you, Commissioner. I will be as quick as I can. I apprehend that, with a little indulgence as to time, I can conclude my examination of Detective Senior

1 Constable Freney this afternoon. Would that be of  
2 assistance?

3  
4 THE COMMISSIONER: Yes, it would, thank you, Mr Cohen.

5  
6 MR COHEN: I am being asked how long. I think maybe  
7 10 minutes.

8  
9 THE COMMISSIONER: Thank you, Mr Cohen.

10  
11 MR COHEN: Is that convenient to all concerned?

12  
13 THE COMMISSIONER: Yes, I believe so, thank you.

14  
15 MR COHEN: Thank you, Commissioner.

16  
17 Q. Do you still have in your mind the last passage of  
18 conversation I put to you that I said was spoken by  
19 Detective Chief Inspector Fox? Is that still clear to you.  
20 Would you like me to repeat it?

21 A. Yes, could you repeat it?

22  
23 Q. Surely. I will give you the last couple of sentences  
24 to give you the gist of it:

25  
26 *I am not building myself up. If you don't*  
27 *believe me you can ring her or*  
28 *Joanne McCarthy now.*

29  
30 It is a similar situation with two people:

31  
32 *It took a lot of convincing to get them to*  
33 *come in. You just can't pass these people*  
34 *around like numbers. They have been through*  
35 *enough.*

36  
37 Then Commander Mitchell responded:

38  
39 *The decision has already been made at*  
40 *region. You will give those statements to*  
41 *Brad and that's final.*

42  
43 Do you recall that?

44 A. I don't recall specific conversations, but it's  
45 certainly consistent with asking him to forward those  
46 documents down.

47

1 Q. Thank you. Detective Chief Inspector Fox went on to  
2 say these things:

3  
4 *Max I know more about how the church*  
5 *operates than most. I have been studying*  
6 *them for years and most of it is in my*  
7 *head. I put together tendency and*  
8 *coincidence evidence in the Father Fletcher*  
9 *trial that was upheld in the High Court and*  
10 *is now cited as a test case. With all*  
11 *respect to Brad, he has only overlooked*  
12 *these sorts of investigations; I've been in*  
13 *the middle of them.*

14  
15 Do you recall those words?

16 A. No. Look, as I said, I don't recall specific  
17 conversations. I have in my notes that he's mentioned  
18 Fletcher: that's essentially it.

19  
20 Q. And commander Mitchell responded:

21  
22 *You are to hand everything over. I don't*  
23 *want you interfering or contacting any of*  
24 *the witnesses from today.*

25  
26 Do you recall that?

27 A. My understanding was that he was able to contact the  
28 witnesses.

29  
30 Q. Allow me to proceed. Detective Chief Inspector Fox  
31 said:

32  
33 *I have to call them to let them know what*  
34 *is going on. I am not prepared to treat*  
35 *them like dirt and just cut them off.*  
36 *These people have been hurt enough.*

37  
38 That's Detective Chief Inspector Fox, to which, I put it to  
39 you, Commander Mitchell said this:

40  
41 *All right. You can ring them to let them*  
42 *know that Brad Tayler's team will be*  
43 *dealing with them from now on and that's*  
44 *it.*

45  
46 Are those the words you were thinking of a minute ago?

47 A. I can't remember specific conversation that occurred

1 in that meeting, as I said.

2

3 Q. But that conversation you would not --

4 A. My understanding was that he allowed to contact the  
5 victims to say he was no longer involved.

6

7 Q. Then Commander Mitchell continued:

8

9 *I am formally directing you to stop all*  
10 *contact with Joanne McCarthy. Any contact*  
11 *from her I am directing you to report it to*  
12 *me immediately in writing. Is that*  
13 *understood?*

14

15 That's it.

16 A. I don't recall that conversation. Certainly we were  
17 told that there would be no contact with the media,  
18 Joanne McCarthy or otherwise.

19

20 Q. That proposition I just put to you was from  
21 Commander Mitchell. DCI Fox responded:

22

23 *I can't understand why. She has done*  
24 *nothing but help. I will have to let her*  
25 *know what's going on.*

26

27 And Commander Mitchell responded:

28

29 *Did you hear what I said? You are to stop*  
30 *all contact with her from now. That is a*  
31 *formal direction and it will be recorded in*  
32 *the minutes.*

33

34 Do you recall that?

35 A. I don't recall that specific conversation but  
36 certainly we were told not to talk to the media.

37

38 Q. It was so recorded in the minutes, wasn't it?

39 I'm sorry, I'm quite rightly chided by counsel assisting.

40 I must specify that by "the minutes" I'm talking about the  
41 investigator's note which is annexure A to your statement.

42 Do you accept that that proposition is in the  
43 investigator's notes?

44 A. Yes, it is on the first paragraph of the second page.

45

46 MR COHEN: Yes. I can assure you, Commissioner,

47 I'm motoring here and I should not be too much longer.

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THE COMMISSIONER: Thank you, Mr Cohen.

MR COHEN: Q. Detective Chief Inspector Fox responded then:

*The statement from [AJ] ...*

And in your list of names you will see a reference to [AJ].

MR KELL: Number 23.

MR COHEN: Q. You also see that [AJ] is included in this anonymised form both in the investigator's note, annexure A, and your handwritten note, annexure B?  
A. Yes.

[Transcript redacted, per suppression order, from page 1440, line 18, to page 1441, line 38]

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MR COHEN: Thank you, Commissioner, I'm very nearly done.

THE COMMISSIONER: Thank you, Mr Cohen.

MR COHEN: Q. Superintendent Mitchell then responded:

*Just make sure you get the statements and  
anything else to Brad and Justin*

1           *immediately. Anyone you have contact just*  
2           *give them the numbers. That also includes*  
3           *anything that Joanne McCarthy gave you.*  
4           *They will be running the investigation from*  
5           *here on.*

6  
7           At that point, in substance, as I understand the evidence,  
8           the meeting ended at least as far as Detective Chief  
9           Inspector Fox was concerned; is that your recollection?

10          A.   Certainly, yes, Superintendent Mitchell said to  
11          forward the documents down.

12  
13          Q.   And then Detective Chief Inspector Fox --

14          A.   He said, "Fine" and then left.

15  
16          Q.   He left?

17          A.   Yes.

18  
19          Q.   Who else left at that time?

20          A.   Superintendent Haggett, Mr Fox, Detective Chief  
21          Inspector Fox.

22  
23          MR COHEN:   Excuse me, Commissioner, excuse me, detective  
24          senior constable. I apologise, Commissioner, I'm doing  
25          this on the run. Sometimes it actually turns out to be the  
26          most expeditious way to do it. Could I just have one  
27          moment? I'm indebted to you, Commissioner.

28  
29          THE COMMISSIONER:   Is it possible to finish this witness  
30          today?

31  
32          MR SAIDI:    Certainly.

33  
34          THE COMMISSIONER:    There is nothing from you, Mr Gyles?

35  
36          MR GYLES:    There is nothing from me, Commissioner,  
37          thank you.

38  
39          MR KELL:    Commissioner, could I just raise one matter  
40          quickly? It is my fault. Detective Senior Constable  
41          Freney had wanted to make a minor correction to one  
42          paragraph of his statement. I didn't give him the  
43          opportunity to do so.

44  
45          <EXAMINATION BY MR KELL:

46  
47          MR KELL:    Q.   I wonder if you could turn to paragraph 20.

1 You mentioned there that at the time of the meeting of  
2 2 December 2010, that you didn't know DCI Fox and that you  
3 met him there for the first time. Is there some correction  
4 you want to make to that sentence?

5 A. Yes. I had met him on a prior occasion in 2008.  
6 I was running an armed robbery operation at Maitland and  
7 Detective Chief Inspector Fox was the crime manager there  
8 at the time. I was in the detectives office and he came  
9 and introduced himself and spoke to me and asked what we  
10 were doing and he offered any staff to us that we needed:  
11 that was his own staff.

12  
13 Q. That was the one occasion before --

14 A. That was the only one occasion, yes.

15  
16 Q. When you prepared this statement, you just didn't have  
17 that in your mind at the time?

18 A. That's right.

19  
20 Q. You would like the Commissioner to take that into  
21 account as being an amendment to that statement?

22 A. Yes.

23  
24 MR KELL: Thank you.

25  
26 THE COMMISSIONER: Mr Saidi?

27  
28 **<EXAMINATION BY MR SAIDI:**

29  
30 MR SAIDI: Q. I want to put some propositions to you and  
31 get your comments on them. The suggestion that the forum  
32 was less a meeting than an inquisition of Detective Chief  
33 Inspector Fox, what do you say about that?

34 A. That's incorrect.

35  
36 Q. The suggestion that Superintendent Mitchell showed  
37 extreme hostility towards Detective Chief Inspector Fox at  
38 the meeting, what do you say about that?

39 A. That's incorrect.

40  
41 Q. The suggestion that Inspector Tayler showed extreme  
42 hostility towards Detective Chief Inspector Fox, either  
43 before or at the meeting itself, what do you say about  
44 that?

45 A. Incorrect.

46  
47 Q. The suggestion that during the course of the meeting

1 Superintendent Mitchell was visibly angered towards anyone,  
2 including Detective Chief Inspector Fox, what do you say  
3 about that?  
4 A. I've never seen Superintendent Mitchell angry.  
5  
6 Q. The suggestion that at any stage the meeting was  
7 confrontational, what do you say about that?  
8 A. That's incorrect.  
9  
10 Q. Any suggestion that were raised voices during the  
11 course of the meeting, what would you say about that?  
12 A. There wasn't; that's incorrect.  
13  
14 Q. From the evidence which you've given earlier today is  
15 a fair description of the meeting one of general - how can  
16 I put it - professionalism amongst those present?  
17 A. That's right, yes.  
18  
19 Q. I want to ask you very briefly about Strike Force  
20 Lantle. During the course of Strike Force Lantle, what can  
21 you tell us about being supported or resourced from your  
22 perspective?  
23 A. It was supported like any other strike force.  
24  
25 Q. At any stage did anyone place pressure on you not to  
26 investigate or properly investigate any matter?  
27 A. That's never happened to me in my career on any  
28 investigation.  
29  
30 Q. During the course of - I'm sorry, could you repeat  
31 that? Did you say, "That's never happened to me in my  
32 career"?  
33 A. In my entire career no-one has ever put pressure on me  
34 not to investigate --  
35  
36 MR ROSER: He said in any investigation of his.  
37  
38 MR SAIDI: Q. In any investigation?  
39 A. That's right.  
40  
41 Q. Have you heard the term "Catholic Mafia" before?  
42 A. No.  
43  
44 Q. At any stage did anyone mention to you - I think to  
45 use the street term - to go easy in terms of the  
46 investigation?  
47 A. No.

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MR SAIDI: Thank you.

THE COMMISSIONER: Is there anything arising, Mr Kell?

MR KELL: No, Commissioner.

THE COMMISSIONER: Thank you. I will adjourn until 9.30 in the morning.

**AT 4.15PM THE COMMISSION WAS ADJOURNED TO THURSDAY, 27 JUNE 2013 AT 9.30AM**



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